

Report to: PLANNING COMMITTEE
Date: 04 March 2015
Report from: Head of Housing and Planning Services

Application Address: 28 Lower South Road, St Leonards-on-sea
Proposal: Demolition of existing garage and storage building and erection of an apartment building containing four flats.

Application No: HS/FA/14/00966

Recommendation: Grant Full Planning Permission

Ward: GENSING
File No: LO85028
Applicant: Mr Baker per Town & Country Planning Solutions
Sandhills Farmhouse Bodle Street Green
Hailsham BN27 4QU

Interest: Freeholder
Existing Use: Garages/storage

Policies

Hastings Local Plan 2004: DG1, DG2, E4, TR8
Conservation Area: No
National Planning Policy Framework: No Conflict
Hastings Planning Strategy: DC1, E1
Hastings Local Plan, Development Management Plan, Revised Proposed Submission Version: DM1, DM3, DM4

Public Consultation

Adj. Properties: Yes
Advertisement: No
Letters of Objection: 2
Petitions Received: 0

Application Status: Not delegated - Referred by Councillor Cartwright

Summary

The application seeks permission to demolish the existing garage and storage building and to erect a three-storey high block of flats with a flat at lower ground floor level at land adjacent to 27 Lower South Road. The proposal is considered to be in line with the National Planning Policy Framework. It makes effective use of previously developed brownfield land. It is considered that there is no material change in circumstance that would justify a refusal against the background of the previously allowed appeal. I therefore recommend approval.

The Site and its Location

The application site lies on the southern side of Lower South Road adjacent to the end of terrace property of 27 Lower South Road and to the rear of 267 London Road. The irregular shaped site contains a garage and storage building, which is single storey where it fronts Lower South Road and two-storey at the rear.

The adjacent building of 27 Lower South Road is two storey in height with a projecting bay window and hipped roof. 267 London Road (immediately to the west of the site) is an imposing three-storey building situated on the corner of London Road and South Road. The property has been divided into a number of flats and there is a letting agent at ground level.

Details of the Proposal and Other Background Information

The application seeks permission to demolish the existing garage and storage building and to erect a new apartment block comprising three 1-bedroom and one 2-bedroom flats over four floors, including accommodation at lower ground level, similar to the adjoining terraced houses. The building would form a link between 27 Lower South Road and the existing accommodation at the rear of 267 London Road which is in the same ownership as the application site. The building would be angled and articulated to suit the site.

The proposed building would be three storeys in height with a flat at lower ground floor level. The main aspect of the flats would be towards Lower South Road. The proposed flats would be accessed via a common lobby area on the ground floor of the building on Lower South Road. This entrance would also be used to provide access to the existing ground floor flat at 267 London Road. The lower ground floor flat and the existing flat at 267 London Road would have access to a courtyard area at the rear of the site.

The building has been designed to match the height of the adjacent property of 267 London Road. The fenestration details (including bay windows) would match the existing houses along the south side of Lower South Road. A shallow pitched roof has been used in the design of the building with a parapet.

A cycle storage area is proposed on the lower ground floor level of the building.

No parking is proposed to serve the development

The proposal includes the blocking-up of two existing windows serving a kitchen and a bathroom on the ground floor and two windows in bathrooms at the first and second floor levels of the residential accommodation to the rear of 267 London Road.

Previous Site History

HS/FA/07/00072	Alterations to a scheme approved under HS/FA/06/0084 to provide an additional two bedroom flat at second floor level (4 flats in total rather than 3)
Refused	30/3/2007
Appeal allowed	12/11/2007
HS/FA/06/00084	Demolition of existing building and erection of an apartment building containing 3 x one bed flats
Granted	25/5/2006

Details of Consultations

Subsequent to neighbour notifications, two individual letters of objection have been received. The objections include the following:

- traffic and parking
- pressure on water sewage and waste services
- the possible type of residents & antisocial behaviour

The Highways Authority has commented that the scale of the development would not warrant formal consultation with the highway authority and planning history would suggest that the scheme has been accepted in principle. It notes that cycle storage but no parking is provided as formally accepted by the Planning Inspectorate. Therefore no objection has been raised.

The Highways Authority has been approached to consider a planning condition that these flats may not be let or sold to anyone with a car and that no resident may purchase or hire a car. It has been confirmed that this would have to be through a S106 agreement and the Authority has stated that such an agreement would not meet the necessary tests. It has stated further: *"Given the previous consent, at appeal, it wouldn't be necessary to make the development acceptable in planning terms as zero parking provision on the site has already been approved. Bearing this in mind I think it is also rather questionable that it would be reasonable to restrict a resident in this way now the principle has been accepted."*

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".

Loss of employment use

Policy E4 from the Hastings Local Plan 2004, is applicable to this application. This policy precludes the loss of industrial/commercial floor space within the town, where a strong justification cannot be made for the loss. In view of the previous planning permissions for the site it is considered that in this particular case the loss of the commercial use is acceptable. Indeed it would be a welcome improvement given the residential context of the site and the visual improvement the proposal would make to the site. It is therefore considered that an exception to policy E4 can be made.

The impact of the proposal on the character of the area

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people. Policy DG1 and the new Policy DM1 require the proposal to be assessed in terms of its sympathy with the appearance and character of the area and suitability in scale, massing, design, appearance, materials, layout and siting, both in itself and in relation to nearby buildings (including parts of buildings), spaces and views.

The proposed apartment building would be three storeys in height with a lower basement level, which will reflect the height and scale of the adjacent building in London Road. Although the building would be a storey taller than the properties in Lower South Road, it is considered that the visual relationship would be satisfactory. The proposed scheme maximises the use of the site and accords with the need for smaller housing units as part of a local mixed community.

