

Report to: PLANNING COMMITTEE

Date: 27 July 2016

Report from: Assistant Director of Housing and Built Environment

Application Address: Land adjacent, 99 West Hill Road, St Leonards-on-sea

Proposal: Erection of detached house with two parking spaces

Application No: HS/FA/15/00511

Recommendation: Grant Full Planning Permission

Ward: MAZE HILL
File No: WE72076V
Applicant: Mr Hancock per Past Systems 129 Old Roar Road St Leonards on Sea TN37 7HD

Interest: Freeholder
Existing Use: Residential Curtilage

Policies

Conservation Area: Yes - Grosvenor Gardens
National Planning Policy Framework: Paragraphs 14 ,47, 50, 60
Hastings Local Plan -
The Hastings Planning Strategy: EN1, FA2, DS1, SC1, SC2, SC3, SC4, SC6, EN3, EN6, H2, H3, T3
Hastings Local Plan -
Development Management Plan: DM1, DM3, DM4, DM5, HN1, HN8

Public Consultation

Adj. Properties: Yes
Advertisement: Yes - Conservation Area
Letters of Objection: 28
Petitions Received: 1
Letters of Support: 1

Application Status: Not delegated - Petition received

Summary

This application was previously presented to Planning Committee on the 25th November 2015 and subsequently on the 23rd February 2016 to extend the time period within which to complete a legal agreement or satisfactorily address the viability of the development. The following resolution to grant permission subject to conditions was agreed at Planning Committee on 23rd February 2016.

A) That the Planning Services Manager be authorised to issue planning permission upon completion of an agreement under S106 of the Town and Country Planning Act to secure a financial contribution towards the provision of off-site affordable housing, unless it has been conclusively shown that the development would not be viable if a payment were made. In the event that the Agreement is not completed or the viability issue not resolved by 25 May 2016 that permission be refused on the grounds that the application does not comply with Policy H3 of the adopted Hastings Local Plan, The Hastings Planning Strategy 2011-2028 unless an extension of time has been agreed in writing by the Planning Services Manager in consultation with the Chair and Vice Chair of the Planning Committee.

Since then, on the 13 May 2016 an order was issued by the Court of Appeal which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. As part of the Ministerial Statement there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.

These circumstances are that;

- Contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm
- In designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty
- Affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home

As a result of the Order issued by the Court of Appeal, the Council are no longer able to seek an affordable housing contribution in relation to this application.

As a result of the above, the application is being presented to committee again with the recommendation to remove the previously approved resolution and grant permission subject to the conditions listed below.

The report below is identical to that previously brought to committee with the exceptions of the amendment to the affordable housing paragraph and the removal of the resolution to grant permission subject to an affordable housing contribution.

Background

This application is for the creation of a 4 bedroomed, single storey earth sheltered house set down within the site.

The main issues are the impacts on the amenity of the neighbouring properties, the impact on the Grosvenor Gardens Conservation Area, the impact on the character and appearance of the area and the stability of the cliffs.

After considering these matters, I recommend the proposal for approval subject to conditions.

The Site and its Location

The site in question is located on the south side of West Hill Road and is currently included within the residential curtilage of No. 99 West Hill Road and has been since approximately 1991. Within the site there is currently a conservatory, which it is proposed to remove as part of this application. The site boundary is currently depicted by hedging. To the south of this site are the former sea cliffs which form the southernmost boundary line. To the east of the site there is an area of open space which belongs to the properties on the north side of the road.

The site is located within the Grosvenor Gardens Conservation Area but is not an area of Outstanding Natural Beauty. To the south of the site there is a Designated Local Wildlife Site (policy HN8 of the DM Plan) however, this falls outside of the application site boundary. It should also be noted that this site is not a designated area of open space.

Details of the Proposal and Other Background Information

This is a fully detailed application. The proposal involves the creation of a single storey, four bedroomed detached dwelling, set below the existing ground level. To facilitate the erection of this dwelling it is proposed to remove the existing conservatory which serves No. 99 West Hill Road and separate the existing curtilage to create a new plot. The proposed dwelling is shown to have a grass roof at a similar level to the existing pavement along West Hill Road with a small bank of solar panels facing seawards. To provide adequate light to the rooms at the rear of the property it is proposed to install rooflights and create an open courtyard between the kitchen and dressing room. To the front on the site (sea facing) it is proposed to install full height sliding bi-folding doors to ensure adequate levels of light enter the front of the property. It is proposed to screen the development from the road with boundary hedging encompassing the site; this is also proposed to ensure an acceptable level of privacy is retained. It is also proposed to create two parking spaces to the side of No. 99 West Hill Road with the prime function of serving the new dwelling.

Previous Site History

HS/FA/91/00137	Erection of 14 Lock-up garages with access to West Hill Road Refused - 05/04/1991
HS/FA/91/00259	Erection of 14 Lock-up garages with access to West Hill Road Refused - 30/05/1991
HS/OA/87/00093	Erection of a pair of semi-detached houses with garages Refused - 30/03/1987
HS/OA/84/00542	Erection of six flats on two storeys with new vehicular access and parking Refused - 27/11/1984

Details of Consultations

As part of this application 29 neighbouring properties were consulted, a site notice was displayed and an advert was placed in the local paper. In response to these 28 letters of objection, 1 letter of support and 2 petitions were also received.

Southern Water have provided comments indicating that a formal application for connection to the public sewerage system is required. They have also made reference to the applicants SuDS submission.

Having discussed the submitted wildlife survey with the Council's Environment and Natural Resources Manager it has been agreed that there would be no impact on biodiversity as a result of the development.

The County Council as Lead Local Flood Authority (LLFA) have requested that a condition is imposed requiring that details of the surface water management proposals to be submitted to the Council prior to commencement of the development.

Planning Considerations

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Living Environment

Policy DM3 of the Hastings Development Management Plan requires that dwellings with 4 bedrooms require a minimum internal floor area of 106m². Having reviewed the floor plan of the proposed dwelling it is apparent that the proposals exceed this requirement.

The Department for Communities and Local Government also recently produced technical guidance for space standards. Having assessed the proposed plans against these additional criteria, I am satisfied that the proposed new dwellings also meet these requirements and the resultant living accommodation is acceptable.

The proposed dwelling is shown to have a useable rear garden space of approximately 11 metres in length. The curtilage of the property is shown to extend a further 14.5 metres to the boundary line. However, due to the topography of the site this additional area of land would be impractical to use as residential garden.

Due to the positioning of the proposed dwelling it is apparent that there would be an impact on the existing amenity space currently enjoyed by the residents at No. 99 resulting in only a small yard area to the rear of the property. Although this is a concern, having visited the site and walked along the rear of these of properties it is apparent that this small rear yard is already present at No. 101 West Hill Road. Several of the other properties along this stretch of West Hill Road also have no rear amenity space to speak of. It should also be taken into account that the use of this plot of land has only been in conjunction with No. 99 West Hill Road since 1991. In light of this I am of the opinion that although the proposal would result in a smaller amenity space for the residents of No. 99 the resulting space would relate to the character and history of the property and would not have an overriding detrimental impact.

Land Stability

Concerns have been raised by local residents in relation to potential land instability due to the continual movement of the cliffs. Policy DM5 of the DM Plan relates specifically to

ground conditions. This policy states that *'on land potentially subject to instability (such as steeply sloping sites or in areas with a history of land instability), convincing supporting evidence (from a relevant and suitability qualified professional) must be supplied before development takes place. This evidence is to show that any actual or potential instability can be overcome through appropriate remedial preventative or precautionary measures'*. As part of the supporting information accompanying this application a land stability assessment carried out by Gabriel Geo Consulting has been submitted. This assessment was carried out to assess the stability of the former sea cliff and the likely implications for the proposed development. As part of this assessment it states that *'a ground investigation will be required before development proceeds in order to assess the site's geology, geotechnical parameters and the possible presence of perched groundwater, and thereby enable appropriate design of the retaining walls and foundations'*. The report concludes by saying that *'In summary, it is considered extremely unlikely that the proposed house would come under threat of instability from cliff erosion within its design lifetime'*.

Taking these points into account I am of the opinion that with detailed investigation and careful planning the concerns regarding the cliff stability can be overcome. Therefore in line with Policy DM5 I would suggest that additional information about the extent of remediation and/or mitigation measures should be submitted by condition and agreed by the Council prior to the commencement of development.

Highways

Having carried out the necessary calculations using the East Sussex County Council parking demand tool it is apparent that, due to the size of the dwelling proposed, there is a car parking requirement for 2.5 car parking spaces and 2 cycle spaces on site. Having reviewed the proposed plans, it is clear that the cycle parking space within the garden store is ample, however, there are only two car parking spaces provided on site. Although this falls below the East Sussex County Council requirement I am of the opinion that there is alternative parking available on street. There are also several bus stops within close proximity which provide an alternative, more sustainable mode of transport in line with Policy T3 of the Hastings Planning Strategy.

Character of the Area

As stated above, the site is located within the Grosvenor Gardens Conservation Area. Policy EN1 of the Hastings Planning Strategy states that importance will be placed on new development making a positive contribution to the quality, character, local distinctiveness and sense of place of historic buildings and areas.

Having reviewed the proposed plans it is apparent that this is not a 'run of the mill' residential development. However, the Council have a duty to assess each application in a pragmatic manner. Within the Hastings DM Plan, it states that, when development takes place it is important that it has regard for local character and achieves a good standard of design. Allowing some flexibility in the form a development might take can sometimes however, result in a more imaginative and innovative scheme being built.

I take into account the concerns raised by the local residents in relation to the proposed design of the dwelling and its relationship to the existing architectural character of the Conservation Area. However, I am of the opinion that the proposed dwelling, due to its distinctiveness and architectural quality would positively contribute to the Conservation area. I have also discussed the proposal with the Council's Conservation Consultant who has advised that, on balance, the proposed development would not have an unacceptable impact on the special character of the Conservation Area.

Ecology

This application is supported by a Wildlife/Ecology Survey carried out by Mr. D Wise. This statement concludes that there is no sign of badgers on site, however there is clear fox activity. It has also been concluded that there is no bat activity and due to the lack of water deposits on site, it is believed that there are no native reptiles and/or amphibians on site.

As stated above, due to the proximity of the site to the Caves Road Cliffs, the Council's Environment and Natural Resources Manager was consulted on this application and the resultant opinion was that there would be no impact on biodiversity as a result of the development. Taking this into account, I am of the opinion that the proposed development would not have an unacceptable impact on the ecology on site, however, I would recommend that the proposed development is carried out in accordance with the following requirements;

Mammals

- During the construction phase gaps should be left beneath any perimeter fencing to allow free access for foraging mammals
- During the construction phase any trenches left open overnight should incorporate a ramp – such as a scaffolding plank – to allow any trapped wildlife to escape.

Nesting birds

- The timing of any construction activity should recognise the possibility that nesting birds might be present. Disturbance should therefore be avoided during the recognised bird nesting season which ranges from the beginning of March to the end of July.

Reptiles

- All vegetation should be regularly maintained at a short height - or removed - to prevent the development of habitat which is favourable to reptiles.
- Site clearance of vegetation should be done with care and in such a way as to enable any reptiles that might be present to be safely driven towards retained or adjacent habitat.
- Piles of debris, including logs, tiles, rubbish and vegetation all have the potential to be colonised by reptiles; such material should not be allowed to accumulate. If such debris does appear it should be removed off site by dismantling it carefully by hand, which will then allow any reptiles that may be present to escape.
- Compost heaps or piles of vegetation waiting to be burnt can provide a favourable habitat, particularly to hedgehogs and slow worms. Any dismantling of such heaps should be done by hand and with care, to ensure that any animals or reptiles they may contain are not injured. If possible, alternative compost heaps should be established elsewhere on the site to ensure that a continuity of habitat is retained.

Drainage

As part of the proposed development the new dwelling is shown to have a planted roof. The rain run off from this roof will be collected and reused for irrigation and to flush the toilets within the house. This is seen to be a sustainable resource and should reduce the overall load of the development on the existing foul and surface water sewerage systems.

The advice provided by Southern Water has indicated that a formal application to the public sewer would be required in order to service the development.

As stated above, the LLFA have reviewed the submitted drainage information. They have acknowledged that the applicant has made efforts to incorporate SuDS features within the development to reduce the overall water demand of the property in the form of a green roof and rainwater harvesting. However, whilst they support the use of rain water harvesting, it has been indicated that this is not typically considered as a flood risk management measure

because there is no guarantee that the system would have available capacity during an extreme rainfall event. Similarly, a green roof would reduce, but not eliminate, runoff from a rooftop. Therefore, it is considered that, in practice, there would still be runoff from the proposed development during extreme rainfall events (e.g. the 1 in 100 year, including climate change, event). As a result of this the LLFA have requested that a condition be imposed requiring that additional information to be submitted prior to commencement of development.

Southern Water have also made reference to the applicant proposed SuDS provision. SW have stated that under current legislation and guidance SuDS rely upon facilities which are not adopted by sewerage undertakers. Therefore, the applicant will need to ensure that the arrangements exist for the long term maintenance of the SuDS facilities. They go on to state that it is critical that the effectiveness of these systems is maintained in perpetuity.

Sustainable Development

The NPPF sets a presumption in favour of sustainable development (paragraph 14), which aims to boost significantly the supply of housing (paragraph 47) and encourages local planning authorities to identify the type and tenure of housing required (paragraph 50). Following on from this guidance, the Planning Strategy identifies that there is need for additional family size dwellings across the Borough which has an unusually high number of flats (paragraphs 8.3 - 8.8, Policy H2).

In this case the proposal has been designed to minimise the impact on the neighbouring properties and, as mentioned above, the dwelling is shown to be 4 bedroom and has an adequate size garden which makes the dwelling suitable for a family. Included within the proposal are both photo-voltaic and water solar panels, rainwater harvesting and an air source heat pump.

Taking these factors into account I am of the opinion that the proposal does represent sustainable development and that it will help achieve the aims of both local and national planning policy.

Affordable Housing

On the 13 May 2016 an order was issued by the Court of Appeal which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014. As part of the Ministerial Statement there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.

These circumstances are that;

- Contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm
- In designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985?, which includes National Parks and Areas of Outstanding Natural Beauty

- Affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home

In light of this the Council are unable to seek an affordable housing contribution in relation to this application.

Local Listing

It should be noted that, during the consideration process of this application, an alternative application has been submitted to the Planning Policy Department seeking to have the area of land along this portion of West Hill Road listed as a non designated heritage asset. The site identified as part of this local listing application does include the application site at No. 99 West Hill Road. Having discussed the local listing process with the Planning Policy Team, it is apparent that the process itself is still evolving but the Panel will likely sit for assessment early in the new year. The Panel's recommendation would then be taken to Cabinet shortly after. In light of this, it is unlikely that a decision on the local listing would be issued before January/February 2016. It should also be noted that if the local listing of this site is granted it would not render the site undevelopable. Taking this into account, I am of the opinion that it would be unreasonable of the Council to delay the determination of this application in lieu of the decision on the local listing.

Other considerations

The Human Rights considerations have been taken into account fully in balancing the planning issues.

These proposals comply with the development plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004.

Recommendation

Grant Full Planning Permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. No development shall take place above ground until details of the materials to be used in the construction of the external surfaces of the proposed dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of soft landscaping, which shall include indications of all existing trees and hedgerows on the land including details of those to be retained, together with measures for their protection in the course of development. New soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate together with an implementation programme.

4. All planting seeding or turfing comprised in the approved soft landscaping scheme shall be carried out prior to the occupation of any part of the development, or with the written agreement of the Local Planning Authority, in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. No development above ground shall take place until full details of the hard landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs lighting etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
6. The development shall not be occupied until the 2 parking areas have been provided in accordance with the submitted plan (Drawing No.DRWG/DH/03). Thereafter the parking areas shall be retained for that use and shall not be used other than for the parking of motor vehicles.
7. The development shall not be occupied until cycle parking areas have been provided in accordance with the submitted plan (Drawing No. DRWG/DH/04).
8. No development shall take place until the investigations outlined in paragraph 6.1 of the submitted Land Stability Assessment by GabrielGeo Consulting, dated 5th October 2015 have been carried out and the resulting report and/or plans submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved report/plans.
9. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

08.00 - 18.00 Monday to Friday
08.00 - 13.00 on Saturdays
No working on Sundays or Public Holidays.
10. During the construction phase the following Ecology requirements shall be adhered to;

Mammals
- Gaps should be left beneath any perimeter fencing to allow free access for foraging mammals.

- Any trenches left open overnight should incorporate a ramp – such as a scaffolding plank – to allow any trapped wildlife to escape.

Nesting birds

- The timing of any construction activity should recognise the possibility that nesting birds might be present. Disturbance should therefore be avoided during the recognised bird nesting season which ranges from the beginning of March to the end of July.

Reptiles

- All vegetation should be regularly maintained at a short height - or removed - to prevent the development of habitat which is favourable to reptiles.
- Site clearance of vegetation should be done with care, and in such a way as to enable any reptiles that might be present to be safely driven towards retained or adjacent habitat.
- Piles of debris, including logs, tiles, rubbish and vegetation all have the potential to be colonised by reptiles; such material should not be allowed to accumulate. If such debris does appear it should be removed off site by dismantling it carefully by hand, which will then allow any reptiles that may be present to escape.
- Compost heaps, or piles of vegetation waiting to be burnt, can provide a favourable habitat, particularly to hedgehogs and slow worms. Any dismantling of such heaps should be done by hand and with care, to ensure that any animals or reptiles they may contain are not injured. If possible, alternative compost heaps should be established elsewhere on the site to ensure that a continuity of habitat is retained.

11. (i) Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal/management have been submitted to and approved in writing by the Local Planning Authority.
 - (ii) Development shall be carried out in accordance with the details approved under (i) and no occupation of any of the dwelling hereby approved shall occur until those works have been completed.
 - (iii) No occupation of any of the dwelling hereby approved shall occur until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.
12. The surface water management proposals formulated for the detailed design stage should be supported by detailed hydraulic calculations showing a 'like for like' discharge rate between the existing and proposed scenarios during the 1 in 1, 1 in 30 and 1 in 100 (plus an allowance for climate change) rainfall events.
 13. The development hereby permitted shall be carried out in accordance with the following approved plans and details: DRWG/DH/01, 02, 03, 04, 05. JC/KD/01A and Land Stability Assessment carried out by GabrielGeo Consulting dated 5th October 2015.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure that the finished development takes proper account of the character of the surrounding area in its use of external materials in the interests of the amenity of the area.
3. To ensure a satisfactory form of development in the interests of the visual amenity.
4. To ensure a satisfactory form of development in the interests of the visual amenity.
5. To ensure a satisfactory form of development in the interests of the visual amenity.
6. In the interests of the amenity of the neighbouring residential occupiers.
7. In order that the development site is accessible by non car modes and to meet the objectives of sustainable development.
8. To protect future residents and users of the development in the interests of Health and Safety.
9. To safeguard the amenity of adjoining residents.
10. In the interests of the safety and wellbeing of potential wildlife on the site.
11. To prevent increased risk of flooding.
12. To prevent increased risk of flooding.
13. For the avoidance of doubt and in the interests of proper planning.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.
3. East Sussex County Council, must be consulted regarding the provision of a vehicular pavement crossing to Highway Authority's standard of specification and construction and at the applicant's expense.

Contact: highways@eastsussex.gov.uk 0345 6080 193.

4. A formal application for connection to the public foul sewerage system is required in order to service this development, please contact Southern Water: Developer Services, Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW. Tel: 0330 303 0119. E-mail: developerservices@southernwater.co.uk.
5. In the event that any sewers are found within the site the applicant is advised to contact Atkins Ltd. Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Telephone 01962 858688) or www.southernwater.co.uk.
6. Consideration should be given to the provision of a domestic sprinkler system.

Officer to Contact

Mrs E Meppem, Telephone 01424 783288

Background Papers

Application No: HS/FA/15/00511 including all letters and documents