

**Report to:** PLANNING COMMITTEE

**Date:** 16 November 2016

**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** Land rear of, 15-23 Moscow Road, Hastings

**Proposal:** Erection of a single storey dwelling (Retrospective as previously approved (HS/FA/13/00370) not built in accordance with approved plans) As amended by site plan received 03.10.2016

**Application No:** HS/FA/16/00531

**Recommendation:** Grant Full Planning Permission

**Ward:** OLD HASTINGS

**File No:** MO25

**Applicant:** Mr ULLAH per STAAC LTD 1A FAIRLIGHT ROAD EASTBOURNE BN22 7NY

**Interest:** Freeholder

**Existing Use:** Development site

**Policies**

Conservation Area: No

Listed Building: No

**Public Consultation**

Adj. Properties: Yes

Advertisement: No

Letters of Objection: 5

Petitions Received: 1

Letters of Support: 5

**Application Status:** Not delegated - Petition received

## Summary and Background information

This application is a resubmission of a previously approved development (HS/FA/13/00370) for the erection of a single storey dwellinghouse. Following approval of the previous application the development commenced, however, in some areas the dwelling has not been built in accordance with the approved plans. Following on from investigation by the Planning Enforcement Team in July 2015, November 2015 and March 2016, this application has been submitted to address the discrepancies between the approved plans and the development on site. These discrepancies are as follows;

- Height of the build altered to 3.5m, previously 3m
- Dwelling situated 1.65m from the north boundary at its closest point, previously 0.9m
- Dwelling situated 3.56m from the west boundary, previously 3.48m
- The southernmost corner of the dwelling now touches the boundary of the alleyway at the rear of the properties in Moscow Road where previously there was a distance of approx 0.95 metres. As a result of this there is now a minimum distance of 0.7 metres between the rear garden boundaries of the properties in Moscow Road and the development site.
- The overall floor area of the dwelling also appears to have been slightly reduced from approx 131m<sup>2</sup> to approx 126m<sup>2</sup>

It must be acknowledged that following on from the previous approval the overall principle of the development is considered acceptable and as such it is only the alterations to the previous scheme now under consideration.

## Site and Surrounding Area

The site consists of a development plot of land to the rear of terraced dwellings at Moscow Road and Alfred Road. Access is available from an entrance which runs between 23 and 27 Moscow Road. The site adjoins pathways to the north and south which run along the rear gardens of the neighbouring terraced dwellings. The site also adjoins the garden of 11 Moscow Road to the west and an area of land to the east on which is a shed and vegetable patch. The topography of the area is such that ground level of the application site is higher than the garden of the properties in Moscow Road, however, it is lower than those in Alfred Road. The surrounding area is predominantly residential and consists of terraced dwellings with front and rear gardens.

### Constraints:

- 250m Land-fill buffer zone

## Proposed development

This is a fully detailed application. The proposal involves the retention of a single storey dwelling erected on an area of land to the rear of properties within Moscow Road and Alfred Road.

The application is supported by the following documents:

- Plan 1297.02
- Plan P01A
- Plan P02A

- Plan P03A
- Design and access statement

### **Relevant Planning History**

- HS/FA/61/00155                      Erection of private garage.  
Granted                                      14/03/1961
- HS/FA/13/00370                      Erection of a single storey dwelling  
Granted                                      17/07/2013

### **National and Local Policies**

#### Hastings Local Plan – Planning Strategy (2014)

- SC1 - Overall Strategy for Managing Change in a Sustainable Way
- FA5 - Strategic Policy for Eastern Area
- H2 - Housing Mix
- T3 - Sustainable Transport

#### Hastings Local Plan – Development Management Plan (2015)

- LP1 - Considering Planning Applications
- DM1 - Design Principles
- DM3 - General Amenity
- DM4 - General Access
- DM5 - Ground Conditions

#### National Planning Policy Framework (NPPF)

The NPPF states that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay. Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

To achieve sustainable development, economic, social and environmental gains should be sought jointly.

Paragraph 12 of the NPPF states that, "This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

Paragraph 14 of the NPPF states, "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."

Specific to decision-taking, the NPPF states that this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission 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 the Framework indicate development should be restricted."

Paragraph 17 sets out 12 Core Planning Principles which include a requirement that planning should:

- 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;'

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites. Where policies are considered out-of-date planning permission should be granted unless the adverse impact significantly and demonstrably outweighs the benefits when assessed against the NPPF as a whole, or if specific policies in the NPPF indicate development should be restricted (paragraph 14).

Paragraph 58 of the National Planning Policy Framework States, "..Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
  - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
  - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion;
- and
- are visually attractive as a result of good architecture and appropriate landscaping."

Paragraph 187 of the NPPF states that, "Local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work pro actively with applicants to secure developments that improve the economic, social and environmental conditions of the area."

Paragraph 197 of the NPPF states that "in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development."

#### National Planning Policy Guidance (NPPG)

Design - Paragraph 026 states that 'decisions on building size and mass, and the scale of open spaces around and between them, will influence the character, functioning and efficiency of an area. In general terms too much building mass compared with open space may feel overly cramped and oppressive, with access and amenity spaces being asked to do more than they feasibly can. Too little and neither land as a resource or monetary investment will be put to best use'.

#### **Consultations comments**

Southern Water - **No objection** subject to condition

ESCC Flood Risk Management Team - **No objection**

#### **Representations**

In light of this application 16 neighbouring properties were consulted. In response to this, 5 letters of objection, 5 letters of support, 1 neutral comment and a petition with 18 signatures were submitted.

The concerns within the objection letters include;

- Loss of the passageway at the rear of the properties in Moscow Road
- Ground level of the access way from Moscow Road and the impact on the airbricks of the neighbouring properties
- Distance between the altered development and the neighbouring boundaries
- Incorrect materials on the application form
- Drainage/groundwater
- The resultant bulk of the dwelling following the amendments
- Lack of consultation
- Speed of investigation by the Planning Enforcement Team
- Land ownership of the alleyway at the rear of the properties in Moscow Road

With regards to the concerns in relation to the proposed materials the agent has acknowledged this error on the application form and an amended materials list has been submitted. Similarly the agent has acknowledged that when the current application was submitted the red line boundary as shown on the site location plan was also incorrect as it included the alleyway to the rear of the properties in Moscow Road which falls outside of the applicant's ownership. The site plan and red line boundary have subsequently been amended to exclude this strip of land. In relation to the concern raised in relation to lack of consultation, it is considered that due process has been followed in regard to the level of neighbour consultation carried out. Whilst it is acknowledged that the garage in close proximity to the entrance of the site falls under the ownership of No. 37 Moscow Road, the Council would be unable to identify this. Having reviewed the level of neighbour consultation carried out as part of the original application, it is apparent that the same properties have been consulted in this instance.

The other issues raised by the objectors have been discussed in more depth within the report below.

The letters of support include such comments as;

- Attractive modern design
- Positive improvement when compared to the vacant plot before

## **Planning Considerations**

### Layout and Design

As stated above the overall design of this development has been previously assessed and approved as part of the earlier scheme. The dwelling is shown to be single storey with a flat roof and wide glazed elevations. The dwelling has been finished in white render with dark timber accents and black rainwater goods. The architectural design of the dwelling has not altered from the previously approved application and as such the proposal is still considered acceptable.

Concerns have been raised by local residents in relation to the access way to the rear of the properties in Moscow Road and the potential impact on the alleyway as a result of the new position of the dwelling. In response to this the applicant has demonstrated that the alleyway is to be retained and has subsequently erected a fence along the boundary line. It is suggested that a condition be imposed requiring that this boundary treatment is retained and maintained to an acceptable level at all times.

A query has also been raised from a local resident in relation to the materials listed on the application form. These details have subsequently been amended by the agent to accurately reflect the development on site.

### Impact on Character of the area

Due to the sites location it is screened wholly by the existing properties in Moscow Road and Alfred Road. As a result of this the proposal is considered to have a neutral impact on the existing street scene along both Moscow and Alfred Road.

As stated above the surrounding area is made up of predominantly residential dwellings. As a result of this, it is considered that the proposal would not have an unacceptable impact on the existing character of the area.

### Living Environment

Policy DM3 of the Hastings DMP 2015 states that, in order to achieve a good living standard for future users of proposed development and its neighbours, it should be demonstrated that amenity has been considered and appropriate solutions have been incorporated into schemes. This Policy goes on to state that dwellings with 2 bedrooms require a minimum internal floor area of 66m<sup>2</sup>.

The Department for Communities and Local Government also recently produced Technical Guidance for Space Standards (TGSS). These standards require that the minimum internal floor area for a 2 bedroom, single storey unit is 61m<sup>2</sup>.

Having calculated the floor area for the dwelling it is apparent that the proposed unit exceeds both of these requirements and as such is considered to provide an acceptable level of internal floor area.

Point (g) of Policy DM3 of the Hastings DM Plan states that appropriate levels of private external space are included, especially for larger homes designed for family use (dwellings with two or more bedrooms). In respect of proposed family dwellings the Council would expect to see the provision of private garden space (normally at the rear), of at least 10 metres in length. The proposed amenity space is shown to meet this requirement and as such is considered acceptable.

### Impact on Neighbouring Residential Amenities

It should be acknowledged that the overall impact on the amenities of the neighbouring properties has been considered as part of the previous application; however, as a result of the development not having been built in accordance with the approved plans, this must now be reassessed. There are two points that must be considered. these are: whether the increase in height of the dwelling and the new position of the dwelling, having been shifted towards the properties in Moscow Road, is considered to have a detrimental impact on the amenities of the neighbouring residents.

As stated above, the footprint of the development has moved closer to the boundary with the properties in Moscow Road by approx 0.95 metres. In addition, the overall height has been increased by 0.5 metres resulting in a development of 3.5 metres in height. It is still considered that, due to the dwelling being single storey, there is not an adverse level of overlooking or loss of light. It is considered that, despite the alterations, the dwelling as built, does not have an overriding detrimental impact on the amenities of the surrounding residential properties.

As with the previous application, it is recommended that permitted development rights for extensions and any additional outbuildings are removed in order to further protect the amenity of neighbouring residents.

Between No.s 23 and 27 Moscow Road is the vehicular access to the development site. Concerns have been raised in relation to the resurfacing of this access track and the potential for the proposed hard surfacing to cover over the existing air bricks in the neighbouring properties. In light of this, it is considered that a condition is imposed requiring that a hard landscaping proposal be submitted showing proposed levels and details of how it is proposed to ensure these air bricks are preserved and are not impacted upon as a result of the development.

### Ecology

As part of the previous application an ecology report was submitted having been carried out by Martin Newcombe. This ecology report identified the presence of a badger on site, however, there was no evidence of a sett. No other protected species were identified. The report concluded that 'the site is a fairly uninteresting one', however, there was a strong recommendation that mitigation measures should be incorporated into the scheme in order to make some gain for nature conservation. These recommendations include the use of Schwegler bird boxes throughout the site and a native species based planting plan for any additional trees and shrubs. In addition, no site clearance should take place during the bird breeding season due to the protection afforded to most birds when nesting.

A condition was imposed on the original permission to require the submission of information outlining how it was proposed to address these ecology requirements; however, it does not appear that this information has been submitted. Although the development is nearing completion, it is considered possible to provide these mitigation measures to encourage a level of biodiversity on to the site. This should still be incorporated into the development. In light of this, a condition is suggested in line with the previously submitted ecology report.

This requirement to encourage a level of biodiversity on site can be aided by the provision of soft landscaping as required by the Council's Arboricultural officer. As a result of this, as per the previous application, it is recommended that a condition be imposed requiring details of the proposed soft landscaping be submitted and the works carried out within a set time scale as agreed by the Council.

### Highways Safety/Parking

As per the previous application there is provision for onsite parking for 2 vehicles. The County Council Highways Team were consulted on the previous application and concluded that this level of parking was acceptable and that the development would not materially affect the existing parking situation on Moscow Road. The proposed access to the site is via an existing access to the detached garages to the rear of 23 & 27 Moscow Road. As the proposal makes use of the existing access it is considered that the development would not have an adverse impact on Moscow Road in terms of highway safety. It should be acknowledged however, that within the proposal it is proposed to hard landscape the access way to the site.

### Drainage

The drainage provision for this development has not been amended from the previous application. In support of the current application Plan 1297.02 has been submitted showing provision for foul and surface water as well as a soakaway. Southern Water and the County Flood Risk Management Team have been consulted on the proposal. Southern Water have advised that there are no dedicated public surface water sewers in the area to serve the development and that alternative means of draining surface water from the development are



required. They have also advised that a formal application for the connection to the public sewerage system is required. The County Flood Risk Management Team have also commented stating that "as the proposal is retrospective, the proposal is acceptable subject to Southern Water agreeing the connection to the public sewer". Presently no evidence has been submitted to demonstrate that this approval from Southern Water has been granted, however, the agent has advised that this drainage provision has been agreed by Rother Building Control as part of ongoing site inspections.

Taking these factors in to account it is considered that although the drainage provision has been agreed by Rother Building Control confirmation that the connection to the public sewer is acceptable is still required by Southern Water. In light of this, a condition is suggested requiring submission of approval by Southern Water.

### Conclusion

Taking the above factors into account, it is considered that, on balance, the amended scheme would not have an unacceptable impact on the character of the area or the amenities of the surrounding residential properties. The proposal is therefore considered to comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which 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".

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

## **Recommendation**

### **Grant Full Planning Permission subject to the following conditions:**

1. Prior to occupation of the development hereby approved a soft landscaping scheme including a planting plan; 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 shall be submitted to and approved in writing by Local Planning Authority. The landscaping shall be carried out in accordance with the approved details and maintained thereafter.
2. All planting seeding or turfing included 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.

3. Prior to occupation of the development hereby approved full details of the hard landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved and maintained thereafter. These details shall include proposed finished levels or contours; means of enclosure; pedestrian access and circulation areas; hard surfacing materials and details for the preservation of the airbricks at the adjoining properties at No. 23 and 27 Moscow Road.
4. The fence erected along the southern site boundary with the alleyway to the rear of the properties in Moscow Road shall be retained on site at all times and maintained to an acceptable level. If at any point the fence becomes damaged or dangerous, repair works shall be carried out to ensure safe means of access to the rear of the properties in Moscow Road.
5. Prior to occupation of the development hereby approved details of the proposed ecological enhancements as suggested within the Ecological Survey prepared by Martin Newcombe dated November 2011 shall be submitted to and approved in writing by the Local Planning Authority. These details shall include;
  - i. the enhancement measures proposed (ie. the erection of bird boxes on buildings or artificial bat roosts) including a plan detailing the location of the proposed enhancements.
  - ii. a written programme of implementation for the enhancement measures proposed.

The approved ecological enhancements shall then be installed on site within a timescale agreed by the Local Planning Authority and maintained thereafter.

6. Notwithstanding the provisions of Schedule 2, Part 1 Classes A, B, C, D or E of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension or external alteration to the property shall take place, and no outbuilding shall be erected within the curtilage without the grant of an additional planning permission.
7. Prior to occupation of the development hereby approved details of the proposed surface and groundwater drainage system shall be submitted to and approved in writing by the Local Planning Authority. These details shall include evidence to demonstrate that the proposed methods for dealing with the surface and groundwater are adequate and proportionate to the site. The approved drainage provision shall then be installed on site and retained in working order thereafter.
8. Prior to occupation of the development hereby approved evidence shall be submitted to the Local Planning Authority that the drainage measures installed on site meet the requirements of Southern Water.

9. Prior to occupation of the development hereby approved the proposed bin store as shown on plan 1297.02 shall be provided on site. The bin store shall then be retained on site and maintained to a satisfactory level.
10. 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.
11. The development hereby permitted shall be carried out in accordance with the following approved plans and details: 1297.02, 16123 - P01A, 16123 - P02A, 16123 - P03A and Ecological Survey dated 10.11.2011.

**Reasons:**

1. To ensure a satisfactory form of development in the interests of the visual amenity.
2. To ensure a satisfactory form of development in the interests of the visual amenity.
3. To ensure a satisfactory development and to safeguard the amenity of adjoining and future residents.
4. To ensure a satisfactory standard of development.
5. In the interests of achieving a gain for nature conservation and to encourage other wildlife on the site.
6. To ensure against overdevelopment on site and in the interests of the amenity of the neighbouring residential occupiers.
7. To prevent increased risk of flooding.
8. To ensure a satisfactory standard of development.
9. To ensure a satisfactory standard of development.
10. To safeguard the amenity of adjoining residents.
11. 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.

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**Officer to Contact**

Mrs E Meppem, Telephone 01424 783288

**Background Papers**

Application No: HS/FA/16/00531 including all letters and documents