



Appeal Decision

Site visit made on 17 April 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Appeal Ref: APP/Z3825/W/23/3325386

Sussex House, North Street, Horsham, RH12 1RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Paul Craig (Craig Developments) against the decision of Horsham District Council.
 - The application Ref: DC/22/2313, dated 14 December 2022, was refused by notice dated 9 June 2023.
 - The application sought planning permission for construction of two ground floor flats with associated alterations including external alterations to the additional floor under prior approval application DC/20/0236 without complying with a condition attached to planning permission Ref DC/21/0207, dated 16 April 2021.
 - The condition in dispute is No. 1 which states that: The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below. Floor plan Proposed DWL C1a; Elevation plan Existing DWL 02; Location plan DWL 08; Elevation plan Proposed Entrance DWL 09; Floor plan Existing DWL 01; Floor plan Proposed DWL C1b; Section plan Proposed DWL C1S; Elevation plan Proposed Street Scene DWL C1STb; Elevation plan Proposed Street Scene DWL C1Sta; Elevation plan Proposed Elevations DWL C1.
 - The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of two ground floor flats with associated alterations including external alterations to the additional floor under prior approval application DC/20/0236 at Sussex House, North Street, Horsham, RH12 1RQ in accordance with the application Ref DC/22/2313, without compliance with conditions number 1, 2, 4, 5, 6, 7, 9, 10 and 13 previously imposed on planning permission Ref DC/21/0207 dated 16 April 2021 and subject to the conditions set out in the schedule below.

Application for costs

2. An application for costs was made by Paul Craig against Horsham District Council. That application is the subject of a separate decision.

Preliminary Matters

3. Prior approvals have previously been permitted for the change of the use of the building to flats and the erection of an additional storey. Permission has also been granted to allow for some external alterations to the building.

4. The application the subject of this appeal sought variations to the approved external appearance by amending condition 1 of DC/21/0207, which would substitute in new drawings that reflected the changes. Although not explicitly sought by the application, any approval would have necessary consequences for a number of other conditions attached to the permission. I am able to take account of these consequential changes in my decision.
5. Some of these works have already been undertaken, including alterations to the layout of the car/cycle parking area to the front and rear; additional floor having different dimensions to the existing building; front balconies built as solid metal structures; different cladding to the front windows and ground terraces; different entrance sign; brick front boundary wall; no balconies to rear and side (north facing) elevations; and glazed balconies to the south west elevation, with doors providing access to them.
6. Additional alterations sought by the applicant included the provision of works to the junction between the additional floor and the existing building; powder coated aluminium flashing and brick rainscreen projections with soldier course detail. The statement submitted in support of the proposal notes that the intention of the flashing on the north west elevation is to emulate the angled step-in detail between first and ground floors.
7. Having regard to the officer report and decision notice, it is apparent that the only point of concern for the Council was the potential impact on neighbours from the changes to the south west facing balconies. The Council has subsequently confirmed that a further application for all the amendments except the changes to the south west balconies was approved in January 2024. Accordingly, I have primarily focussed my decision on this issue of the south west facing balconies.

Main Issue

8. Therefore, the main issue is whether or not the south west balconies would harm the living conditions of neighbouring occupants, with specific regard to those on Norfolk Road.

Reasons

9. As originally proposed, the two top floor flats with windows on the south west elevation, would not have had access to the narrow ledge immediately outside those windows, other than for maintenance purposes or in an emergency. A 0.6m high screen was to be provided on the outside edge of the ledge, no doubt for safety reasons.
10. As now built, both flats have doors that provide direct access onto these outside areas. The spaces are enclosed by obscure glazing thereby providing each flat with its own balcony/external space. Each balcony is separated from the other by a glazed panel, ensuring there is no overlooking between the two flats.
11. From my site visit, it was evident that the height and obscured nature of the glazing on the outside edge of these external spaces makes it very difficult for a person of average height to easily or comfortably look over the glazing and down towards neighbouring properties. Whilst some users of the balcony might be able to see over the screens, this seems unlikely to be a regular occurrence.

