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## Appeal Decision

Site visit made on 8 August 2018

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17<sup>th</sup> September 2018

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### Appeal Ref: **APP/T1410/W/17/3192315**

### **Ridgelands, 2 Upland Road, East Sussex, Eastbourne BN20 8EW**

- 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 Gary Ferrier of Lucas Design and Construction against the decision of Eastbourne Borough Council.
  - The application Ref PC/170943, dated 24 July 2017, was refused by notice dated 24 November 2017.
  - The development proposed is described as 'erection of two and a half storey building containing 8 no. 2 bed flats and 2 no. 1 bed flats including associated external works following demolition of existing dwelling'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of development used by the appellant on the application form refers to a single building containing ten flats. The application drawings show that the development would comprise two blocks rather than one. I have considered the appeal on the basis of the development being for two blocks, which accords with how the Council has described and advertised the development.
3. Further to the parties submitting their cases the Government published the revised National Planning Policy Framework on 24 July 2018 (the revised Framework). Given the references made by the appellant and the Council to the previous version of the Framework in their cases, they have been given the opportunity to comment on the relevant parts of the revised Framework.
4. Prior to the planning application's determination by the Council amended plans concerning the vehicular access were submitted. I have therefore only had regard to the amended plans in determining this appeal.
5. The appellant, the Council and residents have variously referred to a planning application (PC/151314) for a flat scheme concerning the site (No 2), which was refused planning permission. That decision was subsequently appealed and I determined that appeal<sup>1</sup> on 15 November 2016. While the earlier appeal decision is a material consideration, to which I have had regard, I have considered the current appeal afresh, having regard to the cases made by the parties. Given my understanding of the previously proposed development I

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<sup>1</sup> APP/T1410/W/16/3153837

consider it unnecessary for me in my reasoning below to make direct comparisons between the current proposal and the earlier scheme.

## **Main Issues**

6. The main issues are:

- the effect of the development on the character and appearance of the surrounding area;
- the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to whether or not the development would be overbearing; and
- whether the construction phase of the development would make provision for the use of local labour.

## **Reasons**

### *Character and Appearance*

7. No 2, a substantial two storey house, would be demolished and replaced by ten flats in two blocks, with accommodation on three floors. The second floor flats would be housed in the roof space of the blocks and would be illuminated by windows in various dormers. No 2's existing vehicular access would be closed and replaced by a new access that would serve a twelve space parking area.
8. No 2 occupies a prominent position within the middle of the 'Y' form junction between East Dean Road and Upland Road. No 2 occupies a substantial plot in comparison with many of the other dwellings in the local area. No 2's plot is verdant in appearance, given the boundary planting that comprises a combination of trees and hedging. The site's verdant character means that the existing house is well screened and is not prominent in the streetscene, with it being sited virtually equidistant between the site's frontages with Upland Road and East Dean Road.
9. The new blocks by comparison with the house would have significantly greater mass and I consider they would be more overt in the streetscene because all but the ground floor would be readily apparent above the retained boundary planting. The overtness of the blocks would be accentuated when the deciduous retained and/or new planting was not in leaf.
10. Although the blocks would be sited around two metres from one another and I consider that degree of separation would provide limited relief for their combined mass. The ridge line of the blocks would be slightly stepped relative to one another, responding to the site's slope. That aspect of the development would provide some relief for its mass, however, I consider that would be outweighed by the comparatively top heavy appearance of the blocks. In that regard the roofs of both of the blocks would include extensive dummy pitched roofs, a roof form, which with some exceptions, is not prevalent in the local streetscene.
11. I consider the site's prominent location in the middle of the Y junction would accentuate the incongruity of the roof form's appearance. Although the blocks would share some of the vernacular of the neighbouring dwellings, including the Downside Court complex, I consider the incorporation of the

dummy pitched roofs would be a poor design compromise, being indicative of the development being excessive in scale for this site. Given that the dwellings in Downside Court arose from a conversion scheme<sup>2</sup> I am of the opinion that comparisons between that development and the appeal scheme are of limited assistance to the appellant's case.

12. I am mindful of the nearby recently constructed care home (Beechwood Grove), which is a large building with extensive areas of dummy pitched roofs. However, I consider Beechwood Grove is not directly comparable with the appeal development because the care home is of a much larger scale, creating its own distinctive character. The scale of the care home's roof also means that the points where its main roof planes change direction are widely spaced and because of that I consider the use of the dummy pitched roofs is not particularly obvious. However, I consider the proportions of the blocks would be such that they would not be capable of accommodating the intended dummy pitched roofs in manner that would be sympathetic to the streetscene.
13. Reference has been made to the development detracting from an approach into the South Downs National Park (NP). However, given the scale of the development and its proximity to the other buildings, I consider that it would not harm the visual appreciation of the NP.
14. I conclude that the development would unacceptably affect the character and appearance of the area. I therefore consider that there would be unacceptable conflict with saved Policy UHT1 of the Eastbourne Borough Plan 2001-2011 (the Borough Plan), which was adopted in 2003, Policies B2 and D10A of the Eastbourne Core Strategy Local Plan of 2013 (the Core Strategy) and paragraphs 124 and 127 of the revised Framework. That is because the development would not be of a good design, with its scale and form failing to be respectful of its surroundings. I consider there would be no conflict with saved Policy UHT2 of the Borough Plan because the overall height of the blocks would be comparable with the nearby dwellings.

*Living conditions of the occupiers of neighbouring properties*

15. The blocks would be larger than No 2 and their siting would also be different. However, I consider that because of the differences in levels and the scale, location, height and orientation of the blocks relative to 4 Upland Road and 53 East Dean Road that the new buildings would not be overbearing for the occupiers of those neighbouring dwellings. With respect to the neighbouring properties that are further afield, including Downside Court, I consider that the separation distances and scale of the blocks would mean that they would not have an overbearing appearance for the occupiers of those other properties.
16. I also consider that the siting and scale of the blocks relative to all of the neighbouring properties would mean that there would be no unacceptable effects on privacy or the receipt of light for the occupiers of the neighbouring properties.
17. On this issue I conclude that the development would not be harmful to the living conditions of the occupiers of the neighbouring properties. Accordingly I find there to be no conflict with saved Policy HO20 of the Borough Plan and

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<sup>2</sup> As referred to in the representations made by residents of the area

Policy B2 of the Core Strategy because the residential amenity (living conditions) of existing and future residents would be safeguarded.

#### *Use of local labour*

18. The scale of the development would require the developer to enter into a planning obligation, made pursuant to Section 106 of the Act, to secure the use of local labour during the construction phase. That requirement arising from the provisions of the Council's adopted Local Employment and Training Supplementary Planning Document of 2016 (the SPD). The appellant has submitted, as part of its appeal case, a willingness to enter into a planning obligation to address this issue. However, a fully executed planning obligation has not been submitted as part of this appeal, albeit an unexecuted obligation has recently been submitted to the Planning Inspectorate. In line with the timetable for this appeal any executed planning application should have been submitted by 30 July 2018.
19. I do not doubt that in time the appellant and the Council would be able to conclude an executed planning obligation to address this issue, making it possible for the construction phase of the development to make provision for the use of local labour. That would make this aspect of the development unobjectionable and it would accord with the SPD. However, the submission of an executed planning obligation would not address the character and appearance concern that I have identified under my first main issue and would to a very limited degree weigh in favour of the development.

#### **Other Matters**

20. Concerns have been raised about the adequacy of the on-site parking provision and the ability of the local highway network, most particularly the junction between Upland Road and East Dean Road, to accommodate the traffic generated by the development. However, those concerns are not shared by the highway authority. With respect to traffic generation the highway authority has commented that it considers that the vehicular activity associated with the development would not be prejudicial to highway safety, with the accident records for the area indicating that the incidents that have occurred arising because of driver error rather than the layout of the roads<sup>3</sup>. On the basis of the highway evidence that is available to me I am not persuaded that there are grounds for me to raise a highway concern with respect to this development.
21. Concern has been raised about the sizes for some of the rooms within the development. However, that matter has not been raised in the reasons for refusal and given my conclusion on the first main issue I consider there is no need for me to consider this matter further.

#### **Conclusions**

22. The Council has submitted that it cannot currently demonstrate the availability of a five year supply of deliverable housing sites (an HLS). For the purposes of paragraphs 14 and 49 of the Framework of 2012 that would have meant that the 'tilted balance' in favour of sustainable development would have needed to have been applied. However, former paragraph 14 has been

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<sup>3</sup> The highway authority's comments stated in the Council's committee report

replaced by paragraph 11 in the revised Framework. In the context of decision making the revised Framework (paragraph 11d) now states:

*'... where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. 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.'*

23. While the appeal development would involve the provision of housing in a built up area, I have found that it would be harmful to character and appearance of the area. Accordingly I consider that the development plan policies which are 'most important' for this appeal's determination, ie Policy UHT1 of the Borough Plan and Policies B2 and D10A of the Core Strategy, not to be directly affected by the current HLS position. That is because those policies are of a more generic nature and are not specific to the quantum and location for new housing. I therefore consider that Policies UHT1, B2 and D10A attract great weight for the purposes of the determination of this appeal, with those policies being consistent with the revised Framework's encouragement for well-designed development.
24. For the reasons given above I have found that the development would be harmful to the character and appearance of the area and that harm would give rise to conflict with both local and national policies. Given the harm I have identified, which I consider could not be overcome by the imposition of reasonable planning conditions, I conclude that the appeal should be dismissed.

*Grahame Gould*

INSPECTOR