

## Appeal Decision

Site visit made on 20 October 2016

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 November 2016**

---

**Appeal Ref: APP/T1410/W/16/3151320**

**15 Hartfield Road, Eastbourne, East Sussex BN21 2AP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by St. Mary's Home Limited against the decision of Eastbourne Borough Council.
  - The application Ref PC/160259, dated 10 March 2016, was refused by notice dated 28 April 2016.
  - The development proposed is 1no. 5 bed detached dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - i) whether the proposed development would preserve or enhance the character or appearance of the Upperton Conservation Area (the CA);
  - ii) whether the proposed development would provide acceptable living conditions for future occupiers, with regard to privacy.

### Reasons

#### *Character or appearance of the CA*

3. The site is located in the CA and as such special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA.
  4. The site is on the edge of the CA and includes the properties fronting onto Hartfield Road and their rear gardens. It is characterised by a variety of designs and sizes of generally Victorian buildings. In the vicinity of the site they are mainly in residential use.
  5. Importantly, this part of the CA is characterised by the large similarly designed detached properties at Nos 3-15 Hartfield Road. That degree of uniformity is translated to the rear of those properties which have distinctive, aligned rear gables which are clearly visible from Eversfield Road, despite varying amounts of vegetation and structures in the rear gardens. The rear elevations are broken to some degree with fire escape stairways and various other additions. However, the open black railing design of the stairways as well as the subservient appearance of those other elements, ensure that the rear gable features retain their high degree of prominence, providing a pleasant vista.
-

6. The openness to the rear of those buildings, provided by their gardens in most cases, albeit that the appeal site has now been segregated from No 15, provides an important setting for them, in light of their size and design qualities. It also provides an important break between those large properties fronting Hartfield Road and the different building forms relating to properties along Eversfield Road to the north-west.
7. The rear elevations of Nos 3-15 and their open setting therefore provides clear definition to the edge of the CA and a vista from Eversfield Road that strongly contributes to the character and appearance of the CA.
8. The introduction of the proposed dwelling, due to its height and width would largely obscure that distinctive vista and break that pleasant and characteristic visible degree of openness. It would also substantially detract from the prominence of No 15 at this corner location. In this respect it has failed to address concerns also raised by my colleagues in respect of two previous appeal schemes, Refs APP/T1410/A/13/2196643 and APP/T1410/A/14/2221638.
9. The appellant has sought to address the concerns raised about the design and scale in the appeal decision Ref APP/T1410/A/14/2221638 which was for a chalet bungalow. However, the proposed dwelling would have a noticeably less prominent roofscape than those properties either side due to the lower ridgeline. As such, despite being more substantial than that of the previous appeal scheme, it would still appear as an inharmonious and incongruous addition to the streetscene, despite the proposed use of similar materials and design features such as the front bays and window proportions. As before, it would also have a significantly lesser depth than those adjacent buildings which would emphasise the smaller scale. It would also stand out all the more due to its significantly closer proximity to the road than those nearest existing properties that front onto that street at Nos 1-7 Eversfield Road.
10. I acknowledge that the existing site is currently vacant, unused and overgrown, which is particularly evident when passing in front of the site access. This is not ideal visually and I acknowledge that the proposed development would address that situation. However, from further along the street, that existing unkempt nature of the site is less evident and in any case it is largely screened from view, whether close up or from further away, by the existing attractive front boundary wall. The current state of the site is therefore insufficient a factor to override the more substantial harmful effects that I have found would be caused by the proposed development in respect of this issue.
11. I saw some examples of other relatively modern developments in the surrounding area, including No 9 Eversfield Road, the site on the opposite corner from No 9, and a block of flats at the junction of Enys Road and St Anne's Road. However, the circumstances of those other sites, including in terms of the nature of development and relationship to the surroundings, are different to those relating to the appeal proposal. In any case, I have determined this appeal on its own merits.
12. Having regard to paragraphs 132 and 134 of the National Planning Policy Framework (the Framework), harm to the significance of the CA would be less than substantial due to the relatively small scale of development in the context of the CA as a whole. In considering any public benefits relating to the proposal there would be a small benefit in terms of the addition of a single

family dwelling to the supply of local housing in a sustainable location and in terms of tidying up the site. However, those would be insufficient to outweigh the less than substantial harm, and I have not received any substantive evidence of any other public benefits relating to the proposal that would do so.

13. For the above reasons, I conclude on this issue that the proposed development would fail to preserve the character and appearance of the CA. As such, it would be contrary to saved policies UHT1, UHT4 and UHT15 of the Eastbourne Borough Plan (the Borough Plan) and policies D10 and D10A of the Eastbourne Core Strategy Local Plan (the Core Strategy) which, in respect of this issue, together require development proposals to preserve or enhance the character or appearance of CAs. It would also be contrary to sections 7 and 12 of the Framework which, respectively, relate to requiring good design and to conserving and enhancing the historic environment.
14. The Council, in its decision notice, also refers to saved policy UHT5 of the Borough Plan. However, that policy relates to the retention of boundary walls and landscaping. In this case, the front boundary wall would be retained and so this policy is not relevant to this issue. It also refers to policy UHT16 which relates to the protection of Areas of High Townscape Value (AHTV). However, I have not received any substantive evidence to demonstrate that the site is located within such an AHTV especially as it is already within the CA.

#### *Living conditions*

15. The proposed main garden area would be to the rear of the dwelling which would be directly overlooked at fairly close range from habitable room windows of the properties immediately either side. There would therefore be little or no privacy afforded to the main space and I have received no substantive evidence to indicate how this could be provided by landscaping, particularly in respect of overlooking from upper floor levels.
16. There is proposed to be a side garden adjacent to No 15 which would not have that direct overlooking from properties either side and which would be directly accessed from patio doors. However, there would be some scope for pedestrians to look over the front boundary wall into that space. That side area would also be fairly small and closely confined by the elevations of the buildings either side of it that would be likely to have an enclosing and overbearing effect. I am therefore not satisfied that the side garden would mitigate the inadequate privacy afforded to the main garden area.
17. The Council also refers to concerns about direct overlooking from the first floor side bay window of No 1 into the kitchen/dining area of the proposed dwelling via a side window. However, that proposed side window would be of a secondary nature to those at the front and rear. Any potential for overlooking could be reasonably prevented through measures such as obscure glazing, without causing unacceptable outlook from the room concerned. However, this factor does not outweigh my concerns in respect of the adequacy of the garden space.
18. For the above reasons, I conclude on this issue that the proposed development would provide unacceptable living conditions for future occupiers, with regard to privacy. As such, it would be contrary to saved policy HO20 of the Borough Plan and policy B2 of the Core Strategy which together, in respect of this issue, require new development proposals to respect and protect residential amenity.

It would also be contrary to the Framework which, in paragraph 17, states that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings.

*Other matter*

19. The appellant highlights that no objection has ever been received from any occupiers of No 15. Notwithstanding that I have received one such objection, I have determined this appeal on its planning merits taking into account all material considerations.

**Conclusion**

20. The Framework sets out that there should be a presumption in favour of sustainable development and that to achieve this, economic, social, and environmental gains should be sought jointly and simultaneously through the planning system.
21. I have not found there to be any benefits sufficient to outweigh my findings that the proposed development would fail to preserve the character and appearance of the CA and provide unacceptable living conditions for future occupiers, with regard to privacy. As such, it would not be a sustainable form of development.
22. Therefore, for the reasons given above, and taking all other matters into account, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR