



Appeal Decision

Site visit made on 27 June 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 26th July 2017

Appeal Ref: APP/T1410/W/17/3170214 2-4 Moy Avenue, Eastbourne BN22 8LP

- 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 Mr Lacey of Moy Court Limited against the decision of Eastbourne Borough Council.
 - The application Ref PC/160929, dated 9 August 2016, was refused by notice dated 17 November 2016.
 - The development proposed is refurbishment and extension to existing telephone exchange building and the construction of two number part three, part four storey pavilion buildings to the rear to provide a total of 95 one and two bedroom flats, with 93 on site car parking spaces.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was amended prior to its determination by the Council, with some window alterations being made. I have therefore only had regard to the drawings that formed the basis of the Council's decision.
3. In connection with the appeal the appellant has entered into an agreement under Section 106 of the Act with the Council and East Sussex County Council. The agreement would obligate the appellant to: make provision for 25 affordable housing units; make a contribution of £25,000 towards local transport facilities; participate in local employment and training during the construction phase of the development; and operate a travel plan for the occupiers of the development. I have had regard to the aforementioned obligations.

Main Issues

4. The main issues are the effect of the development on: the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, privacy and light; and the character and appearance of the area.

Reasons

Living Conditions

5. 2 to 4 Moy Avenue comprises a vacant telephone exchange building and ancillary open yard and parking area. The site is bounded to the north, east and south by residential properties in Moy Avenue, St Philip's Place, Whitley

- Road and Waterworks Road. Opposite the site there are commercial premises.
6. The development would involve the partial demolition of the telephone exchange and the extension of the retained building to facilitate its conversion into a block of 38 flats spread over four floors (block 1). The development would also involve the construction of two new blocks, blocks 2 and 3, which would be sited behind block 1. The proposed development being an alternative to the scheme for 36 dwellings subject to the extant planning permission granted on 16 January 2015.
 7. Block 2 would be a part three and part four storey building, which would accommodate 25 flats and it would be sited parallel to the rear garden boundaries of some of the houses in Waterworks Road. Block 3 would also be a part three and part four storey building and it would accommodate 32 flats. Block 3 would have an 'L' shaped floorplan and it would have elevations running parallel to the rear gardens of 6 Moy Avenue (No 6) and properties in St Philip's Avenue and Whitley Road.
 8. Many of the flats would have a single aspect and they would have windows and balconies that would face towards the adjoining dwellings to the north, east and south of the site. I consider that the siting of Blocks 1, 2 and 3 relative to the adjoining dwellings would mean that actual harmful window to window overlooking would be unlikely to occur. However, because the north eastern elevation of Block 3 and the south western elevation of Block 2 would be punctuated by so many windows at first and second floor levels, I consider that Block 2's and 3's presence could give rise to the occupiers of the neighbouring dwellings perceiving that they were being overlooked, particularly when using their gardens. I also consider that there would be a strongly likelihood that the use of the first and second floor balconies in Block 3's north eastern elevation and Block 2's south western elevation would be likely to give rise to harmful overlooking of the adjoining properties. The occupiers of the neighbouring dwellings might therefore be less inclined to use their gardens.
 9. I therefore consider that some of the window and balcony arrangements for Blocks 2 and 3 would give rise to unacceptable perceived or actual unneighbourly overlooking of the properties in Moy Avenue, St Philip's Place and Waterworks Road.
 10. I consider that the degree of physical separation between Blocks 2 and 3 and the properties in Whitley Road, and the length of the latter's rear gardens, would mean that the occupiers of the properties in Whitley Road would not experience any unacceptable overlooking. I also consider that the orientation and separation distances for Block 1's windows and balconies relative to the neighbouring properties would mean that Block 1's occupation would not give rise to any unneighbourly overlooking.
 11. Block 3's north eastern elevation would be sited around 12 metres from No 6's side boundary and I consider that this block's width and height would mean that its siting would give rise to an unacceptable sense of enclosure for the users of No 6's well maintained rear garden, which I visited as part of my site visit. I therefore consider that the development would have a harmful effect on the outlook from No 6's garden. I also consider that the outlook from the rear gardens of some of the properties in St Philip's Place would be

adversely affected, albeit to a lesser degree than would be the case from No 6's garden. I, however, consider that the distances between Block 3 and No 6 and the properties in St Philip's Place would mean that Block 3's siting would not cause any harmful loss of outlook from the interior of those neighbouring dwellings. I also recognise that the outlook from within the interior of No 6 would be improved to some degree because of the partial demolition of the northern end of the telephone exchange.

12. Given the siting of Blocks 2 and 3 relative to the ends of the long gardens of the houses in Whitley Road, I consider that the separation distances would mean that the occupiers of the Whitley Road properties would experience no unacceptable loss of outlook. I am also of the opinion that there would be a sufficient degree of separation between Block 1, as extended, and Block 2 and the houses in Waterworks Road for the occupiers of the latter dwellings not to experience an unacceptable loss of outlook.
13. Taking account of the orientation and heights of the Blocks relative to the neighbouring dwellings, I consider that the development would not give rise to any unacceptable loss of light to the interiors or gardens of the neighbouring properties.
14. For the reasons given above I conclude that the development would cause unacceptable harm to the living conditions of the occupiers of some of the neighbouring properties. The development would therefore be contrary to saved Policy HO20 of the Eastbourne Borough Plan (the Borough Plan), Policy B2 of the Eastbourne Core Strategy Local Plan of 2013 (the Core Strategy) and paragraph 17 (the fourth core planning principle) of the National Planning Policy Framework (the Framework). That is because the development would cause unacceptable losses of outlook and privacy and would therefore not respect and protect the living conditions (amenity) of neighbouring residents.

Character and Appearance

15. The site is in a mixed land use area, with the area immediately to the north, east and south of the site being residential in character, while there are commercial premises immediately to the west and in Moy Avenue and Courtlands Road. The telephone exchange and its yard are much larger in scale than the dwellings that immediately adjoin the site. In that respect the site's existing character is comparable with the other nearby commercial premises.
16. I consider that the site's scale and that of the nearby commercial premises would mean that this redevelopment scheme would not be out of character with the development in the surrounding area. That is because the scale of individual buildings within the vicinity of the site is very varied and does not just include smaller scale dwellings. I also consider the development's contemporary appearance would be appropriate to its surroundings.
17. I therefore conclude that the scale of the development would not be harmful to the character and appearance of the area. The development would therefore not be in conflict with saved Policies UHT1 and UHT2 of the Borough Plan, Policy D10a of the Core Strategy and paragraph 58 of the Framework. That is because the development's scale and height would not be out of place with the area's character and appearance.

Planning Balance

18. There is no dispute that the Council cannot currently demonstrate the availability of a five year supply of deliverable housing sites (HLS). In the absence of an HLS paragraph 14 of the Framework indicates that planning permission should be granted unless ‘... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted’.
19. The provision of 95 flats, including 25 affordable units, would make a weighty contribution to the supply of housing in the area and there would therefore be significant economic and social benefits associated with this development. I also consider that the development would be in keeping with the character and appearance of the area. However, I have found that the development would cause unacceptable harm to the living conditions of the occupiers of various neighbouring dwellings. I consider that the adverse impact on the living conditions of residents of the area I have identified would significantly and demonstrably outweigh the development’s benefits. I therefore find this development would be an unsustainable one, with there being conflict with both the development plan and the Framework.

Conclusions

20. While the development would not be harmful to the area’s character and appearance, I have found that it would cause unacceptable harm to the living conditions of the occupiers of various neighbouring dwellings. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR