The Planning Inspectorate

Appeal Decision

Site visit made on 3 December 2013

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 16 December 2013

Appeal Ref: APP/Y3805/A/13/2206067
25 – 27 Old Fort Road, Shoreham-by-Sea, BN43 5RL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Andrew Hill against the decision of Adur District Council.
- The application Ref AWDM/0872/13, dated 15 July 2013, was approved on 27 August 2013 and planning permission was granted subject to conditions.
- The development permitted is retrospective application for revision to height, fenestration and positions of four new houses on plot (Amendments to AWDM/0302/11) (25-27 Old Fort Road).
- The condition in dispute is No.07 which states that: The dwellings hereby permitted shall not be occupied until the lower, non-opening panes of the existing first floor rear windows have been replaced with obscure glazed and non-opening windows and they shall not subsequently be altered in any way.
- The reason given for the condition is: To prevent overlooking and to comply with saved policy AH2 of the Adur District Local Plan.

Preliminary matter

1. The Council has recently granted permission for the variation of condition No.07 to allow the lower section of the obscure panes to be openable for means of escape, but fitted with restrictors to limit opening to 100mm generally. This has been taken into account in the consideration of this Appeal.

Decision

2. The appeal is allowed and the planning permission Ref AWDM/0872/13 for retrospective application for revision to height, fenestration and positions of four new houses on plot (Amendments to AWDM/0302/11) (25-27 Old Fort Road) at 25 – 27 Old Fort Road, Shoreham-by-Sea, BN43 5RL granted on 27 August 2013 by Adur District Council is varied by deleting condition No.07.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the dwellings located to the rear of the Appeal site.

Reasons

4. The Appeal site is located within a row of back to back housing which comprises a mixture of bungalows, chalets and two storey houses, with predominantly modest sized rear gardens. There have been a number of

redevelopments within this row in recent years and these predominantly comprise two/two and half storey flat roofed dwellings. These dwellings have added to the diverse range of housing within the immediate area.

5. The principle of constructing 4 two and half storey flat roofed semi-detached houses on the site has already been established. The Appeal application was submitted to address the fact that the slab level of the dwellings being constructed on the site are some 260mm higher than that approved in 2012 and the buildings are approximately 200mm closer to the rear boundary of the site. The revised scheme includes a reduction in the height of the roof section of the buildings to minimise this increased height, although it does not address the increased height of the first floor rear windows and their proximity to the rear boundary.

6. Due to their increased height and siting slightly closer to the rear boundary of the site, the proposed dwellings are marginally more prominent when viewed from the adjacent dwellings in The Meadway. The difference between the original and revised schemes is however minimal. The rear first floor windows are comparatively modest in size and due to their sill heights views from them are restricted to persons standing close to them. In addition, the windows would serve bedrooms and thus would likely be fitted with blinds or curtains, which would be drawn for at least some of the time.

7. Overall the spatial standards of the development would blend in readily with the surrounding development. The separation distances between the proposed dwellings and the adjacent dwellings in The Meadway would be consistent with other dwellings in the immediate area and the advice contained in the Council's Development Control Standard No.2 – *Space Around New Dwellings and Flats (SPG)*. This is on the basis that Condition No.8 has removed permitted development rights relating to any rear extensions. Whilst the buildings have a second floor, this is no higher than a two storey dwelling with a pitched roof and the windows in the second floor are angled and set back and so do not result in any overlooking issues. As such it was reasonable and appropriate for the Council's officers to assess the scheme against their separation distances for two storey dwellings.

8. The outlook from the rear first floor bedroom windows would be directly comparable to other back to back dwellings with first floor rear bedroom windows along Old Fort Road and The Meadway. This was evident from the various gardens I visited along The Meadway and Old Fort Road during the site visit.

9. For these reasons condition No.7 is unnecessary and unreasonable and fails the tests set out in Circular 11/95. The retention of clear glazed and opening windows would not result in an unacceptable loss of privacy for the occupants of adjacent and nearby dwellings. Conversely the introduction of obscure and restricted opening windows would result in a poor environment for the occupants of the bedrooms concerned.

10. I conclude that the removal of condition No.07 would not result in an unacceptable loss of privacy for any local residents and thus would comply with policy AH2 of the Adur District Local Plan and the SPG.

Other matters

11. I have considered all other conditions imposed by the Council and find that other than Condition No.07 they satisfy the tests set out in Circular 11/95. In particular they are necessary in the interests of highway safety, to ensure the development blends in with its surroundings, to protect the living conditions of the existing residents, for the avoidance of doubt and in the interests of good planning.

12. Although the top of the ground floor windows can be seen from the ground floor rear windows and gardens of the nearby properties in The Meadway, there is no direct inter-looking between rooms. It is acknowledged that the use of balconies and terraces does generate noise. However they are a common feature in the area and their use can also be associated with less activity within rear gardens. In this instance the terraces would be at the front of the property and would be screened from the dwellings to the rear.

13. As indicated above, the principle of the development has already been established and this includes the crossovers and parking area. Irrespective of this, having regard to the width and location of Old Fort Road and the width of the pavement to the front of the site, the proposed development is highly unlikely to have a materially adverse impact on highway safety or the demand for on-street parking.

14. Finally concern has been expressed regarding the retrospective nature of the scheme. Planning legislation provides for the consideration of retrospective applications and as with any scheme such proposals need to be assessed on their individual merits and in light of the prevailing planning policies.

Conclusion

15. Having regard to the conclusion on the main issue and all other matters raised, the Appeal is allowed.

Elizabeth Lawrence

INSPECTOR