



Appeal Decision

Site visit made on 23 May 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/M3835/W/22/3310953

1 Eastcourt Road, Gaisford, Worthing, West Sussex BN14 7DA

- 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 & Mrs F Taheri Westwood against the decision of Worthing Borough Council.
 - The application Ref AWDM/1399/22, dated 16 August 2022, was refused by notice dated 20 October 2022.
 - The development proposed is the extension and conversion of a disused garage to form a residential studio.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's decision, the Worthing Borough Council Local Plan 2020-2036 (LP) was adopted on 28 March 2023 and now forms part of the development plan. The new LP supersedes the Worthing Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003), both of which are referenced in the reasons for refusal.
3. However, the Council referenced Policies DM1, DM2 and DM5 of the Worthing Borough Council Submission Draft Local Plan 2020-2036 on the decision notice. There are minor changes to these policies in the adopted version of the LP. The Council provided an update on the status of the LP and included extracts of the relevant policies within their appeal statement, which the appellants have had the opportunity to comment on. I have determined the appeal on the basis of the development plan at the time of my decision. The superseded development plan documents are no longer applicable for the determination of this appeal. I am satisfied that no party has been prejudiced by my approach.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the area;
 - ii) the living conditions of occupants of 1 and 3 Eastcourt Road with particular regard to outlook, sunlight, daylight, noise and disturbance; and
 - iii) the living conditions of future occupants of the proposed development.

Reasons

Character and appearance

5. The appeal site lies within a mixed use area. Opposite the site is a train station car park and some industrial units. The properties on Eastcourt Road and the northern side of Southcourt Road are predominantly within residential use, consisting mainly of 2 storey period terraced properties. The adjacent terraced properties typically have 2 storey projecting bays, sash windows and decorative features above the windows and doors. The terraced properties generally have small front gardens that are enclosed by a low boundary wall and are finished in a painted render. To the rear, the terraced properties have 2 storey outriggers. The uniformity of the terraced properties in terms of their size, traditional character and formal layout makes a positive contribution to the character and appearance of the area.
6. The appeal site lies to the rear of Nos 1 and 3 Eastcourt Road (Nos 1 & 3). There is a small garage on the site, which has a pitched roof and fronts onto Southcourt Road. The existing garage adjoins the boundary with a pathway to the west, which provides pedestrian access to the rear of properties that front Eastcourt Road. The existing garage is in a poor condition and landscaping within the site is overgrown. Although more a matter of maintenance, the appeal site currently detracts from the character and appearance of the area.
7. The proposal seeks to extend the existing garage and convert it into a residential studio. The existing garage by reason of its use, size and siting appears ancillary to No 1 and is subservient in relation to the neighbouring dwellings. The principle of residential development on the site would not be at odds with the surrounding area. The site is also well related to existing services, facilities and public transport links.
8. Planning permission to extend and convert the garage to a studio dwelling was dismissed at appeal in June 2021 (ref: 3270034). In comparison to the dismissed scheme, the plot size has increased, to incorporate land to the rear of No 3. The previously proposed flat roof element has also been omitted. Whilst the proposed dwelling would be greater in depth, it would be narrower in width, which would result in additional space and landscaping around the dwelling. The proposal would also be sited further away from Nos 1 and 3 than the dismissed scheme.
9. The form of the proposed development is not dissimilar to the existing garage; however, it would be larger in width, depth and height. The replacement of the garage door with windows and a door, and the change in roof form would transform the character of the building from that of a domestic outbuilding to a new independent dwelling.
10. The proposed dwelling would extend the built form across the site so that it would adjoin part of the rear boundary of No 3. No 3 has a single storey extension off its rear outrigger and a very small back garden. Although the proposed dwelling would have more space to the side than the dismissed scheme and provide outdoor amenity space to the rear, side and front, the proposal by reason of its close proximity to its boundaries and its relationship with neighbouring properties would still appear unduly cramped. Although new soft landscaping is proposed, the frontage of the property would be largely

dominated by hard surfacing and domestic clutter, including the cycle store and bin store, which would detract from the street scene.

11. I acknowledge that there is limited space between the outriggers on the terraced properties. However, the space between the outriggers is predominantly used to access the rear gardens, rather than for amenity space. This does not justify the cramped relationship that the proposal would have with the rear boundaries of adjacent properties.
12. The Inspector for the dismissed scheme found that the proposed single storey contemporary style dwelling would be out of keeping with the adjacent 2 storey terraced properties and would harm the character and appearance of the area. Whilst the proposal omits the flat roof element and the provision of a pitched roof and use of painted render would be reflective of adjacent properties, the proposal by reason of its size, height and modern design would remain at odds with the adjacent 2 storey terraced properties, which have a uniformed and traditional appearance. Consequently, the proposal would appear incongruous in this location and fail to respect the local distinctive character of the area.
13. Although there is a detached dwelling to the rear of 1 Southcourt Road, this dwelling is not readily appreciated within the wider street scene as it is set some distance back from the highway. The proposed dwelling would be more visible in the street scene and its size and cramped relationship to adjacent properties would fail to respect the established urban grain.
14. I recognise that the proposed development would tidy up the existing site and improve the character and appearance of the area, which would benefit the street scene and the experience of local people. However, appropriate maintenance of the site would achieve similar objectives, without the resultant harm that I have identified. I therefore give this benefit very limited weight.
15. For the reasons given above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. The proposal would conflict with Policies DM2 and DM5 of the LP. These policies amongst other matters require that new residential development respects and enhances the character of the site and makes a positive contribution to the sense of place, local character and distinctiveness of an area.
16. The proposal would also be contrary to the Council's Guide to Residential Development Supplementary Planning Document (2013) (SPD), which requires that proposals respond positively to their context, giving particular consideration to local building heights. Furthermore, the proposal would conflict with the Framework, which requires that development is sympathetic to local character, including the surrounding built environment.
17. In respect to this main issue, I do not find conflict with Policy DM1 of the LP, which relates to housing mix. Policy DM1(b) does require development to respect the characteristics of the local area, but this relates purely to self-build and custom build projects; neither of which are proposed in this appeal.

Living conditions of occupants of Nos 1 & 3

18. Whilst the proposed development would be set further away from No 3 than the dismissed scheme, the proposal would now extend into land directly to the rear of No 3. No 3 has a very small rear garden and the proposed development would adjoin part of the rear boundary.

19. The proposed dwelling would be higher and have a greater overall mass than the existing garage. Although the proposal would have a pitched roof, which would reduce some of its massing at roof level, its flank elevation would exceed the height of the boundary fence and its sloping roof would be visible above. The proposal by reason of its height and siting would create an increased sense of enclosure and would appear oppressive and overbearing from the ground floor, rear facing windows of No 3 and its rear garden.
20. Given the height, siting and orientation of the proposed dwelling, the proposal would result in a detrimental loss of daylight and sunlight to the ground floor rear windows of No 3 and its garden. Although the proposed development is not directly to the south of the garden of No 3, it would be to the south-west of this property. Consequently, there would be a reduction in sunlight particularly in the afternoon and evening and during the winter months. As a result of the size, mass and siting of the proposed dwelling, it would have a greater impact on the living conditions of No 3, in respect to outlook, daylight and sunlight than the dismissed scheme.
21. The proposal would be set further away from No 1 than the dismissed scheme. No 1 has a small lean-to extension off its outrigger, which has high level windows facing the appeal site. There is a close boarded fence and planting immediately adjacent to this extension. Consequently, outlook, daylight and sunlight are already restricted to this extension. No 1 does not have any first floor windows on the rear outrigger facing the appeal site. Although, the proposal would come closer to this property than the existing garage, given the distance to the garden of No 1 and the fact that this area is already overshadowed by the existing boundary treatment and landscaping, means that the proposal would not appear unduly overbearing or result in a harmful loss of outlook, daylight or sunlight to No 1 or its garden.
22. The proposed dwelling and associated amenity space would not result in a significant adverse increase in noise to adjoining occupants when compared to the existing use. Furthermore, given the single storey nature of the proposal and existing boundary treatment, the proposal would not result in a harmful loss of privacy to neighbouring properties.
23. I note that occupants of No 3 support the proposed development. However, this does not change my findings in respect to living conditions.
24. Even though the proposal would not harm the living conditions of occupants of No 1, the proposal would cause significant harm to the living conditions of occupiers of No 3 with particular regards to outlook, sunlight and daylight. The proposal would fail to comply with Policy DM5 of the LP, which requires that new developments do not have an unacceptable impact on the occupiers of adjacent properties in respect to outlook, daylight and sunlight.
25. The proposal would also fail to comply with the Council's Guide to Residential Development SPD November 2013, which requires that development does not have a significant negative impact on amenity. In addition, the proposal would conflict with the Framework, which requires that developments provide a high standard of amenity for existing and future users.

Living conditions of future occupants of the proposed development

26. The proposed dwelling would measure 33 square metres (sqm). Although the proposal achieves the minimum floor area for a studio flat set out within the Council's Space Standards SPD February 2012, these standards have been superseded by the new LP. Policy DM2 of the LP requires that proposals comply with The Technical Housing Standards - Nationally Described Space Standard 2015 (the Standards). The Standards require that a single storey, one bedroom dwelling has a minimum internal floor area of 37 sqm. Whilst I acknowledge that the scheme is for a studio apartment (as opposed to a one bedroom flat) and that space is not lost to internal walls and corridors, the Standards do not provide any relaxation for residential studios. There are no exceptional circumstances before me to justify a departure from these minimum standards, as required by Policy DM2.
27. The Space Standards SPD requires that small, detached dwellings (up to 3 bedrooms) have a rear garden that measures at least 85 sqm. The proposal would have a rear garden of 12 sqm, which falls significantly short of this standard. The rear garden would also be overlooked by the first floor windows of No 3 at a relatively short distance. Whilst other amenity space is proposed to the side and front of the dwelling, these areas would be more visible from the public realm and would not provide good quality, private amenity space. Although the outdoor amenity space would be greater in size than the floor area of the dwelling, the outdoor amenity space would be of a poor quality and not meet the minimum standards set out within the Space Standards SPD.
28. The Inspector for the dismissed scheme found that there would be very limited outlook for future residents. The scheme before me has sought to address this by providing a triple aspect dwelling. However, future residents would still have a limited outlook due to the constrained nature of the site. Furthermore, the living accommodation and outdoor amenity space would be small and cramped and there would be limited storage space within the dwelling. Consequently, the proposal would fail to provide acceptable living conditions for future occupants.
29. For the reasons given above, I conclude that the proposed development would fail to provide adequate living accommodation for future occupants. The proposal would be contrary to Policy DM2 of the LP. This policy amongst other matters requires that new dwellings meet as a minimum, the nationally described space standards for internal floor areas and storage space.
30. The proposal would also conflict with the Council's Space Standards SPD February 2012, which seeks to provide a satisfactory standard of external space for new dwellings. In addition, the proposal would conflict with the Framework which requires that developments provide a high standard of amenity for future users and promote well-being.
31. Policy DM5 is not applicable to this main issue, as it refers only to the impact of proposals on occupants of adjacent properties and not the living conditions of future occupants of the development.

Other Matters

32. The appellants consider that the scheme would have health and safety benefits to neighbouring residents due to the poor upkeep of the site and lack of

occupation. The condition of the site is more a matter of maintenance and could be easily remedied. There is limited evidence before me that anti-social behaviour is an issue on the site, and I therefore give this limited weight. The appellants also argue that removing the car use from the site will remove associated pollutants. However, any emissions generated from one vehicle arriving or departing the site would have a minimal impact on neighbouring occupants and I therefore give this suggested benefit very limited weight.

Planning Balance

33. At the time that this planning application was determined, the Council was unable to demonstrate a 5 year housing land supply (5YHLS). Following adoption of the new LP, the Council has confirmed that it can now demonstrate a 5YHLS. However, the Council accepts that it does not meet the Housing Delivery Test. The latest Housing Delivery Test shows that the Council delivered 35% of its housing requirement within the last recorded 3 years, which is a substantial under delivery. Consequently, the provisions of paragraph 11 d) (ii) of the Framework apply. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. Notwithstanding the shortfall in housing delivery, I accord the conflict with Policies DM1, DM2 and DM5 of the LP considerable weight, as they are recently adopted policies that are consistent with the Framework.
35. The proposed development would align with the objectives of the Framework, which seek to significantly boost housing supply and promote the effective use of land. In addition, the proposal would support the development of under-utilised land and buildings, in an area where land is constrained. The scheme would also provide housing within a location that has good accessibility to services, facilities and public transport links.
36. The provision of one new dwelling would make a small contribution towards the Council's housing land supply. It would provide one small unit of accommodation, which would be attractive to a range of households, including those on lower incomes or those who do not have access to a private motor vehicle. Environmental benefits of the proposal include tidying up of a currently run down site; making efficient use of land; refurbishment and extension of a redundant building; provision of cycle parking to support sustainable transport modes; provision of renewable energy technology; and, new planting.
37. The appellants assert that the economic benefits from the increased Council tax receipts and the New Homes Bonus are material considerations for this appeal. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that a local planning authority must have regard to a local finance consideration as far as it is material. The Planning Practice Guidance makes it clear that it is not appropriate to make a decision based on the potential for a proposal to raise money for a local authority. Accordingly, I ascribe little weight to these suggested benefits.
38. Overall, the social, economic and environmental benefits of the scheme carry limited weight in favour of the development. However, against these benefits, there would be significant harm to the character and appearance of the area

and the living conditions of neighbouring occupants, which I give significant weight. Furthermore, the proposed development would fail to provide an acceptable standard of accommodation and private outdoor amenity space for future occupants, which I afford significant weight.

39. Overall, given the harm I have identified above, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole and therefore the presumption in favour of sustainable development does not apply in this case.

Conclusion

40. For the reasons given above, having regard to the development plan as a whole, the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

A James

INSPECTOR