The Planning Inspectorate

Appeal Decision

Site visit made on 17 February 2022

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date:16th March 2022

Appeal Ref: APP/Y3805/W/21/3280432
Land to the rear of 35-37 High Street, Shoreham-by-Sea BN43 5DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Moretons Investments against the decision of Adur District Council.
- The application, Ref. AWDM/1996/20, dated 2 December 2020 was refused by notice dated 14 May 2021.
- The development proposed is 5 No. 1-bed apartments set over 3-storey building with south facing balconies and PV panels to east elevation with refuse and cycle storage areas.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions in terms of outlook for the occupiers of studio flats above 35-37 High Street, the neighbouring building to the north opposite the appeal site.

Reasons

3. The single reason for refusal of this resubmitted and amended proposal confirms it is the adequacy of the distance between the appeal building and the studio flats that is the matter of dispute between the parties, and in particular the development's effect on the outlook from the studio flats' principal windows.

4. I saw on my visit, which included an internal inspection of the upper floors of 35-37 High Street, that there are currently pleasant views of the river from southward facing windows in the rear wall of the building. In this regard there is normally no 'right to a view' in assessing any impact as a result of development, but local and national planning policies do seek to ensure that the outlook from habitable rooms is not unreasonably restricted. The Notice of Refusal refers to the development being 'overbearing' *and* 'a resulting loss of outlook', but to be more precise the former is part of the latter and generally regarded as having a significant adverse effect.

5. In this case, the relevant local policies comprise Policies 15 and 22 of the Adur Local Plan 2017 ('the Local Plan'). Policy 15 seeks to ensure that development is of a high quality and amongst other matters does not have an unacceptable

impact on adjacent properties, particularly residential, as regards loss of outlook.

6. Policy 22 states that proposals for new dwellings will be expected to comply with the criteria contained in the Council's adopted Development Management Standard No. 1: 'Space Around New Dwellings and Flats' and the officer's report on the application appraises the appeal scheme against the relevant minimum distances. Paragraph 130f) of Government policy in the National Planning Policy Framework 2021 ('the Framework') requires development to create places that provide a high standard of amenity for existing and future users.

7. In this instance the Space Standard document is of limited relevance to the proposed development because its stated intention is to avoid or alleviate potential problems of light and privacy from development proposals, neither of which are at issue in this appeal. That said, the inherently subjective assessment of the adequacy of outlook is more likely to be favourable for a proposal when the distance between proposed and existing buildings is broadly consistent with satisfactory light and privacy.

8. This is because these considerations have a common denominator with outlook in the need to avoid the overdevelopment of a site with a consequentially unacceptable effect on neighbours' living conditions. In this context I note that of all the dimensions between buildings quoted in the Standard, the minimum is 14m between a principal window and a 'solid obstruction' in the form of a two-storey structure.

9. In this appeal the Council's concern is that the principal (south-facing) windows of six of the flats in 35-37 High Street would look out onto the rear wall of the proposed three storey structure. In the case of four of them the distance between these windows and the development would be just 6.2m. This would be less than half the 14m minimum for daylight, which as I have already indicated is not entirely unrelated to an assessment for outlook. This is notwithstanding the appellant's evidence that the appeal scheme would not make existing daylight levels worse.

10. Flats 2 and 3 are on the first floor with Flat 2 having two south facing windows and Flat 3 one, with as mentioned above all the south-facing windows 6.2 metres away from the rear wall of the proposed building. Both flats are dual aspect with in the case of Flat 2 two windows facing east and in Flat 3 two windows facing west. Flats 6 and 7 are on the second floor above Flats 2 and 3 and similar considerations apply, except that in this case both flats have two south-facing windows.

11. From the images supplied in the grounds of appeal it is clear that Flats 2, 3, 6 & 7 will all have significant obstructions to their south facing outlook as a result of the appeal scheme. In my view the distance of 6m or thereabouts between the principal windows of these flats and the proposed three storey building would be wholly inadequate. To illustrate the point by analogy, 6m is the length of a typical roadside parking space or the length of an average sized living room in a 2-bed flat or semi-detached house.

12. For the appellant it is argued that in the case of Flats 2, 3, 6 & 7, the effect would be mitigated by the outlook from the side secondary windows remaining unaffected and that in any event the extent of outlook southwards would

depend on where the occupier is standing in the room. However, I am unable to give significant weight to either of these points.

13. Firstly, as the Council points out, the alternative east or west facing outlook is poor – across rooftops including plant and roof terraces of flats above other High Street properties, and in the case of Flats 2 & 6 the close proximity of the flank wall of the Crown and Anchor public house. Secondly, although the extent of a southward outlook in the flats may well vary to a limited extent, I regard the view of the development at a distance of just 6m to be so overbearing that it would draw the eye from any position in the room and be perceived as oppressive with an undue sense of enclosure.

14. Turning to Flats 4 and 8, these are in a recessed part of the building and therefore further away from the proposed development than the others – I note in the officer's report that a distance of 13m is mentioned. Whilst this offers a degree of mitigation, in both flats the existing outlook is already worse than the others because in addition to their single aspect, the return wall of the more rearward building significantly limits the outlook to the east, albeit the windows are wider than in Flats 2, 3, 6 & 7. And as in both flats the eastern half of the window would be for the most part obscured, the cumulative impact on outlook would again be unacceptable.

15. On the main issue I therefore conclude that the appeal scheme would have an unacceptable effect on the living conditions in terms of outlook for the occupiers of studio flats above 35-37 High Street. This would be in harmful conflict with Local Plan Policies 15 and 22 and with paragraph 130f) of the Framework.

Other Matters

16. Turning to other matters, the Council is unable to demonstrate a five-year supply of housing land and the latest Housing Delivery Test of January 2021 shows that only about half of the housing proposed for the period 2017-2020 has been provided. This tilts the planning balance in favour of an approval and I acknowledge that an additional five dwellings would make a useful, albeit modest, contribution to supply. However, I nonetheless consider that the harm caused to the living conditions for the occupants of the studio flats in 35-37 High Street would significantly and demonstrably outweigh the benefits of the additional housing when assessed against the Framework's policies taken as a whole.

17. The appeal site lies within the Shoreham-by-Sea Conservation Area and the Design and Access Statement submitted as part of the application includes a Heritage Appraisal. From all that I have seen and read I find that the appeal proposal would at least preserve the character and appearance of the conservation area and would not therefore diminish the significance of this designated heritage asset.

18. There have also been concerns as to the impact of the development on the amenities, operation and setting of the Crown and Anchor pub, but I consider that these have been addressed to an acceptable extent under this revised scheme.

19. However, an absence of harm to the public house and the conservation area is insufficient to outweigh the harm caused in respect of the main issue of the

effect on the living conditions for occupiers of the neighbouring building to the north.

20. For the above reasons and having had regard to all other matters raised, the appeal is dismissed.

Martin Andrews

INSPECTOR