



Appeal Decision

Site visit made on 1 November 2022

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2023

Appeal Ref: APP/M3835/W/22/3297764

Kingswood Home, 140 Heene Road, Heene, Worthing BN11 4PJ

- 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 Mika Ramful against the decision of Worthing Borough Council.
 - The application Ref AWDM/1875/21, dated 11 October 2021, was refused by notice dated 6 December 2021.
 - The development proposed is conversion of existing care home to 9 residential units including a new build house and conversion of original coach house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above is different to that stated in Part E of the appeal form, the Council's decision notice and Press Notice. As neither of the main parties has provided written confirmation that a revised description of development has been agreed, I have used the one given on the original application form, albeit superfluous words relating to the site address and the application being a resubmission have been deleted.
3. The Council's refusal reasons refer to the emerging Worthing Borough Council Submission Draft Local Plan 2020-2036, in particular to Policies DM1, DM2, DM5 and DM24. I am informed by the Council that the draft Plan has been examined and proposed modifications have been consulted on. However, the evidence submitted with the appeal does not reassure me that there are no unresolved objections to these policies. Therefore, I cannot be certain that the policies will be adopted in the form submitted in evidence. As such, I afford them limited weight in determining this appeal.
4. Amended drawings, reducing the height of the proposed bungalow through altering the roof profile to a flat topped roof, were submitted with the appeal. The Council has had an opportunity to consider the amended drawings and has commented that the amendments do not address its fundamental concerns and the proposed flat roof form would be 'alien' in the locality. As the concerns of third parties relate to the height of the proposed bungalow, I am content that reducing its height through acceptance of these drawings would not unfairly prejudice the interests of those parties. Therefore, having regard to the principles established in the case of *Bernard Wheatcroft Ltd v SSE* 1982¹, I

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

have accepted the amended drawings and have assessed the appeal proposal accordingly.

Main Issues

5. Planning permission² for the conversion of the existing care home building (Heene House) and its coach house to provide 8 residential units has been implemented. Construction works were ongoing at the time of my site visit. The main difference between the approved development and the appeal proposal is the proposed erection of a detached bungalow in the garden of Heene House, providing a ninth residential unit on the appeal site.
6. Taking account of the implemented extant planning permission, the main issues in this appeal are:
 - Whether the proposed bungalow (Unit 9) would preserve or enhance the character and appearance of the Heene Conservation Area.
 - Whether the proposed development would provide acceptable living conditions for the intended future occupiers of the residential units, with particular regard to the provision of outdoor amenity space for Units 1-7, the privacy of the occupiers of residential Unit 9 (bungalow), and outlook and access to light to Unit 3.

Reasons

The Heene Conservation Area

7. The appeal site is within the Heene Conservation Area (CA). I have had regard to the Conservation Area Appraisal and find that the significance of the CA is derived from the distinctive road layout and the predominantly large grand houses that are set back from the roads, behind substantial boundary walls and occupying relatively spacious grounds, often with mature trees growing within them. The space around the houses contributes positively to their grandeur by providing separation and a visual break between them and surrounding buildings. The relationship between these elements combines to give the CA a distinctly sylvan and suburban character, reflecting a period of expansion of the Town.
8. The appeal property consists of a substantial period style residential building known as Heene House and a detached coach house that occupy a generous corner plot in a prominent position on the east side of Heene Road at the junction with Manor Road. It is one of a number of large buildings occupying generous grounds in the locality, including those occupying corner plots on the opposite sides of the junction. The substantial scale and highly detailed appearance of the appeal property, along with the spaciousness of its plot, which provides a visual break and separation between it and the smaller, tightly spaced houses to the south, makes a positive contribution to the CA's character and appearance.
9. The proposed conversion of Heene House and its coach house to 8 residential units benefits from extant planning permission. The conversion works are generally confined to the building's interior to provide Units 1-7, leaving its external appearance and spacious grounds largely unaffected. The

² AWDM/0601/21

enlargement and conversion of its coach house to provide Unit 8, would also leave the spacious grounds of the appeal site largely unaffected. As such, these elements of the proposal would preserve the character and appearance of the CA.

10. However, the siting of the proposed detached bungalow (Unit 9) within the side garden of Heene House, in a position between the coach house and the road, would infill most of the space between the building and the neighbouring property to the south. Relatively little space would be retained around the proposed bungalow and it would erode the sense of spaciousness that is experienced as an important characteristic of the appeal property and the wider CA. Although the relatively low height of the proposed bungalow is such that the existing boundary enclosures would largely obscure views of its walls, the roof would be clearly visible.
11. I find that the built form of the proposed bungalow would be experienced as an intrusive and cramped form of development, positioned between the existing building and the adjacent dwelling to the south. The erosion of the spaciousness of the side garden would harm the character and appearance of the CA, and its significance as a designated heritage asset.
12. Although views across the side garden of Heene House are closed-out to an extent by the existing coach house and buildings beyond, I saw that the coach house is set a considerable distance into the plot from the road, where it does not noticeably affect the spacious side garden of the property. As such, the presence of the coach house and its effect on the CA is not comparable to the proposed bungalow.
13. The appellant refers to a number of examples where development has infilled gaps in the CA and has provided photographs of each. The main parties have given differing accounts of when those developments were carried out. I have no details relating to any planning permissions for them or the policy context under which they were considered. Based on the evidence provided, I cannot be sure that the examples referred to are directly comparable in character and context to the appeal proposal. As such, they carry limited weight in my assessment of this scheme.
14. For these reasons, I find that the proposal would fail to preserve or enhance the character and appearance of the CA, in conflict with s72 of the Planning (Listed Building and Conservation Areas) Act 1990. The CA's significance as a designated heritage asset would be harmed. In terms of the National Planning Policy Framework 2021 (the "Framework"), the harm to the CA would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the scheme.
15. The modern conservatory on the south wall of the building has a noticeable presence when seen above the tall boundary enclosures, owing largely to its bright white frame, which contrasts with the dark appearance of its roofing sheets. However, the massing of its roof is generally limited by its shallow pitch and short ridgeline, and the conservatory is seen as part of the massing of the existing building. Furthermore it is set a good distance away from the party boundary with the property to the south, retaining an important sense of spaciousness and separation between the two properties, that contributes to the significance of the CA. For these reasons the position, scale and massing

of the conservatory is not comparable to that of the proposed larger bungalow and its removal carries limited weight in favour of the new bungalow.

16. The proposed bungalow and the conversion of the buildings on the site would contribute to the supply of housing at a time when the Council is unable to demonstrate a five year supply of deliverable housing sites. The scheme would bring social and economic benefits during both construction and occupation, such as resident spend and patronage of nearby services and facilities upon occupation. The site is also located in a sustainable location near to existing services and opportunities for employment. Travel by public transport appears readily available. However, the additional benefits over and above those that would be achieved through the conversion of Heene House and the coach house that are taking place would be limited. Meeting internal space standards and the absence of objections from technical consultees are neutral considerations.
17. I conclude the proposal would fail to preserve or enhance the character or appearance of the Heene CA and would cause less than substantial harm to its significance as a designated heritage asset. The public benefits are insufficient to outweigh this harm. The proposal conflicts with Policy 16 of the Worthing Borough Council LDF Core Strategy April 2011 (the "CS"), which requires development to preserve and enhance heritage assets, and contribute positively to maintaining the settlement structure, landscape features and buildings which represent the historic character of Worthing, amongst other objectives. There would also be conflict with the heritage policies in the Framework.

Living conditions of intended future occupiers of the residential units.

18. Based on the figures provided by the appellant³, the communal outdoor amenity space for Units 1-7 would cover an area of some 88 square metres (approximately 12 square metres per unit). This would fall significantly short of the 140 square metres set out in paragraph 6.5 of the Worthing Borough Council Space Standards Supplementary Planning Document 2012 (the "SPD").
19. Furthermore, the location of the communal outdoor amenity space for Units 1-7 would be located close to the front wall of the proposed bungalow (Unit 9), focussing activity close to the relatively large bay window in its front elevation that would serve the open plan living, dining and kitchen areas. Users of the communal amenity space would be unlikely to relax in this space given as they would have clear views into the rooms in the bungalow and there would be direct and close-range views of this area from the bungalow.
20. Although nearby public parks could supplement the proposed communal outdoor amenity space for Units 1-7 and provide opportunities for recreation and relaxation, they would not be a satisfactory substitute for providing suitable and conveniently located outdoor amenity space on the site, which the SPD expects.
21. For these reasons I find that the quantity and quality of the communal outdoor amenity space for Units 1-7 would lead to unacceptably poor living conditions for the intended future occupiers.

³ Paragraph 6.32 of the Appellant's Planning Appeal Statement

22. Moreover, the use of this communal space close to the bungalow by the intended future occupiers of the flats would lead to poor standards of privacy for the bungalow's intended future occupiers.
23. The bay window and roof lights serving Unit 3 face south. The relatively low height of the bungalow and the space that would be retained between its rear wall and the coach house would allow daylight and direct sunlight to reach the interior of Unit 3 and the garden area. Even if the garden area of Unit 3 was to be enclosed by a tall boundary enclosure, the southerly aspect would allow good levels of daylight to reach it.
24. However, the side wall of the proposed bungalow would run alongside and close to the large bay window serving the living and dining area of Unit 3. Despite the tall ceiling height in Unit 3 and the generous width of the bay window, the enclosing effect of the flank elevation of the bungalow would provide an oppressive outlook for the intended future occupiers of this unit.
25. For the reasons given above, I conclude that the proposed development would provide unacceptable living conditions for the intended future occupiers of Units 1-7 and 9, contrary to Policy 8 of the CS which requires homes of a high quality. There would also be conflict with paragraph 130 of the Framework, which requires development to provide a high standard of amenity for future occupiers, amongst other objectives.

Other Matters

26. There is no dispute between the parties that the appeal proposal would contribute to housing delivery within the Borough. The Council cannot demonstrate a five year supply of deliverable housing sites. The Borough's Housing Delivery Test result of 35% in 2021⁴, shows a significant under delivery of housing. In these circumstances Footnote 8 of the Framework triggers the need for the development to be considered against paragraph 11.d) of the Framework.
27. This establishes that the policies which are most important for determining the application should be considered to be out-of-date and consequently, permission should be granted, unless, amongst other matters, the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing permission.
28. Footnote 7 of the Framework identifies designated heritage assets as an asset of particular importance for the purposes of paragraph 11.d). For the reasons set out above under the first main issue, there is clear conflict with the conserving and enhancing of the historic environment policies of the Framework set out in Chapter 16. The conflict with these policies provides a clear reason for refusal and therefore the proposed development does not benefit from the presumption in favour of sustainable development in this instance.
29. The appellant raises concerns regarding the Council's handling of the pre-application process and the determination of the planning application, including committee proceedings. These are not matters for me to resolve and should be referred to the Council in the first instance.

⁴ Paragraph 6.8 of the Appellant's Planning Appeal Statement

30. Concerns are expressed that the Council's Conservation Architect has not contributed to the Council's appeal statement. However, the Council as decision maker has provided substantive reasons for its decision and it is not compelled to seek input from specialists.

Planning Balance

31. Weighing in favour of the proposal are the economic and social benefits of the additional residential unit, over and above the 8 units that have extant planning permission. However, the scale of the benefits arising from an additional unit would be limited, even accounting for the fact that the Borough cannot demonstrate a 5 year supply of housing land. The benefits are firmly outweighed by the harm that would be caused to the CA as a designated heritage asset and the unacceptable living conditions that would be provided for the future occupiers of Units 1-7 and 9.

Conclusion

32. The proposal conflicts with the development plan as a whole and there are no material considerations, including the provisions of the Framework, which outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR