The Planning Inspectorate

Appeal Decision

Site visit made on 8 January 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: W/4001400
Sherwood House, Southwick Street, Southwick BN42 4TE

- 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 Goodman and Mr. Gilbert (Goodman and Gilbert Limited) against the decision of Adur and Worthing Councils.
- The application Ref AWDM/0783/20, dated 22 May 2020, was refused by notice dated 22 July 2020.
- The development proposed is the demolition of 2no. prefabricated buildings passed the end of their lifespan and erection of 4no. mews houses and cottage.

Decision

1. The appeal is dismissed.

Procedural Matter

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. The effect of this amendment in relation to this appeal was to revoke the B1 use class and merge this into a new Class E 'Commercial Business and Service.' Regulation 4 of the Amendment Regulations provides that an application submitted prior to 1 September 2020 referring to uses or use classes specified in the Schedule to the Use Classes Order as at 31 August 2020 should be determined by reference to those uses or use classes. I have therefore made my decision on this basis and referred to the superseded use classes within this letter.

Main Issues

3. The main issues are:

- Whether the proposal would preserve the settings of the surrounding listed buildings known as 'The Manor House' (Grade II), and 'Manor Cottage' (Grade II);
- The effect of the proposed development upon the character and appearance of the locality, with special regard to the character and appearance of the Southwick Conservation Area (CA);
- Whether the loss of employment premises is appropriate and has been adequately justified;
- The effect of the proposed development upon the living conditions of surrounding occupiers, with particular regard to access to light, privacy and visual appearance;

- The effect of the proposed development upon the living conditions of future occupiers, with particular regard to floorspace, privacy and provision of private garden space.

Reasons

Character and appearance, including the CA

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA), in respect of development affecting CAs, states that special attention shall be paid to the desirability of preserving or enhancing the character and/or appearance of the area.

5. The appeal site is currently in commercial use and contains two pre-fabricated buildings which date from the mid-late 20th Century. The appeal site is located within 'Area 2 – Manor House,' of the Southwick Conservation Area Appraisal and Management Strategy 2009 (CAAMS). This particular area contains some of the more historic origins of the settlement where Southwick Street once formed the main village street and contains a number of dwellings dating between the fifteenth and eighteenth centuries. The Manor House, its grounds, along with No. 16-24 (even) Southwick Street are functional in their design and materials which reflect the local vernacular of building styles. The use of traditional materials such as timber, brick, flint timber and slate reinforce an authenticity which creates a picturesque townscape along with vegetated front gardens and street trees that give a spacious, leafy and distinctive character.

6. The appeal site is located directly behind the historic buildings along Southwick Street and accessed by a vehicular entrance between Manor Cottage and No.20 Southwick Street. Whilst the buildings themselves on the appeal site do present as an anomaly to the historic environment surrounding, their low scale and flat roof forms does reduce their appearance when experienced within the locality and the CA. Despite this, the appeal site is highly visible and is experienced within the CA, with a public path leading to the side of one of the boundaries to a mid-twentieth century development of detached two storey houses and bungalows.

7. In undertaking development within CAs, Policies 15, 16 and 17 of the Adur Local Plan 2017 (LP) seeks that new development enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping and layout of the development; responds to the local character and context, and also preserves and enhances the significance of heritage assets and their settings; and that proposals in CAs be of a high standard of design and materials to preserve and enhance the character and appearance of the CA.

8. Given the functional nature of the design and locational aspects of historic dwellings surrounding and the spaciousness in an around dwellings which are predominantly detached; the proposed terrace of three mews type dwellings appears squashed and visually bulky when compared to its context. The terrace is unlike anything within the immediate context with a large amount of visual bulk and massing as opposed to the spacious, detached and functional character of buildings surrounding. The large amount of dormer windows is not a characteristic addition to this location, with three dormers proposed to the

front and six dormers to the rear which over-complicate and clutter the appearance of the building and would have an awkward relationship to the character and appearance of the locality which is more functional in design. I acknowledge comments from the applicant that in their opinion the mews houses meet the space standards and therefore in their opinion cannot be considered cramped. However, as per LP Policies 15, 16 and 17, designs need to be in accordance with the local character and context and that where one type of dwelling may be appropriate in one location, it may not be appropriate for another.

9. In accordance with LP Policies 15, 16 and 17, the proposed terrace does not reflect the qualities of local distinctiveness or the overarching positive attributes of the CA such as having minimum sized garden areas, not having any front garden with the areas to the fronts of the dwellings dominated by surfacing and hardstanding. The terraced dwellings are also positioned close to the public footpath and draw more attention to backland properties from the historic dwellings along Southwick Street predominantly as a result of their increased height and visual bulk.

10. Taken as a whole, and in conclusion on this matter the proposed dwellings would cause unacceptable harm to the architectural authenticity and integrity of the existing character and appearance of the CA. Consequently, the proposal would be contrary to the LP Policies 15, 16 and 17 as described previously.

11. In accordance with the above, although serious, the harm to the CA in this case would be 'less than substantial,' within the meaning of the term in paragraph 196 of the National Planning Policy Framework (the Framework). Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. I turn to this assessment further below in the section on the 'assessment of harm.'

Listed Building Considerations

12. Section 66 of the PLBCA prescribes a duty upon a decision maker to give special regard to the desirability of preserving the significance of a listed building or its setting.

13. The Council considers that the harm towards the listed buildings is predominantly towards Manor Cottage and The Manor House located to the front of the appeal site. Whilst Manor Cottage and the Manor House have architectural and historic significance in their fabric, design, construction and intangible features; in relation to this appeal, it is the contribution of the appeal site to the setting of each of the buildings. Currently the historic buildings are the main focal points along Southwick Street and create the local character and distinctiveness of the area, being located in a position and crucial element of the area that creates the historic character and experience. The two historic buildings dominate the street scene with undeveloped spaces in and around the dwellings which assist in reinforcing the leafy setting of Manor Cottage and the Manor House. The appeal site, whilst developed, is relatively low scale with the appeal site being experienced as part of the land and spaces surrounding the Manor House and Manor Cottage and together with the surrounding historic buildings, contribute to an understanding of the former form and function of the historic buildings and how the buildings are experienced, reinforcing their former rural location, identity and setting. These are some of the important

elements that make up the setting of these listed buildings and this setting is integral to their significance.

14. The appeal site is experienced as part of the undeveloped spaces surrounding the historic buildings which contributes to this significance and historic relationship as outlined previously. The visual bulk, height, massing and positioning of the proposed development on the appeal site would introduce a built form which would create a distraction from the strong presence and group of historic buildings in this location. Being positioned within the spaces in and around the Manor House and Manor Cottage, the proposed dwellings would have little relationship to the existing layout, massing, character and local distinctiveness of the area that would erode the experience and contribution of the spaces surrounding the listed buildings which are important components of their setting.

15. The proposal would therefore fail to preserve the setting of the Grade II listed buildings as required by S66 of the PLBCA in accordance with the expectations of the PLCBA and the Framework at Paragraph 193 where great weight should be given to the asset's conservation … irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 196 of the National Planning Policy Framework (the Framework). As identified previously, Paragraph 196 of the Framework requires a further assessment of harm, which I turn to below.

Assessment of harm

16. In matters concerning the CA and the Listed Buildings, I have found that the proposed scheme would fail the duties under S66 and S72(1) of the PLBCA and in accordance with the Framework, would result in 'less than substantial' harm to the CA and to the significance of the listed buildings. Paragraph 194 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.

17. The benefits of the scheme would include the provision of four dwellings in order to meet housing need; economic benefits in terms of short term employment opportunities in the demolition of existing buildings and construction of the proposed dwellings; the improvements to surfacing and increased planting as compared to the current site which is entirely hardstanding; and the socio-economic benefits from local expenditure from future occupants, as well as the development of small sites and development of brownfield land. Whilst I afford these benefits moderate weight, I note that many of these benefits may also be present in a more appropriately designed scheme.

18. That said, I therefore find that the public benefits would not outweigh the harm to the CA and the significance of the listed buildings from development within their setting. The scheme therefore conflicts with the Framework, which directs, at paragraph 193, 'that great weight should be given to the asset's conservation…irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance'.

19. In conclusion on this matter, I consider the proposed development would cause less than substantial harm to the significance of the CA and to the significance of the Manor House and Manor Cottage. It has not been shown that public benefits would outweigh this harm and so the proposal would conflict with the development plan, the Framework and the duties under S66 and S72 of the PLBCA.

Employment land considerations

20. The appeal site contains two single storey pre-fabricated buildings which have been used as B1 office space. The buildings appear to be coming to the end of their useful life and are currently vacant. Policy 25 of the LP seeks to resist the loss of employment sites and seeks that changes to non-B Class uses are only permitted where (i) the loss of a small proportion would lead to a significant upgrade of remaining employment floorspace, or (ii) that it can be satisfactorily demonstrated that the site or premises is genuinely redundant and no demand exists now or in the future, including considerations with regards to marketing and demands for the size and type of employment premises in the future. The Council's 'Demonstrating Genuine Redundancy of Employment Sites Supplementary Planning Document (SPD) also provides further guidance of compliance with LP Policy 25.

21. The applicant has submitted an Employment Support Statement which shows that the former tenants of the buildings have relocated into other buildings in the locality. Whilst I appreciate that the buildings on site may not be suitable in terms of their condition when compared to other office buildings in the locality, there is no detail as to why the site cannot be developed for office use. This is supported in the SPD where at Paragraph 2.11 it is stated that *'it will not be sufficient for an applicant to argue that the condition of a building is in a state of disrepair and therefore 'redundant'*. As shown by the applicant's statement, the site has not been actively marketed for redevelopment of B1 use, and as such it has not been demonstrated that the redevelopment of the site for office use is unviable.

22. I appreciate comments on the locational aspects of the appeal site and that in the opinion of the applicant that the constraints such as lack of road frontage, and vehicular access etc. makes the site undesirable, however I do not share this opinion. The redevelopment of this particular site would enable a future tenant to start afresh rather than the constraints imposed by previously constructed office spaces in the area such as Europa House. As such the comparisons drawn between demand for office space and marketing at Europa House and the appeal site are not analogous and do not sufficiently demonstrate that the appeal site has been sufficiently marketed in accordance with LP Policy 25.

23. In conclusion of this matter, based on the evidence presented, it has not been satisfactorily demonstrated that the employment use of the site is adequately redundant. Consequently, the loss of the employment site would conflict with LP Policy 25, as described previously which is supported by the SPD.

Living conditions of surrounding occupiers, with particular regard to access to light, privacy and visual appearance;

24. Policy 15 of the LP is supported by 'Development Management Standard No.1 – Space Around Dwellings and Flats (DMS1) which provides guidance with regards to locational and design aspects to new residential development. Whilst specifying typical circumstances and suggested setbacks amongst other considerations, the guidance also shows circumstances where context and site specific constraints will also cause the standards needing to be applied differently. The dwelling considered to be affected by the proposed development are Nos. 26 and 27 Glebe Close, which consist of a single bungalow to each plot. Given their positioning around a circular road, No.27's rear garden boundary abuts the side boundary of the proposed terrace, whereas No.26's side boundary to the rear garden would abut the rear garden boundary of the three terraced properties.

25. The proposed terraced would be positioned so that the side wall would be approximately 1 metre from the rear boundary of No.27 giving a two storey blank wall to the rear garden that would present an overly dominant and inappropriate reduction in openness and outlook from the rear garden of this occupier. Whilst the gardens of Nos. 26 and 27 are south facing, the overall bulk and massing of the proposed terrace would have an uncomfortable and dominant appearance towards Nos. 26 and 27 Glebe Close and would overshadow the gardens of Nos. 26 and 27, particularly in the afternoon as the sun passes the southerly direction.

26. The proposed terrace has 6 dormer windows at first floor level, and is proposed to have gardens of 10.6 metres, which fail the minimum suggested garden length of 11 metres as detailed in the DMS1. However, the appeal site does not represent a typical circumstance as depicted within the guidance which appears to be related to where a rear garden of one property backs directly onto another rear garden and that they should maintain a separation distance of 22 metres to avoid overlooking into windows. In this particular case, the six proposed first floor windows of the rear of the terrace directly overlooks the side boundary to the rear garden of No.26 Glebe Close. The proposed development as a result of its placement in close proximity to the side boundary to No.26 Glebe Close would increase the perception of overlooking towards this property resulting in a detrimental loss of privacy towards the surrounding occupier.

27. In conclusion on this matter, the proposed development would cause unacceptable harm to living conditions of existing occupiers for reasons of loss of privacy, reduction in light and dominance. Consequently, the proposal would be contrary to LP Policy 15 as described previously, which is supported by the DMS1.

Living conditions of future occupiers, with particular regard to floorspace, privacy and provision of private garden space.

28. In deciding an appropriate level of floorspace, the 'Technical housing standards – nationally described space standard' (NDSS) sets a minimum standard and is an appropriate standard to utilise in judging the compliance of proposed floorspace for future occupants.

29. The proposed three terraced dwellings each contain the same floorplan and dimensions, with each Bedroom 1 labelled on the plan to be 13 square metres in size and each Bedroom 2 of the units labelled on the floor plan are proposed to be 13 square meters in size.

30. According to the NDSS, a bedroom that has a floorspace that is 11.5 square metres or greater is capable of providing two bedspaces. Hence each of the terraced dwellings would be able to cater for 4 persons each. Table 1 of the NDSS specifies that two storey dwellings of 4 persons should have an overall floorspace of 79 Square Metres. The applicant's Statement of Case (SoC) refers to each of the terraced dwellings having an overall floorspace of 76.6 square metres, which would fail to meet the minimum standard as prescribed by the NDSS.

31. The second consideration with regards to this matter relates to the provision of garden space to Unit 4, which is a detached dwelling. The DMS1 seeks that gardens should be adequate in terms of their depth, area, privacy and daylight. According to the Site Plan, Unit 4 provides a total of 94 square metres of garden space which is provided to the sides and to the rear of the proposed dwelling.

32. The space to the side of the Living/Dining/Orangery area is quite thin and narrow to be considered a highly usable space for the future occupants with the main usable space situated to the rear of the dwelling and to the side of the proposed garage. The space is wide, however lacks depth, being less than 5 metres deep. Whilst the DMS1 specifies a minimum depth of 11 metres, which this proposal does fail, the guidance also seeks to assess the privacy of the space. The private garden space is in very close proximity to the Manor House which to the rear contains habitable windows at first and second floor levels. Much of the garden space to the proposed unit 4 would be overlooked from the Manor House which would result in a perceived lack of privacy to future occupiers.

33. Consequently, in conclusion of this matter, the proposed scheme would result in an unacceptable level of overlooking to proposed Unit 4, with Units 1-3 being undersized when assessed against the NDSS. As a result, the scheme would be contrary to LP Policy 15 as described previously, which is supported by the DMS1.

Conclusion

34. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR