

Appeal Decision

Site visit made on 21 February 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 21 March 2017

Appeal Ref: APP/D3830/W/16/3160513

Rose Court, North Bank, Hassocks, West Sussex BN6 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Helen Ross against the decision of Mid Sussex District Council.
 - The application Ref DM/16/2952, dated 5 July 2016, was refused by notice dated 1 September 2016.
 - The application sought planning permission for 12 sheltered retirement homes and resurface road from Rosemount to Station Approach without, in respect of flats 2,5,6, 9 and 10, complying with a condition attached to planning permission Ref CN/023/87, dated 8 January 1988.
 - The condition in dispute is No 7 which states that: The occupation of the 12 units hereby approved shall be limited to that of sheltered accommodation for the elderly only. For this purpose elderly is where one or more of the proposed occupants of each dwelling is over 60 years of age, unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: In the interest of local amenities and the parking provision as approved does not meet the required standard for unrestricted occupation.
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Decision

1. The appeal is allowed and approval is granted for 12 sheltered retirement homes and resurface road from Rosemount to Station Approach at Rose Court, North Bank, Hassocks, West Sussex BN6 8JG in accordance with the terms of the application Ref DM/16/2952, dated 5 July 2016, and the plan submitted with it, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Mrs Helen Ross against Mid Sussex District Council. This application is the subject of a separate Decision.

Background and Main Issues

3. Rose Court contains 12 flats which were built as sheltered accommodation in the grounds of Rosemount Nursing Home under a permission granted in 1988 with a restrictive occupancy condition. Since then, the nursing home has been converted into dwellings. The appellant wishes to remove the condition in respect of flats 2,5,6,9 and 10. The main issues are the effect that removing condition No 7 would have on:
 - the living conditions of other occupiers in Rose Court
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- the parking provision for the occupiers of Rose Court, and
- whether the removal of condition No 7 would result in the loss of elderly people's accommodation.

Reasons

Living conditions of neighbours

4. While the Council does not point to any specific harm to the living conditions of neighbours, it considers that the removal of the condition would result in the introduction of younger people into the flat block which could potentially alter its character and environment.
5. I accept that the character of a block of flats can change depending on the age of its occupants. However, there is no evidence that occupancy by younger people would result in a harmful character or environment. The block appears to have been purpose built for residential use where the private and common areas are well defined, and it appears well maintained and managed. I can identify no harm to the character of the block which would result from the removal of the condition.
6. I have considered the representations from residents concerning potential conflict between occupants of different ages in terms of noise and disturbance and misuse of common areas, however, these are not matters exclusive to those under 60 years, and there is already recourse under other legislation for their resolution. Section 8 of the National Planning Policy Framework (the Framework) seeks to promote social interaction and healthy and inclusive communities. I have not been provided with any evidence to substantiate that the removal of the planning condition would result in any direct harm to the balance or health of the other occupiers in the block or to the local community.
7. Furthermore, I note that the Council has already lifted the 60 years age restriction in Flat No 1 and that it has accepted a lower age restriction of 55 years in Flat No 8 and 50 years in Flat No 11, which suggests that it considers that lower or no age limits in some parts of the block are acceptable. There is no evidence of any conflicts reported to the Council as a result of these lower age occupancies, and I see no harm to the living conditions of surrounding occupiers which would result from the removal of the condition.
8. The Council refers to its emerging District Plan, including Policy DP1 which I note defines sustainable development as including socially inclusive places with a greater sense of social responsibility. However, in accordance with paragraph 216 of the Framework, as the Plan has not been adopted, this limits the weight I can accord it. I conclude on this issue that the removal of condition No 7 would not harm the living conditions of other occupiers in Rose Court. There would be no conflict with Policy B3 of the Mid Sussex Local Plan 2004 (LP) which requires development not to cause significant harm to the amenities of nearby residents.

Parking provision

9. The Council points out that while the site accommodates fewer off-street parking spaces than 1 space per flat, the site is in a sustainable location, where a lesser provision than that sought in LP Policy T5 would not place undue pressure on the street parking in the area, and would not conflict with the development plan.

10. I noted at my site visit that though there was space for 9 cars on-site only 4 cars were parked. I also noted parking spaces available on neighbouring streets, and that the site is close to the centre of the village and to Hassocks railway station. The Framework has a core principle of making the fullest possible use of public transport, walking, and cycling, and advises that parking standards should take account of the type of the development and its accessibility.
11. I therefore conclude on this issue while having regard to the shortfall of 3 spaces against the maximum parking standard in LP Policy T5, that the removal of condition No 7 would not result in a material shortage of off-street parking provision, or unsustainable pressure on the existing on-street parking in the area.

Loss of elderly people's accommodation

12. The Council concludes that the removal of the condition would remove units of sheltered accommodation whereas the evidence of its Housing and Economic Development Needs Assessment 2015 shows that the majority of housing need will be for people over 75 years and that the stock of 1-bed and 2-bed flats is below the average in England.
13. While the Council refers to the block of flats as sheltered accommodation, there is no longer any functional link to the nursing home since it was converted to dwellings. I appreciate that the development took place in the grounds of the nursing home and that there may have been services and links with the nursing home which made these flats sheltered. However, this is no longer the case. While the block has a lift service to the upper floors, I could see no evidence of a warden, or any communal or meeting rooms or anything which distinguishes the block as being sheltered housing as distinct from general market housing.
14. On this basis, I see no harm from the removal of the condition to the sheltered or elderly people's accommodation provision in the District or to its housing stock. The removal of the condition would not prevent those over 75 years from occupying the flats, and there would be no conflict with LP Policy H7 which concerns the circumstances when proposals for sheltered housing will be permitted.

Conclusion

15. For the reasons given above I conclude that condition No 7 in respect of flats 2,5,6,9 and 10 is unnecessary, is no longer relevant to the development, and that the appeal should succeed. Condition No 7 has already been modified or removed in connection with flats 1, 8, and 11. In accordance with Section 73(2)(a) of the Act, I have therefore granted a new planning permission with the condition in dispute having effect on flats 3,4,7 and 12 only, while retaining the non-disputed conditions from the original permission.
16. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As the development appears long complete there is no need to impose conditions for commencement, tree protection, and construction hours. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed all those that I

consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Patrick Whelan

INSPECTOR

Schedule of Conditions

- 1) This permission relates to the block and site plans received on 25th June 1987, the floor plans and elevations received on 26th June, the location plan received on 3rd July and the plans of road works and specification received on 3rd August.
- 2) Building work shall not commence until details of the space to be laid out for stationing vehicles clear of the public carriageway has been approved by the local planning authority and the building shall not be occupied until such space has been surfaced, drained, and completed. The space so approved shall not thereafter be used other than for the parking of vehicles in connection with the development hereby permitted.
- 3) The works for the improvement of North Bank in accordance with the plans and specification submitted shall be completed to base level suitable for construction traffic before works commence on the demolition of Dilkhush. Before occupation of the sheltered units, the road so improved shall be completed in accordance with the approved specification.
- 4) The occupation of units 3, 4, 7 and 12 shall be limited to that of sheltered accommodation for the elderly only. For this purpose elderly is where one or more of the proposed occupants of each dwelling is over 60 years of age, unless otherwise agreed in writing by the local planning authority.
- 5) No development shall take place until details of the layout and specification of and construction programme for North Bank and the foul and surface water drainage and means of disposal have been submitted to and approved by the local planning authority.
- 6) The cills to the roof lights proposed in the eastern elevation shall be a minimum height of 1.7m above floor level.
- 7) The first floor kitchen window proposed in the eastern elevation shall at all times be glazed with obscure glass.
- 8) This permission does not relate to the positions, sizes, and type of glass to be installed in the ground floor eastern elevation. Details of these openings shall be submitted to and approved by the local planning authority before works commence on the construction of the building.
- 9) Notwithstanding the provision of condition 8 and the provisions of the Town and Country Planning General Development Orders 1977 to 1985 no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the eastern walls of the building without the prior permission of the local planning authority on an application in that behalf.

END OF THE SCHEDULE