



Appeal Decision

Site visit made on 20 July 2020

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2020

Appeal Ref: APP/M3835/W/20/3249229

7 Dominion Buildings, Dominion Road, Broadwater, Worthing BN14 8LE

- 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 Ersin Hussain against the decision of Worthing Borough Council.
 - The application Ref AWDM/1926/19, dated 11 December 2019, was refused by notice dated 3 March 2020.
 - The development proposed is a rear conversion incorporating a ground and first floor extension to create a new access to the existing residential flat at first floor plus the creation of a new studio flat at the rear on ground floor level.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the host dwelling,
 - the living conditions of future occupiers with particular reference to daylight and sunlight, noise and smells and access,
 - the living conditions of the neighbouring occupiers at Nos 5, 6, 8 and 9 Dominion Buildings with particular reference to daylight and sunlight and overlooking, and;
 - the character and appearance of the area.

Reasons

Character and appearance of the host dwelling

3. Dominion Buildings is an established shopping parade near to the junctions with Angola Road and South Down View Road. The area surrounding the appeal site is typified by two-storey brick and tile properties, as well as a number of warehouse style retail units. The appeal property, 7 Dominion Buildings, is a void 'takeaway' premises facing the highway behind a pedestrian set back, with a one-bedroom flat above. The rear of the host property can be accessed by foot to the left-hand side of the shopping parade, and there is vehicular access to the right-hand side. To the rear of the parade there are a number of outriggers to either side of the appeal property which extend into the service yard of the commercial units, some of which have parking spaces and metal access stairways to what appear to be first-floor residential dwellings.

4. No 7 has a two-storey flat roof extension which adjoins a one-storey garage type structure to the rear, and there is a passageway to the right-hand side of the garage when viewed from the service yard. The first floor flat associated with No 7 can be accessed to both the front and rear of the property. Within the 'takeaway' premises there is an internal staircase which leads to the first floor flat above. The flat has a dual aspect, including a window to the rear that provides a view to the flue associated with the 'takeaway' and the passageway below.
5. The proposal is to demolish a section of the existing extension, including the internal staircase, and to construct a new self-contained first-floor, one bedroom flat and a self-contained ground-floor studio flat as part of a one and two-storey, rear extension. There would be a metal stairway to the first-floor flat that would rise past the front elevation of the studio flat and extend up and across the length of the flat roof extension. The ground floor studio flat would be accessed via the side passageway and incorporate some of the floorspace of the existing 'takeaway' premises to accommodate a shower room and toilet. The studio flat would have rooflights, three windows facing the passageway, and one window to the rear elevation facing the refuse area. There would be cycle storage to the rear of the host property, and the 'takeaway' premises would be retained in a smaller format to the front of the building.
6. However, while the proposed rear extensions would be relatively modest and completed in materials that would be similar to the surrounding built environment, including the nearby metal stairways, the proposal would have an extended stairway access that would be overly prominent by virtue of its position and length across the roofed area of the proposed extension. I acknowledge that there is a similar arrangement that provides access to the neighbouring properties at Nos 8 and 9 Dominion Buildings. However, I have little detail of that scheme before me. Indeed, the Council has brought to my attention that the development was approved¹ prior to extant local development plan policies and the *National Planning Policy Framework, 2019* (the Framework). As such, I have considered the proposal before me on its own planning merits and conclude that the scale, positioning and prominence of the metal stairway, would harm the character and appearance of the host dwelling.
7. Therefore, the proposal conflicts with Policy H18 of the Worthing Local Plan 2007 (WLP), Policy 16 of the Worthing Borough Council Core Strategy 2001, (CS) and the Worthing Borough Council Guide to Residential Development Supplementary Planning Document 2013 (SPD), in so far as they relate to the character and appearance of the host dwelling, which say that the scale, design and materials of extensions should be satisfactory to the existing property, and Paragraph 127 (b) of the Framework which requires that development is visually attractive as a result of good architecture.

Living Conditions of future occupiers (studio flat)

a) Daylight and sunlight

8. The main parties have brought to my attention that the proposal for the studio flat would meet the 'Technical housing standards - nationally described space standards' 2015 (NDSS), and I see no reason to disagree.

¹ AWDM/1736/15

9. However, the three windows to the side elevation of the proposal would face directly onto the side elevation of the extension associated with Nos 8 and 9 across a relatively narrow passageway. As such, notwithstanding the orientation of the proposed extension, the overhead rooflights and the provision of a refuse area window, due to the proximity of the proposal, the sunlight and daylight experienced by the occupiers of the studio flat would likely to be reduced during certain times of the day and throughout some periods of the year, and hence create a gloomy living space with limited opportunities to look out. Indeed, in combination with the relatively narrow and awkward internal living space, limited external space, stark service yard and refuse area location, the diminished daylight and sunlight that would be experienced in the studio flat would be likely to impact on the long-term well-being of future occupants.

b) Noise and smells

10. Furthermore, the access passageway would accommodate a ground floor window and a flue that would service the 'takeaway' premises. As such, the proximity of the window and flue to the windows and doors of the proposed studio flat would harm the living conditions of future occupiers as a consequence of smells, noise and vibration associated with the operation of the flue and the day to day functioning of the 'takeaway' business. Particularly, but not limited to, at times of the week when takeaway food is likely to be more popular such as evenings and weekends.

Living Conditions of future occupiers (one bedroom flat)

c) Access

11. I concur with the Council that the elevated and relatively long access stairway across the flat roof of the rear extension would be less than ideal, particularly at darker and colder times of the year. However, it would be unlikely to harm the living conditions of the future occupiers who would be protected by the robust metal railing style of the stairway as they sought access to their accommodation. Moreover, while the proposed floor space of the one-bedroom flat would not meet the Worthing Borough Council Space Standards SPD 2012 it would, nonetheless, meet the more recent NDSS (2015) requirement.
12. Nevertheless, as set out above, the close proximity of the 'takeaway' flue, the stark service yard and refuse area location is likely to impact on the well-being of future occupants. I acknowledge that the existing dwelling has a similar relationship with these factors. However, whether this is an acceptable form of development or not, I have considered the proposal on its own planning merits.
13. Therefore, I conclude, in the planning judgement for the reasons given above, that the proposal would harm the living conditions of future occupiers of the proposed dwellings. As such, the proposal is contrary to Policy 8 of the CS which seeks, amongst other things, to deliver high quality homes to the community, as supported by the SPD, and for similar reasons, Paragraph 127 (f) of the Framework, which requires that development creates 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.

Living Conditions – neighbouring occupiers

a) Daylight and sunlight

14. The proposal would be in close proximity to the neighbouring dwellings of Nos 5, 6, 8 and 9. Nonetheless, there is a range of extensions, outriggers and structures in this service yard location, including those that are one and two-storey in height. As such, the proposal would have minimal effect on the existing daylight and sunlight experienced by those properties as a similar relationship with the appeal property already exists.

b) Overlooking

15. However, notwithstanding whether high level or obscured windows would be provided or not, an elevated walkway, whether it is a metal rail or a conditioned obscured glass panel style fixture, would enable the occupiers of the first-floor flat and their visitors to overlook the proposed studio flat passageway and/or the rear windows of the neighbouring dwellings. Moreover, the location of the walkway, near to the boundary with No 8 & 9, is likely to generate noise and disturbance associated with its use from time to time, that in combination with the overlooking would harm the living conditions of the occupiers of those dwellings.
16. I conclude therefore, that the proposal is contrary to saved Policy H18 of the Worthing Local Plan 2007 (WLP), Policy 16 of the CS, and the SPD, in so far as they relate to living conditions, which aims include, that development that results in an unacceptable reduction in amenity for local residents will not be permitted. Additionally, the proposal conflicts with Paragraph 127 (f) of the Framework which requires that development creates 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.

Character and appearance

17. The general principle of development associated with the appeal site is accepted by the Council as the proposal would be located in an established residential and generally built up area that includes, amongst other things, shops and services. As such, the development would retain a commercial type premises to the front of No 7 and provide one additional unit of accommodation to the rear of the property. However, the deliveries associated with the reconfigured 'takeaway' would be carried out to the front of the premises, rather than to the rear, as the two new flats would have access via the existing service yard.
18. While this is less than ideal, I noted at my site visit that there are a number of other shops and services in the area, including a supermarket and a 'DIY' superstore, some of which have deliveries to the front of the building. Moreover, the delivery activity associated with one 'takeaway' outlet and the traffic generated by an additional residential dwelling is likely to be relatively limited. Therefore, I conclude that the proposal would not harm the character and appearance of the surrounding area.

19. Consequently, the proposal accords with saved policy H18 of the WLP, Policy 16 of the CS, and the SPD, in so far as they relate to the character and appearance of the area, which say that development should be satisfactory in relation to the predominant characteristics of the area as a whole, and Paragraph 127 (c) of the Framework which requires that development is sympathetic to local character and history, including the surrounding built environment.

Other Matters

20. A number of planning decisions² have been brought to my attention by the appellant in respect of rear extensions. However, I have little detail of those developments before me. Indeed, some were decided under previous development plan policies or are situated in other locations. Therefore, I give this minimal weight.

Conclusions

21. Although the council cannot demonstrate a five-year housing land supply, and as such, paragraph 11(d) of the Framework is engaged, in this case, I find the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, which includes the provision of one additional dwelling.
22. Whilst I have found in favour of the appellant on the fourth main issue, this does not justify the harm identified on the first, second and third main issues. The proposed development would conflict with the adopted development plan in respect of the first, second and third main issues as set out above, and there are no material considerations indicating a decision otherwise than in accordance with it.
23. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR

2 05/0812/FULL, 99/0073/FULL, ADC/0382/08, AWDM/0314/11, SU/288/01/TP/19563 and AWDM/0314/11