The Planning Inspectorate

Appeal Decision

Site visit made on 6 November 2019

by L Crouch BA (Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2019

Appeal Ref: APP/M3835/W/19/3225671
20 Marine Drive, Goring-By-Sea, Worthing BN12 4QN

- 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 John Monks against the decision of Worthing Borough Council.
- The application Ref AWDM/0777/18, dated 24 May 2018, was refused by notice dated 13 December 2018.
- The development proposed is the demolition of the existing large house and erection 3 x self contained apartments.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

    - the effect of the development on the character and appearance of the surrounding area;
    - whether or not the development provides acceptable living conditions for neighbouring occupiers at No 4 Petworth Avenue and 18/18A Marine Drive with respect to overbearing and loss of privacy; and
    - the development's location within Flood Zone 3.

Reasons

Character and Appearance

3. The appeal site is a detached two storey dwelling dating from the mid-20th century and set within a spacious plot, with one side facing the sea. The appeal site lies on Marine Drive and turns the corner of Petworth Avenue. The houses in the general vicinity are mainly characterised by well-proportioned two storey detached dwellings, also dating from the mid-20th century, set comfortably within their plots and with a predominantly consistent architectural style, including features such as simple hipped roofs, chimney stacks and bay windows. This gives the immediate neighbouring properties an unassuming, harmonious appearance.

4. It is proposed to demolish the existing dwelling and replace it with a three-storey building in an Art-Deco style, which contains three self-contained

apartments. The replacement building would broadly replicate the same footprint as the existing building and the proposed ridge height would be similar to the existing roof ridge.

5. However, the proposed building would be increased in its height by one storey with a series of flat roof tiers, and would comprise of a curved two storey entrance which fronts on to Petworth Avenue, a curved section at the southern end, which faces on to an L-shaped terrace. There will also be large expanses of glazing at the ground, first and second floors fronting onto Marine Drive and a particularly square form.

6. Consequently, the proposal due to its three-storey scale, incongruous top-heavy massing, significant boxy bulk, with increased bulk at second floor level and a particularly striking appearance, with unobtrusive heavy detailing such as the railings, would appear in sharp visual contrast to the immediate neighbouring properties which have simple hipped roofs and an overall modest, unassuming appearance. As such the proposal would not respond positively to the local character and appearance of the surrounding area.

7. The dominant and incongruous appearance of the proposal would give the appeal site increased prominence within the street scene appearing harmfully discordant with its overall character and appearance.

8. I note that the appellant states that the proposal would be in-line with the National Planning Policy Framework (the Framework) 2019, in terms of placing importance on local character, and that the Framework does not discourage appropriate innovation or change and an appropriate mix of development. However, for the reasons set out above, the proposal would not comply with the Framework's clear emphasis on good design.

9. One example of an Art Deco style building has been provided by the appellant, which they say sets a precedent for the appeal site. The development at 30 Marine Drive was allowed on appeal. However, I saw from my site visit that No 30 was situated a block away from the appeal site, rather than being located in the immediate vicinity, and No 30 had a different site context with a more spacious setting due its generous plot size. In any case I must assess this proposal on its own merits.

10. Consequently, I conclude that the appeal proposal would harm the character and appearance of the surrounding area. As such it would conflict with Policy 16 of the Worthing Borough Council Core Strategy (CS) 2011. This policy seeks amongst other things to ensure good quality architecture and detailing, which responds positively to local character.

Living Conditions

11. The proposed three storey development would be positioned approximately 2m from the side wall of 4 Petworth Avenue and the appeal site's boundary and around 4m beyond the rear wall of neighbouring property 18/18A Marine Drive, with the appeal property projecting deeper into its plot to the north.

12. Although the proposed building would be no nearer to No 4 than the existing dwelling, the increase in its overall scale when combined with the large-scale windows at second floor would have a negative impact on the neighbouring occupiers of No 4, resulting in a perceived sense of overlooking to the front. Despite the oblique angle of the proposed windows and the public open nature

of the front to No 4, it is the close proximity of the proposed building, the additional storey and the size of the proposed windows, which will have a particularly negative impact on the living conditions of the neighbouring occupiers of No 4.

13. The close location of the three-storey side wall of the proposed development would be visible from within the private rear amenity space of No 18/18A and would result in the side wall of the proposal being located in close proximity to No 18/18A's side boundary and its rear wall. Although the appellant contends that the nearest rear windows to the appeal site serve kitchens, that the proposed building would pass a standard daylight/sunlight test, and there have been no objections to the proposed scheme from No 18/18A, I find that the increase in scale of the replacement building, in combination with its bulky form, and close proximity to the side boundary, would result in a harmful over-bearing impact on the rear prospect of the occupiers of No 18/18A to the rear, and for users of the amenity space to the rear of the property.

14. Whilst it is acknowledged that there are already views into the rear garden of No 18/18A from existing windows of No 20, the proposed windows would be at a higher level and in such a position on the corner of the proposed building so as to result in oblique views back towards the rear windows of No 18/18A and a sense of overlooking in contrast to the existing dwelling on the appeal site.

15. Therefore, I conclude that the development would not provide acceptable living conditions for neighbouring occupiers at No 4 and No 18/18A with respect to overbearing, loss of privacy or perceived overlooking and as such conflict would arise with Policy H18 of the Worthing Local Plan adopted 2003 saved 2007 (LP). This seeks to protect the amenity of local residents.

16. The proposal is also contrary to the Framework, which places a high standard of amenity for existing and future users.

Flooding

17. Paragraph 158 of the Framework aims for a Sequential Test to steer new development to areas with the lowest risk of flooding. The Framework states that 'development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding'.

18. The appellant contends that a Sequential Test was not necessary in this case given the lack of housing land supply and the need for more homes. However, the Framework sets out the requirements for the Sequential Test, which is an important requirement for providing suitable new housing sites. As this has not been provided it has not been complied with and locating new dwellings within Flood Zone 3, an area with the highest probability of flooding, requires substantial justification. I do not consider that the reasoning that a low housing supply Borough wide necessarily requires this site to be developed contrary to established national requirements.

19. Notwithstanding the assessment provided by the appellant, stating that flood risk can be satisfactorily mitigated, I have not been provided with any evidence to persuade me that there are no reasonably available sites appropriate for housing development in areas with a lower risk of flooding.

20. Therefore, I conclude that the appeal proposal is contrary to Policy 15 of the CS and Paragraph 158 of the Framework, which requires a Sequential Test in order to mitigate against future flood risk.

Planning Balance

21. The Council has confirmed that it cannot demonstrate a five year housing supply as required by the Framework which the appellant states stands at around a 2.1 year supply. I have no reason to arrive at a different view. The proposal would result in the provision of two extra dwellings which would make a positive contribution to this shortfall and to the mix of dwelling sizes, and which the appellant considers to be viable and sustainable. However, as two units of accommodation, this would have only modest benefits.

22. I have taken into account the letter of support for the proposal. This letter considers that the proposed development would enhance the neighbourhood. However, for the reasons given above I have concluded that the proposal would harm the character and appearance of the surrounding area and would not therefore enhance the neighbourhood.

23. I recognise that the appellant states that the proposal would be in accordance with the Framework with respect to its guidance on making effective use of land which is under-utilised and providing sustainable development through economic, social and environmental means. However, due to the scale of development the benefits derived from two extra units in this case would be modest.

Other Matters

24. The no objections from the Local Highways Authority, Environment Agency and Southern Water for the scheme are noted. However, the absence of harm associated with matters considered by these bodies is not considered a benefit. Therefore, I give these matters neutral weight.

Conclusion

25. I have found that the proposal would result in significant harm to the character and appearance of the area and in respect of the living conditions of neighbouring occupiers and I give this significant weight. I also find that the proposal would result in unjustified new properties in a high Flood Risk Zone. I recognise that the proposal would have the benefits of contributing towards housing land supply and the economy. However, the harm identified would be significant and long-lasting and the benefits modest.

26. Having regard to these matters, I conclude that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. For these reasons, I conclude that the appeal is dismissed.

L Crouch

INSPECTOR