

Report to: PLANNING COMMITTEE

Date: 08 October 2014

Report from: Development Manager

Application Address: Land to rear of Site of former Hurst Court,
316 The Ridge, Hastings, TN34 2RA

Proposal: Erection of detached five bedroom house
and detached double garage

Application No: HS/FA/14/00394

Recommendation: Grant Full Planning Permission

Ward: ST HELENS

File No: RI55316V

Applicant: Hurst Developments (Mauhart) Ltd per Town &
Country Planning Solutions Sandhills
Farmhouse Bodle Street Gre HAILSHAM East
Sussex BN27 4QU

Interest: Freeholder

Existing Use: Grounds of former Hurst Court

Policies

Hastings Local Plan 2004: NC8, NC9, L2, DG1, DG2, DG11 and C6

Conservation Area: No

National Planning Policy Framework: No Conflict

Hastings Planning Strategy: FA2, SC1, SC3, SC4, EN1, EN2, EN3, EN7,
H1, H2, H3 and T3

Hastings Local Plan, Development
Management Plan, Revised

Proposed Submission Version: LP1, DM1, DM3, DM4, HN4, HN7, HN8 and
NN9

Public Consultation

Adj. Properties: Yes

Advertisement: No

Letters of Objection: 3

Petitions Received: 0

Application Status: Not delegated - More than 2 letters of
objection received

Summary

The application site relates to a rear northern part of the former Hurst Court grounds, 316 The Ridge, Hastings. The applicant is proposing to build a new detached house on this land, which will adjoin the 6 detached houses currently under construction.

The main issues to consider are the impact on the character of the area, neighbouring residential amenities, biodiversity, trees, the AONB and highway safety. Having looked into these matters it is considered that the proposed development is acceptable.

The development will not harm the character of the area or the AONB as it is designed to fit in with the existing spacious character of the area and will be relatively well screened from the AONB. The applicant has carried out sufficient work in relation to badgers and proposes appropriate mitigation, including a badger protection area. A suitable amount of trees are being retained in line with local character. And, the development does not involve any highway safety concerns.

Having considered the relevant material matters I recommend that planning permission be granted subject to conditions.

The Site and its Location

The application site relates to the rear or northern part of the grounds of the former Hurst Court building at 316 The Ridge. The application specifically relates to the north-western part of the site which adjoins the residential development at Hurst Way and is to the west of the 6 new houses that are being built as part of planning permission HS/FA/13/00970.

Densities are lower in this area of the Borough and the site and its surroundings include a number of trees all adding to the sub-urban / semi-rural character that exists on the transition out of the town.

Details of the Proposal and Other Background Information

The applicant proposes to erect a new dwelling to the west of the new houses that are currently under construction as part of planning permission HS/FA/13/00970.

The house proposed is a detached five-bedroom property with detached double garage. Access is proposed from the new road being built as part of the 6 recently approved houses to the east.

The proposals also include the removal of some trees and mitigation measures in relation to the substantial badger sett to the north and east.

Previous Site History

Aside from applications for the more comprehensive redevelopment of the whole site or larger parcels of land, there have been no recent applications for this particular piece of land.

As mentioned planning permission HS/FA/13/00970 relates to the site in as much as it approves the development of 6 houses immediately to the east of the application site. The adjacent development of six houses includes the access road which allows access to this application site.

Details of Consultations

The **Local Highway Authority** has raised no objection but requests that provision be made for the storage of cycles.

Rother District Council has raised no objection subject to suitable tree retention to screen the development from the High Weald Area of Outstanding Natural Beauty (AONB) and

safeguards to the badger sett.

The **Environment & Natural Resources Manager** has raised no objection subject to conditions.

The **Borough Arboriculturalist** has raised no objection.

There have been three objections to the proposal. Concerns include:

- The quality and breadth of the ecology surveys is considered poor.
- The ecology information is considered out-of-date.
- The position of the house – it should be moved further south to avoid conflict with badgers.
- Drainage infrastructure and the impact on badgers.
- Badger exclusion zones should not form part of the residential curtilage.
- Insufficient drainage information has been submitted.
- Impact on the privacy of Hurst Dene East.
- Licence required from Natural England in relation to badgers.
- Inadequacy of the badger mitigation measures.
- Impacts on vehicular and pedestrian safety.
- Lack of information regarding the provision of services (including superfast broadband) to the dwelling.
- Land instability.
- Lack of information regarding heating of the property.
- No details regarding boundary fencing/walling and the impact this would have on land stability.
- No pre-application advice was sought.

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".

The main policies/guidance that apply are policies SC1, EN3, EN7 and T3 of the Hastings Local Plan: The Hastings Planning Strategy (HPS); policies DG1, NC8 and NC9 of the Hastings Local Plan 2004 (HLP); and policies DM1, DM3, DM4 and HN8 of the Hastings Local Plan: Development Management Plan (DMP). Others apply and are listed above.

The main issues to consider are the impact on the character of the area, neighbouring residential amenities, biodiversity, trees, the AONB and highway safety.

Impact on the character of the area and the AONB

The proposed single dwelling will read quite neatly as an addition to the 6 houses that are currently under construction to the east of the site. Likewise, the proposed house will fit in with the general pattern of development in the local area which consists of bungalows or detached houses within relatively spacious plots. Materials proposed are considered consistent with the local area. The application is not considered to cause harm to the character of the area.

The proposals will require the removal of some trees but many are retained – particularly along the northern/north-eastern boundary which will screen the development from the neighbouring AONB. Retained trees are proposed to be safeguarded during development . Given the level of tree retention I am satisfied that there will be limited views of the site from the AONB and vice versa. With this in mind I consider that there will be no harm to the AONB.

Impact on neighbouring residential amenities

The proposed development will bring built form closer to existing residential properties - particularly 2 Hurst Way and Hurst Dene East, Stonestile Lane. Saying this, the proposed dwelling is suitably distanced from these neighbouring properties to cause no harm to neighbouring amenities.

In respect of Hurst Dene East, this property is approximately 40m away from the proposed development at a slight angle. Due to this relationship the proposed development is not considered to be overbearing nor will it result in the loss of any light or unacceptable levels of overlooking.

2 Hurst Way is the closest property to the development site. Whilst closer the proposed development is positioned at an obtuse angle to this property and as such I do not consider that there will be any harm to amenities due to loss of light. I am concerned that the vegetation that has established itself along the boundary with 2 Hurst Way is proposed to be removed which would expose the new development slightly, however, due to the angles and distances involved I do not consider that the bulk of the proposed building would cause a sense of overbearing. The proposed building is not orientated to face directly towards the house or garden of 2 Hurst Way and as such it is not considered that the proposed development would cause any unacceptable levels of overlooking.

Whilst the new dwellings to the east are still being constructed it is necessary to consider the possible harm that may come to these properties. Like the assessment above the proposed development is suitably distanced so as to cause no harm to these properties.

Overall it is considered that the proposed development will not cause harm to neighbouring residential amenities.

Impact on biodiversity

The impact on biodiversity and in particular the impact on the substantial badger sett within and adjacent to the site, is the most contentious planning consideration. Essentially, those objecting to the application have raised concerns about the quality of the ecology information submitted and questioned whether the assessment of the extent of the badger sett is sufficient. In turn this has resulted in concerns regarding harm to badgers caused by the development and suitability of the proposed mitigation measures.

It is clear from the information submitted that the applicant's ecologist has been involved with the site over a number of years and as such there is a very good understanding of badger activity in the local area. I understand the concerns of the residents but the fact of the matter is the applicant's ecologist has undertaken a substantial amount of work in relation to the local badger population and has a very good understanding of it. Given the nature of the sett - i.e. its size the length and depth of the tunnels and the ever-changing nature of badger activity - it would always be difficult to account for the full extent of the sett. However, I am satisfied that the applicant has carried out sufficient work to assess the significance of the local badger sett and that suitable mitigation measures are proposed.

One of the mitigation measures includes the provision of substantial badger protection area. Those objecting to the application raise concerns about whether the area is large enough, whether the underground and overground fencing proposed is sufficient to protect both badgers and the house and whether the construction of the fencing will actually cause harm to badgers. Again, I appreciate the concerns raised but the applicant's ecologist and the Council's own ecology expert are satisfied with the proposed level of mitigation. In addition all works will need to be carried out under licence by a suitably qualified ecologist and, if during these works badger habitat not previously known is discovered, appropriate action will be taken in accordance with the recommendations of the ecologist. I consider the proposed mitigation acceptable.

The Environment & Natural Resources Manager considers that the badger matter has been appropriately addressed but to safeguard their welfare he recommends additional conditions be attached to any planning permission to ensure badgers are protected during the construction of the development.

I also recommend a condition stating that the badger protection area must not be used as private garden space and that the badger protection fencing shall remain in situ.

The applicant's ecologist has confirmed that there will be no harm to other protected species.

Trees

The proposed development will include the removal of a number of trees but also includes the retention of many others. In consultation with the Borough Arboriculturalist these works are considered acceptable. There will be no harm to the character of the area or the AONB through the small amount of tree loss and the retained trees will adequately be protected during construction.

Objections to the development have suggested that the installation of the badger protection fencing will cause harm to retained trees but from the information available to me it would appear that the badger fencing will fall outside of the root protection areas of the retained trees. This is acceptable.

Highway safety

The proposed development is to be accessed from the road which serves the adjoining new development of 6 houses. This access is considered suitable.

The development site is large and includes a detached double garage and driveway. This will provide for sufficient vehicular parking.

The Local Highway Authority recommend that cycle parking is secured via condition as there is no dedicated cycle storage shown on the approved drawings. The proposed garage is not considered large enough for both vehicular and cycle storage. Securing cycle storage is consistent with Supplementary Planning Document "Parking Provision in New Developments" and a condition to achieve this is considered reasonable.

Other matters

Drainage details can be secured via condition. The possible impact that drainage and other services will have on local badgers will need to be covered in the construction management plan which the Environment & Natural Resources Manager recommends be secured via

condition.

One of the objectors is concerned that the development does not provide for superfast broadband. It is a requirement of policy SC1 of the HPS that new development should make provision for fibre optic broadband and I recommend that this is secured by condition.

One of the objectors is concerned with land instability and has submitted photographs to evidence this. Unfortunately the submitted photographs do not appear to clearly identify any instability issues. From my site visit it was clear that, whilst there are changes in levels in the area, the plot of the house was relatively level. There does not appear to be any reason to investigate this matter further or to require stability information by condition.

The site is within an archaeological notification area. Previous studies have shown that this site has been intensively landscaped in the past and there is little opportunity for the discovery of archaeological remains. This matter does not need to be considered further.

The development is subject to an affordable housing financial contribution in accordance with policy H3 of the HPS. The applicant has signed a unilateral agreement to secure this financial contribution as part of the planning permission.

Conclusion

Given the above discussion I recommend that planning permission be granted subject to conditions.

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

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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

4456/1/D, 4456/24456/3, 4456/4 and 4456/14/A
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. 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 shall take place until the tree protection measures outlined in the submitted arboricultural statements and reports (Arboricultural implications assessment for proposed detached house and garage by Tim Laddiomann of Broad Oak Tree Consultants Limited), dated 22 April 2014 (ref J48.72) have been fully implemented, unless:
 - (i) the programme for such measures is otherwise specified within that document, in which case the works shall be carried out in accordance with the timescales contained therein or;
 - (ii) unless the scheme(s), or programme(s) of measures contained within the arboricultural statements and reports is otherwise first varied, by way of prior written approval from the Local Planning Authority.

Other tree works shall otherwise be undertaken wholly in accordance with the same arboricultural report unless varied by way of prior written approval from the Local Planning Authority.
6. No development shall take place until the measures outlined in the submitted ecological statements and reports (Ecological Scoping Survey by Martin Newcombe), dated 30 April 2014 have been fully implemented, unless:
 - (i) the programme for such measures is otherwise specified within that document (for example with regard to measures related to monitoring, further survey work, the erection of bird boxes on buildings or other conservation enhancements), in which case the works shall be carried out in accordance with the timescales contained therein or;
 - (ii) unless the scheme(s), or programme(s) of measures contained within the ecological statements and reports is otherwise first varied, by way of prior written approval from the Local Planning Authority.
7. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
 - a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) open pipe work greater than 150 mm outside diameter being blanked off at the end of each working day.

The development shall be carried out in accordance with the approved details.

8. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

9. No development 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 (eg furniture, play equipment, refuse or other storage units, signs lighting etc.); proposed and existing functional services above and below ground (eg drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
10. All hard landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
11. No development shall commence until details for the provision of dedicated cycle storage has been submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be provided in accordance with the approved details prior to the occupation of the dwellinghouse hereby approved.
12. For clarity the badger protection area, as shown on approved drawing no. 4456/1/D, does not form part of the residential curtilage of the dwellinghouse

hereby approved.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or as may be subsequently amended or re-enacted no development or use of the land identified as a badger protection area on drawing no. 4456/1/1D shall take place without the grant of an additional planning permission.
14. Before the development hereby approved is occupied provision shall be made for the ability to connect to fibre-based broadband.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
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. In the interests of the health of the trees and to protect the visual amenity.
6. To protect features of recognised nature conservation importance. (Hastings Local Plan 2004 policies NC8 and NC9.)
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8. To protect features of recognised nature conservation importance. (Hastings Local Plan 2004 policies NC8 and NC9.)
9. To ensure a satisfactory form of development in the interests of the visual amenity.
10. To ensure a satisfactory form of development in the interests of the visual amenity.
11. To ensure that the site is accessible by non-car modes or transport in accordance with policy T3 of the Hastings Local Plan: The Hastings Planning Strategy and the Supplementary Planning Document: Parking provision in new development.
12. To protect features of recognised nature conservation importance. (Hastings Local Plan 2004 policies NC8 and NC9.)
13. To protect features of recognised nature conservation importance. (Hastings Local Plan 2004 policies NC8 and NC9.)
14. In accordance with policy SC1 part (f) of the Hastings Local Plan: The

Hastings Planning Strategy.

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. There are badgers on the site and your attention is drawn to the provisions of the Badger Protection Act 1992. It is a criminal offence to kill or injure a badger; to damage or obstruct access to its sett; or to disturb a badger when it is occupying a sett. A licence from Natural England will be required to carryout works related to protected species.
4. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).

Officer to Contact

Mr S Batchelor, Telephone 01424 783254

Background Papers

Application No: HS/FA/14/00394 including all letters and documents