Appeal Decision

Hearing and site visit
held on 16 June 2010

by John L Gray DipArch MSc Registered Architect

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
9 July 2010

Appeal Ref. APP/M3835/A/10/2124759
42, 43 and 44 West Parade, Worthing, BN11 5EF

- 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 Ben Cheal against the decision of Worthing Borough Council.
- The application, ref. WB/09/0266/FUL, dated 16 March 2009, was refused by notice dated 7 December 2009.
- The development proposed is the demolition of 42, 43 and 44 West Parade and redevelopment comprising a block of 13 flats with undercroft parking and cycle storage.

Procedural matters

1. The copy of the application on the appeal file is not dated. I have used the date of the Certificate A declaration which forms part of the application. The proposed demolition does not require planning permission so I have amended the description of the application to refer only to the proposed redevelopment.

Decision

2. I allow the appeal and grant planning permission for redevelopment comprising a block of 13 flats with undercroft parking and cycle storage at 42, 43 and 44 West Parade, Worthing, BN11 5EF, in accordance with the terms of the application, ref. WB/09/0266/FUL, dated 16 March 2009, subject to the conditions set out in the attached schedule.

Main issues

3. The Council takes no issue on the question of architecture, with which I agree. Looked at in isolation, I consider the proposal well designed – a nicely articulated scheme which reflects the Art Deco style that is something of a feature of this seaside town. Accordingly, the main issue is whether the scale, mass and height of the proposal would be appropriate in relation to both the neighbouring buildings and the setting of the adjacent Marine Gardens.

4. A second issue, raised by local people but not the Council, is residential amenity – whether the proposed redevelopment would cause harmful loss of light, privacy or outlook for the residents of the adjacent Hastings Court.

Reasons

Visual impact

5. The appeal site lies on the Worthing seafront, immediately east of Marine Gardens, a municipal ornamental park dating from the 1930s which is clearly the centrepiece of a formal town planning, or masterplanning, exercise. Four roads approach the park symmetrically from an arc to the north and there are

three blocks of three-storey flats to the east, west and north which were designed as an integral part of this layout. They are a brick-built Art Deco design with parapetted flat roofs, balconies (some now enclosed) and external staircases (with semi-circular landings). No. 44 West Parade, the westerly of the three houses on the appeal site, also has Art Deco influences; more importantly, however, it was clearly designed with the Gardens in mind, with façades deliberately addressing both them and the seafront. No. 45, on the west side of the Gardens, is a more overtly modernist example of Art Deco, part two-storey and part three-storey, flat-roofed, white-rendered and with a prominent, two-storey, semi-circular bay to the front.

6. The Council considers that the stretch of seafront forming the context for any redevelopment of the appeal site is centred on Marine Gardens and includes only the two-storey dwellings stretching for about 75m west and 200m east of them. It specifically excludes from the context both Wellesley Court and Roberts Marine Mansions to the west and Marine Point and Dolphin Lodge to the east. The appellant takes a different view, saying that one must look at the seafront as a whole to assess the context of the appeal site.

7. The Council's approach seems to me to be too restricted, all the more so as it is difficult to ascribe any significant architectural or townscape merit to the houses within the frontage which it seeks to address as an entity. It is true that Marine Gardens is the centrepiece of this particular stretch of seafront. And it is true that no. 44 was built with the layout of the gardens in mind. On the other hand, no. 45, on the west side of the Gardens, is a distinctively different design, both from the other houses in the frontage and in relation to no. 44 as a frame for Marine Gardens – which tends further to diminish the arguments for taking this limited stretch of seafront as the context.

8. In broad terms, I have to agree with the appellant's approach. I walked the length of the seafront from Eirene Avenue to the pier – and the character of the buildings along it varies significantly. Even discounting Dolphin Lodge and Marine Court, which I think stand out unfortunately from the general thread of the townscape, there are clear variations in the form, mass and height of buildings within what could be said to be a gradual increase in scale as one moves towards the town centre. I consider that the form, mass and height of the appeal scheme would sit comfortably within that context. It would be higher than the existing two-storey houses – but not unduly so in the context of other variations along the seafront. And it would reflect an architectural style that is to be found at intervals along the seafront – most obviously at Eirene Avenue and 45 West Parade but also elsewhere, albeit less overtly.

9. While the appeal scheme would be up to four storeys high, it is designed to read as a composition of smaller elements. I disagree with the appellant's assertion at the hearing that it is generally acceptable, in a context of two-storey buildings with pitched roofs, to have a building with a third storey that is set back. So much depends on the nature of both the proposed design and the context within which it would be seen. Here, however, I think it rings true.

10. The proposed building is designed to read as two, a smaller one to the east and a larger one to the west, with the recessed link between them appearing to be a gap in angled views from east and west. The smaller of the two parts would be two-storeyed, as is the existing house to its east, with a third floor well set back from the front and flank building lines and also detailed in a more

lightweight manner. That, in my opinion, especially when coupled with the set-back of the second floor corner balcony below, would reduce the scale and style of the building to something compatible with the adjacent house, albeit with slightly higher floor levels and a very different form.

11. The western part of the proposal would, indeed, read as a much larger building than the existing houses on West Parade. It would have four storeys and so would be taller than the Hastings Court flats to its rear. The third floor, however, would be set back on all sides from those below, save for central segments on the south and west façades (in a way an echo of the design of the existing house, though a storey higher); and the fourth storey would be both further set back and, again, detailed in a more lightweight manner. I consider that, despite their distinctly different designs, the proposed building would not be unduly prominent or overbearing in relation to Hastings Court.

12. Overall, the proposed building would read as a series of layers. The lower two would read more or less as one, though the first floor balconies would provide significant visual relief. The third floor would be in two distinct parts. The westerly part would be similar in style to, but much smaller than, the two layers below; the easterly part would appear, certainly from the seafront, as a relatively modest addition, in a visually much lighter style than the two lower layers of the building; and that description applies equally to the fourth floor over the westerly part of the building.

13. The proposal would certainly mean significant change. But change cannot automatically be bad in itself. In favour of the proposal is that I consider it an attractive piece of architecture which would sit comfortably beside the adjacent existing buildings. And there are other aspects to consider.

14. The appeal scheme would reflect the architectural style of no. 45. From the seafront, the Gardens would be framed by buildings of similar visual character. The appeal scheme would, of course, be a substantially larger building, which would dilute that benefit to an extent. At the same time, I consider that the scale of the Gardens is such that, visually, they would be better defined, or framed, by the mass and form of the proposed design on their south-east side.

15. The overall planning of Marine Gardens and the streets leading away from it is of no little merit. The three-storey buildings of Hastings Court, Romney Court and Winchelsea Gardens are an integral part of that plan. Visually, however, they are sufficiently far apart that I found the inter-relationship not particularly clear from the seafront. The role of Hastings Court and Romney Court is more obvious from within the front part of the Gardens but it is only really from north of the pavilion that the overall inter-relationship becomes clear. That may be partly because the other buildings bordering on the Gardens, between these three buildings, are of a more diffuse character and undermine their planning and townscape roles. Or it may be that three storeys is not quite tall enough for the role that it seems the buildings were intended to play.

16. I do not believe that redevelopment of the appeal site, of no. 44 in particular, would undermine the overall plan. The Gardens would be untouched, their relationship with the three-storey blocks of flats would remain, the buildings on the seafront on either side would be in similar architectural styles where presently they are different and the visual separation of the Gardens from the seafront, clearly defined by the existing boundary railings and hedge, would be enhanced by a more prominent building on the appeal site.

17. Taking all of these matters into account (while accepting that the appeal scheme would be very different to, and higher than, both the existing houses on the site and its neighbours to the east and north), I conclude that the proposal's architectural and townscape qualities are such that there is no compelling objection to the changes it would bring.

Residential amenity

18. A sunlight and daylight study was submitted with the application. It showed that reductions in daylight would all be within recommended tolerances and that only one room in Hastings Court would be left with daylight lower than the recommended standard – a ground floor kitchen window which would be only very marginally below the recommended level. Also, despite reductions in some cases, all windows in neighbouring buildings would still receive summer sunlight levels to recommended standards. Only one window, a ground floor bedroom window in Rye Close, would enjoy less winter sunlight than recommended. While I can understand residents' fears, and I accept that some daylight and sunlight levels would be reduced, I am satisfied that no window in any neighbouring dwelling would suffer any unduly harmful loss of daylight or sunlight.

19. It is true that parts of the proposed building would be nearer to the most south-westerly flats in Hastings Court than common 'rule of thumb' distances aimed at ensuring no harmful loss of privacy. The distances from the windows in the proposed building to the nearest windows or balconies in Hastings Court facing south-west and south-east would be around 15m but the rooms in the proposed building would be bedrooms, bathrooms or dressing rooms, which significantly reduces the likelihood of harmful overlooking. Only in the top-floor flat would the windows light the living room and kitchen. However, the proposed design carefully incorporates obscure glazing at all levels where overlooking might be a problem and leaves clear glazing in those parts of the rooms (generally towards the corners) from where overlooking could not naturally arise to any significant extent.

20. The distance to the windows or balconies on the north-easterly side of the nearest staircase in Hastings Court would about 20m, very close to being acceptable as a general proposition. Moreover, those windows face roughly south-east, meaning that any views towards them from the nearest windows in the proposed building would be much less than direct.

21. Overall, therefore, while I understand the fears expressed by residents, I do not consider that their privacy would be affected to any noticeable extent.

22. It is undoubtedly true that some flats in Hastings Court, particularly on the upper floors, would lose their views of the sea between the existing buildings on the appeal site. There are two factors to take into account, however. Firstly, those views are from bedrooms and kitchens rather than living rooms and thus might be considered comparatively less important to the enjoyment of the flats. Moreover, some of the views from the kitchens are through enclosed (glazed) balconies, making them less critical to the character and enjoyment of those rooms. Secondly, I consider that the proposed building represents architecture of no little quality. Thus, while sea views between the existing buildings might be lost, and I realise that they are very important to residents, what would replace them would be a building that would in itself be attractive (more attractive, in my opinion, than what can presently be seen of the

existing buildings) and, flowing from my reasoning on the main issue, neither out of scale nor overbearing in relation to its surroundings. Accordingly, while it would change, I do not believe that the outlook from the Hastings Court flats would be seriously harmed.

Conclusions

23. My conclusion on the visual impact issue is that what is proposed is perfectly acceptable in architectural and townscape terms. If the scheme is satisfactory in those terms, then it cannot, in my opinion, amount to overdevelopment of the site. In terms of Local Plan Policy CT3, criteria (i) and (iii), and also Policy BE1, I conclude that the proposal may be allowed. The status of Marine Gardens as of local historic interest does not affect this conclusion. Nor does the guidance in the recently published Planning Policy Statement 5: Planning for the Historic Environment. I do not believe that any specific policies were raised in relation to the residential amenity issue (though that does not diminish the importance I give to it). My conclusion does mean, though, that there is no breach of criterion (ii) of Policy CT3.

24. I have taken into account all other matters raised in the representations or at the hearing and find nothing to outweigh my conclusion on the main issues.

Conditions

25. The Council included a list of 20 suggested conditions as an appendix to its statement. Three more were subsequently submitted. The majority meet the tests in Circular 11/95 and the appellant agreed, as do I, that those conditions are necessary to secure an appropriate standard of development. Others were the subject of discussion at the hearing, some in terms of whether they were necessary. I have amalgamated some conditions and modified others, in accordance with the guidance in the Circular or for greater clarity or precision. I have also omitted some suggestions.

26. I have modified the suggested condition for the obscure-glazed windows – all are clearly indicated on the application drawings; that some might be top-hung opening windows seems reasonable in principle, subject to design details. A future restriction on the use of parts of the roofs seems to me reasonable, even though the drawings are clearly annotated as preventing that use. I have combined suggestions 12-15 into a single condition requiring a construction method statement. The architectural style of the proposed development makes it important to be able to control the detail of any future security lighting or floodlighting. There is no evidence to suggest that a condition is necessary to deal with contamination; also, other legislation controls at least some of the matters identified in the suggested condition. Following the discussion at the hearing, I have substituted for the suggestion on renewable and/or low carbon energy sources a condition that the flats should achieve Level 3 of the Code for Sustainable Homes. The basement car park is naturally ventilated as proposed but it is reasonable to control the location and detail of any future mechanical ventilation equipment, should that ever be thought necessary. Lastly, there is no evidence of a threat of flooding from either ground water levels or over-topping that needs to be addressed by way of a condition.

John L Gray

Inspector

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than five years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 5152/100, 101/L, 102/N, 103/M, 104/M, 105/N, 106/L (Hearing Document 3), 107/C, 108/F, 112/G, 115/B and 117-123 inclusive, plus drawing no. LLD204/100/03.

3) The windows shown as obscure-glazed on the approved drawings shall be installed and retained as such thereafter; any obscure-glazed windows which are also to be opening windows shall be in accordance with details first submitted to and approved in writing by the local planning authority.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no external aerials or satellite dishes or associated fittings or equipment shall be installed other than a single communal facility to serve all of the flats within the development hereby permitted. The installation of such a facility shall be in accordance with details first submitted to and approved in writing by the local planning authority.

5) No part of the roofs of the building shall be used as a balcony or roof terrace, save for those parts identified on the approved drawings, without the prior written approval of the local planning authority.

6) No dwelling hereby permitted shall be occupied until surface water drainage works, based on sustainable urban drainage principles, have been implemented in accordance with details first submitted to and approved in writing by the local planning authority.

7) No dwelling shall be occupied until the means of vehicular access, the basement car park spaces and cycle parking facilities have been constructed in accordance with the approved drawings. The car and cycle parking facilities shall be retained for that purpose thereafter.

8) No dwelling shall be occupied until the existing vehicular accesses to the site which are no longer to be used have been stopped up in accordance with the approved drawings.

9) No dwelling shall be occupied until household waste storage facilities have been provided in accordance with the approved drawings. The facilities shall be retained for that purpose thereafter.

10) No development or works of demolition shall take place until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
    i) the parking of vehicles of site operatives and visitors;
    ii) the loading and unloading of plant and materials;
    iii) the storage of plant and materials;
    iv) the erection and maintenance of security hoardings;
    v) measures to control the emission of dust and dirt during construction;

vi) a scheme for the recycling/disposal of waste resulting from demolition and construction works, and

vii) working hours and hours for collections from and deliveries to the site.

11) No security lighting or floodlighting shall be provided unless in accordance with details first submitted to and approved in writing by the local planning authority.

12) The development hereby permitted shall be implemented in accordance with the details of the hard and soft landscape works shown on approved drawing no. LLD204/100/03. All hard and soft landscape works shall be carried out in accordance with the approved details and either prior to the occupation of any part of the development or in accordance with a programme first agreed with the local planning authority. Any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

13) No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

14) No development shall take place until details of the following have submitted to and approved in writing by the local planning authority:

i) external windows and doors;

ii) coping or trim details for balconies and parapets;

iii) the roof balcony balustrade;

iv) roof and balcony soffits;

v) rainwater goods and any external flues, metre boxes or other equipment associated with services, and

vi) all boundary walls, railings and fences.

15) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

APPEARANCES

FOR THE APPELLANT

Chris Barker	Associate Planner, DMH Stallard
Stuart Eatock	Design Director, Michael Cook Associates
Liz Simes	Technical Director, fabric Limited

FOR THE LOCAL PLANNING AUTHORITY

Bryan Turner	Deputy Leader of Worthing Borough Council
Pete Devonport	Team Leader, Development Control, Worthing Borough Council

INTERESTED PERSONS

John Harris	Chairman, Hastings Court Management Company
David Sumner	Chairman, the Worthing Society
Dave Linsell	
Andrew Taylor	
Tom Wye	Ward Councillor
L M Courtney	
Michael Powell	
Bill Geddes	
Lindsay Scott	
S White	
Natalie Cropper	

DOCUMENTS submitted to the hearing

1 Statement of Community Involvement
2 Section 106 obligation
3 Dwg. no. 5152/106/L with correct north elevation
4 Dwg. no. 5152/202/A showing West Parade streetscape
5 Photograph of Roberts Marine Mansion (now redeveloped)
6 Oblique aerial photograph
7 Suggested conditions nos. 22 and 23
8 Composite photograph looking towards Marine Gardens from the seafront