The Planning Inspectorate

Appeal Decision

Site visit made on 9 August 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2022

Appeal Ref: APP/Y3805/W/22/3290250
36 Norbury Drive, Lancing, West Sussex BN15 0QQ

- 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 Miss Jane Thompson against the decision of Adur District Council.
- The application Ref AWDM/0756/21, dated 27 April 2021, was refused by notice dated 15 July 2021.
- The development proposed is described as 'The proposal involves a new 2 storey house at 36 Norbury Drive'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

    - the effect of the proposed development on the character and appearance of the area;
    - the effect of the development on the living conditions of the occupiers of neighbouring properties at 36 Norbury Drive and 1 Boxgrove Close, with particular regard to outlook and privacy; and
    - whether the development would or could incorporate a sustainable drainage system to dispose of surface water.

Reasons

Character and Appearance

3. The appeal site occupies a corner plot at the junction of Norbury Drive and Ring Road. It currently forms part of the rear garden of 36 Norbury Drive and is enclosed by mature trees and shrubs which make a positive contribution to the pleasant verdant street scape. The ground levels rise northwards along Norbury Drive towards Ring Road. As a consequence, the site occupies an elevated position in relation to the neighbouring properties in Norbury Drive and Boxgrove Close and is at a lower level than those opposite the site in Ring Road.

4. The proposed dwelling is of contemporary design with a primarily flat roof and would be constructed using materials including timber cladding and grey and white brick, with a slate roof. The surrounding residential area includes an

eclectic range of single and 2 storey dwellings, these include properties of a modern design, with a variety of external finishes such as render, timber cladding and brick. There are examples of flat and shallow pitched roof properties, as well as flat roof elements to existing dwellings, including that at No 36, and detached flat roof garages in the area. As such the contemporary form of the proposed dwelling would not be at odds with the local vernacular.

5. The proposed dwelling would be orientated to front Ring Road and set back a similar distance from the highway to the front as the 2 storey property of the same orientation on the opposite corner of the junction. When viewed from Ring Road the dwelling would be seen as a low-profile single storey building. Whilst the design would differ from the traditional appearance of the dwellings in the immediate vicinity in Ring Road, as a consequence of the scale and design of this elevation of the building it would not be visually dominant in the street scape or at variance with the character of Ring Road.

6. However, the existing dwellings at a lower level to the rear of the site, on the same side of Norbury Road as the appeal site, which include No 36, are set back a similar distance from Norbury Drive. This contributes positively to a pleasant sense of uniformity to the street scene, as well as the open character of the area. The proposed dwelling would be positioned on the site such that it would project forward of the side elevation of No 36 and would therefore be in closer proximity to Norbury Road. As a result of this, together with the scale and mass of the rear elevation of the proposed dwelling, and elevated ground level in relation to the neighbouring dwellings, it would appear as a visually prominent and discordant feature when viewed from the lower ground of Norbury Drive on the approach to the site from the south. The removal of a number of mature trees and shrubs from the site to accommodate the development would further emphasise the visual dominance of the proposal and would detract from the verdant character of the area.

7. No 36 is set on a generous plot, the proposed subdivision of the site to accommodate a new dwelling would not result in plots that would be dissimilar to others in the vicinity with regards to size. In addition, the proposal would also provide an adequate amount of garden space to serve both the existing and proposed dwellings, albeit on different ground levels. Notwithstanding this, given the shape of the plot, together with the site levels and the siting, scale and design of the building, it would appear as a contrived form of development that would be cramped and inconsistent with the established character of the area.

8. The Council's first refusal reason and submissions refer to advice in its Adopted Development Management Standard No. 1, specifically that which sets out minimum separation distances between principal windows in the rear elevation of a dwelling and an adjoining building. Given the aim of this is to avoid development having an overbearing effect and to ensure an adequate outlook and daylight for the occupiers of the dwellings, this is not relevant to the character and appearance of the development.

9. For the reasons set out above the proposal would appear as an unduly dominant and incongruous feature in the street scape, notably in views of the site from Norbury Drive to the south, giving rise to harm to the character and appearance of the area. It would therefore fail to comply with Adur Local Plan 2017 (ALP) Policy 15, which among other things seeks high quality design that

respects and enhances the character of the area and Policy 30 which includes the aim to protect and enhance green infrastructure, as well as advice at paragraph 130 of the Framework.

Living Conditions

10. Given the topography of the site the proposal would introduce a building of considerable scale and bulk in an elevated position and in close proximity to the rear elevation of the existing dwelling at No 36. As a consequence, the proposed building would appear as an unduly dominating and imposing feature when viewed from No 36 from both the rear elevation and side garden.

11. Furthermore, despite the fact the dwelling would be set in from the side boundary of the site with 1 Boxgrove Close and that it would be seen at an oblique angle when viewed from the rear of No 1, due to the elevated position, siting and scale of the building, it would be visually intrusive when viewed from No 1, which would harm the outlook of the occupiers of the property.

12. The proposed dwelling would include a number of rear windows at lower ground and upper ground level that would look towards No 36. Whilst any views of the existing property from the lower ground floor windows, which would serve bedrooms, could be prevented by the use of appropriate boundary treatment, the upper ground floor windows would give rise to direct overlooking of No 36, including the existing first floor window in the rear elevation and the remaining garden space to the side of the property. Given the siting and number of windows the development would harm the living conditions of the occupiers of No 36 through loss of privacy.

13. The proposal also includes a side pedestrian door at upper ground floor level leading to an external staircase that would provide access to the lower garden area. By virtue of the proximity to the side boundary with 1 Boxgrove Close and the elevated position, this arrangement would give rise to overlooking of the adjoining property. Whilst I acknowledge that any view from the staircase would be in passing, this would largely be dependent upon future occupiers and could occur on a regular basis so would nevertheless be harmful.

14. My attention has been drawn to an extant planning permission for alterations to No 36 which have not yet begun. Whilst the details of which are not before me, No 36 is not included within the appeal site. Therefore, even if the works approved under the earlier permission were to address the harm I have identified with regards to living conditions, there is no mechanism by which to secure the implementation of the permission. As such I must make my decision based on the existing situation and the property as it currently stands.

15. I find that the proposal would therefore have an adverse effect upon the living conditions of the occupiers of neighbouring properties through harm to outlook and loss of privacy. As such the proposal would conflict with DLP Policy 15 which sets out that development should not have an unacceptable impact upon adjacent properties and advice in the Framework that developments should achieve a high standard of amenity for existing and future users.

Surface Water

16. The application form indicates that surface water from the development would be disposed of via a soakaway, however a detailed strategy for the disposal of surface water has not been submitted as part of the proposals. I note the

Council's concern that the soakaway for No 36 may lie within the appeal site and that there is unlikely to be sufficient space available within the site to drain surface water from both the host dwelling and the proposed dwelling via a soakaway. This is of particular relevance given the topography of the site and that any excess surface water could increase flood risk to the areas of lower ground.

17. The proposal would therefore fail to demonstrate that it would or could incorporate a sustainable drainage system (SUDS) to dispose of surface water. As such the proposal would conflict with ALP Policy 36 which requires new development to include SUDS or other appropriate design measures in order to reduce the risks of surface water flooding.

Other Matters

18. I note the appellant's willingness to accept a condition to secure landscaping of the site to replace existing trees and shrubs, to include planting to the shared boundary with No 1. However, given the scale of the development and topography of the site, whilst a landscaping scheme would go some way to mitigating harm it would not overcome the harm identified above which carries significant weight against the proposals. Furthermore, the longevity of such mitigation measures could not be guaranteed in perpetuity.

19. I understand that the Council may not be able to demonstrate a 5 year housing land supply. If that were the case paragraph 11 d) of the Framework falls to be considered. In so far as this appeal is concerned this indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

20. Even if the shortfall were large, the benefits associated with the proposal for a single dwelling, would be modest. Conversely, I have found harm relating to the character and appearance of the area and the living conditions of the occupiers of neighbouring properties. The effects, and consequently the weight I attribute to those would be substantial.

21. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Accordingly, the proposal would not benefit from the presumption in favour of sustainable development outlined at paragraph 11 of the Framework.

Conclusion

22. The appeal scheme would conflict with the development plan and there are no material considerations, including policies within the Framework, worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal is therefore dismissed.

Emma Worley

INSPECTOR