The Planning Inspectorate

Appeal Decisions

Site Visit made on 26 October 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal A Ref: APP/M3835/W/21/3269452
St Andrews Gardens, Church Road, Worthing BN13 1ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr P Rayden of Treeview Trading Ltd against the decision of Worthing Borough Council.
- The application Ref NOTICE/0012/20, dated 5 August 2020, was refused by notice dated 29 September 2020.
- The development proposed is construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats.

Appeal B Ref: APP/M3835/W/21/3269455
St Andrews Gardens, Church Road, Worthing BN13 1ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr P Rayden against the decision of Worthing Borough Council.
- The application Ref NOTICE/0017/20, dated 23 October 2020, was refused by notice dated 24 December 2020.
- The development proposed is construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats.

Decision

1. Appeal A is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats at St Andrews Gardens, Church Road, Worthing BN13 1ES in accordance with the application NOTICE/0012/20, dated 5 August 2020, in accordance with the details submitted pursuant to Schedule 2, Part 20, Class A of the GPDO, and subject to the attached Schedule of Conditions A.

2. Appeal B is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats at St Andrews Gardens, Church Road, Worthing BN13 1ES in accordance with the application NOTICE/0017/20, dated 23 October 2020, in accordance with the details submitted pursuant to

Schedule 2, Part 20, Class A of the GPDO, and subject to the attached Schedule of Conditions B.

Preliminary Matters

3. These appeals follow a recent appeal decision[1] in respect of a similar proposal at the appeal site. In that case, the Inspector dismissed the appeal against the Council's refusal to grant planning permission for an additional storey to the appeal building, comprising 9 dwellings. In this case, both Appeal A and Appeal B are against the Council's refusal to grant prior approval for an additional storey to the appeal building, comprising 9 dwellings, which is now 'permitted development' under the provisions of Schedule 2, Part 20, Class A of the GPDO, subject to conditions, limitations and restrictions.

4. The proposed development therefore already benefits from planning permission under the provisions of the GPDO. The Council has confirmed that the proposed development in both Appeal A and Appeal B is acceptable in respect of all conditions, limitations, and restrictions of Class A, with the sole exception of Paragraph A.2.(1)(e), which requires the appellant to obtain prior approval in relation to the external appearance of the building.

Main Issue

5. Taking the above into account, the main issue in both appeals is whether the proposal would accord with the provisions of Schedule 2, Part 20, Class A of the GPDO, with particular regard to the external appearance of the building.

Reasons

6. The existing building is a 1960s three storey flat roofed block of flats comprising 3 wings. It is finished in red brick walls with sections of white render and brown shingle tiles and has a white fascia at roof level. The development proposed in both Appeal A and Appeal B is an upward extension of an additional floor comprising 9 dwellings, to be finished in external materials to match the existing building.

7. The surrounding area is characterised by mainly two storey detached and semi-detached houses of traditional designs finished in a range of renders, tiles and brickwork, amongst mature trees and other planting. The existing form of the appeal building is therefore at odds with its surroundings and appears as a prominent deviation from the established character of the area, despite the presence of thick boundary planting. The external materials of the appeal building are, however, typical of its surroundings.

8. It is the Council's case that the proposed addition of a fourth floor to the appeal building would comprise significant bulk and mass which would cause unacceptable harm to the appeal building's appearance and represent overdevelopment of the appeal site. As set out above, it is not for me to consider the principle of the additional floor, as the construction of an additional floor of 9 new dwellings already benefits from planning permission under the provisions of the GPDO.

9. The proposed plans are annotated to show the use of red bricks, white render, timber shingles and a white fascia and the appellant has referred to all

[1] Reference W/4000399, dated 6 April 2020

proposed external materials as matching the existing building. Although I noted that the existing shingle tiles used on the appeal building appear to have a cement-based composition, the use of timber shingles at fourth floor level would be of similar appearance. In any case, I consider this annotation to be an error, such is the appellant's insistence within their representations that all external finishes of the proposed extension would match the existing building, which is also stated elsewhere on the proposed plans.

10. The scale, massing and form of an additional floor to the appeal building would significantly harm the character and appearance of the area for similar reasons to those described by the previous Inspector in the appeal decision at footnote 1. However, the external appearance of the proposed extension in both Appeal A and Appeal B would replicate that of the existing appeal building.

11. The fenestration layout of the fourth floor proposed in Appeal A would appear vertically irregular above the consistently spaced existing ground, first and second floor windows. There would be a larger expanse of brickwork/render/ shingles between the existing third floor level windows and the proposed fourth floor level windows which would relate poorly to the existing simple horizontal arrangement of the appeal building. The effect would not be so significant as to harm the external appearance of the building on account of the use of external materials which would be of matching appearance to the existing building, applied in a similar arrangement.

12. The regular fenestration layout proposed in Appeal B would more closely resemble a continuation of the existing window spacings between floors within the appeal building. As with the proposal in Appeal A, the use of external materials of matching appearance to the existing building, applied in a corresponding arrangement, would ensure the additional storey proposed in Appeal B would not harm the external appearance of the building.

13. Therefore, although the scale, massing and form of an upward extension to the appeal building would cause significant harm to the character and appearance of the area, the external appearance of the proposed extension in both Appeal A and Appeal B would respect and relate well to the existing building. On its own, the external appearance of the proposal in both Appeal A and Appeal B would accord with the Framework[2] which requires new development to comprise good quality design, which can include materials that take account of local characteristics of the area, amongst other things. The external appearance of the proposal would also, therefore, accord with Policy 16 of the Worthing Borough Council Core Strategy (2011), insofar as it is a material consideration relevant to the main issues of the case.

Other Matters

14. I note the extensive and detailed objections to both proposed schemes from owners and occupants of existing flats within the appeal building, neighbouring residents, and the local Member of Parliament. These objections cover a range of issues, which have either been addressed in the Council's officer report or fall outside the ambit of matters relevant to the assessment of whether prior approval should be granted in this instance. I have not been presented with any evidence to lead me to conclude differently to the Council in those regards, or otherwise refuse prior approval.

[2] The National Planning Policy Framework (2021)

15. In their appeal statement the Council referred to Paragraph A.1.(n) of Schedule 2, Part 20, Class A of the GPDO, suggesting the proposed development in both Appeal A and Appeal B may be situated on land forward of a wall forming the principal elevation of the existing building or forward of a wall fronting a highway and forming a side elevation of the existing building. No detailed argument was presented, and the Council have not identified any elevations of the appeal building which they may consider to be the principal elevation(s) or side elevations fronting a highway. I have not been presented with any evidence to convince me the proposed development would fail to accord with Paragraph A.1.(n).

Conditions

16. The planning permission granted by Schedule 2, Part 20, Class A of the GPDO is subject to the conditions set out at Paragraph A.2. and Paragraph B. of Part 20, so there is no need for me to restate those conditions in this decision. The provisions of Paragraph B. allow me to grant prior approval unconditionally or subject to additional conditions reasonably related to the subject matter of the prior approval.

17. The Council have provided a list of suggested conditions, but there is no need for me to attach any additional conditions identifying the plans, which are referred to by Paragraph B.(17) of Part 20. Condition A.2.(3) of Class A removes the need for me to attach any additional conditions specifying construction hours or requiring the approval of construction management details, which could include details of how access, including for disabled persons, to all existing flats would be provided throughout construction works.

18. The appellant's submissions, including proposed plans, clearly state that the external materials of the proposed development in both Appeal A and Appeal B would match the existing building. As timber shingles, annotated on the proposed plans, may not do this it is appropriate to attach a condition requiring the external materials to match the existing building to remove any uncertainty. It would be unreasonable to require the approval of samples of matching materials.

19. A condition requiring the approval and implementation of bicycle parking and refuse storage facilities for the future occupants of the proposed flats, prior to their first occupation, would be reasonable and necessary to provide alternative travel options to the private motor vehicle and to protect the amenity of existing residents. It would also be necessary for a condition requiring the car parking and turning areas shown on the proposed plans to be completed prior to the first occupation of any dwelling, in the interests of highway safety.

Conclusion

20. For the reasons I have given I conclude that both Appeal A and Appeal B should be allowed, subject to the attached Schedules of Conditions, which are in addition to the other conditions set out in the GPDO.

L Douglas

INSPECTOR

Schedule of Conditions A

1) Prior to the first occupation of any dwelling hereby permitted, details of the refuse storage facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.

2) Prior to the first occupation of any dwelling hereby permitted, details of covered and secure bicycle parking facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

4) No dwelling hereby permitted shall be first occupied until space has been laid out within the site in accordance with drawing no. SA-00-00-DR-A-00009 Revision PA01 for 9 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking and manoeuvring of vehicles.

Schedule of Conditions B

1) Prior to the first occupation of any dwelling hereby permitted, details of the refuse storage facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.

2) Prior to the first occupation of any dwelling hereby permitted, details of covered and secure bicycle parking facilities shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

4) No dwelling hereby permitted shall be first occupied until space has been laid out within the site in accordance with drawing no. SA-00-00-DR-A-00009 Revision A for 9 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking and manoeuvring of vehicles.