The siting and alignment of the proposed building is also considered appropriate to the site and surroundings. The development would respect the established building line and the palette of materials in the locality (painted, rendered properties with slate roofs). The existing lock-up garage and storage building on the site are unattractive and detract from the character and appearance of the street scene. The proposed development would significantly improve the visual amenity of the area. As such it is considered that the proposal meets the criteria of DG1 and DM1.

The impact of the development on the amenities of adjacent properties

The proposed building would adjoin the blank side elevation wall on the adjacent property, 27 Lower South Road. As the proposed property would be flush with the rear and front elevation, it is considered that the proposal would have no adverse impact on the amenity of the flats within this property.

The proposed building would be built against the rear elevation wall of 267 London Road, and involves blocking up two existing windows (which serve a kitchen and bathroom) on the ground floor and two windows (in the bathroom) of the first and second floor of 267 London Road to facilitate the development. As these windows do not serve habitable rooms, this is considered to be acceptable. Although the proposal will be visible from properties in London Road it is considered to have no material impact on the living conditions of these properties to merit an objection on planning grounds.

Highway Considerations

Planning permission was granted for 3 flats in 2006 and 4 flats were refused in 2007. The decision notice stated lack of car parking as the single reason for refusal:

"The proposal fails to provide adequate off street parking facilities to serve the development and the development will therefore exacerbate the existing on-street parking problems in the area."

However, a subsequent appeal was allowed. The Planning Inspector stated in the appeal decision: *"Given the location of the site in an area well served with shops, services and community facilities and with good access to public transport, it seems to me unlikely that the future occupants of the flat would wish to park a significant number of cars on the road. In any event, although there is a high demand for on-street parking in the area, any on-street parking that would have significantly harmful effects could be controlled through the introduction or enforcement of on-street parking controls. I conclude that the access demands generated by the proposed development could be met by means other than the private car and the proposed additional flat would not have a significant effect on on-street parking."*

The decision has now expired but it remains a material planning consideration.

The National Planning Policy Framework supports sustainable transport and alternative

modes of transport. In section 4 it states: *"Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*

Although the application site is located in an area where there is a high demand for on street parking, the application site is well served by public transport, as it is situated near to a bus stop on London Road, which provides access into St Leonards and is also located approximately 10 minutes walk from Warrior Square Railway Station. The site is also located within walking distance of shops and services within the locality. Provision within the scheme has also been made for the storage of cycles, to encourage and promote this sustainable form of transport. As the previous appeal decision has shown, a refusal is unlikely to be supported at appeal.

It has been considered whether it is possible to include a planning condition that these flats may not be let or sold to anyone with a car and that no resident may purchase or hire a car. This would have to be part of a Section 106 agreement and such agreements have to meet the following tests:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

The Highways Authority have stated that they do not consider that such an agreement would meet the above tests.

I concur with the Highways Authority and do not consider such a condition, given the scale of the development, to be reasonable. In addition there is no restriction on the rest of the local residents in the street on car ownership. Such an agreement would also be very difficult to enforce.

Access

Policy DM4 (General Access) of the Development Management Plan Revised Proposed Submission Version applies and although the Plan has not been fully adopted, it already carries considerable weight.

Policy DM4 (g) sets out that the Council expects new development of three storeys or more to have a powered lift. It states:

"Attention must be paid, not only to the access onto the site, but also access within all parts of any resultant development. Development schemes should include: ...

g. The installation of a powered lift system to all floors, for any new buildings (except a single dwelling house) of three storeys or more. The lifts should be designed to allow for their use by disabled people and particularly those who use wheelchairs;"

The applicant has stated that if this policy were to be adhered to in this case, the site would not be able to achieve any residential redevelopment due to its physical constraints and also would make the site economically unviable.

The constraints of the site are acknowledged and I do not consider that the third storey of the development would justify a refusal on grounds of the lack of a passenger lift.

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:

TCPS 289/1; 2597; and 4612/1
3.
 - (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 or flats hereby approved shall occur until those works have been completed.
 - (iii) No occupation of any of the dwellings or flats 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.
4. No development shall take place above ground until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. 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.
6. No flat hereby approved shall be occupied until readily accessible external storage space for refuse bins awaiting collection has been provided to the satisfaction of the Local Planning Authority.
7. The lower ground, ground, 1st and 2nd floor windows on the rear elevation of the building marked on drawings 4612/1 shall be obscure glazed at all times unless otherwise first approved in writing by the Local Planning

Authority.

8. No development shall commence until the boundary treatment details have been submitted to and approved in writing by the Local Planning Authority. Thereafter no development shall take place other than in accordance with the approved details.
9. No development shall take place until details of the windows have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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 prevent increased risk of flooding.
4. In the interests of the visual amenity of the area. (Hastings Local Plan 2004 Policy DG1)
5. In the interests of the amenity of the neighbouring residential occupiers. (Hastings Local Plan 2004 Policy DG1)
6. To ensure a satisfactory form of development in the interests of the character and amenity of the area. (Hastings Local Plan 2004 Policy DG1)
7. To ensure a satisfactory form of development in the interests of the character and amenity of the area. (Hastings Local Plan 2004 Policy DG1)
8. To ensure a satisfactory form of development in the interests of the character and amenity of the area. (Hastings Local Plan 2004 Policy DG1)
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Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Consideration should be given to the provision of a domestic sprinkler system.
3. 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.

Officer to Contact

Mrs E Collins, Telephone 01424 783278

Background Papers

Application No: HS/FA/14/00966 including all letters and documents