Appeal Decision

Site visit made on 13 October 2008

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
27 October 2008

Appeal Ref: APP/Y3805/A/08/2076844
Garage compound rear of Kingston Broadway, Hawkins Road, Shoreham-by-Sea, West Sussex BN43 6TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Holmbush Properties Ltd against the decision of Adur District Council.
- The application Ref ADC/0737/07, dated 3 December 2007, was refused by notice dated 31 January 2008.
- The development proposed is a redevelopment with 4 one-bedroom flats and 2 two bedroom townhouses with integral garages, with associated parking for flats at Nos 44A-D Kingston Broadway (outline including access details).

Decision

1. I dismiss the appeal.

Procedural Matters

2. The application is in outline including access. Access would be taken via the existing access drive from Hawkins Road which is shared with other properties in that road and in Kingston Broadway. The layout, scale, external appearance and landscaping are reserved for subsequent determination. Section 42 of the Planning and Compulsory Purchase Act 2004 requires outline applications to include information on the use, amount of development, indicative layout, scale parameters, and indicative access points. For the purposes of this appeal I have taken it that the use and amount of development would be as described and that Drawing 23/171 Rev C shows the approximate scale of the buildings and the indicative layout which includes 13 parking spaces and 2 garages. However the detailed layout and landscaping and the dimensions and external appearance of the buildings might change at the reserved matters stage.

Site Description and Planning History

3. The site is currently occupied by: a garage workshop and MoT station in active employment use (which must already make extensive use of the access drive); a separate building previously used for metal fabrication but now used by the garage business for storage; lock up garages; small storage sheds (which would remain); and open yard areas which appear to be used mainly by the garage for vehicle storage. To the south the site adjoins the rear elevation of a 3 storey building accommodating shops with flats above. To the north and east it mainly adjoins the rear gardens of adjacent houses and flats. To the west it adjoins a public swimming pool building and the rear elevation of the Homebase retail warehouse.

4. In 2005 a planning appeal was dismissed in respect of the refusal of planning permission for a two storey block of 8 one bedroom flats and 17 parking spaces on the same site (Appeal Ref APP/Y3805/A/05/1176285). The Inspector concluded amongst other things that: the short 4.5m rear garden would have resulted in overlooking and loss of privacy in the rear garden of No 60 Hawkins Road; the indicative layout of small flats with access to the bedroom through the bathroom would have provided an unsatisfactory living environment; the proposal would have been an over-intensive use of the site; and that the proposal was unclear about the impact on parking and storage for the existing flats and shops. He did not find evidence to substantiate concerns about noise and disturbance from the swimming pool and retail warehouse.

Main issues

5. I am required to determine the appeal in accordance with the provisions of the development plan unless material considerations indicate otherwise. In that regard my attention has not been drawn to any development plan policies for the protection of existing employment uses such as the garage. Policy AH2 of the Adur District Local Plan (1996) (the LP) does permit residential development within the built-up area subject to criteria.

6. I saw that the occupiers of the Kingston Broadway flats do not appear to use the appeal site for parking. Only 1hr parking is allowed on Kingston Broadway during the day and residents probably therefore park on the narrow Hawkins Road which obstructs two-way movements. However the residents of the existing flats would be provided with on-site spaces as part of the development. Their small storage sheds would also be retained. There is no evidence that use of the shared access drive would be significantly greater than use by the present garage.

7. Having regard to the reasons for refusal and to the representations from interested persons and consultees I therefore consider the main issues to be: the effect of the development on the character and appearance of the area; the effect on the living conditions of neighbouring occupiers in respect of privacy and quiet enjoyment of their gardens including outlook and natural light; and whether it would provide satisfactory living conditions for the occupiers in respect of outlook, access to usable outdoor amenity space, and noise.

Reasons

Character and appearance

8. Whilst the layout and external appearance are reserved matters, there would be little scope to significantly amend the form and appearance of the development from that indicated whilst continuing to provide the same amount of development as described.

9. The area is of mixed residential and commercial character. The buildings to be demolished are of utilitarian construction and character. Because of their low height and backland location they make little visual impact on public views of the area and do not significantly shade or dominate adjoining private land.

10. The layout broadly resembles the 2005 appeal scheme with a north-south orientation for the main habitable rooms. However, the replacement of 4 one bedroom flats with 2 townhouses would result in an increase in the height of the eaves and ridge of the building. With accommodation within the roofspace the building would not be strictly two storey as described and could not accommodate all the proposed accommodation within two storeys unless the footprint of the houses were to be substantially increased. That would further reduce the space available for parking and amenity space. As it is, the proposed layout would not provide sufficient space to satisfactorily access one of the parking spaces and the garage to one of the houses but this could be addressed by repositioning the bin store and cycle store.

11. That part of the building containing the flats would be within about 0.7m-2.0m of the access drive and closer than in the 2005 scheme which the Inspector already considered to be an over-intensive development. I consider that the increased height and revised siting would make the development appear more cramped than either the present buildings or the 2005 scheme.

12. I conclude that the development would appear cramped and thereby out of keeping with the area's generally spacious character as viewed from the surrounding property.

Living conditions of neighbours

13. I have not been advised of the weight due to the Council's Supplementary Planning Guidance (SPG) 'Development Control Standard No 2 - Space around new dwellings and flats' and whether it was subject to public consultation in its preparation, but it remains a material consideration.

14. The indicative layout would increase the depth of the rear garden to the flats from the 4.5m in the 2005 appeal scheme to 7m. There is no minimum recommended depth for rear gardens to flats in the SPG. However a minimum 11m depth is recommended for terraced houses which the flats would closely resemble in their proportions and in the position and function of their windows. I therefore consider that a similar depth would be necessary to avoid unacceptable overlooking of the adjoining garden to No 60 and to maintain a reasonable outlook from that garden. Moreover, as the flats would be to the south of the garden, their close proximity would be likely to contribute to overshadowing of that adjoining garden. With a rear garden length of just less than 11m, I do not consider that the 2 houses would be so close to the garden of No 60 as to result in unacceptable overlooking or overshadowing there.

15. In the illustrative scheme, bathroom and kitchen windows at first floor level in the eastern elevation of the flats could closely overlook the rear gardens of Nos 62 and 64 Hawkins Road with an associated loss of privacy. I acknowledge that at the reserved matters stage the bathroom window could be deleted or obscure glazed and that the kitchen window could be deleted. However all four flats would then have poor natural light within the kitchens. Moreover, even with those amendments the proximity of the tall flank elevation to the boundary would make the development appear overbearing from the adjoining gardens and would also result in significant overshadowing from the west. As there would only be a 2m gap to the boundary (which gap would also provide

the access route from the first floor flats to the rear garden) the suggested screen planting would be unlikely to successfully mitigate the visual impact.

16. I conclude that the development would harm the living conditions of neighbouring occupiers in respect of privacy, outlook and natural light.

Living conditions of occupiers

17. The flats, whilst small, would not now depend on access through the bathroom to reach the bedroom. The Kingston Broadway flats would be over 25 m from the front elevation of the development and I do not consider that the outlook would be unacceptably poor from the houses or from 2 flats which would all have their principal windows at first floor level or above. A reasonably open outlook would also be available to the rear from those dwellings. However the outlook from the ground floor flats would be poor as it would be curtailed at the rear by the likely future enclosure of the short rear garden and from the front the outlook would be of parked cars at the same level.

18. Paragraph 3.6 seeks that there should be 20 sq m of external amenity space per flat. Paragraph 3.5 would exclude side gardens less than 3m wide from this calculation. At 73.5 sq m for 4 flats, the garden would be less than the recommended 80 sq m minimum. Moreover, because the communal garden would be short at 7m and to the north of the building, it is unlikely that it would receive good levels of sunlight. No usable open amenity space would be provided to the south of the building as appears to have been suggested at the time of the 2005 appeal. The rear gardens of the houses would only be slightly shorter than the 11m depth recommended for houses. However the eastern garden would be substandard in overall area at 40 sq m instead of the recommended 50 sq m minimum. Moreover both gardens for the houses would be heavily shaded by the tall elevations of the houses to the south and the high elevation of the Homebase building to the west.

19. Whereas the 2005 Appeal Inspector found no evidence to substantiate harm from noise, the Environmental Health Officer has drawn attention to the air conditioning units on the rear elevation of the Homebase store which I saw to be only about one metre from the rear elevation and garden of one of the proposed townhouses. These emit a continual low frequency but noticeable noise which would detract from the enjoyment of that garden in particular. That adds to the other identified harm.

20. I conclude that the development would provide poor living conditions for future occupiers in respect of access to usable outdoor amenity space. This harm would be compounded by poor levels of sunlight in the gardens, poor natural light in some kitchens, poor outlook from some ground floor windows, and by noise from the adjacent retail warehouse.

Overall Conclusions

21. For the above reasons I conclude that the development is unacceptable and would contravene relevant development plan policies including LP Policy AH2. The appeal should therefore be dismissed.

Robert Mellor INSPECTOR

The Planning Inspectorate

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ADUR D.C.
CHIEF EXECUTIVE'S
DEPARTMENT
25 SEP 2008

Your Ref: ADC/0737/07

Our Ref: APP/Y3805/A/08/2076844/NWF

Date: 24 September 2008

Dear Mrs Aylmore

Town and Country Planning Act 1990
Appeal by Holmbush Properties Ltd
Site at Garage Compoud Rear Of, Kingston Broadway, Hawkins Road, Shoreham-by-sea, BN43 6TH

I am writing to inform you that the Inspector appointed by the Secretary of State to determine the above appeal is

Robert Philip Edward Mellor BSc Dip TRP DipDesBEnv DMS MRICS MRTPI

The Inspector will visit the appeal site at 14.30 on 14 October 2008. It is important that you make immediate arrangements for the Inspector to be met at the site to enable the inspection to be made. If you cannot attend, you should arrange for someone else to attend in your place. **If this is not possible, you must let me know immediately.**

The Inspector will expect to be accompanied by representatives of both parties. If one of the parties fails to arrive, the Inspector will determine the most suitable course of action, which could mean that he will conduct the visit unaccompanied. In other circumstances, the visit might have to be aborted.

At the commencement of the site inspection the Inspector will make it clear that the purpose of the visit is not to discuss the merits of the appeal or to listen to arguments from any of the parties.

The Inspector will ask the parties to draw attention to any physical features on the site and in its vicinity. In turn the Inspector may wish to confirm particular features referred to by interested parties in their written representations.

In general, decision letters are issued within 5 weeks of the date of the Inspector's

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site visit, although we cannot be precise about individual cases. If despatch of the letter is likely to be significantly delayed, we will let you know.

Yours sincerely

N. R. Lang.

Neale Lang

NB: All further correspondence should be addressed to the case officer mentioned in the initial letter.

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Mrs B Barnes- Moss
60 Hawkins Road
SHOREHAM-BY-SEA
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BN43 6TH

Your Ref:

Our Ref: APP/Y3805/A/08/2076844/NWF

Date: 17 September 2008

Dear Mrs B Barnes- Moss

Town and Country Planning Act 1990
Appeal by Holmbush Properties Ltd
Site at Garage Compoud Rear Of, Kingston Broadway, Hawkins Road, Shoreham-by-sea, BN43 6TH

I refer to the above appeal your letter dated 10th September 2008.

Since receiving your letter I have contacted the appellant's agent to investigate if the entrance to the compound/site is only accessed through your back garden. After speaking to them it seems that this is the case and unfortunately we had not been aware of this before, hence the confusion with our letters about the site visit. I hope this will not be a problem for the inspector and the main parties to use the only available access through your property and if you do have any objections to the use of your access can you please submit them by 26th September 2008.

You will be informed of the site visit when it is arranged so you can be available to let the inspector and parties into the site. We will also add you to the system to receive a copy of the inspector's decision when it is released.

A copy of this letter will be sent to the appellant and Lpa for their information.

Yours sincerely

Simon Rogerson

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http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button