



Appeal Decision

Site visit made on 28 May 2010

by **B C Scott** BA(Hons) Urban & Regional
Planning MRTPI

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

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Decision date:
17 June 2010

Appeal Ref: APP/B1415/A/09/2116749

1 Chapel Park Road, St Leonards-on-Sea, East Sussex, TN37 6HR.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr C Bengé against the decision of Hastings Borough Council.
- The application Ref: HS/DS/09/00133, dated 21 January 2009, sought approval of details pursuant to conditions Nos. 1 & 2 of a planning permission Ref: HS/OA/08/00121, granted on 27 April 2009.
- The application was refused by notice dated 18 September 2009.
- The development proposed is demolition of existing properties and construction of 29 1 & 2 bed apartments with parking.
- The details for which approval is sought are: appearance and landscaping.

Procedural Matters

1. The Council's outline permission decision notice post-dates the date of the appeal application. The appeal application states the 'date of the application decision' to be 21 May 2008. In the grounds of appeal the Appellant confirms that the outline application was granted permission in April 2009. Whereas the applications overlap before determination by the Council, the validity of the appeal is not in question.
2. The Council's decision notice lists the application drawing numbers to which it refers and there are a confusing number of them. The Appellant lists fewer relevant drawings with the appeal submission. From what is before me and comparing the two lists, I deduce that the Council's SK series of drawing numbers may relate to various un-referenced submissions comprising illustrative material by way of photographs and 3-dimensional computer modelling. Although I give regard to these, my decision relates to those scaled drawings and technical details that are duly unambiguously referenced.
3. The Council contends that no information has been provided in respect of site landscaping. Condition number 6 of the outline permission envisages an approved soft landscaping scheme submitted within the reserved matters and requires its specific implementation. Notwithstanding the terms of the appeal application, no detailed landscaping scheme is submitted. Even so, landscaping proposals are set out in the Design and Access Statement (DAS). Appeal application drawing no. 07-864/007C is a proposed ground floor plan upon which grassed areas and some trees and planting are shown. I deal with the appeal on the basis that site landscaping proposals, albeit not fully worked up, are submitted with the appeal application.

Decision

4. I allow the appeal, and approve the reserved matters, namely appearance and landscaping details submitted in pursuance of condition nos.1 & 2 attached to planning permission Ref: HS/OA/08/00121, dated 27 April 2009, subject to the list of conditions at the end of my decision.

Main issue

5. I consider the main issue in this case to be the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site is in an urban area and adjoins the King's Road Conservation Area (KRCA) near where a railway station, cutting and tunnel create an interesting open scene. The area has a delightful mixture of buildings of varying periods, scale and form in a relatively spacious and mature setting with striking topography. It is a prominent corner site currently occupied by a pair of large, semi-detached Victorian villas. The proposed development would replace the traditional form of the villas with that of a modern building comprising lateral form and detailing, principally by virtue of its flat roofs and balconies.
 7. Policy DG1 of the Hastings Local Plan 2004 (LP) requires development to be in sympathy with the appearance and character of the area, in terms of such things as its appearance and materials, and to respect site levels and characteristics. Furthermore, I am mindful that the desirability of preserving or enhancing the KRCA is a consideration where development would affect its setting or views into or out of the area. To that end, I am referred also to the requirements of LP Policy C1, concerning such things as surrounding architectural style and high-quality/traditional materials and finishes.
 8. From my examination of the area, I came to the conclusion that the KRCA has its own identity from which the appeal site is disconnected, principally because of the urban grain and topography that gives rise to a corner, landmark situation. For that reason, the typical high quality Victorian residential development of the area, to which the Council refers, is not an overriding distinctive feature as far as the appeal site and its general surroundings are concerned. I see no reason why character and innovation should not go together and I bear in mind that new and old buildings can coexist happily.
 9. I have given careful consideration to each of the Council's design concerns. To my mind, much of that concern impinges upon the scale and form of the proposed development, which is already well established with the outline planning permission. Moreover, I find that the thrust of the Council's case is driven essentially by the character or appearance of the KRCA.
 10. In my opinion, the proposed development would be seen to fully respect site levels and characteristics because of the 'rhythm and dynamism' of the proposed balconies, from which great views and vistas may be obtained. These feature balconies would create visual interest to the mass of the proposed elevations. The Council Officer's report makes a comprehensive assessment and identifies in the proposed building many other features of distinctive design that would address urban design objectives. Given especially the striking
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topography and the mix of buildings, which I saw to include good examples of contemporary or modernistic design, I am inclined to the view that within the scale and form already set, a distinctive building (as proposed) on the appeal site would not be at odds with the evolving character and appearance of the area.

11. Thus, I conclude on the main issue that the proposed development would not be harmful to the character and appearance of the area, in accordance with policies DG1 and C1 of the Development Plan.

Other Considerations

12. In the DAS the Appellant states: 'The landscaping at ground level will be in keeping with the existing in that all the significant trees will be retained and areas of grass to the south retained for walking and contemplation'. The concept for the building is stated to be 'gardens in the sky' with reference to the proposed balconies. The Council's submissions are silent upon the merits of what has been put in and landscaping does not feature in the Council's reason for refusal.
13. Drawing no. 07.864/100 is an existing site plan that shows some individual trees and/or other planting. No information is given about retained trees and proposed planting. Given the scale and form of the proposed development, the site characteristics and what is before me, I consider there to be limited scope for a comprehensive landscaping scheme. In the circumstances, I have no reason to question the merits of the landscaping proposals but, clearly, they are lacking in detail. An appropriate planning condition would address the deficiency without derogation of any planning permission.
14. I acknowledge the concerns of third parties, but these touch mainly upon the principle of the proposed development (for which permission is already granted) or upon matters that have been previously addressed. I have considered all other matters raised but none alters my conclusion on the main issue, which leads me to allow the appeal.

Conditions

15. I have considered the conditions suggested by the Council having regard to the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. The Council's conditions focus upon the frontage features of the appeal site and the external detailing of the proposed building.
16. The appeal site location benefits from a mature urban setting in which traditional features such as walls and piers are important to the character and appearance of the surroundings. Thus, I impose the Council's first suggested condition to require the retention of those things. Also, given the make-up of the design of the proposed building in which unifying elevational features are significant to its distinctive appearance, I impose the Council's second and third suggested conditions to ensure that the integrity of the design is not compromised by inappropriate materials, colours or equipment to the detriment of the surroundings.
17. In accordance with my reasoning in paragraph 13, I impose a condition to require full details of the intended landscaping scheme concerning retained
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trees and new planting. Finally, I impose a standard condition listing the plans/drawings to which my decision refers.

List of Conditions

1) A full schedule of works to secure the repair of the existing wall, piers and steps on the Chapel Park Road elevation, and details of the materials to be used in the construction and rebuilding of the walls and piers on the Ellenslea Road elevation, together with a 1:5 cross section detail of the wall and piers, shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The works shall thereafter be carried out in accordance with the approved details and fully implemented prior to the occupation of any of the flats hereby approved.

2) No development shall commence until the following details have been submitted to and approved in writing by the local planning authority:

- (i) rainwater goods with concealed guttering;
- (ii) location and design of communal satellite dish;
- (iii) any other external pipework.

Development shall be carried out in accordance with the details approved and no additional pipework, satellite dishes or other rainwater goods shall be affixed to the external elevations of the building without the prior written approval of the local planning authority.

3) No development shall commence until the following details have been submitted to and approved in writing by the local planning authority:

- (i) full details of the materials, finish and colours of the vertical panelled feature to the Ellenslea Road elevation, together with any proposals for its illumination;
- (ii) details of the coloured double aspect corner windows to the Chapel Park Road elevation;
- (iii) details of the opaque panels to be employed in the projecting feature on the Ellenslea Road elevation;
- (iv) specific colour reference for all other windows, which should be grey;
- (vi) details of design and finish of all external doors.

Development shall be carried out in accordance with the approved details and fully implemented prior to the occupation of any of the flats hereby approved.

4) No works or development shall take place until full details of all retained trees and proposed planting, and the proposed times of planting, have been submitted to and approved in writing by the local planning authority, and all planting shall be carried out in accordance with those details and at those times.

If within a period of two years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the building for its permitted use.

(i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].

(ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

5) The development hereby permitted shall be carried out in accordance with the following approved plans and details: drawing nos. 07.864/100; 07-864/001; /007 C; /008 E; /009D; /010 C; /011 C; /013 A; /014; /015; /016; /017; /018; /019; /020; Sikkens woodstain detail 009 dark oak; Thermowood technical manual and product description; and, Velfac window brochure detail.

B C Scott

INSPECTOR