



Appeal Decision

Site visit made on 17 May 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 July 2022

Appeal Ref: APP/L3815/W/21/3285429

23 Lavant Road, Chichester PO19 5RA

- 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 Mr Peter Carver and Mrs Rachel Ritchie against the decision of Chichester District Council.
 - The application Ref CC/21/02110/FUL, dated 21 July 2021, was refused by notice dated 20 October 2021.
 - The application sought planning permission for redevelopment of the site with creation of 5 no. flats and parking, landscaping and associated works without complying with a condition attached to planning permission Ref CC/20/03226/FUL, dated 29 June 2021.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"'*.
 - The reason given for the condition is: *'For the avoidance of doubt and in the interests of proper planning'*.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted in 2021 for the redevelopment of the site and the construction of a block of flats. As part of my site visit, I was able to see that the development is nearing completion. The development as built does not however accord with the 2021 permission, and I shall therefore determine the appeal on the basis that planning permission is being sought retrospectively.
3. The main issues are the effect of the changes on the character and appearance of the surrounding area and the living conditions of neighbouring residents, with particular regard to privacy, noise and disturbance.

Reasons

4. The appeal site lies within an established residential area predominantly characterised by its pleasant verdant and suburban feel. The previously approved scheme granted planning permission for the demolition of an existing dwellinghouse and construction of a block comprising 5 flats, which includes the provision of parking to the front of the site and garden area to the rear.
5. The roof form of the permitted scheme is relatively simple and includes two hipped elements at the rear, which create a valley between the two sections.

This is however disrupted by the unauthorised roof terrace, which effectively cuts into the roof profile of the new building and appears as an incongruous and contrived feature. The resulting built form is not well designed and does not relate well to the overall architectural coherence of the host building, thus causing harm to the character and appearance of the area.

6. Whilst it is sited to the rear elevation of the building, the roof terrace is nevertheless highly noticeable when viewed from neighbouring properties and is also visible within the public realm, notably along Plainwood Close. I note that there are examples of concealed terraces and balconies within proximity to the appeal site, but these appear to have been carried out without disrupting the roof form of the host building. Accordingly, these examples do not represent a direct parallel to the development before me.
7. With regard to the effect of the changes on the living conditions of neighbouring residents, it is noted that the approved scheme includes two first floor terraces. Being set at a higher level, the roof terrace however enables wider views onto the site's immediate surroundings. Despite the separation distance between the appeal development and neighbouring properties, the roof terrace represents an unneighbourly arrangement, as it increases the perception of overlooking and loss of privacy which would be experienced by the occupiers of no 63 Plainwood Close in particular. This would negatively impact on their enjoyment of their property and rear garden area.
8. Furthermore, the size of the roof terrace would increase the potential for increased noise and disturbance at a high level, which would also be detrimental to the living conditions of other residents. Although the roof terrace would provide private amenity space for the occupiers of the second floor flat, this should not be at the expense of the living environment presently enjoyed by neighbouring residents.
9. For the foregoing reasons, the appeal scheme adversely affects the character and appearance of the area and fails to preserve the living conditions of neighbouring residents, having regard to privacy, noise and disturbance. The development is therefore contrary to Policies 33, 40 and 47 of the Chichester Local Plan: Key Policies 2014-2029 and section 12 of the National Planning Policy Framework. Amongst other things, these seek to ensure that new development meet the highest standards of design to maintain the local character and identity of the area, whilst respecting and where possible enhancing neighbouring and public amenity.

Conclusion

10. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR