Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2024

Appeal Ref: APP/M3835/W/24/3349199
77 Brougham Road, Selden, Worthing, West Sussex BN11 2PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Armend Cuni against the decision of Worthing Borough Council.
- The application Ref is AWDM/0378/24.
- The development proposed is conversion of a detached annexe into a self-contained, three-bedroom dwellinghouse (C3).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether future occupiers of the proposed development would be provided with adequate living conditions, with particular regard to private garden space and outlook;
- the effect of the proposed development on the living conditions of the occupiers of No 77 Brougham Road, with particular regard to privacy, outlook and private garden space; and
- the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Living conditions – future occupiers

3. The appeal site (No 77) comprises a two-storey end-terrace dwelling facing Brougham Road, within a primarily residential area of Worthing. No 77 contains an outbuilding in its rear garden, which includes first floor accommodation in its roof space. I understand that there has been a building in this location for many years, and planning permission was granted in 2020[1] by the Local Planning Authority (LPA) for its redevelopment as an annexe for No 77. The approved plans show the annexe building to include a "garden room", triple garage and shower room on the ground floor and a guest bedroom, games room and WC on the first floor.

[1] LPA ref: AWDM/0853/20

4. The existing plans provided with the appeal indicate that the annexe's internal layout differs from the approved plans, including adaption of one of the garage spaces to provide living accommodation and provision of some kitchen countertop facilities in the ground floor living room. This layout corresponded with what I saw when I accessed this building as part of my site visit. The proposed dwelling would provide three bedrooms and the existing annexe could feasibly provide full-time occupation for 2-4 persons related to No 77. Vehicular access would be via a long privately maintained access track off Meadow Road.

5. The proposed ground floor double bedroom would be served by a set of glazed double doors facing immediately adjacent the end of the access track. An interested party has commented that the end of this track is used as turning space for vehicles accessing other properties, including deliveries. Despite the inclusion of a garage space, I consider it likely that the end of the access track would also be used for the parking of vehicles on many occasions, given the proximity to the rear garden accesses of the proposed dwelling and the retained dwelling of No 77. I also note the comments of West Sussex County Council Highways (SCCH) regarding the size limitations of the existing garage to be retained for the proposed dwelling, which may lead to larger sized cars being parked outside it.

6. I accept that the primary function of a bedroom is for sleeping. However, its layout adjacent the access track end would nonetheless provide insufficient outlook for future occupiers, and the likely external movements as described above may also disturb sleeping patterns.

7. The existing plot including the annexe building is wider and longer than many others in the vicinity. The subdivided garden layout for the proposed dwelling would however be constrained due to its wedged shape and limited depth, with a close distance between the proposed garden boundary and some of its living space windows. The proposed size and layout of this garden would not be commensurate to the size of the proposed accommodation, which could potentially be used by families. Whilst the proposed garden space would provide sufficient outlook for the internal living area, it would be of insufficient size and layout for its future occupiers.

8. The proposed garden space for No 77 would also narrow towards the rear, but would be of larger size and depth than that proposed for the new dwelling. The distances between the ground floor windows of No 77 and the proposed fencing would also be greater in comparison. On balance, the retained dwelling of No 77 would be provided with sufficient private garden space.

9. The proposed dwelling would also be served by a pedestrian passage to its front entrance off Brougham Road, via a side gate to No 77. Whilst future occupiers could also walk along the access track to the rear entrance, this would not be the only option available. I also noted that the access track, whilst narrow and unmade, is mainly straight and I am also mindful that SCCH commented that the proposal would not have an unacceptable impact on highway safety. The proposed access arrangements would therefore provide sufficiently safe conditions for access, egress and active travel, without detriment to the health and well-being of future occupants.

10. I have however found that the proposed layout for the new dwelling is contrary to Policy DM5 of the Worthing Local Plan 2023 (WLP), as it fails to take account

of potential users of the site by providing insufficient outlook and private garden provision.

11. The LPA also cites conflict with its supporting guidance within the Space Standards Supplementary Planning Document 2012 (SSSPD) and the Guide to Residential Development Supplementary Planning Document 2013 (GRDSPD). Policies DM2 and DM5 of the subsequently adopted WLP state that applicants will be expected to have regard to the Council's local guidance for external space, and that development must take into account any other local design guidance and supplementary planning documents. However, the supporting text to these policies also advises that the existing SPDs will be updated, and there are no relevant updated SPDs before me.

12. To my mind, the minimum standards for rear gardens as recommended by the SSSPD do not reflect one of the aims of WLP Policy DM2, which is to make the most efficient use of land. In a similar vein, much of the GRDSPD advice concerning "backland" development would restrict one of the other Policy DM2 aims to develop at a minimum density level. I have therefore not found these SPDs to be determinative factors in respect of this Main Issue. I have assessed the appeal scheme having regard to the relevant adopted planning policies and the site-specific circumstances.

Living conditions – No 77 Brougham Road

13. The front door of the proposed dwelling is in close proximity to No 77's rear elevation. This layout already exists between No 77 and its annexe. There would be no additional overlooking or visual impact arising from the proposed dwelling's windows in comparison to the existing annexe building.

14. However, the relationship between the buildings would materially change through the provision of a separate dwelling entirely independent of any link to future occupiers of No 77. Such a proximity between a private ground floor rear elevation and a neighbouring front door is unusual and does not appear to be replicated in the surrounding vicinity. Even accounting for the urban location and provision of a side boundary fence as indicated on the submitted plans, this would likely give rise to an unacceptable degree of intrusiveness and noise and disturbance upon future occupiers of No 77.

15. In this regard, the appeal scheme is contrary to Policy DM5 of the WLP which requires, amongst other things, development to not have an unacceptable impact on the occupiers of adjacent properties.

16. The LPA also cites conflict with the GRDSPD regarding this Main Issue, but the submitted evidence does not indicate the specific conflict with this guidance. This SPD has therefore not been a determinative factor in this Main Issue.

Character and appearance

17. The proposed external alterations to the annexe building are limited to the replacement of one of the existing garage doors with a set of French doors to serve a double bedroom, and the installation of solar panels on the existing roof slope. The scale of the existing building would therefore be unchanged. It is visible from Brougham Road behind taller buildings and at the end of the access track from Meadow Road. It is therefore already appreciable as a form of backland development.

18. The proposed fencing to subdivide the existing rear garden would not be visible from surrounding vantage points at ground level. Whilst the appeal proposal would form an intensification of use within the existing site, this would not significantly alter the visual character and appearance of the surrounding area.

19. The proposal therefore complies with the design requirements of Policies DM1, DM2 and DM5 of the WLP which require, amongst other things, development to be sensitive to the characteristics of the local area and respect the character of the site. The proposal also satisfies the GRDSPD guidance, insofar as it respects the character and appearance of the area.

Other Matters

20. It is put to me that the outlook and garden area that would be available to the proposed dwelling would be similar to the mix of existing dwellings that characterise the area. During my visit, I noted a variety of dwelling types and plot sizes, including the houses on each side of Brougham Road, the bungalows within the Meadow Close cul-de-sac and the purpose-built apartment buildings along the private thoroughfare of Brougham Walk. I also noted a number of rear gardens containing outbuildings. The precise external and internal layouts of these examples are not before me and in any event, these nearby properties appear to be of varying ages that predate the current development plan. This neighbouring development therefore does not justify allowing the appeal.

Planning Balance

21. The appeal scheme complies with Policies DM1, DM2 and DM5 of the WLP in terms of access and the character and appearance of the area. I have however found unacceptable conflict with Policy DM5 in terms of inadequate outlook and garden space provision for the new dwelling, as well as unacceptable intrusiveness and noise and disturbance upon future occupiers of No 77. I conclude that the proposal is contrary to the development plan as a whole.

22. It is common ground between the Main Parties that the LPA failed the Housing Delivery Test published in December 2023 with a score of only 33%, and the submitted evidence indicates that this delivery shortfall has persisted in recent years. In such circumstances, paragraph 11 d) of the Framework is engaged by footnote 8 and states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

23. Paragraph 60 of the Framework refers to significantly boosting the supply of housing provision. The proposal would only provide a small contribution to housing land supply, but this could be delivered speedily through conversion of the existing building. The scheme would also form an efficient use of already built-on land in an established residential area. Three-bed dwellings also form the second most needed housing type in the Borough as indicated in the supporting text to WLP Policy DM1. Moderate weight is therefore attached to the social and economic benefits of the proposed dwelling. The proposal includes solar panels and moderate weight is also afforded to the environmental benefits arising from this.

24. The internal layout of the dwelling would also meet and slightly exceed the Nationally Described Space Standards for a two-storey, three-bed four-person dwelling, and these standards are underpinned by WLP Policy DM2. However,

accordance with such standards and policy would neither weigh in favour nor against the proposal.

25. Paragraph 135 (f) of the Framework seeks a high standard of amenity for existing and future users. In the particular circumstances of this case, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. It would not therefore be the sustainable development for which paragraph 11 d) ii of the Framework indicates a presumption in favour.

Conclusion

26. For the reasons given above, the proposal conflicts with the development plan as a whole and the material considerations before me do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR