



Appeal Decision

Hearing held on 16 October 2019

Site visit made on 16 October 2019

by Stephen Wilkinson BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/T1410/W/19/3229465

Spring Mead, 25 Meads Brow, Eastbourne, BN20 7UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Turnbull Land Ltd against the decision of Eastbourne Borough Council.
 - The application Ref. PC/181058, dated 29 October 2018, was refused by notice dated 26 March 2019.
 - The development proposed is described as 'demolition of the existing house and the construction of a new building housing 17 one- and two-bedroom apartments with associated access and parking.'
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of the existing house and the construction of a new building housing 17 one and two bedroom apartments with associated access and parking at 25 Meads Brow, Eastbourne, BN20 7UP in accordance with the terms of the application, Ref PC181058, dated 29 October 2018, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs has been made by Turnbull Land Ltd against Eastbourne Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. The appeal seeks outline planning permission with matters of access and layout to be considered. I have determined the appeal with this in mind.
4. A revised access arrangement to the appeal site incorporating pedestrian footways adjacent to its entrance (plan no. 0260/PO2 Rev C) was submitted at the hearing. The amended plan had been agreed by both main parties and the Highway Authority and was included in the Statement of Common Ground. There was no further evidence sufficiently compelling to lead to a different view to the main parties. As such, I am satisfied that this plan provides for a satisfactory arrangement overcoming concerns over highway safety.

Main Issues

5. With the above in mind, there are three main issues in this appeal which I define as follows:
 - Whether the proposals would make appropriate provision for affordable housing with specific regard to the requirements of the development plan and the viability of the scheme;
 - The effect of the proposals on the character and appearance of the area; and
 - The effects of the proposals on the South Downs National Park.

The appeal site and the proposals

6. Meads Brow is a cul de sac off Beachy Head Road which is located on the western side of Eastbourne close to the statutory boundary of the South Downs National Park. The appeal site comprises a large detached part one, two and three storey residential property in a secluded and well screened site accessed by a spur road from Meads Brow. The site slopes down from the west to the east and comprises a row of detached two storey residential properties some of which are designed with ground floor bedrooms and first floor living rooms affording views over Eastbourne and the coast. The site's rear garden lies approximately 2.5m above the level of Darley Road. Its other boundaries are shared with other large detached residential properties.

Reasons

Affordable Housing

7. The crux of the Council's concerns in regard to this main issue is that the lack of a provision in the scheme for affordable housing would fail to contribute to the creation of mixed and balanced communities. In addition, this main issue has two limbs, the first of which addresses the application of adopted affordable housing policies and the second which looks at the potential contribution of the appeal scheme to housing provision within the Borough.
8. Policy D5 of the Council's Core Strategy (2013) identifies that the appeal site lies within a high value neighbourhood where 40% of all new dwellings should be affordable. Supporting text to the policy requires that where there is a question over whether the scheme can achieve affordable housing then a Financial Viability Assessment (FVA) is required at both the pre application stage and on submission of an application. This policy is to be applied in a flexible way on a site by site basis taking into account other planning considerations. A series of options are identified to ensure that some form of affordable accommodation either on or off site or through a commuted sum and with grant support can be provided.
9. The Policy is supported by an Affordable Housing Supplementary Planning Document 2017 (SPD) which sets out a stepped approach to the achievement of affordable housing in compliance with the options identified in Policy D5. The appeal scheme does not make provision for any affordable housing or include a financial contribution in line with the options identified above. The FVA submitted with the documentation identifies 2 scenarios covering a policy

compliant scheme and one for all market led housing. Neither of these identify a profit although the market led one identifies only a marginal loss.

10. It is unclear the extent to which the parties engaged in exploring the options identified in policy. The Council did not provide independent financial evidence to challenge the appellant's FVA and whilst not a requirement of policy would have been a source of important evidence directly relevant to the application of policy to this case. I have had regard to the appendices of the SPD which detail a series of exemplars of FVAs for a typology of housing and flat types. However, whilst these are instructive as a general guide it is incomplete in informing my view of the Council's position on the viability of this site and the leverage which could be explored through the various options identified for achieving affordable housing.
11. Although Planning Practice Guidance (PPG) indicates that the weight to be given to viability assessments is a matter for the decision maker it does refer to the need for decision makers to test the assumptions which underpin those assessments. Whilst clearly the scheme does not include affordable housing or a commuted sum to address compliance with Policy D5 either wholly or in part, in the absence of evidence to the contrary I can only conclude that the provision of any affordable housing or combination identified by policy would render the appeal scheme unviable on this site.

Character and Appearance

12. Although in outline the appeal scheme includes details of the proposed layout which shows the main building broadly occupying the footprint of the existing dwelling and through floor plans identifies how 17 units could be accommodated within the scheme.
13. During the hearing the Council withdrew its objections to the flat roof elements which were included in its second reason for refusal. However, its objection to the design of the scheme were maintained on grounds of its undue dominance in relation to the form, scale and character of the existing housing within the immediate locality.
14. I accept the Council's argument that although at this stage only the layout is to be determined the submission of floorplans and indicative elevational drawings does have a bearing on the conclusions which can be drawn on this matter. This is because it is useful to understand how 17 flats can be accommodated on the site. As I have said, the proposed layout would follow broadly the footprint of the existing building although the three storey elements would be a more dominant feature of this proposal. The parking areas would broadly follow the pattern of hardstanding, access and turning area of the existing property although ten parking bays would be located in what is currently an area of private amenity space at the western edge of the site close to the boundary of properties in Meads Brow. Other areas of private amenity space are located around the proposed building taking advantage of its existing well treed boundaries.
15. Given that the site is secluded from the patterns of development which could influence its design I do not accept the Council's objection that the proposal would be unduly dominant in relation to the form, scale and character of its surroundings. Large detached properties albeit not all developed for flats are common to the local area.

16. Saved Policies UHT 1, 2 and 4 of the Eastbourne Borough Plan 2001-11 require that the design of new development harmonises with the character of its local environment through both form and scale and does not adversely impact on visual amenity. These matters are identified as being important for decision makers in the Government's recently published national design guidance (2019) which builds on the guidance included in Chapter 12 of the Framework.
17. To conclude on the issue of the impact of the proposals on the character and appearance of the area, I do not consider that they are in conflict with adopted policy and national guidance. The proposed layout broadly conforms with that of the existing building on this site. The submission of outstanding reserved matters could be used to refine the design to overcome concerns on this issue.

The South Downs National Park

18. The site's close proximity to the statutory boundary of the South Downs National Park requires special attention. Although the National Park Authority did not object to the application the Council refused the application because of concerns over the potential impact of light spillage from the scheme on the Park's Dark Skies Reserve. Whilst I acknowledge the importance of this matter I conclude that given the site's location, its degree of seclusion and the fact that this application is submitted for outline permission leads me to conclude that this matter would be better addressed through the outstanding reserved matters.

Other Matters

19. Interested parties have expressed concerns over several matters including impact on outlook, how the proposals represent an over development of the site, that there are too many flats in the Meads area, the proposed access arrangements are inappropriate and the amount of traffic the scheme would generate would lead to highway safety issues on Beachy Head Road. Other matters raised concerned the existence of covenants, local wildlife, how ground works would prevent a new scheme going ahead and that the proposals would lead to an unacceptable increase to the residents of the 'Brow'.
20. The proposed building would be more dominant than the existing because it would comprise three storeys, a part of which would be closer to the site's western boundary than existing. Furthermore, its proposed height together with the topography means that the property would be clearly seen from properties in Darley Road. However, whilst there would be some loss of outlook from the rear windows of properties in Meads Brow I do not consider that these impacts would be so great given the articulation of the roof and the distance of the property from the boundary. The visual impact of the proposals on properties in Darley Road would be limited.
21. Although the proposed scheme is a larger building than the existing one it would occupy broadly the same footprint. The principle difference is the design of the proposals which would largely comprise three storeys. However, the proposed building would sit well within the site and does not represent an overdevelopment as I have explained above. It would not encroach too close to its boundaries. Although it would sit above the level of Darley Road the extent of set back from this boundary means that it would not be overbearing. Consideration of reserved matters on appearance and scale would allow an opportunity to influence the final design.

22. I acknowledge the local concerns over the number of flats which have been developed in the Meads area. However, the Council's own assessment of the proposals included in the officer report to Committee accept the principle of 1- and 2-bedroom units at this site largely because of a shortfall of small flats in the Meads area. I have not seen any compelling evidence from other parties as to an oversupply of such units in the area.
23. The proposed access arrangements have been addressed through the submission of an amended plan, but the issues of land ownership lie outside my consideration as they are related to Land Law and not Planning Law. This is also true with reference to the comments made by several parties on the restrictive covenants which could prevent the proposed scheme from going ahead.
24. In respect of traffic generation although the appellant did not provide a trip generation analysis the Highway Authority considered that the proposed scheme could generate an additional 71 daily vehicular trips with 7 trips in the morning and evening peaks respectively. No evidence was presented to me during the hearing which countered these figures. I consider that the roads surrounding the site have the capacity to accommodate what would be a marginal increase in traffic flow in the grand scheme.
25. During the site visit I was shown Beachy Head Road and representations identified concerns about highway safety for pedestrians given its incomplete footways together with the perceived high speed of traffic. Whilst I acknowledge that this matter is of local concern my principle consideration on highway safety relates to the need to ensure adequate footways close to the site entrance. This has now been addressed through the amended arrangements.
26. Several interested parties raised the issue of the appeal site's ground conditions which they stated could prevent the proposed scheme from actually being built. I was not presented with any evidence on this point and am unable to comment on this matter as this is related more to building construction than to planning matters. Concern was also expressed over the potential for loss of local wildlife through the redevelopment of the site. However, I was not presented with any detailed evidence that this could occur as a direct result of the proposed development.

Planning Balance

27. As both parties are aware, the Council is unable to demonstrate the supply of housing as required by the Framework which, as per paragraph 11, engages the so-called tilted balance and treatment of the most important policies accordingly.
28. In the case of the appeal scheme, they would provide for 16 new dwellings which, whilst small in the grand scheme, is equally a not insignificant number which would assist in the Council boosting their current under supply. The proposals do not include affordable housing in line with adopted policy D5 of the Eastbourne Core Strategy 2013. However, supporting text to this policy does provide a series of steps including the submission of a FVA to substantiate an applicant's case that a scheme may not be viable. The Council were unable to provide an informed response to this which could have identified alternatives and or a rationale on why the affordable housing or some contribution could or

could not have been provided. Whilst alone the lack of this information would not normally warrant an exception to adopted policy, I consider that the provision of 16 additional dwellings which are an appropriate mix would go some way to meet the Council's shortfall in housing supply. This is an important material consideration to which I have given great weight in informing my conclusion on this issue.

29. I have not found harm in respect of either the effect of the proposed development on the character and appearance of the area, the access in terms of pedestrian safety would be acceptable and the reserved matters stage would provide opportunities for further refinement on the matter of the Dark Skies Reserve. Returning to the tilted balance therefore, it seems sufficiently clear to me that the adverse impacts of granting a planning permission, given the lack thereof and having also considered above other matters that have been raised, would be incapable of outweighing the benefits, in this particular case. The appeal scheme would therefore be sustainable development for which the presumption in favour applies.

Conditions

30. I have considered the list of conditions included in the signed statement of common ground. I have imposed a condition specifying the time frames for commencement of the development and for the submission of outstanding reserved matters as required by Sections 91 and 92 of the Town and Country Planning Act 1990, as amended. I have imposed another condition specifying the approved drawings to provide certainty. Conditions are required to ensure that the proposed access arrangements, car parking and turning areas are provided in advance of any dwelling being occupied. This is to ensure highway safety and that sufficient parking is provided to prevent additional parking in adjacent roads.
31. A condition is required for a Construction Method Statement covering arrangements for parking for operatives and visitors, loading and unloading of materials, secure storage, working hours and wheel washing facilities. This is required in the interests of both highway safety and the protection of the local environment during the construction period. A condition on drainage is required to prevent the risk of surface water flooding. This follows the comments received from the Lead Local Flood Authority. In accordance with the aims of sustainable transport a condition is required to ensure that secure and covered cycle parking facilities have been provided to serve occupants.

Conclusion

32. For the reasons above and subject to the conditions set out below the appeal is allowed.

Stephen Wilkinson

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Proposed Block Plan 0260-P01; Proposed Site Plan 0260-P02 Revision C; Indicative Ground Floor Plan 0260-P03; Indicative First Floor Plan 0260-P04; Indicative Second Floor Plan 0260-P05.
- 5) The development hereby approved shall not be occupied until access arrangements have been provided in accordance with the details set out on drawing 0260-P02 Revision C and these arrangements shall be maintained in place thereafter throughout the lifetime of the development.
- 6) The development hereby permitted shall not be occupied until car parking and turning areas have been laid out in accordance with approved plan 0260-P02 Revision C and these areas shall be used for no other purpose other than for the parking and turning of vehicles throughout the lifetime of the development.
- 7) The development shall not be occupied until secure and covered cycle parking facilities have been installed in accordance with details to be first submitted to and approved by the Local Planning Authority.
- 8) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide:
 - i) Parking for vehicles used by site operatives and visitors
 - ii) Arrangements for the loading and unloading of plant and materials
 - iii) Secure storage arrangements for plant, materials and other construction related apparatus during construction phase of the development
 - iv) Delivery and working hours
 - v) Wheel washing facilities.

Development shall be carried out in accordance with the approved details.

- 9) No development shall commence until a surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in

accordance with the approved details before the development is completed.

APPEARANCES

FOR THE APPELLANT:

James Cauldwell	Managing Director, Turnbull Land Ltd
Alex Bateman	Planning Consultant Mohsin Cooper
Sean Phillips	Director, Affordable 106 Ltd

FOR THE LOCAL PLANNING AUTHORITY:

James Smith	Specialist Adviser, Planning
Anna Claire	Specialist Adviser, Planning
Matthew Hitchin	Senior Planning Policy Officer

INTERESTED PERSONS:

Councillor Barry Taylor	Eastbourne Borough Council and East Sussex County Council
Colin Couch	Local resident
Dennis Scard	Chairman of the Meads Community Association