The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2011

by Sheila Holden BSc MSc CEng TPP MICE MRTPI FCIHT

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

Decision date: 3 August 2011

Appeal Ref: APP/M3835/A/11/2149267
Ravenswood, 18, Winchester Road, Worthing, West Sussex BN11 4DJ

- 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 Sunkist Homes Ltd against the decision of Worthing Borough Council.
- The application Ref WB/10/0648/FULL, dated 23 July 2010, was refused by notice dated 1 December 2010.
- The development proposed is a conservatory at the rear to enlarge living space within a 16 bedroom residential home.

Decision

1. The appeal is dismissed.

Procedural matters

2. The Council approved a proposal for a conservatory Ref: WB/09/0932/FULL, which was identical to the appeal proposal, in December 2009. However, the decision was the subject of a Judicial Review arising from the Council's failure to provide a full summary of its reasons for the decision, together with a summary of the relevant Development Plan policies. As a result the decision was quashed on 27 April 2010. Whilst the Council's original decision is a material consideration the appeal provides an opportunity to consider the proposal afresh on its planning merits.

3. Since this application was determined the Council adopted its Core Strategy in April 2011. It is therefore a requirement to assess the appeal proposal in the light of these recently adopted policies, some of which have superseded those in the Worthing Local Plan 2003, alongside those from the Local Plan that have been saved. The Council also refer in their decision notice and statement to a number of policies from the South East Plan. The government has indicated its intention to abolish the Regional Spatial Strategies. Nevertheless, I have attached some weight to these policies where they are relevant to my consideration of this appeal.

Main issue

4. The main issue is the effect of the proposed conservatory on the living conditions of occupants of nearby properties with particular reference to noise, disturbance and light pollution.

Reasons

5. *Ravenswood*, No. 18, was previously used as a Care Home for up to 15 adults with learning difficulties. It was closed following the outcome of an inspection in July 2008, which highlighted a number of issues relating to poor standards of care for the residents. Since the home closed it is understood that the maximum number of residents that could now be accommodated in the existing building is 13. This would rise to 18 if the home were extended as envisaged with the addition of the proposed conservatory. This would represent an intensification of the previous use.

6. The proposal is to demolish an existing outbuilding, located on the east of the site, and construct a conservatory. This would be a large translucent structure, which would be attached to the rear elevation of the building and occupy approximately three-quarters of its width. It would have a pitched roof the ridge height of which would be above the sill level of the first floor windows. It would occupy a significant proportion of the rear garden and come close to the boundaries of several of the adjoining properties; these dimensions would vary from a little over 2m to 6m. Two rooms, which were previously used as bedrooms, would be combined into a new living room and connected to the proposed conservatory via two openings in the rear elevation. Together, these would form an L-shaped communal living space. Access to the garden would be provided on the western and eastern elevations.

7. Government policy seeks to promote good design that contributes positively to making places better for people. Good design is not only about the appearance of proposed development, but also how it would function. It should improve the quality of an area, taking account of its effects on people, including existing communities. Development should be seeking to meet the special needs of particular sectors of the community, as in this case, without causing unacceptable material harm to occupiers of adjoining properties.

8. The effects of the proposed conservatory on neighbours would arise primarily from its design. The proposed location and scale of the conservatory, in addition to the materials used in its construction, would result in a structure that would be lightweight and insufficient to contain all the noise and disturbance likely to be generated within it. Noise would, therefore, be more likely to be transmitted beyond the conservatory than from communal areas elsewhere within the building. This would be the case irrespective of the number of residents.

9. Council officers have also expressed concern about the potentially adverse effects of amplified voices and music from within the proposed conservatory. It was suggested that this matter could be addressed by imposition of a condition preventing the use of such equipment. However, I consider such a restriction would be unreasonable since a designated communal living room is where televisions, CD players and similar equipment are most likely to be found. It could also prove impractical to enforce such a condition. The suggested condition would therefore not meet the tests of Circular 11/95.

10. The doors at either end of the conservatory could be left open, particularly in the summer months, so that residents could have access to the garden. The area of garden would be reduced by the presence of the conservatory,

notwithstanding the demolition of the outbuilding. Activities outside the building would, therefore, be more likely to take place closer to the boundaries with adjoining properties, either adjacent to No. 51 Richmond Road to the rear, or No. 20 to the west. Evidence suggests that residents' previous use of the garden caused neighbours considerable distress. The reduced size of the garden would increase the risk of its use resulting in unacceptable noise and disturbance for adjoining occupiers.

11. The existing building has a lawful use as a residential care home and its resumption is not dependent on the outcome of this appeal. Any noise and disturbance resulting from this use being reinstated within the existing building would not be a matter that could be addressed by planning controls. However, whether or not the number of residents was to be increased, I am of the view that the design and use of the proposed glazed conservatory as a communal living room would be likely to lead to unacceptable noise and disturbance for residents of surrounding properties.

12. The conservatory would be likely to be used during the evenings, even if it did not contain a TV. It would be lit, potentially making it appear visually intrusive from adjoining properties. However, neighbours are unlikely to be using their gardens during the hours of darkness and when inside may close their own curtains. The appellant indicated a willingness to accept a condition requiring a scheme of internal lighting to be agreed by the local planning authority. The Council has also suggested the imposition of a condition requiring a suitable screen of planting along the northern boundary. I consider that, if the proposal was acceptable in other respects, any material harm arising from light spilling out from the conservatory could be mitigated by imposing appropriately worded conditions that would meet the tests of Circular 11/95.

13. However, the lack of harm arising from light pollution is not a reason to set aside the harm that would arise from noise and disturbance. On balance for the reasons set out above I conclude that the proposed conservatory would result in noise and disturbance that would be harmful to the living conditions of occupants of adjoining properties. It would therefore be contrary to saved Policy H18 of the Worthing Borough Plan, which seeks to protect local residents from the adverse effects of development. It would also fail to meet the aims and objectives of PPS1, Policy 16 of the Worthing Borough Council: *Core Strategy* and Policy CC6 of the South East Plan, all of which seek to promote quality of life through inclusive design that respects its setting.

Other matters

14. The site is within the Winchester Road Conservation Area. I therefore have a statutory duty to consider whether or not the proposal would preserve or enhance the character or appearance of the conservation area. The proposed conservatory would not be visible from the public realm since it would be sited entirely to the rear of the property and attached to a modern extension of utilitarian appearance. However, it would be a significant height and the apex of its roof would make it appear separate from, rather than integrated with, the host building. Furthermore, its width would be greater than the elevation to which it would be attached.

15. These factors would result in the proposed conservatory relating poorly with the host building. Its scale would also be apparent from the rear gardens and first floor windows of several surrounding properties. I therefore share the concerns of the Conservation Area Advisory Committee that the proposal would represent poor design that would fail to preserve the character or appearance of the conservation area. This adds weight to my conclusion that the proposal is unacceptable.

Conclusions

16. I appreciate that as the Council had previously approved an identical proposal, which was subsequently quashed and, as officers had recommended approval of the appeal proposal, the appellant had an expectation that planning permission to be granted. However, the appellant would also have been aware of the concerns raised by residents and members of the Council's planning committee. The application was deferred in order to provide an opportunity for revising the proposal to address these concerns but no revisions were submitted for consideration. Members were therefore entitled to come to their own conclusions, which were supported by evidence submitted with the appeal.

17. For the reasons set out above, and having regard to all other matters raised by main and third parties, there is nothing that outweighs my conclusion to dismiss the appeal.

Sheila Holden

INSPECTOR