exp 5/8

Development Control – Delegated Officer Report

Application Number: ADC/0225/09 Recommendation - APPROVE

Site: **137 Middle Road, Shoreham-by-Sea BN43 6LL**

Proposal: **Stair enclosure on east side of building (revised design) and reduced east side first-floor obscure-glazed window**

The Application

The property comprises a substantial two-storey detached building on the road frontage, with a single-storey rear extension. This building has been converted to 4 flats. There is a two-storey detached outbuilding at the rear which comprises 3 garages on the groundfloor with the first-floor converted to a flat. Vehicular access is on the eastern side of the frontage.

The site is adjoined by houses either side (No. 135 to the west and No.139 to the east). There is a garage compound (off Williams Road at the rear, linked to Middle Road to the south by a footpath on the western side of the site.

The building appears to have originally been built in the early 1900s as a shop and dwelling with rear outbuilding. In 1995, the use was changed to sale and repair of office equipment, including incidental offices at first-floor level (SU/138 & 163/95). An application to convert the premises to 7 flats, with rear and side extensions, was refused in March 2005 (SU/2/05).

On 25 May 2005, permission (SU/87/05) was granted for a revised scheme for conversion to 5 flats. In April 2006, it became apparent that the conversion works were not being carried out in accordance with the plans granted planning permission under SU/87/05. Although the scheme remained a conversion to 5 flats, the details of the works carried out had little resemblance to what was shown on the approved plans. The room layout of the groundfloor rear unit is completely different from what was approved and the windows and doors are in different positions or different sizes and designs. Despite several requests, the owner/builder refused to rectify matters or make a retrospective application.

Most significantly, as part of the approved scheme SU/87/05, the existing external staircases to both the main frontage building and the rear building were to have been re-built and wholly enclosed. However, they have been left as open stairs. Also, the first-floor window in the east side of the building (serving the kitchen/living room of flat 4) was to be blocked up as part of the approved scheme but it has been left with clear glass and complaints about overlooking from this window into the rear of No. 139 Middle Road have been and continue to be received. In addition, a flint boundary wall has been built fronting Middle Road which results in the 2 parking spaces in front of the building no longer being accessible from the road and now only one car can park on this space.

An Enforcement Notice was issued on 29 January 2007 but was quashed on appeal on 21 December 2007 because the Inspector considered that it had wrongly described the breach of control as conversion to 5 flats when in her view it should have been described as change of use to 5 flats (the works of conversion being part and parcel of the change of use). Consequently, a fresh Enforcement Notice was issued on 28 February 2008 which formed the subject of an appeal dismissed on 4 December 2008. The Inspector accepted that the works differed so markedly from the permission as to amount to the unauthorised change of use to 5 flats. The Notice, as varied, requires (by 4 February 2009):-

(a) To replace and enclose the 2 external staircases of both the front and rear buildings to accord with the details shown on the plans approved under permission SU/87/05/TP; and
(b) to brick up the first-floor east side kitchen window of the first-floor rear flat in the main building (flat 3) and finish the external wall surface to match the remainder of this wall.

[NB. there is no planning permission as such for the 5 flats in the manner carried out]

The present application, in effect, seeks to vary the requirements of the Enforcement Notice by proposing:-

(i) a different design for the staircase enclosure on the east side of the main building (to keep the area beneath it open in order to provide light to existing ground floor side windows beneath the stairs; and
(ii) to retain the firstfloor east side kitchen window but at a greatly reduced size and with obscured glass.

Consultation and Representations

Third Parties: No comments received.

Relevant Planning Policies and Guidance

Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AH2, AH9, and Appendix 11 'Supplementary Planning Guidance' comprising:-
Development Control Standard No.2 'Space Around New Dwellings & Flats'
Development Control Standard No.4 'Flat Conversions'
Planning Policy Statement PPS1 'Delivering Sustainable Development' (ODPM 2005)

Planning Assessment

Policies

Local Plan policies AG1 applies and AH2 and AH9 are relevant. AG1 states that, subject to other policies, development will normally be permitted subject

to "it not detracting from the existing local urban environment". AH2 relates to new dwellings and, although entitled 'infill and redevelopment', is of relevance to the conversion of the building to flats. It expects new dwellings to be designed so their appearance character and scale create a pleasant place to live and are in keeping with and enhance the existing local environment and "not have an unneighbourly effect on existing dwellings by reason of unacceptable loss of privacy....." Policy AH9, relating to conversion of houses to flats, also states that proposals should "not have an unacceptable adverse effect on neighbouring properties in terms of overlooking....." AH2 also requires accordance with the standards adopted by the District planning authority" but neither DC Standard No.2 or No.4 'Flat Conversions' contains any specific mention of external staicases.

Background to the enforcement action

In principle, the conversion to 5 flats is acceptable and many of the unauthorised departures from the approved plans (eg. all but one of the window/door variations and different internal room layout) were considered acceptable from a planning aspect (but not necessarily under the Building Regulations). Hence, the decision was made to 'under-enforce' by not requiring the cessation of use as 5 flats.

However, it was considered that the conversion to flats caused additional and intensified use of the 2 open staircases. These are unsightly and of poor construction and result in overlooking of the rear garden and windows of the neighbouring house at No.139 Middle Road. The first-floor was previously used as offices and therefore unused during the evenings and weekends whereas with the current residential occupation there would be use at these other times, coinciding with times when the residents of No.139 are also likely to be at home and wish to enjoy the amenities of their house and garden. The applicant comments that the original use of the building prior to it becoming offices was as a shop with flat above served by these same stairs. However, these stairs would only have provided access to one flat whereas now they serve 2 flats. Also the building at the rear, was never used previously for residential use but now the external stairs to the first floor of that building serve a flat.
The first-floor window in the east side of the building serving the kitchen/living room was to be blocked up as part of the approved scheme. Overlooking from this window into the rear of No. 139 Middle Road instigated the initial enforcement investigation. Again, the residential use increases the propensity for overlooking. The kitchen has another window at the rear so there is no need for the side window.

The variations now proposed

The present application seeks, in effect, to vary the requirements of the Enforcement Notice as stated above.

Firstly, a different design is proposed for the staircase enclosure on the east side of the main building. This would keep the area beneath it open in order to

provide light to 2 small existing ground-floor side windows (bathroom and bedroom) beneath the stairs. This is satisfactory in terms of its appearance in this side location and the windows do not result in overlooking of the adjoining property to any unacceptable degree because of the boundary fence.

Secondly, it is proposed to retain a first-floor east side kitchen window but at a greatly reduced size and with obscured glass. The existing plain glazed window measures 1.8m wide and 1.1m high whereas the proposed window is only 0.5m wide and 1.1m high. It would also have obscured glass and be fixed shut. Consequently, there is no risk of overlooking and it is acceptable.

Recommendation

APPROVE for reason that:-

1PPi (amended) The proposed development would not detract from the local environment and can take place without resulting in unacceptable detriment to the amenities of neighbouring properties. It would consequently not conflict with the relevant policies of the Adur District Local Plan (AG1, AH2, AH9).

Subject to:-

1. C1Ci (Standard time limit)
2. C12Ei (amended) The external surfaces of the walls hereby permitted shall, within 2 months of the date of this permission, be completed to match in texture and colour the walls of the existing building. Reason: In the interests of residential and visual amenity having regard to policies AG1,AH2 & AH9..
3. C18C3 The proposed first-floor east side window (replacing the original larger window) shall at all times.....
   Reason: ....policies AG1,AH2 & AH9..

Case Officer... [redacted] Date....8/7/09...