Appeal Reference APP/M3835/W/23/3367869

Town and Country Planning Act 1990 (as amended).

Appeal by Harington Homes Limited

Site at The Drive, Mill Lane, Salvington, Worthing,

West Sussex BN13 3DF

Local Planning Reference: AWDM/1395/24

Statement of Case of the Local Planning Authority

Rebuttal of Appellants grounds of appeal

The Officer's Delegated report to the Development Control Manager sets out the case for refusal. This statement is therefore intended to address the appellant's grounds of appeal and where necessary elaborate further upon the Council's reasons for refusing planning permission for the appeal proposal, amplifying issues highlighted in the officer's report for AWDM/1395/24

Reasons for refusal

There is one reason for refusal:

1. Without evidence the contrary the south facing roof light windows to plot 3A without being obscure glazed and non-openable would cause detrimental overlooking and loss of amenity of the residents of 12A Woodlands Avenue. The proposal is therefore contrary to policy DM5 of the Worthing Local Plan and relevant policies of the NPPF

Relevant Planning Policy

The Worthing Local Plan (2020-2036) (WLP) was adopted by the Council on the 28th March. The Worthing Local Plan (2023) now forms part of the statutory development plan, which sets the strategic development and land-use priorities for Worthing (outside the South Downs National Park) up to 2032, and contains the policies against which development management decisions within that area will be made. The Local Plan supersedes the Worthing Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003)

As such the saved policies of the Worthing Local Plan (2003) and the Worthing Core Strategy (2011) previously referred to in the officers report and reasons for refusal have fallen away.

Policies within the newly adopted Worthing Local Plan were referred to within the officers report and reasons for refusal. The appeal statement will refer to policies within the WLP (2023) and elaborate where appropriate.

Policy DM5 of the SDWLP requires all new development to be:

i) of a high architectural and design quality and respect and enhance the character of the site and the prevailing character of the area (including consideration of proportion, form, design, context, massing, siting, layout, density, height, size, scale, materials, detailed design features and landscaping);

ii) enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping, impact on street scene and layout of the development;

iii) make a positive contribution to the sense of place, local character and distinctiveness of an area;

iv) respect, preserve and enhance heritage assets and settings;

v) be well built, accessible, fit for purpose, and adaptable to changing lifestyle, demography and climate;

vi) include a layout and design which: take account of potential users of the site; create safe conditions for access, egress and active travel (walking and cycling) between all locations; provide good links to integrated public transport; and have acceptable parking arrangements (in terms of amount and layout);

vii) make a positive contribution to creating a safe and secure environment by integrating measures for security and designing out opportunities for crime;

viii) not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook, an unacceptable increase in noise or vehicular movements or loss of important open space;

ix) respect the existing natural features of the site, including landform, trees and biodiversity and contribute positively to biodiversity net gain;

x) ensure that lighting incorporated into developments provides the minimum for public safety, is energy efficient and avoids light pollution

The NPPF seeks to achieve sustainable development, defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three dimensions to sustainable development: economic, social and environmental. Paragraph 9 states that “these objectives should be delivered through

the preparation and implementation of plans and the application of the policies in the Framework.

Paragraph 130 states that planning decisions should ensure developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, ***with a high standard of amenity for existing and future users****; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

The Council argues that the appeal should be dismissed as without evidence to the contrary the development fails to achieve social or environmental gains by failing to create a high quality built environment or improving the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against Local Plan policies and the NPPF**.**

Response to reasons for Refusal and the appellants grounds of appeal

The inspector will note the officers report , the extensive history and the section titled The impact on the amenities of neighbouring occupiers.

For context please see below the site plan of plots 3A and 3B within the site and relationship to 12A Woodland Avenue.



The inspector will note that 3A is within close proximity of the boundary with the rear of 12A Woodland Avenue.

What the site plan does not convey is the drop of the land from plot 3A to No 12A. The photos below show the relationship of these windows to 12A taken within the garden of 12A













The appellant themselves indicate that it is not disputed that the use of obscure glazing for windows within the flank elevation could be considered suitable to maintain an appropriate relationship between the properties, given the drop in land levels from plot 3A to 12A.

The appellants indicate that they simply sought to vary the condition as it related to the rooflights windows within the southern elevation, having just indicated above that obscure glazed windows could be considered suitable.

The inspector will note that the roof light windows are large and openable.

It has not been possible for the Local Planning Authority to establish the use of this roof space, as plans have not been provided, although requested and access to the property has been denied.

The inspector is advised that the Local Planning Authority requested access to the property on several occasions to view the extent of overlooking from the application site but was denied access by the applicant and their agent. The Local Planning Authority were therefore justified to refuse the application, having imposed the condition as having an impact on the neighbouring property which can clearly be shown form the enclosed photos and without evidence to the contrary that the windows would not cause detrimental overlooking.

It is noted that the appellants mention the landing window and opening within bedroom 4 also within the south elevation, where the potential for overlooking would be greater. The inspector is advised that these windows are also subject to a condition for obscure glazing which the appellant has failed to provide and will be visible to the inspector on their visit.

It is requested that the Local Planning Authority also accompany the planning inspector on their site visit of the internal space as this has previously been denied to the Local Planning Authority.

Update

The inspector is advised that the Local Planning Authority has recently successfully prosecuted the appellant, amongst conditions, over the non compliance of a Breach of Condition Notice for the failure to comply with condition 4 of AWDM/0692/20 with respect to the rooflight windows to Plot 3A.

Other material considerations

The inspector will be aware of the three overarching objectives of economic, social and environmental. It is noted that the NPPF indicates that these objectives should be delivered through the preparation and implementation of plans and the application of policies in the framework, they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

The LPA would contend that the assessment of the appeal proposal has taken place using adopted policies, guidance and the NPPF and that the proposal fails to achieve social or environmental gains by failing to improve the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against policies and the NPPF taken as a whole

Conclusion

The Council contends that the appeal should be dismissed as the development fails to achieve social or environmental gains by failing to improve the conditions in which people live. The adverse impacts of allowing the appeal would therefore significantly and demonstrably outweigh the benefits, when assessed against policies and the NPPF taken as a whole.

Should the inspector be minded to allow the appeal the Local planning Authority agree with the wording suggested by the appellant.