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# Appeal Decision

Hearing held on 15 January 2009
Site visit made on 15 January 2009

**by D J Mumford** BA MRTPI

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

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**Decision date:**
**22 January 2009**

**Appeal Ref: APP/M3835/A/08/2074605**
**68-70 Broadwater Road, Worthing BN14 8AG**

- 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 Hire 2000 Ltd against the decision of Worthing Borough Council.
- The application Ref WB/08/0104/FUL, dated 30 January 2008, was refused by notice dated 1 April 2008.
- The development proposed is described in the application as a single storey 2-bedroom flat.

## Procedural matters

1. The Council have described the application as one for a first floor extension above existing rear storage area to provide 1 two-bedroom flat with car parking space. I accept that this is a slightly fuller explanation of the proposal.

## Decision

2. I dismiss the appeal.

## Main issues

3. From my inspection of the site and surroundings and from the submissions made, both at the hearing and in writing, I consider that the main issues in this case are first the effect of the proposal on the character and appearance of the area, secondly the implications for neighbours' living conditions, with reference to noise and disturbance, overlooking and impact on outlook, and thirdly whether the proposal would provide satisfactory living conditions for future occupants.

## Reasons

*Character and appearance*

4. The appeal site comprises a shop (used as a tool hire business) fronting Broadwater Road, with first floor flats above. A single storey rear extension fronts Cecilian Avenue. This extension is used for storing and testing equipment for hire, with further storage in a small open yard beyond. A rear service road serving shops fronting Broadwater Road adjoins the eastern boundary of the site. The main front building is described by the Council as a distinguished and grand building in an Edwardian style with some classical features. This respects the formal boulevard character of Broadwater Road. By contrast, Cecilian Avenue is fronted by modest bungalows and semi-detached houses, and the rear extension has a simple form, with a flat roof.

Neighbouring development includes a supermarket and rear yard immediately to the south of the site, with a parade of shops to its south, but otherwise the locality is characterised by residential development.

5. The proposal comprises the erection of a first floor flat on the rear part of the flat roof of the single storey extension. Insofar as the building has been designed to reflect the style and appearance of the main building, and matching materials are intended, I consider that it would in itself be acceptable in the right context. However, the proposal would result in a two storey element separated by some 6m from the existing 2-storey part of the building. Because of this separation (coupled with the small size of the proposal) this would appear incongruous and intrusive in a part of the street where there is some spaciousness behind the buildings fronting Broadwater Road and the dwellings fronting the south side of Cecilian Avenue to the east are bungalows. I agree with the Council that the proposed extension would appear as a detached tower-like structure at first floor level, visually overpowering the adjacent bungalow, and disturbing the street scene.

6. As a result I consider that it would harm the character and appearance of the area. This would be conflict with Structure Plan policies CH1 and DEV1 and Local Plan policy BE1, concerning the compatibility of development with its surroundings.

*Noise and disturbance*

7. I consider that the neighbours most likely to be affected are those living in the existing flats above the main shop, ie 68A and 70A Broadwater Road, and the bungalow to the south at 2 Cecilian Avenue. This could potentially be experienced through noise and disturbance, overlooking and impact on outlook.

8. I suppose it is possible that the occupants of the new flat would cause noise and disturbance through comings and goings, but they would not actually pass the existing flats and I think that any disturbance caused would be minimal. Similarly, although the new flat would be provided with a terrace area, this would be quite small, and the existing flats would each have their own terrace areas. These terrace areas would be separated by some form of division (of a type yet to be decided). Having regard to the layout and small size of the terrace area for the proposed flat I consider that it is unlikely that it would used much for sitting out and so any additional disturbance from the new occupants would be likely to be slight.

9. I accept that some overlooking of windows in the flat at 68A could occur from the front door and a bedroom window of the new flat. However the existing bedroom window would be about 11m from the front door, which would be a sufficient distance to prevent serious overlooking, and would not be visible from the bedroom window of the new flat. The kitchen window at 68A would be visible from that window and the door of the new flat, and both the existing kitchen and bedroom windows would be visible from its terrace. However, this overlooking could be prevented by fencing or screening, which appears to be already contemplated by the appellant. I appreciate that, because of the confined areas, this might be considered oppressive, but a light opaque glass screen of a height just sufficient to prevent overlooking would probably be an acceptable means of securing privacy.

