

**Report to:** PLANNING COMMITTEE  
**Date of Meeting:** 03 April 2019  
**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** 39 Pevensey Road,(Garden flat), St Leonards-on-sea, TN38 0JY  
**Proposal:** Garden works to include retention of a 2.5 metre western red cedar tree screen, retention of associated timber frame structure and the reinstatement of an existing external door opening from garden flat. (Part retrospective)  
**Application No:** HS/FA/18/01088

**Recommendation:** REFUSE

**Ward:** CENTRAL ST LEONARDS 2018  
**Conservation Area:** Yes - St. Leonards North Conservation Area  
**Listed Building:** No

**Applicant:** liversedge design collective LLP per the liversedgedesign collectiveLLP 41 Amherst Road Bexhill-on-Sea TN40 1QN

### **Public Consultation**

**Site Notice:** Yes  
**Press Advertisement:** Yes - Conservation Area Amended Plans  
**Letters of Objection:** 1  
**Petitions of Objection Received:** 0  
**Letters of Support:** 9  
**Petitions of Support Received:** 0  
**Neutral comments received** 0

**Application Status:** Not delegated -  
The recommendation to refuse permission is contrary to the letters of support received

## **1. Site and surrounding area**

The site is located in Central St Leonards a mainly residential area. It is a corner building on Pevensey Road and meets Cardiff Road on its eastern elevation. The immediate street scene is characterised by late 19th Century buildings of large proportions, powerful

architectural features and low boundary walls. The application site is one of those buildings. The site is within the St Leonards North Conservation Area which is also characterised by the same large proportions, powerful architectural features and also incorporates rendered external elevations, pitched roofs of either slate or tile, and various configurations of dwelling arrangement whether that be terrace, semi-detached or detached.

### Constraints

St Leonards North Conservation Area

## **2. Proposed development**

The application includes proposals for retention and new development, primarily in the garden area of the site. It is proposed to retain a 2.5 metre fence that has been erected along the entire northern side boundary, for a length of 12.4m, then extending along the eastern front boundary by 3.9m. To the front of this, a screen of cedar trees have been planted, which are proposed to be maintained at a height of 2.25 to 2.5 metres, to screen the fence behind.

Within the garden, it is also proposed to retain a timber structure that has been built off of this fence. The roof of this structure has a depth of 6m, and width of 3.3m, creating a covered area in the front garden space, in a prominent location on the main corner of the plot. A timber decking area is also proposed to the front of this structure.

The application also proposes reinstatement of an external door, on the northern elevation of the building. This would face onto the existing garden structures and works, thus giving access to this new space.

The application is supported by the following documents:

Design and Access Statement

Heritage Statement

### **Relevant planning history**

ENF/18/00154      Structure being constructed in garden - Open case

### **National and Local Policies**

Hastings Local Plan – Planning Strategy 2014

Policy FA4 - Strategy for Central St Leonards

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)

DM1 - Design Principles

DM3 - General Amenity

## Other policies/guidance

### Housing and Community Agency Urban Design Lesson - Housing Layout and Neighbourhood Quality 2014

#### National Planning Policy Framework (NPPF)

Paragraph 11 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.

Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 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 9 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.

Section 12 of the NPPF sets out the requirement for good design in development. Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 127 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:
  - \* Layout
  - \* Architecture
  - \* Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
  - \* Building types
  - \* Materials
  - \* Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 193 states: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 states: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification

Paragraph 196 states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 91(a) states that: Planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages.

### **3. Consultation comments**

Arboricultural Officer - **No Objection**

Conservation Officer - **The caseworker is a qualified Building Conservation Officer assigned to cases that involve properties within Conservation Areas and/or works to Listed Buildings.**

### **4. Representations**

9 letters of representations received from 9 different properties

1 letter of objection has been received raising the following concerns:

- Negative effect on the character of the Conservation Area
- Setting precedent for similar applications
- Poor appearance of the works

8 letters of support have been received raising the following:

- Sensitive, good quality natural landscaping
- Formation of a barrier
- Reinstatement of a door
- Comparison to less well maintained front gardens
- Stylish design

## **5. Determining issues**

The proposal presents issues regarding its affect on the setting of a Conservation Area, the visual impact on the street scene, justification for works and impact on security.

### a) Principle

The site is in a sustainable location and the application is therefore in accordance with Policy LP1 Hastings Local Plan - Development Management (2015) in this respect and acceptable in principle subject to other local plan policies.

### b) Impact on character and appearance of area/conservation area

Pevensey Road consists of large Victorian houses (albeit with some later infill), usually detached or semi-detached with low front boundary walls. The road is wide and sweeps up to the junction with Upper Maze Hill. The low boundary walls and houses of significant size give an impression of grandeur, a grandeur that the original architects wanted to display to the wider public. There are periodically some unsupported trees and planting both in front gardens and on the highway. The periodical nature creates pockets for observation of the architectural features of the impressive buildings.

The application proposes a number of elements of development, some of which have been undertaken and now seek retrospective consent. This in itself is not a reason for refusing development, thus each element of development must be assessed on its merits, having regard to the Local Plan. This assessment of impact on the character and appearance of the Conservation Area is a primary consideration, given the sites location in the St Leonards North Conservation Area and prominent dual road frontage location.

### Timber Frame Structure

The application includes proposed retention of the timber structure, erected in the front garden of the site. The large timber frame structure that has been installed in the front garden raises concerns regarding its interaction with its setting, and the scale, siting and massing of development.

Specifically, the proposal puts a separating barrier between the low boundary wall and the building, thus disassociates the two components and creates a break in the visual rhythm and harmony when looking at the wider setting and immediate street scene. It is a structure which sits significantly forward of the building line, and is a permanent structure, which if approved will be the first structure to be forward of this line. This will be incongruous in the streetscene and disturb the overall character of the Conservation Area. Furthermore, this visual impact is exacerbated by the structure having a significant height of 2.5m, which is far greater than any other boundary treatment in the area. It's expanse across the majority of the north and east boundaries also means there is no visual break or relief from the mass and impact of this development. This has a harmful impact on the street scene, as well as the host building itself. Notably, the visibility of the building will become largely obscured due to the new timber structure spanning 12m across the northern elevation and being 2.5m in height from garden level. It should also be noted that the garden level is higher than the level of the public footpath creating more of an over bearing effect. The appreciation of the historic architecture and its relationship to the setting will be lost due to this overbearing, excessive and dominant structure that will be directly adjacent to the public highway.

Policy DM1 of the Hastings Development Management Plan states that all proposals must reach a good standard of design, which includes efficient use of resources, and shows appreciation of the surrounding neighbourhood's historic context, street patterns, plot layouts and boundaries, block sizes and scale, height, massing and materials as well as good performance against nationally recognised best practice guidance on sustainability, urban design and place-making, architectural quality and distinctiveness. This is supported by Policy HN1 of the Hastings Development Management Plan which states that applications that have the potential to impact upon the significance of designated heritage assets (including conservation areas) will be assessed to ensure that the proposed development sustains and enhances the significance of the heritage asset.

However, due to the concerns above, the proposal fails to satisfy HN1 and DM1 of the Development Management Plan. Specifically the proposal does not protect or enhance local character, have an understanding of the historic context, street pattern, scale, height, massing and plot layout. The timber frame, including the fence and structure created, is detrimental to the significance of the Conservation Area and the chosen design does not convincingly demonstrate that it enhances or sustains the significance of the Conservation Area. It also detracts from the attractive visuals of the street scape and the proposed addition is a defacto boundary treatment which is overbearing and not complimentary to its setting.

Whilst it is noted that some support comments have been received, and these refer to the proposal as a stylish well designed addition, the proposal must be considered in terms of its context. The placing of the structure and proposal in general have no relevance to the surroundings in terms of design or style. Whereas the concept is of a suitable design when considered as a individual and separate entity, once it is placed within the setting of Pevensey Road its design concept has no relationship to its surroundings. Furthermore, the lack of maintenance of other property gardens in the street is not a material consideration, as proper maintenance and tidy gardens should be encouraged in any area, and especially a Conservation Area, rather than using degradation as a reason to justify further harmful development.

It should be noted the application seeks retention of a tree screen and the planting of these trees themselves would not require planning permission. However, the significant structure incorporated within the tree screen does require consent, and is deemed harmful for the reasons set out above. It is not considered that this harmful impact would be mitigated by introduction of an alien expansive tree screen, which would also be out of character in the locality.

#### c) Impact on security

The Housing and Community Agency (HCA) have produced guidance titled 'Urban Design Lesson - Housing Layout and Neighbourhood Quality' published January 2014. The guidance in section 2, 'Active Frontage' states that 'A street or space is formed by the buildings that surround it, much like a room is formed by the walls around it. Well-defined streets and spaces are created by relatively continuous building frontage. Active frontage made up of front doors and windows (especially to ground floor habitable rooms) create lively and well-supervised streets. This is a key requirement for creating safe and attractive public spaces. Keeping gaps between buildings limited and avoiding blank walls and garden fences which face the street are important considerations. To achieve this, long perimeter blocks, wide frontage dwellings and bespoke dual-fronted corner dwellings can all contribute to active frontage.' and notes under the heading Lessons the advice, 'Minimising blank walls and garden fences: Buildings fronting onto streets and spaces are key to quality of place and the animation of the public realm'.

It appears that the intention of the timber frame and screening is to turn a relatively publicly viewable space into an enclosed private space for private enjoyment. Front gardens by the nature of their location are intended to be publicly viewable and are a main contributor to the relationship between a building and the wider area. This raises concerns that the proposal will create a withdrawn and anti-social perception to the public realm. Thus the proposal lacks clear and convincing justification or public interest benefits to mitigate the harm to the area, and fails to satisfy Paragraph 194 and 196 of the NPPF.

#### d) Other issues for consideration

The application also proposes the reinstatement of a door from the flat into the garden area facing Pevensey Road. The reinstatement of the door is encouraged and welcomed however, its design would need to be conditioned in order to ensure it is accurate and in keeping with the local character, should permission be granted for this proposal in the future. However, this application must be considered in its entirety, thus is refused in its entirety, notwithstanding that this element of development may be considered acceptable in isolation.

## **6. Conclusion**

The proposal has no mitigation or justification for the scale, massing, siting, and design of development proposed. Subsequently it has a significant and negative effect on the immediate street scene and character of the Conservation Area, particularly with regard to the over bearing and excessive timber frame construction. Whilst the local planning authority actively encourage front gardens to be well kept and visually pleasing, this can be gained without a need for fixed permanent structures and with more suitable designs. As such, there are no material planning considerations that outweigh the harm cause in this instance. The application is therefore recommended for refusal.

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

## **7. Recommendation**

### **Refuse for the following reasons:**

1. The proposal would cause substantial harm to the St Leonards North Conservation Area in terms of siting, scale, design and overall effect on the setting. It will be overly dominant in the street scene and therefore have a detrimental effect on the character and appearance of the area. Thus it fails to accord with the National Planning Policy Framework, including paragraph 130, and local policies set out in the Development Plan, including Policies HN1 and DM1 of the Development Management Plan.
2. The proposal fails to provide clear and convincing justification for the scheme and fails to sustain or enhance the Conservation Area, thus failing to satisfy paragraph 194 of the National Planning Policy Framework, and local policies within the Planning Strategy and Development Management Plan.

### **Note to the Applicant**

1. 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 paragraph 38 of the National Planning Policy Framework.

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### **Officer to Contact**

Mr Simon Richard, Telephone 01424 783320

### **Background Papers**

Application No: HS/FA/18/01088 including all letters and documents