The Planning Inspectorate

Appeal Decision

Hearing held on 5 May 2021

Site visit made on 6 May 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/Y3805/W/20/3256355
Land north of The Haven, Brighton Road, Lancing BN15 8EU

- 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 T Naylor of Dean Dugdale Ltd. against the decision of Adur District Council.
- The application Ref AWDM/0063/20, dated 15 January 2020, was refused by notice dated 16 March 2020.
- The development proposed is Residential (9 No. Dwellings) and associated development including means of access, car parking, refuse and cycle storage, drainage infrastructure, amenity space and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for construction of 8 no. flats (4 x 2 bed and 4 x 3 bed) within 2-storey building and 1 no. 2 bed flat (9 in total) within link-detached single-storey building, with 12 no. parking spaces, 10 no. cycle spaces, bin store, amenity space and landscaping at Land north of The Haven, Brighton Road, Lancing BN15 8EU in accordance with the terms of the application, Ref AWDM/0063/20, dated 15 January 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development set out in the banner heading is taken from the application form. The Council used different wording on the decision notice but this was agreed by the appellant at the hearing. The amended description is more precise and therefore I have used it in my formal decision.

3. Following requests from the occupiers concerned to view the site from their properties, I made pre-arranged visits to Nos 1, 22 and 27 The Haven. This was unaccompanied by the main parties, as agreed at the hearing.

Main Issues

4. The main issues are:

   a) the effect of the proposal on the character and appearance of the area; and

   b) the effect of the proposed parking area on the living conditions of the occupiers of ground floor flats in The Haven, with particular regard to noise, air quality and light nuisance.

Reasons

Character and appearance

5. The appeal site covers 0.2 hectares and sits between Brighton Road and the residential apartment block known as The Haven. Approximately 50 years ago, it was occupied by a substantial Victorian villa, in use as a care home, which extended onto adjoining land to the south. That building was demolished to make way for The Haven. Although the approved plans indicated some amenity landscaping on the appeal site, it was outside of the application site for The Haven development and on land that was reserved for future road widening. Those highway improvement plans were abandoned; hence the County Council has disposed of the land to the appellant as being surplus to requirement.

6. The land is presently laid to grass, with no signs of above ground structures. Nevertheless, there is no dispute that it has been previously developed, albeit many years ago. For the purposes of determining this appeal, I am satisfied that it complies with the definition of 'previously developed land' set out within Annex 2 of the National Planning Policy Framework (the Framework).

7. Although it has no public access rights or functional linkage with The Haven, the land is seen in the foreground of this apartment block from Brighton Road. The grassy area has some visual amenity value, but is not integral to the design of The Haven in terms of providing a landscaped setting. I presume that the original intention would have been to modify the road alignment to reinstate the character of a building close to the road frontage. As it stands, without the highway improvements being undertaken, the apartments are set well back from the road, particularly at their eastern end.

8. The proposed building would occupy the eastern part of the site, between an existing path and the side boundary. It would be much closer to the road than other properties in the immediate vicinity and for this reason the Council is concerned that the development would be dominant in the street scene. It was argued that views open out in the westerly direction towards Beach Green, as a consequence of The Haven and other flatted developments to the south of Brighton Road being set back. That is true, to an extent, but I do not agree that the siting of proposed development would be out of keeping, given the varied townscape which exists along Brighton Road. There is no consistency in building line on the south side of the road, and when travelling west existing property frontages largely screen the site until the last moment.

9. The new flatted block would present a strong and active frontage onto the street and its modest two-storey scale would be comparable to other buildings along this stretch of road. The use of primary colours for window surrounds would give the design a contemporary twist, and this would add interest to a street scene which is characterised by an eclectic mix of architecture. The development would be split into three discrete blocks with subservient links; this would ensure that the mass is well-articulated with the same horizontal emphasis that is a characteristic of The Haven and other nearby apartments.

10. The Haven is a distinctive feature of the local area, not so much for the quality of its architecture, which is relatively austere, but due to its white coloration. The building presents its principal aspect towards the sea, but its northern elevation is not unattractive. Whilst I do not share the appellant's view that this side of the building would benefit from being cloaked with new development, equally it is

not of such importance that justifies preservation of the status quo. The development would obscure some views from Brighton Road, notably from a short stretch of road immediately in front of the new building and from Penhill Road. However, The Haven would maintain a strong presence in the street scene, with the entire elevation being visible on the approach from Beach Green.

11. That said, it must be acknowledged that the proposed development of the site would represent a significant visual change, particularly for those local residents who have always known it as an undeveloped parcel of land. However, change does not always equate to harm and in this instance the design and layout of the scheme adheres to well-established design principles. The provision of high quality landscaping would help to soften views of the car parking and assimilate the development into its surroundings.

12. Whilst there would be some impact on visual amenity arising from the loss of the site's open character, this would be offset by the high architectural quality of the proposed development. I therefore conclude that the scheme would make a positive contribution to the sense of place, local character and distinctiveness of the area and it thus complies with Policy 15 of the Adur Local Plan 2017 (ALP).

Living conditions

13. The scheme would make provision for a total of 12 parking spaces which would be located immediately to the west of the existing access road. The Council is concerned that the close proximity of this parking area to ground floor bedroom windows in The Haven would harm the living conditions of the occupiers of those flats by reason of noise, fumes and car headlights.

14. The Council does not contest the trip generation figures set out within the submitted Transport Statement. This predicts that the development would give rise to 28 vehicle movements over the period 0800 to 2000 hours, including 3 movements in each of the morning and evening peaks. The number of comings and goings would be modest, with activity spread across the course of the day.

15. The proposal is to erect an acoustic screen fence along the southern boundary of the parking area. This would provide effective mitigation against any noise from vehicles arriving, departing and manoeuvring within the parking area. It would also prevent any nuisance from headlights. Although the fence would significantly alter the outlook from the affected bedroom windows, it would not be so close as to be oppressive and the planting of a privet hedge in front of the fence would soften its appearance and provide screening in the long term.

16. The Council does not provide any substantive evidence to support its concerns over car fumes. The submitted Air Quality Assessment concludes that, whilst there is the potential for air quality impacts as a result of traffic exhaust emissions associated with vehicles travelling to and from the site, these are likely to be negligible due to the limited number of anticipated vehicle trips. There is no counter evidence to lead me to a different conclusion.

17. The relationship of the proposed parking to flats would be no worse, and better if anything, than that which already exists at the eastern end of The Haven where vehicles routinely park and manoeuvre directly in front of habitable room windows. I have seen no substantive evidence to demonstrate that this is a problematic arrangement. This, together with the absence of any objection from the Environmental Health Officer, lends weight to the appellant's case.

18. Accordingly, I conclude that the proposal would not have a materially harmful impact on the living conditions of the occupiers of ground floor flats in The Haven. There is no conflict with ALP Policy 15 insofar as it seeks to ensure that new development does not have an unacceptable impact on adjacent properties.

Other Matters

19. The proposal would significantly alter the outlook from north-facing windows in The Haven. For some apartments, it may interfere with long distance views of the South Downs. I acknowledge that this will be a concern for residents, who are used to the site being open and undeveloped, but I do not consider that the impacts would justify dismissal of the appeal. The new building would not be so close as to be overbearing and the separation distances would be such that adequate levels of privacy could be maintained. The Council does not contest the submitted Daylight and Sunlight Assessment which concludes that the proposal would have an acceptable relationship with The Haven. I am mindful that the living rooms would continue to enjoy an open aspect towards the sea.

20. The scheme would comply with the stipulations of the Council's Development Management Standard No.1 'Space Around New Dwellings and Flats' which states that where a two-storey building backs onto a three-storey building a minimum distance of 28m is required. The single-storey building at the rear of the new development would be closer but it would be a modest structure and would not have windows to habitable rooms facing onto The Haven.

21. The proposed parking provision complies with the West Sussex Guidance on Parking at New Developments (2020). These standards are robust in taking account of expected future growth in the demand for parking until the end of the current local plan period. As such, I have no reason to consider that the scheme would lead to parking overspill onto Penhill Road. Although concerns have been raised in relation to visibility at the access onto Brighton Road, splays would be provided to the appropriate standard. The Highway Authority considers the proposal to be acceptable in highway terms and I concur.

22. Concerns are raised that the development would provide a poor quality living environment for its occupants, due to noise from traffic. The submitted Noise Assessment proposes that adverse noise impacts are mitigated through glazing specification and installation of a Mechanical Ventilation with Heat Recovery system. The Environmental Health Officer is satisfied with this approach and I have no reason to take a different view. Vibration from heavy goods vehicles is not dealt with specifically in the evidence, but there is no technical analysis to demonstrate that this would be a barrier to development.

23. It has been agreed between the parties that, in the circumstances of this case, there is no requirement for a S106 planning obligation. The proposal falls below the threshold for affordable housing provision in Policy 21 of the ALP. As such, no contribution is necessary from the scheme.

24. I have taken account of all other concerns raised in representations, including those in relation to precedent, foul and surface water drainage and the proposed bin stores, but based on the information before me these matters do not form grounds to dismiss the appeal. Drainage matters can be addressed by imposing appropriate planning conditions.

Planning Balance

25. It is common ground that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. Based on the assessment at April 2020 the supply figure was 4.8 years. Furthermore, in the Housing Delivery Test published in January 2021 the Council had delivered only 48% of the housing requirement during the measurement period (2017-20). The ALP acknowledges that the housing requirement already falls some way short of meeting the full, objectively assessed needs due to the constraints imposed by environmental factors such as the South Downs National Park and flood zones. Set in this context, the need for housing is urgent and a step change in delivery is required.

26. The Framework explains[1] that in circumstances where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous 3 years, permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) 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.

27. The application of policies that protect areas or assets of particular importance do not provide clear reason for refusing the development proposed. The site is not affected by any designations that are the subject of specific policies in the Framework, and is not in an area of flood risk. Moreover, there is no impact on heritage assets. The parties are therefore agreed that it is the tilted balance set out within limb (ii) which is applicable.

28. The Council's strategic sites have begun to deliver units but predicted build-out rates cannot be guaranteed. The proposal's contribution to the delivery of new homes, set in the context of a history of under-delivery of housing in the 3 year period since 2017, therefore attracts significant weight. Even relatively small sites such as this can contribute to addressing the current housing shortfall.

29. Paragraph 68 of the Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. It further advises decision-makers to support the development of windfall sites and give great weight to the benefits of using suitable sites within existing settlements for homes. Paragraph 118 of the Framework promotes and supports the development of brownfield and under-utilised land, especially if this would help to meet identified needs for housing where land supply is constrained – as in this particular case. These aspects of Government policy all weigh in favour of a grant of planning permission.

30. The site lies within the Built Up Area boundary (BUA) for Lancing as defined on the ALP Policies Map. It is within walking distance of shops and services and has good access to public transport. Development within the BUA is supported in principle by ALP Policies 2 and 3. The proposal would meet the minimum density requirements set out in ALP Policy 22 and it would deliver a mix of 2 and 3 bedroom properties, and therefore dwellings of a type that ALP Policy 20 expressly supports in order to meet identified needs.

[1] Paragraph 11 (d)

31. I have not identified any material harm in relation to the character and appearance of the area, or the living conditions of the occupiers of The Haven. It follows that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal. As such, the proposal would constitute sustainable development for which there is a presumption in favour within ALP Policy 1 and the Framework.

Conditions

32. The Council supplied a list of conditions for discussion at the hearing. I have considered these against the tests set out in paragraph 55 of the Framework and the Planning Practice Guidance. Where necessary, I have adjusted wording to improve precision and enforceability.

33. In addition to imposing the standard time limit for commencement, I have attached a condition specifying the approved plans in the interests of certainty. To ensure that the development takes place safely without undue harm to the environment or residential amenity, a condition is necessary to require the submission for the Council's approval of a Construction Method Statement and Plan. Pre-commencement conditions are also needed to secure details of foul and surface water drainage. Following discussion at the hearing, the parties have agreed an amended wording for the latter which improves monitoring whilst also taking into account the fact that the principles of the surface water drainage strategy have already been agreed.

34. In the interests of the character and appearance of the area, conditions are necessary to secure details of materials and finishes for the building, surfacing and boundary treatments. For the same reason, a condition is needed to require the implementation of the hard and soft landscaping scheme.

35. To ensure satisfactory provision of car parking, a condition is needed to require the vehicle parking and turning spaces to be laid out prior to first occupation of the development. A condition is also needed in connection with the provision and specification of the electric vehicle charging spaces. The design of the scheme makes provision for covered and secure cycle parking to encourage sustainable alternatives to car use, and I have attached a condition requiring this to be provided. In the interests of highway safety, conditions are also necessary to ensure that the access is constructed in accordance with the approved plans with visibility splays onto the Brighton Road.

36. The Council's suggested condition regarding sustainable construction measures is vague and not justified by local plan policy which only seeks low carbon and renewable energy on major schemes. I have therefore adjusted the wording to relate to a minimum water efficiency standard, in line with ALP Policy 18.

37. The submitted Noise Assessment recommends an acoustic protection scheme to protect future occupiers of the development from traffic noise. A condition is needed to require implementation of this scheme. I have imposed further conditions relating to obscure glazing and bin storage, to ensure that residents have privacy within bathrooms, and to ensure adequate refuse storage.

Conclusion

38. The law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate

otherwise. The proposal accords with the development plan read as a whole and as such there are no reasons for permission to be withheld.

39. For the reasons given above I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Zack Simons	Landmark Chambers
Jonathan Vernon Smith BSc (Hons) Dip (Arch) RIBA	Director, Urban Design Box
Dr Thomas Rocke BA (Hons) PhD BTP (Dist) MRTPI	Director, Rocke Associates Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Peter Barnett BA(Hons), DipTp MRTPI	Principal Planning Officer
Moira Hayes BA (Hons) MA MRTPI	Planning Policy Manager

INTERESTED PARTIES:

Cllr Ann Bridges	Local councillor
Angela Davey	Resident
Andrew Gordon	Resident
Tim Loughton MP	Member of Parliament

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg nos 3488_01_B, 3488_0001_E, 3488_01_02_T, 3488_02_01_I , 3488_02_02_B, 3488_03_01_F, 3488_03_02_F, 3488_03_03_F, LLD1731_100_11, LLD1731_200_02, LLD1731_201_02, LLD1731_202_02, LLD1731_203_01, 3488_001, 3488_01_03, 3488_03_02_C and 3488_05_01_A.

3) No development shall commence on site until a Construction Method Statement and Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Method Statement and Plan and shall be adhered to throughout the construction period. The Statement and Plan shall provide for:-

   a) the anticipated number, frequency and types of vehicles used during construction – HGV construction traffic routings shall be designed to minimise journey distance through the AQMA's;
   b) the method of access and routing of vehicles during construction;
   c) parking of vehicles of site operatives and visitors;
   d) loading and unloading of plant, materials and waste;
   e) a commitment to no burning of waste material on site;
   f) storage of plant and materials used in constructing the development;
   g) the erection and maintenance of security hoarding;
   h) wheel-washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
   i) measures to control the emission of dust and dirt during construction;
   j) details of public engagement both prior to and during construction works;
   k) details of working hours on site.

