

Report to: PLANNING COMMITTEE

Date: 08 October 2014

Report from: Development Manager

Application Address: Land Rear Of, 38-40 Nelson Road, Hastings
TN34 3RZ

Proposal: Erection of a pair of semi-detached
houses.

Application No: HS/FA/14/00660

Recommendation: Grant Full Planning Permission

Ward: CASTLE
File No: NE15038R
Applicant: Mr Elphick per CLM Planning Limited 14 Magpie
Close Bexhill on Sea East Sussex TN39 4EU

Interest: Owner
Existing Use: Vacant Land

Policies

Hastings Local Plan 2004: DG1, DG2, DG3, DG11
Conservation Area: No
National Planning Policy Framework: No Conflict
Hastings Planning Strategy: FA2, SC1, EN1, EN3, EN7, EN8, H1, H2, H3,
T3

Hastings Local Plan, Development
Management Plan, Revised
Proposed Submission Version: DM1, DM3, DM4, HN5, HN7, HN8, HN9

Public Consultation

Adj. Properties: Yes
Advertisement: Yes - General Interest
Letters of Objection: 6
Petitions Received: 1

Application Status: Not delegated - Petition received

Summary

The proposal is for the erection of a pair of two bedroom semi detached houses on land to the north east of Nelson Road. The site is currently vacant and the main issues are the impact of the proposal on the character and appearance of the area and the amenity of neighbouring residents. After considering all matters, I recommend the proposal for approval subject to conditions.

The Site and its Location

The site consists of a vacant parcel of land located at Nelson Road. The land is higher than the road and is divided from it by a brick retaining wall. The site adjoins a public right of way (Admiral Steps) to the north west and the rear of 38 - 40 Nelson Road to the north, both of which have been divided into two flats. To the east, the site adjoins a four storey block of flats at a lower level. The site is opposite a row of three storey terraced dwellings.

Nelson Road is of a 'hair pin' type configuration. The topography of the area rises from south to north. The area is residential and is defined mainly by three storey terraced buildings. The majority of neighbouring properties are built of facing brick but some include rendered and part rendered elevations. Although the area is not designated as a conservation area the vertical emphasis and uniform fenestration of the well-preserved Victorian terraces give it a distinctive historic character and appearance

The topography of the area means that the three storey dwellings opposite the application site have a two storey appearance (with basement level) and the dwellings to the rear appear taller.

Details of the Proposal and Other Background Information

Several applications have been made to develop the site for residential accommodation (please see Relevant Site History below) but most have been refused and some dismissed at appeal. With the majority of the previous applications the reasons for refusal have included amenity space for future occupants, overdevelopment, privacy, character and appearance and overbearing.

Most recently planning application: HS/FA/12/00649 was refused for an eco home to be built of transport containers. A subsequent application for a revised scheme (Reference: HS/FA/12/00832), also involving the use of transport containers, was also refused and later dismissed at appeal. In both cases the main issues were the impact of the proposal on the character and appearance of the area and the amenity of neighbouring residents and future occupants of the proposal.

The current scheme is for a pair of semi-detached dwellings which are to be built of facing brick with roof tiles and UPVC windows. Each dwelling is to be two bedroom with private amenity space to the side and rear.

The site is occupied by a Sycamore Tree and is within close proximity to an Oak Tree which lies to the north east of the site's boundary. Both trees are covered by Tree Preservation Order (TPO) No 212. The proposal involves the removal of the sycamore tree and its replacement with two trees either side of the proposed dwellings.

Relevant Site History

- HS/OA/74/00904 Erection of one dwelling and garage.
Refused 13 November 1974.
- HS/OA/75/00670 Erection of one dwelling.
Refused 19 November 1975.
- HS/OA/88/00174 Erection of 3 storey building to provide maisonettes and garages.
Refused 02 June 1988.
- HS/OA/88/00857 Erection of 3 terraced houses with integral garages
Granted 05 December 1988.

- HS/OA/98/00601 Erection of two town houses with integral garages.
Refused 04 December 1998.
- HS/OA/99/00301 3 new 3 bedroom town houses (terrace) with off road parking space & integral garages.
Refused 09 July 1999. Subsequent appeal dismissed.
- HS/TP/99/00493 Fell one multi-stem sycamore tree (T2).
- HS/TP/12/00412 Fell 1 x sycamore.
Refused 21 June 2012. Subsequent appeal dismissed.
- HS/TP/12/00599 Prune lower branches and crop top of 1 x sycamore.
Granted 13 December 2012.
- HS/FA/12/00649 Erection of selfbuild eco home.
Refused 18 October 2012.
- HS/FA/12/00832 Erection of selfbuild eco home.
Refused 17 December 2012. Subsequent appeal dismissed.

Details of Consultations

The **Waste and Streetscene Services Team** have advised that bin storage space at the front of each property will need to be provided (Condition 2).

The **Borough Arboriculturalist** is of the opinion that the proposed replacement trees compensate for the loss of the existing sycamore tree.

Comments have been received from **Southern Water** who have provided general advice and recommended the use of an informative regarding the need for a sewer (Informative 3 & 4).

The **Transport Development Control Team** have raised no objection on the basis that 6 additional permit holder spaces are to be provided in the area and the site's location in relation to shops/service and public transport links

A total of **6 letters of objection** and **1 petition of objection** have been received. The main issues raised include: character and appearance, loss of open space, impact on protected trees, quality of living environment (garden length), privacy, loss of parking spaces, drainage (water run-off/natural drainage), ecology, precedent and privacy.

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".

Character and Appearance

The proposed dwellings are to front onto Nelson Road with small front gardens and the dwellings are to be two storeys in height. It is considered that the proposals relationship to Nelson Road is similar to other properties in the area. The topography of the area also means that the two storey height of the proposal reflects that found on the opposite side of Nelson Road.

The proposal includes a brick wall with metal railings across the site's frontage and the dwellings are to be built of facing brick with pitch roofs and feature bay windows with front facing gables. It is considered that these features draw on those found in the surrounding area and create a vertical emphasis. It is therefore considered that the scheme is in keeping with the broad characteristics found in the locality and that it will preserve the historic character and appearance of the area.

Protected Trees

The protected sycamore tree at the site and the protected oak tree to the east make an important contribution to the streetscene and character of the area. A recent application to fell the sycamore tree (HS/TP/12/00412) was dismissed at appeal. At the time of considering the appeal the Inspector was of the opinion that the tree made an important contribution to the character and appearance of the area. The sycamore tree is to be removed as a result of the proposal but is to be replaced by 2 x Turkish hazel trees either side of the proposed dwellings.

The existing oak tree is to be retained and the supporting arboricultural report confirms that development will be outside the root protection area of the oak tree. Having regard to the comments received from the Borough Arboriculturalist and that the scheme is otherwise considered to be in keeping with the character of the area, it is considered that the replacement trees will ensure that the character and appearance of the streetscene is preserved.

The provision of additional soft landscaping and sympathetic boundary treatments (including the boundary with Admiral Steps) will also help to enhance the appearance of the area and this can be dealt with by way of conditions.

Living Environment

Having regard to the positioning of the proposed dwellings, site levels and the topography of the area, it is considered that the proposal will not result in unacceptable overbearing impacts, sense of enclosure or loss of light.

As the design makes use of the topography of the area, the first floors of the proposed dwellings will be lower than the rear windows of neighbouring properties to the north. Side facing windows are proposed but are to serve bathrooms and will therefore be obscure glazed. This can be dealt with by way of a condition. The proposal will have a conventional relationship with the properties opposite and will not result in adverse impacts on privacy.

The topography of the area ensures that views of the proposed dwellings from the existing 38-40 Nelson Road will be limited. The situation can be further improved by providing a screen along the site's rear boundary, the details of which can be controlled through the recommended boundary enclosure condition. This condition will also ensure that any boundary enclosures do not result in unacceptable overbearing impacts on neighbouring residents

The proposed rear gardens are to be 5.5m in length. Whilst this falls short of the 10m length required by Policy DG11 of the Hastings Local Plan 2004 (HLP) and Policy DM3 of the Hastings Development Management Plan Revised Proposed Submission Version 2014 (DM Plan), the unit to the south east has a garden of at 10.5m in width and the unit to the north west has a garden of 9.5m in width. Having regard to the overall size of the gardens and their positioning to the rear of the proposed dwellings it is considered that they are suitable for family use and therefore acceptable.

The distances from the rear of the proposed dwellings to the rear boundary will only measure 5.5m but only the bedroom at first floor level will face to the rear. The recommended boundary enclosure condition will ensure that any boundary treatments do not have an oppressive impact on future occupants of the proposal. The living space at ground floor level is located at the front of the property with doors to the side ensuring that future occupants will experience good levels of outlook and light.

It is recommended that permitted development rights for extensions, outbuildings and windows are removed in order to protect the amenity of neighbouring residents.

Loss of Open Space

In accordance with national and local planning policies there is a requirement to protect open space. In this case the site is not designated as open space in either the HLP or the Hastings Planning Strategy 2011-2028 (the Strategy), the land is privately owned and is not accessible for recreational purposes. However, as mentioned above, the sycamore tree makes an important contribution to the streetscene. It is therefore considered that the site does make a contribution to visual amenity. Through the use of conditions to secure the replacement trees, suitable soft landscaping and boundary enclosures, I am of the opinion that the site will continue to make a contribution to visual amenity and the character of the area and that the proposal is therefore acceptable.

Housing Type and Affordable Housing

Both the HLP and the Strategy advise that there are large numbers of small units across the Borough. The proposed dwellings are 2 bedroom and the garden areas are considered to be suitable for families. The proposal will therefore help to address imbalances in the housing stock as required by Policy H2 of the Strategy.

In accordance with Policy H3 of the Hastings Planning Strategy the applicant has agreed to pay a contribution towards affordable housing which will need to be secured by a legal agreement.

Drainage

Having regard to the comments received from Southern Water, it is considered that a condition requesting drainage details to be submitted for approval will be adequate to ensure that surface water is adequately controlled.

Highway Safety and Parking

The proposal does not include any off road parking and therefore there is no requirement for a dropped kerb. The existing on street parking along this section of Nelson Road will therefore remain unaffected by the proposal.

Having regard to the comments of the Transport Development Control Team (TDCT), and that the proposal makes provision for cycle storage, it is considered that the scheme will not result in unacceptable levels of inconvenience or highway safety issues. It is recommended that a condition is imposed requiring cycle parking to be provided.

Ecology and Biodiversity

An ecological report has been submitted with the application which concludes that no additional survey work is required but does make a number of recommendations for precautions/enhancements which can be made. Subject to a condition to secure the recommendations made it is considered that the proposal will not result in adverse impacts on ecology or biodiversity.

Other Matters

With regard to precedent, it should be noted that each planning application is dealt with on its merits. Whilst the development of a former garden area may be acceptable in one location it may not be in another.

A bin storage condition can be imposed to ensure that a suitable bin store is provided for each dwelling.

Conclusion

It is considered that the proposal will preserve the character of the area and, through the use of conditions, will not result in adverse impacts on its surroundings. I therefore recommended the application for approval subject to conditions and a legal agreement to cover affordable housing and the formation of additional permit parking bays.

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

That the Development Manager be authorised to issue planning permission on the completion of a Unilateral Undertaking to secure the provision of a financial contribution towards affordable housing. In the event of the agreement not being completed by 8 April 2015 that the Development Manager be authorised to refuse permission on the grounds that adequate provision has not been made for the provision of affordable housing.

(B) Subject to (A) above grant 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 dwelling hereby approved shall be occupied until readily accessible external storage space for refuse bins has been provided to the satisfaction of the Local Planning Authority.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been made available for inspection at the site and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

4. 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.
5. 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.
6. No development shall take place until full details of all boundary enclosures have been submitted to and approved in writing by the Local Planning Authority. All such boundary enclosures shall be erected before the building to which it relates is occupied.
7. The side facing windows at first floor level shall be obscure glazed with obscure glass to a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3, or similar equivalent and be permanently fixed shut and non-opening below 1.8 metres from finished floor level.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or as may be subsequently amended or re-enacted no extensions to the dwellings or outbuildings shall be formed/erected without the grant of an additional planning permission.
9. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.
10. The development shall be completed in accordance with the submitted arboricultural statements and reports (Tree Survey Arboricultural Impact Assessment & Tree Protection Plan Land r/o 38-40 Nelson Road Hastings East Sussex TN34 3RZ dated June 2014 and Supplementary Planting Plan Land r/o 38-40 Nelson Road Hastings East Sussex TN34 3RZ dated September 2014 prepared by the Mayhew Consultancy Ltd) unless otherwise agreed in writing by the Local Planning Authority.
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 dwellings hereby approved shall occur until those works have been completed.
 - (iii) No occupation of any of the dwellings 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. No development shall take place until the measures outlined in the submitted ecological statements and reports (Preliminary Ecological Appraisal Land r/o 38-40 Nelson Road Hastings East Sussex TN34 3RZ dated July 2014 prepared by The Mayhew Consultancy) 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.
13. The dwellings hereby approved shall not be occupied until provision has been made for high speed broadband infrastructure to serve the development.
14. The development hereby permitted shall be carried out in accordance with the following approved plans:
- Site plan, NR.1124.10 & NR.1124.11
15. The development shall not be occupied until cycle parking areas has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

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 a satisfactory form of development in the interests of the character and amenity of the area.
3. In the interests of the character and amenity of the Conservation Area.
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. To ensure a satisfactory form of development in the interests of the character and amenity of the area and to safeguard the amenity of adjoining and future residents.
7. To protect the amenities of adjoining residential properties.
8. To safeguard the amenity of adjoining and future residents.
9. To safeguard the amenity of adjoining and future residents.
10. In the interests of the visual amenity of the area and to ensure a satisfactory standard of development.
11. To ensure a satisfactory standard of development.
12. To protect features of recognised nature conservation importance. (Hastings Local Plan 2004 policies NC8 and NC9.)
13. To ensure a satisfactory standard of development.
14. For the avoidance of doubt and in the interests of proper planning.
15. In order that the development site is accessible by non car modes and to meet the objectives of sustainable development.

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. Consideration should be given to the provision of a domestic sprinkler system.
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 Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Telephone: 0330 303 0119) or www.southernwater.co.uk.

Officer to Contact

Mr T Tanner, Telephone 01424 783336

Background Papers

Application No: HS/FA/14/00660 including all letters and documents