

SITE PLAN

BEXHILL

RR/2019/1874/P

21 Ninfield Road



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Not To Scale

## Rother District Council

Report to - Planning Committee  
Date - 14 November 2019  
Report of the - Executive Director  
Subject - Application RR/2019/1874/P  
Address - 21 Ninfield Road  
BEXHILL  
Proposal MANSARD ROOF EXTENSION TO CREATE SECOND FLOOR COMPOSING OF TWO SELF-CONTAINED FLATS. CHANGE OF USE OF GROUND FLOOR FROM A COMBINED USE AS A BAKER'S SHOP (CLASS A1) AND CAFÉ (CLASS A3) TO A SINGLE USE AS A RETAIL UNIT (CLASS A1).

[View application/correspondence](#)

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**RECOMMENDATION:** It be **RESOLVED:** To **GRANT FULL PLANNING**

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**Head of Service: Tim Hickling**

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**Applicant:** Mr D. Saunders  
**Agent:** Mr S. Goodsell SWG Designs South East Ltd  
**Case Officer:** Mr T. Hardwick  
(Email: [terry.hardwick@rother.gov.uk](mailto:terry.hardwick@rother.gov.uk))  
**Parish:** BEXHILL  
**Ward Member(s):** Councillors J.J. Carroll and S.J. Coleman

**Reason for Committee consideration:** Member referral: Councillor S.J. Coleman considers the site has an important role in the retail area of Sidley High Street, there is a need for more housing in the area and the site needs to be brought back into use, having been empty for some time.

**Statutory 8 week date:** 17 October 2019  
**Extension of time agreed to:** 18 November 2019

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This application is included in the Committee site inspection list.

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### 1.0 SUMMARY

- 1.1 The level of amenity to be provided for occupiers of the two flats proposed would be within acceptable tolerances for the location.
- 1.2 Nonetheless, there are concerns about the proposal on grounds of design and appearance in the street-scene. The proposed second floor extension sought

would result in the addition of a bulky second floor extension on the top of one unit in the middle of a flat-roofed parade of nine units. None of the other units in the parade has been extended upwards at second floor level and for one unit to be so enlarged in isolation would create an upstanding bulk that would appear as a prominent, incongruous and visually-jarring feature that would also detract from the appearance of the parade and street-scene on this side of Ninfield Road. The parade of shops is of no architectural merit but it does stand as a development in a single integrated two storey design, the key unifying feature of which is its flat-roof design, which runs through at the same height and level throughout.

- 1.3 The applicant argues that the provision of two new flats in the context of the Council not currently having a five year supply of land for housing is a factor to which weight should be given in the decision to be taken. Officers, however, take the view that the adverse visual impact and harm to the street-scene that will arise offsets the benefit arising from the provision two new units of housing.
  - 1.4 It is, accordingly, considered that planning permission should be refused.
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## **2.0 SITE**

- 2.1 This is a vacant mid-terrace unit within a parade of nine shop units, each with flat over, on the southern side of Ninfield Road. The parade is two storeys throughout and has been designed as one architectural entity in a flat-roof style.
  - 2.2 The rear yard of the premises has been built-over in the form of a single-storey flat-roofed extension.
  - 2.3 Behind this is a service yard that serves all the units in the parade, accessed from the side road known as Buxton Drive.
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## **3.0 PROPOSAL**

- 3.1 The application seeks the following:
    - the addition of a second floor mansard style extension over the existing flat-roofed first floor of the building and the extension upwards, in cat-slide style, of the existing rear stair-case projection to provide independent access to both the two new flats proposed to be created under the current application and the two flats that have already been permitted at first floor level under planning permission RR/2017/2533/P - those at 1<sup>st</sup> floor being two bed units, those at 2<sup>nd</sup> floor being one bed units;
    - change of use of the ground floor from a mixed use for Class A1 and A3 purposes to a single use for Class A1 purposes.
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## **4.0 HISTORY**

- 4.1 RR/98/456/P              Roof alteration to form lift-head. Approved.
- RR/2000/279/P              Alterations to part of shop front. Approved.

RR/2017/2344/P Change of use of first floor from retail (A1) to residential C3). Ground floor retained as retail and offices to 2 No. residential flats. Not processed.

RR/2017/2533/P Change of use of first floor bakery and offices to 2 No. residential flats. Approved.

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## 5.0 POLICIES

- 5.1 The following 'saved' policies of the adopted Rother District Local Plan 2006 are relevant to the proposal:
- DS3: (Proposals within Development Boundaries)
  - EM13: (Shopping & Related Commercial Development in Town/District Centres)
- 5.2 The following policies of the Rother Local Plan Core Strategy 2014 are relevant to the proposal:
- PC1: (Presumption in Favour of Sustainable Development)
  - OSS1: (Overall Spatial Development)
  - OSS4: (General Development Considerations)
  - BX1: (Overall Strategy for Bexhill)
  - CO6: (Community Safety)
  - LHN1: (Achieving Mixed & Balanced Communities)
  - EN3: (Design Quality)
  - TR3: (Access & New Development)
  - TR4: (Car Parking)
- 5.3 The following policies of the Development & Site Allocations Local Plan, (submitted for examination in January 2019 and currently awaiting the Inspector's decision on the suggested modifications) are also relevant:
- DHG3 (Residential Internal Space Standards)
  - DHG7 (External Residential Areas)
  - BX17 (Little Common & Sidley District Centres)
- 5.4 The National Planning Policy Framework and Planning Policy Guidance are also material considerations.
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## 6.0 CONSULTATIONS

- 6.1 Rother DC Waste & Recycling – **NO COMMENTS RECEIVED**
- 6.2 East Sussex County Council (ESCC Highway Authority) – **OBJECTION**
- 6.3 The application does not provide any resident parking, contrary to ESCC standards. It has not been demonstrated that parking demand can be met on street.
- 6.4 Southern Water – **NO OBJECTION**
- 6.5 If planning permission is granted, informatics are recommended drawing attention to the requirement for: (i) a formal application to be made for any

new connection to the public foul and surface water sewer; and (ii) the disposal of surface water from the development to be in compliance with Part H3 of the Building Regulations.

### Planning Notice

- 6.6 Eight letters of representation have been received.
- 6.7 Six of these letters express support for the proposal on the following grounds:
- good to see the property is being renovated;
  - great that a shop front will be retained to the High Street, which supports the “village” feel of Sidley;
  - quality new residential accommodation that is much needed and will be of benefit to the area, especially as new flats are proposed, which are in short supply;
  - proposed elevations would be in-keeping with recent developments in Sidley;
  - 3 storey development need not be unsightly;
  - hope the village bakery will return; and
  - local company investing in the area, which will be improved.
- 6.8 The other two letters object on the following grounds:
- concerned that the proposals may lead to the introduction of another fast-food establishment in an area where there are already too many and where health is poor; and
  - no toilet, wash-basin or rest-room for staff for the retail unit.
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## **7.0 LOCAL FINANCE CONSIDERATIONS**

- 7.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £10,767.
- 7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band D property, be approximately £13,368 over four years.
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## **8.0 APPRAISAL**

- 8.1 Issues to be considered include:
- the proposed change of use of the ground floor to A1 retail use;
  - the design of the proposed second floor mansard-style extension and its impact in the street-scene;
  - the living conditions and level of amenity to be provided for potential occupiers;
  - parking; and
  - the implications for the acceptability of the proposals arising from the Council not currently having a five year supply of land housing.

*Change of Use*

- 8.2 The application premises are empty and dis-used at both ground and first floor.
- 8.3 The ground floor of building was previously used as a baker's shop, with related café, which occupied the larger part of the floor-area and was partitioned off from the shop by a studwork dividing wall, with an opening connecting the two parts.
- 8.4 The rear part of the ground floor was used in connection with the bakery use – probably for related storage purposes.
- 8.5 The first floor was used as the bakery (the making and baking of bread and cakes etc.) and as ancillary offices.
- 8.6 Because the café occupied the greater part of the ground floor area, the lawful use of the ground floor is probably for a mix of uses – namely, A1 retail and A3 café. The bakery use, which would include the related storage area at the back of the ground floor, was an ancillary use to the operation of the shop as a baker's shop.
- 8.7 The application seeks to use the ground floor for unspecified A1 retail purposes.
- 8.8 All the units in this parade were originally built as Class A1 shops, with flats over.
- 8.9 The proposal to return the ground floor to A1 retail use would be entirely consistent with the original shopping purpose of the parade and Policy BX17 of the emerging Development & Site Allocations Local Plan (DaSA), which seeks to protect the prime shopping function of Sidley Town-Centre.

*Design*

- 8.10 The key element of the proposals is the addition of a mansard-style second floor level extension over the entire first-floor flat-roofed footprint of the unit, to allow the creation of two new flats, accessed by an extension upwards of the existing rear staircase that currently allows access to the first floor.
- 8.11 There is clearly no in principle objection to the creation of more housing.
- 8.12 However, all new development must be satisfactorily designed and sit comfortably in its surroundings.
- 8.13 In this case, the addition of a bulky second floor extension on top of one unit in the middle of a flat-roofed parade of nine units is considered to be unacceptable. None of the other units in the parade has been extended upwards at second floor level and for one unit to be so enlarged in isolation would create an upstanding bulk that would appear as a prominent, incongruous and visually-jarring feature that would also detract from the appearance of the parade and street-scene on this side of Ninfield Road. The parade of shops is of no architectural merit but it does stand as a development in a single integrated two storey design, the key unifying feature of which is its flat-roof design which runs through at the same height and level throughout.

- 8.14 The matter has been discussed with the agent who has mentioned that, if planning permission was to be granted, the owners of other units in the parade may bring forward similar proposals that, over time, could result in the entire parade being raised by an additional floor. However, there can be no assurance of that and, in the meantime, a stand-alone second floor addition can only be judged to be harmful.
- 8.15 In support of the proposals, the agent has drawn attention to planning permission RR/2017/1281/P, which permitted a two storey mansard-style extension to be added to a single-storey shop unit diagonally opposite the site and which he cites as a precedent to which the Council should have regard in the decision to be taken at No. 21. No. 44 is also one unit in a flat-roofed parade of seven units. The critical difference between that development and what is proposed at No. 21, however, is that the proposals at No. 44 would be seen against the backcloth of a three storey mansard style building next door (46 to 52). It is not a unit in the middle of a parade where the addition of a two storey mansard style roof extension would appear incongruous. The same unsatisfactory appearance and harm to the street-scene that would arise with the proposals at No. 21 would not, therefore, result at No. 44.
- 8.16 Refusal of planning permission on design grounds and harm to street-scene is, therefore, considered to be justified and would be consistent with policies OSS4(iii) and EN3 of the Rother Local Plan Core Strategy and paragraphs 127 and 130 of the National Planning Policy Framework.

*Living Conditions/Amenity for Potential Residents*

- 8.17 The Council has already permitted the creation of two flats at first floor level within the existing building. Planning permission RR/2017/2533/P applies.
- 8.18 The *two flats now proposed within the second floor extension* sought under the current application would be acceptable if the extension itself was acceptable, which it is not.
- 8.19 In addition, the two new flats would provide rooms that would be well-lit and would have reasonable aspect, looking out at the front onto Ninfield Road or, at the rear, to residential development in Buxton Drive.
- 8.20 The Technical Housing Standards would also be satisfied in terms of floor-area, room sizes and amount of storage to be provided in each flat, in accordance with DaSA Policy DHG3.
- 8.21 The *third flat* originally sought under the application at the rear of the ground floor (behind the dividing wall to the shop) has now been removed from the proposals after advice was given that this would not be acceptable because it would not provide a satisfactory level of amenity for potential occupiers.

*Private External Amenity-Space*

- 8.22 No amenity space would be provided because this is physically not possible.
- 8.23 Ideally, a certain amount of private external amenity-space should be provided to serve *new* development, in accordance with DaSA Policy DHG7.

- 8.24 Private external amenity-space cannot be provided for either flat proposed (or the two flats already permitted under RR/2017/2533/P) because the yard is entirely built-over.
- 8.25 It is, however, the case that the shops in this parade all have flats over which, for the most part, do not enjoy any external private amenity space because the yards are either in use by the shops or have been built-over.
- 8.26 It should also be noted that the proposals are not purpose-designed new-build development of a new site. It is, therefore, considered there is a case to justify some flexibility in regard to the extent of compliance with the Council's standards and guidance for such matters as amenity-space.
- 8.27 On balance, therefore, the view is taken that it would be unreasonable to reject the proposal on the grounds of there being no amenity-space – because this is no different to what is available to other flats in the parade – and this is not untypical of what is generally available to flats over shops. Neither is the proposal new-build development on a new site where it would normally be possible to design a development from scratch in full compliance with all the Council's usual standards and guidance. Moreover, the two flats that have already been permitted at first floor have been permitted without external private amenity space.

*Parking*

- 8.28 No parking would be provided because there is nowhere to do so.
- 8.29 There is no scope to provide any parking in the service yard behind the parade either. Firstly, this is primarily a service-yard to serve the shops. Secondly, there is insufficient space to do so. Thirdly, the service-yard is well-used and there would be conflict between vehicles serving the shops and residents' cars.
- 8.30 None of the other flats in the parade have any off-street parking either. This means that residents, if they are car-owners, have to rely on the public car-park to the west and on on-street parking in nearby residential roads.
- 8.31 The application, therefore, falls to be considered as it stands, without any parking.
- 8.32 It is noted that the local highway authority object to the proposals but it must be borne in mind that they are not aware of the reduction of the scheme from three additional residential units to two units. Furthermore, this is, a reasonably sustainable location. The site is within the Bexhill Development Boundary. More specifically, it is within Sidley Town Centre, which allows easy access to local services; it also lies on a bus-route (services 97 and 98), which provides access to and from Bexhill town-centre, and thence to Hastings, and to and from Hooe (and thence to and from Eastbourne), at least during the day, including a reduced service on Sundays (service 98).
- 8.33 It is not, therefore, impracticable to live in this location without access to a car, because there would be reasonable access to services and public transport.
- 8.34 Neither is there any concern, if the flat-dwellers were to be car-owners, about the amount of additional on-street car-parking that could arise because the

scale of development sought is fairly small, consisting of two additional flats in total (2 x 2 bed units). Such additional parking as might arise on nearby streets would not be so great as to justify rejection of the proposals on grounds highway safety or visual amenity where those streets can, from observation, accommodate the additional parking.

- 8.35 It should also be noted that the planning permission for the two flats to be created at first floor within the existing building (RR/2017/2533/P) was granted on the basis that this is a sustainable location on a bus-route and, in turn, the absence of parking provision with that scheme did not justify refusal of planning permission.

#### *Housing Supply*

- 8.36 The Council does not currently have a five year supply of land for housing (3.7 years supply as at April 2019).
- 8.37 This means that the Local Plan policies most relevant to the determination of the application have to be regarded as out-of-date and triggers the application of the “tilted balance” judgement under National Planning Policy Framework paragraph 11 in favour of granting planning permission for new housing in such circumstances, unless (as stated at sub-paragraph d (ii)):

*“the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework as a whole”*

- 8.38 Therefore, a judgement on where the balance of public advantage lies needs to be made.
- 8.39 On the one hand, the proposals would provide two new two bedroom flats, which in the context of the Council’s current under-supply of land for housing is not unwelcome.
- 8.40 On the other hand, there is issue of design and street-scene to be considered. The view is taken that the unsatisfactory design and the visual impact of the proposals would be sufficiently harmful to the appearance in the parade and the street-scene that this would offset the benefit of securing a small amount of additional housing.

#### *Other Matters*

- 8.41 Insofar as the comments above do not respond to representations received, the following further comments are made:
- fear that the refurbished property might lead to the introduction of another take-away is without foundation because a take-away is a Class A5 use, which would require further planning permission as a change of use;
  - the provision of staff toilet, wash-basin and rest-room facilities is not controlled under planning legislation but under the Workplace (Health, Safety & Welfare) Regulations 1992 so is beyond the scope of the planning application.

## **9.0 PLANNING BALANCE AND CONCLUSION**

- 9.1 The proposals would provide two new units of housing, which is to be welcomed.
- 9.2 The level of amenity to be provided for occupiers of the two flats would also be within acceptable tolerances for the location.
- 9.3 Nonetheless, there are concerns about the proposal on grounds of design and appearance in the street-scene. The proposed second floor extension sought would result in the addition of a bulky second floor extension on the top of one unit in the middle of a flat-roofed parade of nine units. None of the other units in the parade has been extended upwards at second floor level and for one unit to be so enlarged in isolation would create an upstanding bulk that would appear as a prominent, incongruous and visually-jarring feature that would also detract from the appearance of the parade and street-scene on this side of Ninfield Road. The parade of shops is of no architectural merit but it does stand as a development in a single integrated two storey design, the key unifying feature of which is its flat-roof design, which runs through at the same height and level throughout.
- 9.4 The Council does not currently have a five year supply of land for housing (3.7 years supply as at April 2019).
- 9.5 This means that the Local Plan policies most relevant to the determination of the application have to be regarded as out-of-date and triggers the application of the “tilted balance” judgement under National Planning Policy Framework paragraph 11 in favour of granting planning permission for new housing, unless (as stated at sub-paragraph d (ii)):....
- “the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework as a whole”*
- 9.6 Officers take the view that the unsatisfactory design and the visual impact of the proposals would be sufficiently harmful to the appearance in the parade and the street-scene (and would be consistent with policies OSS4(iii) and EN3 of the Rother Local Plan Core Strategy and paragraphs 127 and 130 of the National Planning Policy Framework) that this would offset the benefit in terms of adding to housing supply.
- 9.7 It is, accordingly, considered that planning permission should be refused.

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### **RECOMMENDATION: REFUSE (FULL PLANNING)**

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#### **REASONS FOR REFUSAL:**

1. The proposed roof extension sought would result in the addition of a bulky second floor extension on the top of one unit in the middle of a flat-roofed parade of 9 units. None of the other units in the parade has been extended upwards at second floor level and for one unit to be so enlarged in isolation would create an upstanding bulk that would appear as a prominent,

incongruous and visually-jarring feature that would also detract from the appearance of the parade and street-scene on this side of Ninfield Road. The parade of shops is of no architectural merit but it does stand as a development in a single integrated two storey design, the key unifying feature of which is its flat-roof design, which runs through at the same height and level throughout. This element of the proposals would, therefore, be contrary to Policies PC1, EN3 and OSS4 (iii) of the Rother Local Plan Core Strategy (2014) and paragraphs 127 and 130 of the National Planning Policy Framework.

**NOTE:**

1. This refusal of planning permission relates to the following plans:  
Drawings Nos 227-P-01-B (04 10 2019) & 227-S-01-A (08 08 2019)

**NATIONAL PLANNING POLICY FRAMEWORK:** In accordance with the requirements of the Framework (paragraph 38) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.