4) No development shall commence on site (excluding preliminary site clearance and ground works) until details of the proposed means of foul water drainage have been submitted to and approved by the local planning authority and the building shall not be first occupied until all foul water drainage works have been carried out in accordance with the approved details.

5) No development shall commence on site (excluding works of site clearance, survey, investigation and/or preliminary groundworks) until detailed construction drawings of the catchpits, manholes and pipe bedding associated with the approved surface water drainage scheme to be implemented in accordance with the 'Surface Water Drainage Strategy' prepared by Ambiental Environmental Assessment, have been submitted to and approved in writing by the local planning authority. No part of the building shall be first occupied until the surface water drainage system has been implemented in full accordance with the approved details.

6) No construction works shall progress beyond slab/foundation stage until details and samples of facing materials and finishes to be used in the construction of the external walls, roofs, windows, doors, balconies, footpaths and ground floor patios of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Thereafter the development shall only be carried out in accordance with the approved details.

7) The development hereby permitted shall not be occupied until boundary walls and/or fences have been erected in accordance with details that have been first submitted to and approved in writing by the local planning authority.

8) The development hereby permitted shall not be occupied until covered and secure cycle parking has been provided in accordance with the approved plans and details. The cycle parking shall be properly maintained and kept available for the parking of bicycles thereafter.

9) The development hereby permitted shall not be occupied until the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Additional information plan – illustrative plan showing sight lines' dated February 2020 and numbered 3488_01_03 (no revision) with the provision of tactile paving either-side of the bellmouth to assist with the crossing of pedestrians at this point.

10) The development hereby permitted shall not be occupied until visibility splays of 2.4m by 43m have been provided at the site vehicular access onto A259 Brighton Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.

11) The development hereby permitted shall not be occupied until the vehicle parking and turning spaces have been laid out in accordance with the approved plans and surfaced in a material to be first agreed in writing with the local planning authority. The parking spaces shall thereafter be retained for their designated use.

12) The development hereby permitted shall not be occupied until Electric Vehicle Charging spaces have been provided in accordance with plans and details that have been first submitted to and approved in writing by the local planning authority.

13) The development hereby permitted shall not be occupied until provision for communal refuse storage has been provided in accordance with the approved plans and details. The refuse store shall thereafter be retained for use by occupiers of the development.

14) The development hereby permitted shall not be occupied until the bathroom windows on the south elevation have been fitted with obscured glazing. The obscure glazing shall thereafter be retained at all times.

15) The development hereby permitted shall not be occupied until measures to achieve a water efficiency standard for each dwelling of no more than 110 litres per person per day have been incorporated into the development. Details of the measures incorporated shall be provided to the local planning authority on request.

16) All works, which form part of the approved acoustic protection scheme, shall be completed before any part of the development is first occupied. The glazing specifications outlined in the Noise Assessment December 2019 shall be implemented in full and the scheme shall include a MVHR ventilation system, which shall include a summer bypass to prevent overheating. Following approval and completion of the scheme, a test shall be undertaken to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential units from noise and certification to confirm this shall be provided to the local planning authority prior to the first occupation of the development.

17) Immediately following the completion of construction of the surface water drainage system in accordance with the details pursuant to Condition 5 above, the developer shall provide to the local planning authority details of the 'as-built' drawings together with a verification report prepared by a suitably qualified person confirming that the scheme has been implemented in accordance with the approved drawing(s) and is fit for purpose. The operational efficacy of the scheme shall subsequently be maintained at all times during the lifetime of the development.

18) All soft landscape works shall be carried out in accordance with the approved scheme no later than the first planting season following completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced the following planting season with others of similar size and species, unless the local planning authority gives any consent for variation. The approved hard landscape works, including car park surfacing, shall be completed prior to first occupation of the buildings.

*** END ***