

**Report to:** PLANNING COMMITTEE

**Date:** 20 October 2015

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

**Application Address:** Land to the rear of 27-28, North Street, St Leonards-on-sea TN38 0EX

**Proposal:** Erection of a two bedroom dwelling.

**Application No:** HS/FA/15/00299

**Recommendation:** Grant Full Planning Permission

**Ward:** CENTRAL ST LEONARDS

**File No:** NO75039

**Applicant:** SF&O Developments per Westall Walker Associates PO Box 21 Hastings East Sussex TN34 3WD

**Interest:** Owner

**Existing Use:** Vacant Yard

**Policies**

**Conservation Area:** Yes - St. Leonards East

**National Planning Policy Framework:** No Conflict

**Hastings Planning Strategy:** H3

**Hastings Local Plan, Development Management Plan, Revised Proposed Submission Version:** DM1, DM3, HN1

**Public Consultation**

**Adj. Properties:** Yes

**Advertisement:** Yes - Conservation Area

**Letters of Objection:** 27

**Petitions Received:** 1

**Letters of Support:** 5

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

**Summary**

This application is for the erection of a single family dwellinghouse on land previously used as a builders yard. The main issues are the potential impacts on neighbouring properties with regard to overlooking and privacy and whether there is any impact on the adjacent listed buildings and the St Leonards East Conservation Area in which the site is located.

Following assessment of the proposal and various amendments including reduction of the amount of development from 2 dwellings to one dwelling, I now consider the proposal to be acceptable and therefore recommend approval.

## **The Site and its Location**

The site lies on the north side of North Street. The entrance to the site is via an arched, gated access between numbers 27 & 28 North Street, which are both Grade II listed buildings. The site lies within the East St Leonards Conservation Area and is currently vacant. It was previously used as a builders yard and is bounded by residential terraced houses/flats in Alfred Street, North Street and Gensing Road.

## **Details of the Proposal and Other Background Information**

This submission follows the withdrawal of a previous application for 2 no. dwellings which was considered unacceptable due to overdevelopment of the site and detrimental impact on neighbouring properties.

This proposal is for the erection of a new two storey dwelling comprising an open plan ground floor living/kitchen space with two bedrooms, a bathroom and shower room on the first floor.

The design is contemporary with rendered walls with timber panels and a flat roof. The windows have been carefully positioned to minimise any overlooking of neighbouring properties, and there would be several rooflights to provide additional light. The ground floor would include a 3 panel sliding door opening out onto a small courtyard.

The building would have a maximum length of 10m, reducing to 7.7m, and a maximum width of 6.7m. The height to the top of the parapet wall around the roof would be 5.8m.

Outside there would be access to the front of the property through an arch into North Street with a small courtyard to the front of the property. To the side would be a small irregularly shaped courtyard garden between 9.2m and 11.5m in one dimension and 2.1m and an 5.5m in the other.

## **Relevant Site History**

HS/FA/89/00058 Conversion of property to form 2 dwellings  
Approved 8 March 1989

HS/LB/89/00059 Conversion of property to form 2 dwellings  
Approved 8 March 1989

## **Details of Consultations**

There have been 27 individual letters of objection, 5 letters of support and 1 petition of objection. The main issues include overdevelopment, modern design, accessibility, drainage, security, parking and pollution.

Southern Water originally objected to the proposal but further correspondence has recommended an informative requesting notification of sewer location during construction.

## **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".

### **General Character and Appearance**

In accordance with planning law and national and local planning policy, there is a need for new developments to either preserve or enhance conservation areas.

The National Planning Policy Framework (NPPF) also advises that

"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles"

The site lies within the St Leonards East Conservation Area and is in close proximity of Grade II Listed houses. The area is generally characterised by 2 storey Victorian terraces. Whilst it is important to preserve these historic elements, it should be noted that the site is relatively self contained, set back from the street, and can be considered as a stand alone site away from the main public view. Bearing this in mind I consider the proposed building to be an innovative and original design specific to this stand alone site, and a good use of space.

I do not feel that the conservation area or the setting of the listed building will be compromised by a modern design such as that proposed. Whilst the use of timber is not a prevalent material within the immediate area, I consider that the stand alone design would deem the use of such materials as acceptable in this instance.

While other policies apply, the main Development Management Policy in relation to the character and appearance of the proposal is DM1 which states:

### **"Policy DM1 – Design Principles**

All proposals must reach a good standard of design, which includes efficient use of resources, and takes into account:

- a) Protecting and enhancing local character;
- b) Showing an appreciation of the surrounding neighbourhood's historic context, street patterns, plot layouts and boundaries, block sizes and scale, height, massing and materials;
- c) Good performance against nationally recognised best practice guidance on sustainability, urban design and place-making, architectural quality and distinctiveness;
- d) The layout and siting of buildings to make efficient use of land, the orientation of frontages to achieve attractive streetscapes and to best take into account the effects of solar gain;
- e) An assessment of visual impact, including the height, scale, and form of development that should be appropriate to the location, especially given the complex topography of

the Borough and the need, in some instances, to consider the visual effect from key viewpoints. This is particularly important when there are potential impacts upon areas of heritage and/or landscape value as outlined in the Planning Strategy (this could include a landscape assessment where appropriate).

Supplementary Planning Documents provide further detail to this policy."

It is considered that the proposal complies with the requirements of this policy

### **Impact on Listed Buildings & the Conservation Area (Heritage Assets)**

In addition to considering the impact of the development on the general amenity of the area and neighbouring residents, the proposal also needs to be assessed in relation to its impact on the conservation area and nearby listed buildings.

In North Street numbers 16, 17, 18, 19, 20, 21, 22, and 23 on the opposite side of the road are all listed along with 33 and 34 on the other side of Union Street. More significantly numbers 25, 26, 27 and 28 around the entrance to the site are also listed.

The impact on the listed buildings is considered in more depth in the report on application HS/LB/15/00300 reported elsewhere on this agenda. There are several policies relevant to this, in particular policy HN1 in the Development Management Plan:

#### **"Policy HN1 – Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)**

Applications that have the potential to impact upon the significance of designated heritage assets (including conservation areas) will be assessed against the following criteria, to ensure that the proposed development sustains and enhances the significance of the heritage asset:

- a) The historic context, street patterns, plot layouts and boundary treatments, green space and landscaping, site levels, block sizes, siting, scale, height, massing, appearance, materials and finishes in relation to the heritage assets.
- b) Good performance against nationally recognised best practice guidance on development in relation to heritage assets, including building in context, setting and views, architectural quality and local distinctiveness.

Permission will be given for those schemes that show a full understanding of the significance of the asset and convincingly demonstrate how their chosen design sustains and enhances the significance of any heritage assets affected (including conservation areas).

The topography of Hastings means that the Council will give consideration to the impact of development on the setting of heritage assets, including the impact upon more distant views and from across the other sides of the valleys. The Council encourages proposals that sustain or enhance the setting of heritage assets.

Consideration will also be given to the impact of new development on the setting of the Hastings and St. Leonards seafront, almost all of which is covered by conservation area designation. This area currently enjoys relatively unimpeded long views, which are a key element of area character.

This policy is written for designated assets. However, non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments (given the results of a Historic Environment Record informed study), will be treated as having at least the same level of significance as other designated heritage assets."

This site was formerly occupied by workshops accessed through the archway onto North Street, so in terms of the historic pattern of development it is appropriate for the site to be

redeveloped with a new building. The scale of the proposed building is considered to be appropriate and it is also appropriate to consider a good quality contemporary design in a historic location rather than a pastiche of an historic design. This building has been specifically designed to address the constraints of the site and as such complies with policy HN1.

Some works are proposed to the walls of the listed buildings which are listed. These works are acceptable in principle and a condition can be applied to ensure that the works are undertaken appropriately.

### **Residential Amenity**

The site is located within an existing yard bounded by properties on Alfred Street, Union Street, North Street and Gensing Road. Due to the close proximity of dwelling within the area there already exists a degree of overlooking and privacy issues.

The applicant has sought to address many of the immediate residents' concerns and the scheme has been amended to accommodate these concerns wherever possible. In particular the positioning of first floor windows has been carefully considered to minimise overlooking:

South Elevation, facing the rear of properties in North Street:

One large and one high level window, both obscure glazed

West Elevation, facing towards the rear of properties in Gensing Road, approximately 18m - 19m away:

Three large windows serving the bedrooms.

There are no first floor windows proposed on the east and north elevations. There would be no overlooking from ground floor windows because the site is enclosed within a yard area.

Although other policies apply, the main Development Management policy relating to residential amenity is DM3 which states:

#### **"Policy DM3 – General Amenity**

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. Permission will be given for development where:

- a) The use of the scale, form, height, mass, and density of any building or buildings, reduces or avoids any adverse impact on the amenity (privacy, over shadowing, loss of daylight) of neighbouring properties;
- b) There is adequate space for storage of waste and the means for its removal (where appropriate, turning areas for refuse vehicles). This includes provision for the general management of recyclable materials. Space will also be required for necessary servicing areas, ancillary structures and landscaping;
- c) There is a means of landscaping that contributes to crime prevention; a permeable and legible green infrastructure network of routes and spaces to create a public realm that is attractive, overlooked and safe;
- d) Considerate design solutions for the spaces between and around buildings are shown. This should respect the character of the surroundings; a well-designed scheme in terms of private, semi-private and public open space, to include, where appropriate, the provision of public art;
- e) Arrangements are in place for the future maintenance of any public areas;
- f) Dwellings are designed to allow residents to live comfortably and conveniently with sufficient internal space. The guidelines for minimum internal floor areas are: 1 bedroom/2 person 51m<sup>2</sup>; 2 bedroom/3 person 66m<sup>2</sup>; 2 bedroom/ 4 person 77m<sup>2</sup>; 3 bedroom/5 person 93m<sup>2</sup>; 4

- bedroom/6 person 106m<sup>2</sup>;
- g) 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;
  - h) It can be adequately demonstrated that there is no safety risk to the public, and that development is appropriately protected from any existing facilities that may affect amenity; for example busy roads, waste water treatment works etc."

It is considered that the proposal meets the requirements of parts a) - d) and h) of the policy. The first floor bedroom windows on the east elevation would face towards properties in Gensing Road at a distance slightly less than the 20 - 21m that is normally considered appropriate, however, given the existing close knit characteristics of the area and the existing levels of mutual overlooking it is considered that this relationship would be acceptable. For example this distance is similar to the back to back distance between the existing properties in North Street and Alfred Street, and considerably more than the front to front distances between properties on either side of the roads in this area.

Part e) is not relevant in this case and in relation to part f) the internal floor area of the proposed dwelling is approximately 92 sq.m which is significantly above the 77 sq.m required by the policy. The garden area would not comply with part g) but in this case it is considered that an exception to this policy would be justified having regard to the particular characteristics of the site, and the design of the building.

### Highways and Parking

Although the surrounding streets are quite heavily parked, there is a parking management scheme in place and it is not considered that a refusal of permission for a single additional dwelling could be justified on parking grounds. There is the potential for a small vehicle to park in the front courtyard, although there would be no room to turn.

### Affordable Housing

Policy H3 in the Planning Strategy seeks a financial contribution towards off site provision for affordable housing for a development of this type:

#### " POLICY H3: Provision of Affordable Housing

- i) *Housing developments on Previously Developed Land (Brownfield) will be expected to make the following provision for affordable housing:*

Site size range (number of net dwellings)	Percentage requirement	On-site provision required? Yes/No	Or, financial contribution in lieu of on-site provision? Yes/No
1-4	10% financial contribution	No	Yes
5-14	20%	Yes	Yes
15+ or 0.5 ha or more in size (irrespective of the number of dwellings)	25%	Yes	No

Table 6: Provision for affordable housing on Previously Developed Land

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- c) *Affordable housing will be provided on the application site, except where the development involves 4 or less units, where a financial contribution will be required. However, where the Council determines that off-site provision can provide an equivalent or better housing solution, off-site provision or a financial contribution in lieu of on-site provision (of at least equivalent value) may be invited. This will only be done where the agreed approach contributes to the creation of mixed communities elsewhere in Hastings. This may be particularly relevant in situations referred to in paragraph (d) where a better tenure or housing mix can be achieved.*
- d) *The type and level of provision on individual sites will be determined through negotiations – taking into account market conditions. The Council's preferred approach is for the greater part of affordable housing to be for affordable rent, although other forms may be acceptable where they would complement wider strategic priorities for tenure diversification. Schemes should enable the provision of different forms of affordable housing where necessary, avoiding the over concentration of any one tenure.*
- e) *The Council will work with the private sector and registered social providers to achieve the required level of affordable housing. If it can be demonstrated, by transparent financial evidence, that the full affordable housing contribution makes a site unviable, developers and the Council will work through a cascade approach until a site is made viable, whilst still retaining an element of affordable housing.*
- f) *Due to the on-going level of need in the Borough, affordable housing will normally take precedence over other types of planning contributions.*
- g) *If an allocated site comes forward as two or more separate development schemes, the Council will seek a level of affordable housing on each part to match, in total, the provision that would have been required for the site as a whole.*
- h) *Affordable homes must be well integrated within the development scheme and be indistinguishable from other tenures in terms of style, location and build quality, small clusters of affordable housing would be preferred.*
- i) *Homes should remain at an affordable price for future eligible households, or if these restrictions are lifted, for the development subsidy to be recycled for alternative affordable housing provision.*
- j) *Reflecting the targets in a) and b) as a guide, the proportion of affordable housing will, where appropriate, be indicated for each housing site proposed in the Development Management Plan.*
- k) *Windfall sites will also be subject to this policy, as will planning applications for conversions and/ or change of use which result in additional units of accommodation.*

*This policy will be supported by a Supplementary Planning Document giving further information together with details of Section 106 requirements. "*

In November 2014 the government announced that affordable housing should not be required for developments of 10 or fewer properties, so at that time we stopped applying the policy for small developments. However, in August this year a Judicial Review into the governments decision found that the decision was unlawful so at the present time we are able to apply the policy fully. However, it should be noted that the government has appealed against the decision and it may well be that in due course the decision is reversed.

In accordance with policy H3 (e) the applicants have submitted a financial appraisal which shows that the development would be unviable if an affordable housing payment were required. This is not surprising because of the generally higher costs of developing a constrained site and the additional costs associated with works to listed buildings - in this case the historic listed walls.

## Conclusion

It is considered that the proposals will not adversely affect the character or appearance of the area, amenity of neighbouring properties or the parking in the area. I therefore recommend the proposal for approval 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. 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.
3.
  - a) 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.
    - (i) Development shall be carried out in accordance with the details approved under (i) and no occupation of the dwelling hereby approved shall occur until those works have been completed.
    - (iii) No occupation of the dwelling 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 dwelling 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. The first floor windows on the south elevation not be glazed other than in obscure glass.



6. Notwithstanding the provisions 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 any other external alteration to the property shall take place without the grant of an additional planning permission.
7. Notwithstanding the provisions 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 outbuildings shall be erected within the curtilage of the property without the grant of an additional planning permission.
8. No development shall commence above ground until joinery details, including details of the timber gate, have been submitted to and approved in writing by the Local Planning Authority  
Works shall be carried out in accordance with the details approved and no occupation of the building shall occur until those works have been completed.
9. The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
499-01-E, 499-02-D, 499-03-B, 499-04-C, 499-05-A, 499-133-A, 499-130-L, 499-131-G, 499-132-M

**Reasons:**

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To safeguard the amenity of adjoining residents.
3. To prevent increased risk of flooding.
4. In the interests of the visual amenity of the area.
5. To safeguard the amenity of adjoining and future residents.
6. To enable the local planning authority to control future development of the site in the interests of the amenities of the area in general and the amenities of neighbouring residents in particular.
7. To enable the local planning authority to control future development of the site in the interests of the amenities of the area in general and the amenities of neighbouring residents in particular.
8. To ensure a satisfactory form of development in the interests of the character and amenity of the area.
9. 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.
3. The proposed building is over or close to a public sewer and consultation with Southern Water Services Ltd. is necessary.
4. The applicant should consult the Building Control Section of the Regeneration & Planning Directorate with regard to the provision of adequate means of escape in case of fire and necessary fire precaution works.
5. Consideration should be given to the provision of a domestic sprinkler system.

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## **Officer to Contact**

Ms K Phillips, Telephone 01424 783250

## **Background Papers**

Application No: HS/FA/15/00299 including all letters and documents