

Appeal Decision

Site visit made on 27 January 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 9th February 2017

Appeal Ref: APP/Z3825/W/16/3163479

Land to the rear of 94 Brighton Road, Horsham, West Sussex RH13 5DE

- 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 Mr B Tyson against the decision of Horsham District Council.
 - The application Ref DC/16/0149, dated 2 January 2016, was refused by notice dated 20 May 2016.
 - The development proposed is conversion of existing store to form new residential dwelling together with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing store to form new residential dwelling together with associated works at land to the rear of 94 Brighton Road, Horsham, West Sussex RH13 5DE, in accordance with the application Ref: DC/16/0149, dated 2 January 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effects of the proposed conversion on the:
 - a) character and appearance of the area;
 - b) living conditions of the occupants of No 94 in relation to outlook and privacy.

Reasons

Character and appearance

3. The appeal site comprises a two-storey store building that is attached to No 94 Brighton Road, a strip of land between Nos 94 and 96 and the area that previously formed the garden of No 94. A small area of garden to the side of No 94 is all that remains as private amenity space for that house. The proposal seeks to extend the store in order to convert it into a dwelling.
 4. The south-western side of Brighton Road in the vicinity of the appeal site is characterised by a variety of residential dwellings of differing heights and designs. They are set back from the road along a consistent building line and most of them appear to have long rear gardens. Gaps between the buildings are generally small providing little or no view of the gardens. The gap between Nos 94 and 96 is the exception to this pattern as it is considerably larger. This not only means that there are views into the rear garden but the south-eastern elevation of the attached store can be seen from the street.
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5. The existing store appears to be ancillary and subservient to the host property, which is significantly taller. Its front elevation is also set back from the flank elevation of No 94 and its rear extension. There is an existing, small, single storey projection which provides an entrance into the building through a set of double doors. The proposal would replace this projection with a two-storey extension across part of the front of the building. This would have a pitched roof and would bring the building in line with the flank elevation of No 94 for much of its width. It seems to me that these modest alterations would significantly improve the appearance of the building and would not appear disproportionate to the host property. I therefore consider this aspect of the scheme to be acceptable.
6. I accept that the introduction of a separate residential dwelling at the rear of No 94 would be somewhat at odds with the prevailing character of development in the area, all of which have direct road frontage. However, No 94 is already a taller and more bulky building than many of those immediately surrounding it. With the refurbished rear element it would take on the appearance of an enlarged dwelling which, given its proximity to the town centre, could well be sub-divided into different units. In any event as the proposal does not involve a significant increase in the footprint of the building, any harm arising from its change of character would be limited.
7. Furthermore, the proposal includes provision for parking at the front of the site, immediately adjacent to the street. No additional vehicular access would penetrate into the site so the garden, which contributes to the character of the area, would be retained. In this context I note that no objection to the access or parking arrangement has been raised by the highway authority.
8. In coming to this view I have had regard to the proposal that was previously rejected on appeal, Ref: APP/Z3825/A/2225952. However, this scheme included a substantial enlargement of the store and another dwelling at the rear of the site, together with vehicular access and parking for both dwellings. Therefore, whilst I have been mindful of the previous Inspectors conclusions in relation to the character of the area, he was assessing a fundamentally different proposal from the scheme before me.
9. Taking all these factors into account, I conclude that the proposed extension and conversion would not be harmful to the character and appearance of the area. In this respect it would comply with Policy 33 of the Horsham District Planning Framework (HDPF), which requires development to make efficient use of land and ensure that it relates sympathetically with the surrounding built environment.

Living conditions

10. The land associated with No 94 appears to have been separated from the appeal site recently. However, its reduced garden has been enclosed by vegetation in addition to sections of wire fencing. There is a small conservatory on the side elevation of No 94 which has a window that looks out over the appeal site. However, this is partially fitted with obscure glazing to provide privacy for the occupants. The main outlook from the conservatory is over the small side garden. With the exception of a first floor bedroom window which looks over the rear garden, the other main habitable rooms look out on either the side garden or towards the street.

11. The distance separating the first floor bedroom window from the proposed extension to the store is about 6.8m. This is below the 10.5m that the Council's: *Design Guidance Advice Leaflet no 1 – House Extensions* recommends should be provided between a blank gable wall and any windows serving a habitable room in an adjoining property. However, the leaflet recognises that the relationships between properties vary, so that the guidance cannot be universally applied. In this case the outlook from the bedroom window is already restricted by the rear projection on the existing house. In my view the limited depth of the proposed extension would ensure that there would not be a significant loss of outlook from this room, which would continue to look over the rear garden. The outlook from other windows would not be adversely affected by the scheme.
12. Occupants and visitors of the proposed dwelling would walk past the side elevation of No 94. However, the provision of a suitable boundary treatment both here and along the rear boundary of No 94's garden would ensure that the privacy of the occupiers could be maintained. This could be secured by condition. There is potential for some oblique overlooking from the window in bedroom 2 of the proposed dwelling. However, in the context of this urban environment I am not persuaded that this would be sufficiently harmful to justify rejecting the scheme. Any overlooking of No 96 would be prevented by the use of obscure glazing proposed on the secondary window to bedroom 1, as shown on the submitted plans. This could also be secured by condition.
13. I therefore conclude that the proposal would not result in a significant loss of outlook or privacy for the occupants of No 94. It would therefore comply with Policy 33 of the HDPF, which seeks to ensure that development is designed to avoid unacceptable harm to the amenity of occupiers of nearby properties.

Conditions

14. In addition to the standard time limit the Council has suggested a number of conditions in the event that the appeal is allowed. I have considered these in the light of the tests set out in paragraph 206 of the National Planning Policy Framework and imposed them where I consider them to be necessary and reasonable, incorporating amendments for the sake of clarity and precision.
15. A condition specifying the plans is necessary in the interests of certainty. Conditions requiring approval of materials, hard and soft landscaping, location of refuse/ recycling bins and boundary treatments are necessary in the interests of the appearance of the development.
16. The plans show the window to bedroom 1 in the south-eastern elevation would be fitted shut and obscurely glazed. Although the Council has not specifically requested a condition to secure this in perpetuity, I consider this is necessary to protect the privacy of neighbours. Conditions preventing burning of materials on site and restricting working hours during the construction period are also necessary to protect the living conditions of adjoining occupiers.
17. Provision of the vehicular access together with parking for vehicles and bicycles is justified in the interests of highway safety and to encourage the use of sustainable modes of transport. The provision of foul drainage is dealt with through the building regulations and therefore a condition in relation to this matter is not required. However, in the interests of reducing flood risk, I have imposed a condition to secure appropriate surface water drainage. In order to

promote and protect biodiversity a condition is needed to require the development to be carried out in accordance with the recommendations of the ecological survey undertaken to support the proposal.

18. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, in view of the proximity of the proposal to No 94 and the need to protect the living conditions of the occupiers of that dwelling, I am satisfied that removal of permitted development rights is justified.
19. I note that the Council has requested a complex condition relating to potential contamination of the site. However, other than a reference to Policy 24 of the HDPF, there was no specification justification for this condition and there was no evidence before me to indicate that the site is contaminated or requires any remediation works. In these circumstances I consider such a condition would be onerous and unnecessary.

Conclusions

20. The government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. The appeal site is within the built-up area of Horsham and there is therefore no objection in principle to a residential development, provided this can be achieved without harm to the local environment.
21. In this case I have found that the proposal would not be harmful to the character and appearance of the area or the living conditions of adjoining occupiers. I am satisfied that other matters can be addressed through the imposition of appropriate conditions.
22. For these reasons, I conclude that the proposal is acceptable and that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 4645/001A, 4645/002A, 3645/003A, 4645/005A and 4645/006A.
3. No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. The dwelling hereby permitted shall not be occupied until the first floor window serving bedroom 2 has been fitted with obscure glazing and no part of that window that is less than 1.7m above the floor of that room shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing before the window is installed and once installed shall be retained as such thereafter.
5. No development shall take place until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The drainage works shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby permitted.
6. No development shall take place until the vehicular access serving the development has been constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
7. No development shall take place until full details of all hard and soft landscaping works, including boundary treatments have been submitted to and approved in writing by the local planning authority. All such works as may be approved shall then be fully implemented in the first planting and seeding seasons following the occupation of the dwelling hereby permitted or the completion of the development, whichever is the sooner. Any plants or species which, within a period of five years from the time of planting, die are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the local planning authority.
8. No works associated with the implementation of the dwelling hereby permitted shall be carried out other than between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive, between 08.00 hours and 13.00 hours on Saturdays, and at no time on Sundays, Bank and Public Holidays, unless previously agreed in writing by the local planning authority.
9. No burning of materials in association with the implementation of the dwelling hereby permitted shall take place on the site.
10. The development shall be carried out in accordance with the recommendations set out in the report by Sedgheill Ecology Services: *Extended Phase 1 Habitat and Daytime Bat Survey*, dated September 2015.

11. Prior to first occupation of the dwelling hereby permitted the car parking spaces shown on approved plan, drawing No 4645/001A, shall have been provided. These spaces shall thereafter be retained at all times for the parking of vehicles.
12. Prior to first occupation of the dwelling hereby permitted facilities for the covered and secure parking of bicycles shall have been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The cycle parking facilities shall thereafter be retained as approved for that purpose.
13. Prior to first occupation of the dwelling hereby permitted facilities for the storage of refuse and recyclable materials shall have been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority. The refuse/recycling facilities shall thereafter be retained as approved for that purpose.
14. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking or re-enacting that Order with or without modification) no development falling within Classes A, B, C, D and G of Part 1 of Schedule 2 of the order shall be erected, constructed or placed within the curtilage of the dwelling hereby permitted.

End of Schedule of Conditions