
Appeal Decision

Site visit made on 17 December 2020

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/D3830/W/20/3256808

Tower Car Sales, Tower Close, East Grinstead RH19 3RT

- 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 Willow Developers Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/1455, dated 21 April 2020, was refused by notice dated 10 July 2020.
 - The development proposed is 'demolition of car sales office and workshop and erection of part two/part three storey building comprising 9 apartments with parking spaces, cycle spaces and refuse enclosure.'
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Decision

1. The appeal is dismissed.

Procedural matters

2. Late in the course of this appeal, the appellant submitted a Unilateral Undertaking relating to contributions concerning local infrastructure and ecological mitigation, as required by the Mid Sussex District Council's (the Council) policies and guidance. This includes formula based payments for education, libraries and community infrastructure, along with payments related to mitigating the effects of new development on the Ashdown Forest Special Protection Area.
3. The Unilateral Undertaking is intended to address reasons 1 and 2 stated in the Council's decision notice. The Council made a late submission which contended that the document is deficient, as the contribution amounts contained within it are incorrect (the correct figures being lower than those used by the appellant).
4. Whilst these matters could be remedied, I have not invited the appellant to do so, as I have assessed that the appeal should fail for other reasons. However, as these matters are no longer contested, and the planning obligations appear in principle to meet tests set out in the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, I do not need to explore these issues further for the purposes of this appeal.
5. On 19 January 2021, the Government published the 2020 Housing Delivery Test (HDT) results. The HDT results for the Mid Sussex District Council area do not have a bearing on the operation of paragraph 11 of the Framework and I

did not therefore consider it necessary to ask the appeal parties to comment on this matter.

Main Issues

6. The main issues are:

- The effect of the proposal on the living conditions of future occupiers of the apartments.
- The effect of the proposal on the living conditions of occupants of neighbouring properties on Moat Road.

Reasons

Living conditions – future occupants

7. The appeal site comprises an area of previously developed land close to the town centre of East Grinstead. It was formerly occupied as a car sales business, with most of the site being an open yard enclosed by boundary fencing. There is a single storey flat roofed former sales building sited alongside the site's south-east boundary and there is also a smaller pitched roof single storey building in the southernmost part of the site.
8. To the south-east of the site abuts the rear gardens of 2 storey dwellings which front Moat Road. To the north-east is Tower Court, a 2 storey sheltered housing complex. To the north and north-west are 3 and 4 storey blocks of apartments set within grassed areas and parking courts, which all appear to be relatively recent developments. The areas beyond the north-west and south-west boundaries are primarily open and comprise, respectively, an access and car park associated with a supermarket, and a public car park.
9. The appeal proposal would entail the clearance of the existing buildings and the construction of a 3 storey building which would cover most of the site. At ground floor level, there would be an undercroft parking area, bin store and 2 one-bedroom flats. There would be 3 two-bedroom flats and 1 three-bedroom unit on the first floor, and 3 two-bedroom flats on the second floor. A small garden area and secure cycle storage is proposed in the southern corner of the site.
10. The Council's refusal reason does not specify the apartments where it considers the living conditions for future occupiers would be unacceptably poor. However, its officer report and appeal submissions identify units 1 and 2 on the ground floor and units 6 and 9 on the second and third floors. The 2 sets of units raise different issues.

Units 1 and 2

11. Units 1 and 2 are proposed to be served by an array of windows which would face the covered undercroft parking area. This will include windows serving the living / kitchen area and the bedroom of unit 1. These windows would serve little purpose as very little natural light would reach the windows and the aspect from them would be very poor, being essentially of parked cars enclosed within the building, with perhaps some glimpse of daylight through the metal screens on the north-west elevation.

12. However, these would not be the only windows serving the main habitable areas. Unit 1 would have full height glazing serving its living room facing north-east (towards Tower Close) and a bedroom window facing south-eastwards. Whilst the living room window would allow natural light into the living space, it would be extremely close to the road and would lack privacy. Indeed, when I visited, I observed a steady stream of pedestrians using this route and the scope for mitigating the privacy concerns through soft landscaping is very limited.
13. The south-east facing bedroom window would have a poor aspect as there would just be a few metres between it and the site boundary. Furthermore, this area would include a pedestrian access that all residents may use, allowing views into the bedroom at close quarters, thereby compromising privacy. Similar issues arise with the bedroom window in unit 2, although the living room window for this unit would have an acceptable aspect, as it would look over an enclosed garden.

Units 6 and 9

14. The proposed unit 6 on the first floor and unit 9 on the second floor are both 2-bedroom apartments. The disputed issue here is that the second bedroom in each apartment would be served by high level windows, which are necessary to avoid direct overlooking of properties on Moat Road. However, each of these bedrooms would also have a full height, albeit rather narrow, window on the north-east elevation, which would give an aspect towards Tower Close. In my assessment, this will achieve acceptable living conditions for the future occupants of these bedrooms in terms of light and outlook.
15. I have taken into account the Inspector's findings on an earlier 2020 appeal¹ concerning a similar issue on a different scheme, which has been referred to by the Council. However, I find the circumstances are different, as that finding related to a narrow secondary window which directly faced a blank wall.

Conclusions on living conditions – future occupants

16. I conclude that the living conditions for the second bedroom occupants of units 6 and 9 would be acceptable in terms of outlook and light.
17. However, the living conditions for the occupants of units 1 and 2 would be unacceptably poor, in terms of outlook and privacy. This would conflict with policy DP26 of the Mid Sussex District Plan 2014 – 2031 (March 2018) which, amongst other design considerations, requires developments to achieve acceptable levels of amenity for future occupants, including outlook and privacy considerations. It also conflicts with paragraph 127 of the Framework, which requires new developments to achieve a high standard of amenity for future users. The Council has also cited a conflict with policy EG3 of the East Grinstead Neighbourhood Plan (November 2016), but the wording of that policy does not extend to include the living conditions of future occupants, and I therefore find no conflict with it.

Living conditions – occupants of neighbouring properties on Moat Road

18. The proposed 3 storey building would extend across the full width of the rear gardens of Nos 26 and 24 Moat Road and partly across the rear garden of No

¹ APP/D3830/W/20/3249364

22 Moat Road. The ground floor of the building would be set back from the rear garden boundaries of Nos 24 and 26 by a few metres, which would include a pathway and some small soft landscaping areas. At the first and second floor, the building would be stepped back further from the boundary.

19. I have noted the submissions from both the appellant and the Council concerning the changes incorporated in this appeal proposal compared to the 2020 appeal scheme. I have also noted the appellant's submissions concerning an earlier approved scheme², although that permission appears to have now lapsed and, in any event, related to a different design which included upper level accommodation within a pitched roof structure.
20. There can be no dispute that the current appeal proposal includes some improvements in terms of its slightly greater separation distance at ground floor level and the setbacks above, which give some relief. However, the building would still appear as an imposing and overbearing feature when viewed from the rear windows and gardens of the neighbouring properties, which are of a much lower and domestic scale, with modest rear gardens. The building would dominate the rear outlook from these properties due to its size, height and close proximity. The design of this elevation, which necessitates high level windows to avoid overlooking effects, means that there would be large areas of unrelieved wall, exacerbating the dominant and overbearing appearance.
21. On this main issue, I conclude that the proposed development would be unacceptably harmful to the living conditions of the occupiers of Nos 24 and 26 Moat Road. The proposal would not accord with policy DP26 of the Mid Sussex District Plan 2014 – 2031 (March 2018) or policy EG3 of the East Grinstead Neighbourhood Plan (November 2016), both of which seek to protect the living conditions of the occupiers of neighbouring properties. The proposal would also conflict with paragraph 127 of the Framework, which requires that developments create places with a high standard of amenity for existing occupiers.

Conclusion

22. For the reasons given above, the appeal is dismissed.

P. Staddon

INSPECTOR

² Local Planning Authority reference DM/17/1537