10. Overlooking of the adjacent bungalow at 2 Cecilian Avenue could be obviated by the use of obscure glazing, as proposed. I note that the rear garden of that property is visible from the staircase which gives access from the service road to the existing and proposed flats. However it is unlikely that the new occupants would linger on the stairs and although there would be an increased incidence of overlooking of that garden this is unlikely to be significant. Nor do believe that the proposal would have a harmful impact on the outlook from that bungalow. Principal rooms there appear to face front and back and although there is a side window, apparently to a kitchen, the proposal would be sited some 10m away.

11. So, provided appropriate conditions were attached to any permission concerning screening and glazing, I consider that the neighbours of nearby dwellings would not suffer undue harm. Consequently there would be no conflict with policies DEV1 and H18 of the Structure and Local Plans respectively, where these seek to minimise conflicts between land uses and prevent unacceptable reduction to amenity for local residents.

*Living conditions*

12. A principal concern of the Council is that noise from the tool hire business, especially the testing of equipment, would cause annoyance to the residents of the new flat, and this would be exacerbated by noise from air conditioning units at the nearby supermarket, and passing traffic in Broadwater Road and Cecilian Avenue. During my site visit, machinery was operated in the tool hire store for me to hear but it seemed to me that the noise caused was not unduly loud. I understand that some insulation has previously been installed in the ceiling of the store. As the roof would have to be removed to construct the flat, new effective insulation could readily be installed to minimise noise disturbance to the flat from this source, and this could be required by condition.

13. The rear yard is quite small and used for open storage and I consider it unlikely that it would be much used for testing machinery. Similarly I saw the adjacent air conditioning units at the supermarket and heard some of them in operation, but again the noise caused was not unduly loud. Passing traffic could also be heard but this is to be expected in an urban area and noise from this did not seem to me to be excessive.

14. Current noise measurements taken by the Council place the site in Noise Exposure Category B (in Planning Policy Guidance Note 24 – *Planning and Noise*). This is defined as cases where noise should be taken into account when determining planning applications ... and conditions imposed to ensure an adequate level of protection against noise. A condition here could require noise attenuation, through for instance the building construction and double glazing, with mechanical ventilation if necessary. I appreciate that WHO guidelines for community noise might not be met here but internal levels could be met at night by keeping windows closed (with artificial ventilation if necessary). Daytime levels would in theory be exceeded on the terrace, but this would be quite small (and so unlikely to be much used for sitting out) and partly protected from some noise sources by the building itself.

15. I also note that some annoyance has previously been caused at the existing flat at 68A Broadwater Road by fumes escaping through the roof from the tool

hire business below. However I also understand that this was informally rectified by insulating the ceiling of the store, and could be similarly obviated for the new flat. Any escape of fumes through the rear door is likely to be brief and occasional and unlikely to occur when the relevant bedroom in the new flat above is normally in use.

16. In summary, provided an appropriate condition was attached to any permission concerning noise/fume insulation, I consider that future occupants of the flat would enjoy reasonable living conditions. Consequently there would be no conflict with policies DEV1 and BE1 of the Structure and Local Plans respectively, where these seek good design of development.

*Other matters*

17. Neighbours at the existing flats have raised the matters of the existing access gate, no bin storage and car parking. However it would unreasonable to require the developer to address existing shortcomings through the proposal, although I note that at the hearing he did offer to help the existing residents where possible.

**Conclusions**

18. Although I have concluded that the neighbours of nearby dwellings would not suffer undue harm and that the future occupants of the flat would enjoy reasonable living conditions (in both cases provided conditions were attached to any permission), I consider that this is outweighed by the harm caused to the character and appearance of the area. For the reasons given above I conclude that the appeal should be dismissed.

*D J Mumford*

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## APPEARANCES

### For the Council

Mr P Davenport BA MRTPI, Planning Officer

### For the appellant

Mr A Greenwood MRTPI

Mr G Mount

Mr E S Taylor

### Interested party

Mr W T Seager, for Miss Seager of 68A Broadwater Road, Worthing

## DOCUMENTS SUBMITTED AT THE HEARING

Document 1 List of persons attending the hearing