The Planning Inspectorate

Appeal Decision

Site visit made on 19 May 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/Y3805/W/20/3244893
Former Manor Filling Station, Old Shoreham Road, Lancing BN15 0QS

- 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 Mr G Chisnall (Randall & Chisnall Ltd) against the decision of Adur District Council.
- The application Ref AWDM/1185/19, dated 26 July 2019, was refused by notice dated 10 October 2019.
- The development proposed is construction of 1 no. new dwelling on the site and the alteration of the external works layout to provide parking for the existing dwellings.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has recently been redeveloped with six houses, further to the Council's approval of amended details (the amended site plan).[1] These details altered the originally approved details, as shown in the appellant's 'as existing site plan' (the existing site plan),[2] and include: four car parking spaces and an open 'communal space' at the east end of the appeal site (instead of a triple garage and two car parking spaces), five car parking spaces within plots 4, 5 and 6 (instead of three) and one car parking space along the edge of plot 6 with revised landscaping and repositioned acoustic fence.

3. I observed at my site visit that the development has so far been carried out in accordance with the amended site plan, including the approved four car parking spaces at the east end of the appeal site; though not yet that part which is intended as plot 7 for an additional dwelling in this current appeal. I also note that the appellant's 'external works & boundary treatment' plan (the external works plan)[3] shows three car parking spaces at the east end of the appeal site and one space along the edge of plot 6; whereas, the appellant's proposed site plan[4] shows four spaces and two spaces respectively. The external works plan is also inconsistent with the position of the single car parking space along the edge of plot 6 as shown in the amended site plan.

4. However, on the evidence before me, both main parties have considered the proposed development as shown in the proposed site plan. Furthermore, the additional car parking spaces already provided within plots 4, 5 and 6 and the

[1] Ref AWDM/1479/19, including proposed site plan drawing number 1682 2.01 revision G.
[2] Drawing number 19047 1.01.
[3] Drawing number 19047 2.03 revision A.
[4] Drawing number 19047 2.01 revision B.

four spaces at the east end of the appeal site (including one already constructed within the proposed new plot 7) are not in dispute; nor is (in highways terms) the additional space along the edge of plot 6. I have therefore considered the appeal on this basis.

Main Issues

5. The main issues are:

   (i) The effect of the proposed car parking space on the edge of plot 6, and the new dwelling on plot 7, on the character and appearance of the area; and

   (ii) Whether the proposed new dwelling would provide satisfactory living conditions for future occupiers, having particular regard to indoor and outdoor living space.

Reasons

6. The appeal site is located on the north side of the A27, Old Shoreham Road. It is in a defined built-up area, with mainly residential development to the west and on the south side of the A27. The countryside to the north and further to the east is in the South Downs National Park.

Character and Appearance

7. The proposed car parking space would reduce new landscaping to screen the 2.5 metre high acoustic fence along the edge of plot 6. It would also increase hard surfacing and the number of parked cars on this part of the appeal site. However, the fence is not as long as was originally approved and landscaping that would be retained would be denser, in a wider planted margin. This would also help to screen the additional hard surface and parked car, as would the new road frontage boundary landscaping. Furthermore, the street scene now includes three car parking spaces constructed much closer to the A27 than was originally approved. As a consequence, the proposed additional car parking space would not be unduly prominent or conspicuous in public views along the A27 and therefore would not cause material harm to the character and appearance of the area.

8. The new dwelling on plot 7 would be a detached two storey house with integral garage. A paved courtyard space behind the dwelling and a side garden would be inside an existing retaining wall, which arcs towards the A27 road frontage, with a proposed 2.5 metre high acoustic panel fence facing the road. An upper garden terrace would be provided on elevated land to the rear, behind the retaining wall, within the appeal site boundary fence line.

9. The design and external appearance of the new dwelling would correspond to the existing houses on the appeal site, with a slightly lower main ridge height. It would face the A27, as do other houses on the south side of this road and would also therefore not overlook the existing houses on the appeal site. The appellant's proposed site plan and the proposed floor plans[5] also indicate that by incorporating a main side garden, the new dwelling could be 'fitted' into the available physical dimensions and orientation of this lower part of plot 7. Furthermore, the height and overall scale and massing of the new dwelling

[5] Drawing number 19047 2.02 revision B.

would, in itself, be relatively modest and would be sited further from the A27 than the approved lower triple garage.

10. However, it is nonetheless a relatively small area for the new dwelling, in particular, irregular in shape and therefore awkward to utilise for the proposed development, including a main garden. Consequently, the footprint of the new dwelling would occupy a substantial proportion of this part of plot 7 and new built form would extend close to the edges of this developable area, which would also be a majority of the entire plot 7. As a result, on one side the new dwelling would be sited much closer to the two storey houses on plots 5 and 6 than the spacing between the two opposing rows of houses on the appeal site. On the other side, the new dwelling would be very close to the large canopies of a group of tall, mature trees which are protected by a tree preservation order (TPO).

11. The new dwelling would therefore visually dominate a substantial majority of this existing limited 'pocket' of space at this end of the appeal site and create a tighter, more intense layout and arrangement of built form at odds with that which already exists on the appeal site. It would in particular be overly constricted by the proximity of the TPO trees and there would be a realistic prospect of future works to the TPO trees as a means to seek to alleviate the inappropriate siting of the proposed development (see also 'living conditions' below). These trees have significant and substantial amenity value in the local area. Plot 7 faces the A27 road frontage and so the new dwelling, in its resulting setting and context, would be noticeable and conspicuous in public views and therefore cause material harm to the character and appearance of the area.

12. Consequently, while the proposed car parking space would accord with Policy 15 and Policy 30 of the Adur Local Plan 2017 (the LP), the proposed new dwelling would conflict with both of these policies. These policies broadly seek to ensure that the form of new development respects and enhances the local environment and has regard to its context, with layout and design which respects and protects existing natural features, including trees. The development would also conflict with paragraphs 124, 127(a)(b) and (c), 130 and 170(b) of the National Planning Policy Framework 2019 (the Framework).

Living Conditions

13. The TPO tree canopies form a mainly continuous belt of branches and foliage along most of the elevated north boundary of proposed plot 7, particularly when in leaf, as I observed. The branches also extend quite low, towards the ground in places, even during winter months.[6]

14. The first floor bathroom window would be close to a canopy but is not a habitable room. Outlook and daylight from bedroom 2 would only be partly restricted to one side and otherwise unobstructed. Daylight towards the north facing living and dining room would be partly restricted by the TPO tree canopies and while this room faces the retaining wall, outlook would also be towards the sky and light received through triple pane bi-fold glazed doors across nearly the entire width of the room. Other habitable room windows face south and away from the trees. Accordingly, there would be no material harm

[6] Appellant's statement of case, photographs at pages 5 to 7.

to the internal living conditions of future occupiers of the proposed new dwelling.

15. The TPO tree canopies would overhang only a small part of the rear courtyard and side garden and so would not significantly obstruct daylight or sunlight into these spaces. However, the elevated ground and immediacy of the TPO trees accentuates their visual and physical presence. Furthermore, the limited depth of the courtyard would also be constrained and overshadowed by proximity to the siting, scale and massing of the rear elevation of the new dwelling, as would the relatively small, short side garden be by the side elevation and, to a more limited degree, by the (relatively high) 2.5 metre front acoustic fence. The combined extent of enclosure of this part of the appeal site, and influence on the proposed development, would therefore be substantial.

16. There would as a result be an unduly onerous and unwelcome overbearing effect on the occupiers of the new dwelling using these parts of the proposed outdoor living space. Moreover, the TPO tree canopies and low hanging branches and foliage would extend over most of the upper terrace and would therefore restrict daylight, sunlight and practical use of this space, which is also narrow and long. Useability for a normal range of domestic activity (for this proposed family sized dwelling) would therefore be unduly limited and not conducive for the intended use. Furthermore, there would also be little opportunity for relief from the unsatisfactory conditions in the lower garden spaces, and so little recompense derived from the upper terrace garden overall. Accordingly, there would be material harm to the external living conditions of future occupiers of the proposed new dwelling

17. Even if the total garden area proposed is comparable to the gardens of other dwellings on the appeal site, they are not detached dwellings and the space proposed does not anyway meet the Council's relevant standard for a detached dwelling. But even if it did, or there was only a small difference, the shape and layout of these other gardens is not the same as the proposed development (especially the split level arrangement); nor are these gardens and dwellings sited in such close proximity to this many trees or trees of a similar stature and extent.

18. Consequently, whilst the proposed internal living conditions would accord with LP Policy 15, the proposed external living conditions would conflict with this policy. This policy seeks to ensure that development includes a layout and design which takes account of the occupiers of the site. The development would also conflict with Framework paragraphs 124, 127(a) and 130.

Other Matters

19. I appreciate that the appellant has incurred costs in resolving contaminated land issues at the appeal site and has also enhanced its overall visual, landscape and ecological value. However, these are not benefits of the proposed development in this current appeal and so these matters are neutral in my decision. I also acknowledge that the proposed development would result in construction work, provision of a new home and use previously developed 'brownfield' land – these would be economic, social and environmental benefits – and that the appellant would accept any necessary planning conditions; but nonetheless, these matters have limited weight and do not lessen, outweigh or overcome the harm I have identified above in the main issues.

20. There is disagreement between the Council and the appellant about whether or not there is a five year housing land supply (5YHLS). On the evidence before me in this appeal, there is either a 5.2 year supply of deliverable housing sites (ie a surplus of 68 homes);[7] or, there is less than a 5 year supply and a deficit of up to 452 units if the West Sompting strategic site allocation (520 homes) is not delivered as the Council anticipates (including delay because of the effect of the current Covid-19 pandemic on the construction industry) or it is omitted because this large site has not yet been granted planning permission of any sort.[8] There is, though, no dispute that the Council has failed the Government's Housing Delivery Test (HDT). However, either way, the proposed development for a single dwelling on this small site would make only a modest contribution to housing delivery and so this matter has limited weight in this appeal.

Conclusion

21. As explained in the main issues above, the proposed development would not accord with the development plan and I give this substantial weight in determining this appeal. Even if I were to conclude that as well as not meeting the HDT there is a 5YHLS shortfall, including to the extent argued by the appellant, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the presumption in favour of sustainable development (the so-called 'tilted balance') is not engaged in support of this appeal.

22. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

[7] Council's letter and 'Housing Land Supply Update', 6 March 2020.
[8] Appellant's final comments and letter, 14 April 2020.