Appeal Reference APP/M3835/W/24/3337792

Town and Country Planning Act 1990 (as amended).

Appeal by Mr Clint Westlake

Site Address: Cumberland Court, Wallace Avenue, Marine, Worthing, West Sussex, BN11 5RB

Local Planning Reference: AWDM/0835/23

Statement of Case of the Local Planning Authority

Rebuttal of Appellants grounds of appeal

This statement is intended to address the appellant's grounds of appeal and where necessary elaborate further upon the Council's reasons for refusing the appeal proposal.

Reasons for refusal

There are two reasons for refusal

1. By reason of its incongruous and poorly integrated design and form and excessive scale the proposed extension to form an additional floor of accommodation above existing three storey development, plus the lift shaft, associated facilities, roof terrace, and the creation of additional parking to the frontage would have an adverse effect on the architectural form and integrity of this local interest building and the character and appearance of the street scene in general. The proposal is therefore contrary to policies DM2, DM5, and DM24 of the Worthing Local Plan, the Council's SPD 'Guide to Residential Development' and relevant policies within the National Planning Policy Framework
2. The proposed development by reason of its design, height, fenestration and roof terrace would be adversely overbearing, overshadow and result in unacceptable overlooking of particularly neighbouring properties within Cumberland Court and 7 Wallace Avenue to the detriment of their living conditions. As such it would be contrary to the Guide to Residential Development SPD 2013, Policies DM2 and DM5 of the Worthing Local Plan and relevant policies of the National Planning Policy Framework.

Policy Background

Relevant Adopted Worthing Local Plan Policies

The Worthing Local Plan was adopted on 28th March 2023. Policy SS1 sets out the Housing supply over the period 2020-2036 and gives a total figure of 3672 (an annual target of 230 dwellings per annum).

Paragraph 76 of the NPPF states that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision-making purposes where:

a) The adopted plan is less than 5 years old; and

b) That adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

Paragraph 77 goes on to state that where there has been a significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the Plan period).

The most recent housing trajectory and 5 year housing land supply for Worthing can be found in the Annual Monitoring Report 2022-23. Table 9 indicates the Five Year Supply measured against the adopted WLP annual target of 230 dwellings plus a 20% buffer, and demonstrates a 7 year supply of deliverable sites.

To maintain the supply of housing paragraph 79 of the NPPF requires local planning authorities to monitor progress in building out sites with planning permission. Where the Housing Delivery test indicates delivery has fallen below 75% of the local planning authorities housing requirement over the previous three years, the presumption in favour of sustainable development applies, in addition to the requirement for an Action plan and 20% buffer.

The latest Housing Delivery Test was published in December 2023 and Worthing Borough Council scored 33%. Therefore the presumption in favour of sustainable development applies as the delivery of housing was less than 75% of the housing requirement over the previous three years.

Strategic Local Plan policy SP2 is an overarching policy designed to ensure the impacts of climate change are fully considered at an early stage to ensure that development and associated infrastructure is future proofed and resilient to recover from extreme weather conditions.

Strategic Local Plan Policy SP3 requires new development to be designed to achieve healthy, inclusive and safe places which enable and support healthy lifestyles and address health and well-being needs in Worthing. This includes SP3(iii) the provision of high quality and energy efficient homes within an attractive environment, providing social connections through inclusive and accessible development layout and public realm design that meets the needs of all.

The supporting text expands further stating at paragraph 2.31: "The design and quality of the built environment can have a significant impact on physical and mental health of how people perceive and navigate their environments. A high quality, inclusive and accessible environment should enable everyone at all stages of life and at all levels of ability to participate equally, confidently and independently in everyday activities and

to easily interact with one another. Homes need to be constructed and designed in a manner so that they can adapt to changing demands and needs of all generations thus enabling people to live independently for longer.

Taking account of the ageing population of the Borough with people aged over 65 representing 22.8% of the local population across Adur and Worthing and the number of people aged over 65 projected to increase by 10,700 (43%) in Worthing between 2016-36 it is sensible to design housing so that it can be adapted to the changing needs and enables people to live independently at home for longer.

Policy DM2 - DENSITY states

a) Development proposals must make the most efficient use of land, which will usually mean developing at densities above those of the surrounding area. The optimum density of a development should result from a design-led approach to determine the capacity of the site. Particular consideration must be given to:

i) the site context and character of the surrounding area in which it is located, and including consideration of any nearby heritage assets or important landscape;

ii) its current and future level of accessibility by walking, cycling and public transport; Social Policies

iii) the need to achieve high quality design;

iv) the need to minimise environmental impacts, including detrimental impacts on the amenities of adjoining occupiers;

v) and the capacity of surrounding infrastructure.

b) Residential development of family housing should achieve a net density of a minimum of 35 dwellings per hectare. In exceptional cases, lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs;

c) Higher densities, in excess of 100 dwellings per hectare should be achieved in most mixed-use developments, flatted developments and developments located in the town centre and in areas close to public transport interchanges and local services.

d) New dwellings across all tenures will be expected to meet as a minimum, the nationally described space standards (or any subsequent Government update) for internal floor areas and storage space. These standards will apply to all open market dwellings and affordable housing, including those created through subdivision and conversion. The Council's local standards will continue to apply for external space.

e) The Council will only consider any variation to the requirements set out above in exceptional circumstances, for example when a social or charitable housing provider is able to demonstrate that the homes it is seeking to deliver meets an identified need for supported housing and temporary emergency accommodation and that there is a clear and robust 'move on' strategy and site management in place.

Policy DM5 of the WLP 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

DM24- Historic Environment

a) Where development affecting any designated or undesignated heritage asset is permitted, it must be of a high quality, respecting its context and demonstrating a strong sense of place.

b) Proposed development should take account of the information and guidance in Worthing's Conservation and Heritage Guide (which will be updated and periodically reviewed).

The 'Guide for residential Development (SPD) October 2013 seeks to outline the key elements for achieving these objectives when considering all new residential

developments in Worthing. The aim of this SPD is to interpret policy as well as to include design-led good practice guidance.

Paragraph 3.1 of the SPD states that 'To retain the quality of the local environment, it is essential that development proposals are designed to respond positively to their context. New development should relate well to its surroundings. It should not ignore the existing environment but should respond to it, exploiting site features and incorporating them into the process.

Para 3.3 states 'A key element to the achievement of good design is an appreciation of the context in which it is situated. During the design process of any new development consideration will need to be given to its local setting, the surrounding densities, local building heights and other local features.'

At para 3.11 the SPD indicates that new residential development should seek to incorporate the principles of Lifetime Homes Standards, new dwellings including extensions and conversions should comply with the requirements of the Space Standards SPD. Where proposals do not comply a clear justification will need to be set out in the planning application. It is important to ensure that dwellings are capable of providing a suitable layout and adequate room sizes that reflect the use and type. All new dwellings including extensions and conversions should comply with the requirements of the Space Standards SPD. Where proposals do not comply a clear justification will need to be set out in the planning application. Guide for Residential Development (SPD) - October 2013 16 of accommodation.

It should be noted that the new Worthing Local Plan (WLP) (2023) now endorses the nationally described space standards (or any subsequent Government update) for internal floor areas and storage space (policy DM2 and supporting text). The Council's local standards within the Space Standards SPD (2012) will continue to apply for external space standards.

The appellant's grounds of appeal

4.0 Assessment of the LPA's Reason for refusal

The effect on the character and appearance of the area (Refusal Reason 1)

The inspector will note the officers' report titled '*Character, appearance and suitability.*

The images below show the site in context, the street scene and 'local listed building which comprises the appeal site



Cumberland Court in its context to the neighbour property to the north



Cumberland Court street view showing properties either side of the road facing north

The inspector should note the scale and context of the buildings on this part of Wallace Avenue set back from the seafront road is primarily two storey development.

Cumberland Court is a designated ‘local Interest Building’ of art deco style, brick with concrete features and a flat roof. The elevation is modelled using projecting brick corner bays and curved balconies. The building is prominent with attractive features and symmetry. The building is iconic at this end of the street and its art deco style flat roof is part of its character from the period of construction and sits comfortably and harmoniously within the site and within the domestic scale context of existing development.

The appeal proposal is considered to be out of scale in this two storey context and would add a further storey which jars with the architectural style of the building, looks top heavy with unsympathetic materials completely out of character and alien to this distinctive art deco block.

As indicated within the officers report ‘in Worthing, larger scale buildings have been built facing the open aspect of the sea, whilst properties in the narrower, perpendicular streets are set at a lower scale’

The example as indicated by the appellant of 42-44 West Parade is along the seafront where buildings tend to be of a greater scale. The example is a modern building, the building was built as a cohesive whole and not on a locally listed building and although there are influences of art deco style, the inspector will be in a position to see on their site visit it is very different to Cumberland Court.

Below is an image of 42-44 West parade showing the cohesive design and materials.



Connaught House is within the town centre, the building is of a much greater scale on the seafront and is not comparable to Cumberland Court in style and context. The image below shows Connaught House its scale and context within the town centre.



Cumberland Court is a distinctive well-mannered art deco style as highlighted above and within the officers report. A roof extension is not considered appropriate and although set back would be dominant and visible in the street scene.

It is appreciated that there are a range of building styles in the vicinity but the inspector will be in a position to view that within the context of Wallace Avenue the buildings are predominantly two storey and Cumberland Court sits comfortably within this context. A further storey of development would be very much out of scale and character.

The appellant's street elevation (below) clearly shows the height and context to neighbouring properties particularly to the north



At par 4.18 of the appellants statement, the officers report was taking the building in context with Wallace Avenue. As indicated above and within the officer report Roberts Marine Mansions and Wellesley Court are corner properties and front the seafront. These buildings are also still only three storey. An extension taller than even these buildings emphasises that the scale of the appeal proposal would be out of scale and context.

In the context of this environment the appeal proposal would introduce a scale, height and ‘bulk’ of built development that would be out of keeping, overbearing and notably higher than surrounding development detrimental to the character of the area and sense of place.

The top heavy extension would not respect the scale, character and features of the appeal site which is an important local interest building providing an unacceptable addition which would interrupt the rhythm of the appeal site's composition.

This would be in direct contrast to the current art deco local listed building which has a synergy with the surrounding two and three storey development. In this location the increased height and materials would introduce an unsympathetic addition that would have a poor visual relationship to the host building, detracting from the design and proportions of the existing building, accentuating its unsympathetic massing and introducing a visually dominating form of development. As such it would be contrary to local and national policy producing development that would be out of keeping with the character of existing development and harmful to the surrounding street scene

Impact on neighbouring amenity (Refusal Reason 2)

Policy DM5 of the WLP at policy DM5 among other things requires development at

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 giving rise in significant adverse impacts, or vehicular movements resulting in severe cumulative impacts on the road network, or loss of important open space of public value

Although it is appreciated that the appellants have indicated that the lift would enable better access, this should not come at any cost to the impact on a local interest building. There is clear concern from residents living in the block that the lift would have an unacceptable impact in their amenity.

The inspector is advised to view the officer report entitled ‘Residential amenity-neighbours’ where a full conclusion of the impact on neighbours is set out. The inspector will be in a position to view the relationship on their site visit.

The proposed sunlight and overshadowing diagram within the appellants Design and Access statement clearly shows overshadowing of particularly No 7 Wallace Avenue.

The appeal proposal is contrary to DM5 of the WLP.

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 conditions are set out in the supporting document ‘suggested conditions’. The inspector is also advised that the dwelling would be subject to CIL charging.