TOWN & COUNTRY PLANNING ACT 1990

Planning Appeal by Woodcock Holdings Limited

WOODCOCK
HOMES OF DISTINCTION SINCE 1950

Site at 82-88 Underdown Road, Southwick, West Sussex, BN42 4HL

Appeal reference: APP/Y3805/A/12/2174337/NWF

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82-88 Underdown Road, Southwick, West Sussex, BN42 4HL

Appeal against the Local Planning Authorities decision to refuse planning permission: In respect of a proposal for the demolition of existing bungalows and outbuildings and the erection of 8 dwellings (comprising a terrace of four 3-bedroom 2 storey dwellings with rooms in roof at front of site and a terrace of four 2-bedroom 2 storey dwellings at rear) and 11 car parking spaces.

Final Comments on behalf of the Appellant

These further comments follow the Local Planning Authorities (LPA) undated Statement, which was attached to the Planning Inspectorates letter dated 26th June 2012.

For ease of reference, the paragraph numbering I have used follows that contained within the LPA's statement.

1. The Site and its Location

Para 1.3: The Council state that conifer hedging to the rear and south boundary is to be removed. If the Inspector wishes for this to be retained or replace it with more suitable landscaping, then my client would be happy to do so, and as such I suggest that a standard soft landscaping condition be added to those suggested by the LPA.

2. Planning History

Para 2.1: The previous and recent Appeal Decision (APP/Y3805/A/11/2152039) strongly informed the revised drawings that form the current proposal. The previous Inspector accepted the principle of backland development at this site. The LPA's Planning Officers agreed that the current plans accord with the comments made by the Planning Inspector on the previous Appeal Decision.

3. The Appeal Proposal

Para 3.3: The application was refused by Members of the District Planning Committee. However, this decision was contrary to the Planning Officers recommendation for approval.

The Officers Committee Report stated under the heading 'Recommendation':

"The proposed development is within the built-up area and would help meet the need for additional housing without detracting from the existing local urban environment. It can take place without resulting in unacceptable detriment to the amenities of neighbouring properties and without detraction from highway safety. With suitable mitigation, it would not be at or lead to unacceptable risk of flooding. Consequently, it does not conflict with the relevant policies of the

Adur District Local Plan (AG1, AH2, AH5, AB23, AB25-27), the South East Plan (SCT1, SCT5, SP3, CC6, H1-2, H5, BE1-2), PPS3 and PPS25."

It is clear that the Planning Officers considered that the proposal was in compliance with the stated relevant planning policies that form the Development Plan, and also addressed in full the matters raised by the previous Planning Inspector.

4. Relevant Planning Policies

It is noted that the LPA's decision refers to the Adur District Local Plan, which was adopted in 1996, and Planning Policy Statements 3 and 25. The PPS's have been replaced by the National Planning Policy Framework (NPPF), which was published on 27th March 2012.

In light of the NPPF, it is questionable how much weight should also be afforded to the 1996 Local Plan. The NPPF clearly outlines its method of Implementation within Annex 1 of this document. At paragraph 211, the guidance notes that *"for the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this framework".* However, at paragraph 214, the NPPF goes on to state that Local Plan Policies can **only be given full weight if adopted since 2004**. *"In other cases….. due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework".*

We would therefore argue that the implications of paragraph 214 are that the policies of the 1996 Local Plan can be afforded no weight unless they are still explicitly consistent with relevant policies in the NPPF. In our view, this argument is strengthened because full weight can continue to be given to post-2004 Local Plan policies only if *"there is a limited degree of conflict (with NPPF)".*

The LPA confirm that the NPPF now provides policy context that is directly relevant to this appeal case. An overview of the relevant sections of the NPPF is included within our Appeal Statement, dated April 2012, under Section 5 'Planning Policy Context' (pages 5-8).

With specific reference to the Councils comments on the NPPF, we wish for the following to be taken into account:

Para 4.6: Although Para 53 of the NPPF advises LPA's to consider setting out policies to resist inappropriate development of residential gardens, it is noted that the LPA have no such policy in place. Further, the reason for such a policy is clearly defined for being when a development would cause harm to the local area. The previous Planning Inspector did not consider that terraced housing to the rear of this site would cause any harm to the character of the area. It was his view that "*the neighbouring development of Southview Close has created a precedent for some backland terraced house development".* The current appeal scheme respects the layout and relationship with Southview Close to the north.

Further on this issue, the previous Planning Inspector commented *"Whereas that part of the site to be occupied by the flats would qualify as previously-developed land [at the front of the site, replacing the bungalows], the car parking and proposed backland houses would be on land which PPS3 'Housing' defines as greenfield. However my attention has not been drawn to any local policies to prevent development on garden land and the Council does not object to that subject to the effect on the character and appearance of the area. It is also evident that most urban land in the area is already in residential use and that the expansion of the urban area is probably constrained by the National Park to the north and by the coast to the south with existing urban development to the east and west".* Therefore there was previously an acceptance that a comprehensive redevelopment of the site, including terraced housing within the back gardens will not harm the character of the area, and would allow an efficient residential use of the site.

This view was reinforced by Planning Officers in recommending the current proposal for approval.

Para 4.7: The LPA have provided evidence to suggest that they can currently demonstrate a 5-year housing land supply compared against the requirements of the current regional spatial strategy (RSS) – the South East Plan; and further there is sufficient capacity in the built-up area to deliver the required number of new homes until around 2018. Consequently, the LPA argue that there is no overriding need to allow new housing development where it will cause harm to the local area.

However, the LPA's reasons for refusing the appeal scheme centres on the rear housing only. The principle of development in this area was previously accepted by the Planning Inspector as not causing harm to the local area, a view that was reiterated by the LPA's Planning Officers in recommending approval. This matter is further detailed in our Appeal Statement (dated April 2012). In order to avoid repeating myself further, I draw the Inspectors attention to paragraphs 6.19-6.24 inclusive.

Essentially, the specific concerns of the previous Planning Inspector have been robustly addressed by this revised scheme, in particular the height of the rear housing has now been significantly reduced to be lower than the adjacent Southview Close properties, and the general form and design of these terraced houses units will be appropriate to its location. As such the previously identified harm to the character and appearance of the site and its surroundings has now been addressed. Consequently, our opinion is that the LPA's argument on this matter is flawed.

5. Material Considerations

Para's 5.2 and 5.3: The LPA's primary concern is that the rear housing would provide an overdevelopment of the site. They accept that the area has a mixed character, but state that it is lower density housing to the south that directly relates to the appeal site – and not the higher density development to the north, which also

abuts the appeal site. This is contradictory to the comments of the previous Planning Inspector.

Para 5.4: The LPA accepts that the existing bungalows are incongruous and their replacement as proposed with a terrace of 4 is acceptable. Again it is confirmed that the LPA object to the introduction of *"inappropriate backland development"* stating that it would be over intensive and out of keeping. The issue of density is dealt with in our Appeal Statement (April 2012), paragraphs 6.11-6.15 inclusive. This explains clearly that the proposal would be in keeping with other housing in the area, in terms of the schemes density. The scale of the buildings to the rear has been reduced in line with the previous Planning Inspectors comments, and the pre-application advice of the LPA's Planning Officers. The level of development has been reduced to an acceptable amount that will not impact adversely on the character of the area. The LPA suggest that just the replacement of the bungalows with a frontage terrace would be acceptable as a replacement of the out of character existing bungalows. However, the value of the bungalows mean that such a development would be completely unviable, and therefore would not occur.

Para 5.5: The LPA raise concern with regard to the introduction of activity within the proposed central parking area. This issue is comprehensively covered within paragraphs 6.33-6.37 of our Planning Statement (April 2012). It is considered important to repeat the Inspectors comments on the previous scheme that detailed 13 spaces in this central area: *"Whilst there would be reasonable separation from the rear garden at No 80, the parking would be closer to the boundary with No 90 with some associated risk of noise and disturbance. This adds to the other harm. The property already backs on to a garage court and the harm could be reduced by setting the parking away from the boundary with buffer planting and/or a wall. However this could have uncertain consequences for the amount of parking and open space provision available elsewhere on the appeal site and so could not be required by a planning condition in the absence of that information."*

The layout allows ample landscaped buffer areas to the sites side boundaries shared with No's 80 and 90. Further the central parking area will have a marked reduction in activity when compared with that considered by the previous Inspector (13 spaces previously proposed, now 7). It is noted that the Planning Officer considered the layout and relationship with neighbours to be acceptable in this regard, stating that the reduction in hardstanding *"enables more landscaping to be provided on the north and south boundaries and helps to bring the spaces further from the northern boundary and is of benefit in residential and general amenity terms"* (LPA Committee Report, 2nd April 2012).

If considered necessary, the appellant would be willing to provide acoustic fencing to the sites side boundaries adjacent to the rear parking area. Therefore we are confident that the reduced rear parking area and associated access to serve the appeal scheme would not create undue noise or disturbance to the detriment of the occupiers of neighbouring residential property.

Para 5.6 and 5.7: The Council argue that the rear development would urbanise this part of Underdown Road, and would be overbearing and cause a loss of sunlight and privacy to resident's of neighbouring Southview Close.

The proposed houses are offset from the terrace to the north at Southview Close. The Planning Officers Committee Report states, *"the angle of view between them is sufficiently oblique as to avoid direct overlooking. Furthermore, the nearest existing window at No.30 Southview Close is obscure glazed. The Inspector previously concluded that 'direct overlooking between the properties is likely to be less in reality than the perception'".* The Planning Inspector also noted that overlooking from flank windows proposed to the previous scheme could be conditioned to be obscured in order to prevent overlooking, and the same comments apply to this current scheme (the LPA's suggested condition no.8 refers).

The previous Planning Inspector considered that there would be overshadowing due to the proposed height of these rear houses. As mentioned above, the height of this rear block has now been reduced significantly, with these houses being reduced by one-storey. They would now have a ridge height lower than that of adjacent Southview Close properties, and this will ensure that any overshadowing of the rear garden of No.30 is minimal. It is noted that there is an existing large coniferous hedge to this shared boundary, which currently restricts light entering the rear garden of No.30. The submitted shadow study plans demonstrate that the appeal scheme will have a neutral or better impact in this regard, with any sunlight loss restricted to late winter afternoons only, as confirmed by the Planning Officer in his report to Committee.

Attached to this document are midday shadow plans for January/December. The plans do not show the shadows as at the early and later times, as the sun would not be up at these points.

Para 5.8: The issue of the design of the rear housing is discussed in detail in our Appeal Statement (dated April 2012) paragraphs 6.19-6.24 inclusive. In particular reference is made to the previous Planning Inspectors comments, and the views of the Planning Officer in his Report to Committee. Our view is that the flat roof area to the rear terrace will be above the heights of all surrounding first floor windows, and therefore so long as it has a ridge tile detail then it will not be visible. The detail could be the subject of a condition. In any case, the backland housing is located to the rear of the site, and as such public views will be limited given the distance from the streetscene and that it will be largely screened by the frontage housing that is proposed, as has been accepted by the LPA.

6. Conclusion

Para 6.1: The conditions suggested by the LPA's Officers are consistent with those that formed the recommendation for approval that was taken to Committee. We have no objection to the suggested conditions.

Para 6.2: A S106 Agreement is being finalised to take into account the Councils financial requirements as set out in their Statement. This S106 Agreement will be

forwarded to both parties imminently, under separate cover. This has been discussed with Officers both at the LPA and at the Planning Inspectorate, and we trust that this is acceptable to the Inspector who is allocated our case.

Summary

It is evident from the above that the proposed development subject of this appeal is acceptable as it complies with all relevant planning policies, and satisfactorily addresses the concerns of the previous Planning Inspector without raising any additional harm.

Rodway Planning Consultancy

July 2012