12. The distance to the boundary with neighbours, particularly those in Norfolk Road, together with the planting along the boundary, are further factors which help prevent these neighbour's privacy being harmed from overlooking.
13. The external spaces are relatively narrow, making it difficult for people to sit round a table or a large number of people to congregate together, unless they stand in a line. Given the separation distances and that any noise from these areas will to some extent be blocked by the glazed panels, there is no substantive evidence to indicate that these areas would cause noise that would harm the living conditions of neighbours.
14. Therefore, whilst I don't doubt that some neighbours might be aware of people using these outside areas on occasions, I am satisfied that their living conditions would not be unduly harmed. Accordingly, the proposal would comply with Policy 33 of the Horsham District Planning Framework 2015 which, amongst other things, seeks to ensure developments avoid harm to occupiers of nearby property and land.

Other Matters

15. As noted in the Preliminary Matters section of this decision, the works already undertaken have been considered acceptable by the Council and based on the information before me and my site visit, I have no reason to come to a different conclusion.
16. Similarly, the application sought to allow for the provision of such matters as brick rainscreens and soldier course details which were intended to help tie the building's aesthetics together. Again, these details have been agreed by the Council and based on the information before me and my own observations, I see no reason to reach a different decision.
17. The information and drawings submitted with the application indicate that the exposed concrete fascia on the north west and south west elevations, between ground and first floor, is to be left unfinished or painted. On the north west, south west and north east elevations the powder coated aluminium flashing would be coloured brown or to emulate the raw concrete. The drawings indicate that the final details are to be agreed with the Council. The officer report for this proposal indicated the outcome was to paint the concrete grey and for the flashing to match. The details from the most recent permission have not been presented to me. As it appears that either option was being presented in the submission, and I cannot be sure that an alternative outcome was not agreed in the most recent approval, I have therefore imposed a condition which enables the details to be agreed as necessary.
18. Interested parties have indicated that the scheme represents overdevelopment. However, the overall quantum of development remains unchanged from that previously approved. This appeal is principally concerned with the external alterations to the building. The 'stepped' nature of the upper floor is also sighted as a concern by interested parties. However, the application proposes alterations to the external appearance which would address such matters.
19. It is not within the remit of this appeal to consider how the Council handled the planning application and its decision-making processes. That would be an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issue of the case.

Conditions

20. As I am allowing the appeal, this decision grants a new planning permission for the development.
21. However, a condition relating to its commencement is not needed since the development has already begun. Similarly, some pre-commencement conditions are no longer necessary although some require conversion to ongoing regulatory conditions, as do some pre-occupation conditions.
22. A revised condition 1 is necessary that sets out the plans which reflect the changes considered above. It is also necessary for there to be conditions which require the implementation of the changes that have been sought by the appellant. By the same token, conditions relating to the upper storey and the use of the outside area are no longer necessary.
23. A condition requiring agreement as to the exact finishes of certain parts of the scheme is also required.
24. I have had regard to the initial officer report and the conditions that were recommended, if the scheme were to have been approved by the Planning Committee. The appellant has not made any observations on them or indicated that they would not be appropriate. I have no information to indicate that all the units are occupied and therefore some pre-occupation conditions may still be relevant.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans listed below:

As Built Elevations & Site Plan (Proposed)	- SH202204-02 Rev B
Proposed Landscaping Rotated Block Plan	- 2211SU_R0_002
Proposed North West Elevation	- 2211SU_R0_100
Proposed South West Elevation	- 2211SU_R0_101
Proposed South East Elevation	- 2211SU_R0_102
Proposed North East Elevation	- 2211SU_R0_103
Section through balcony	- 2211SU_R0_300
Proposed Section through stepped transitions	- 2211SU_R0_301
Proposed Sections through stepped transitions	- 2211SU_R0_302
Proposed Bike Store	- 2211SU_R0_900
Supporting Statement	

- 2) Within 6 months of the date of this permission, full details of the following, as indicated on the approved drawings, shall be submitted to the Local Planning Authority for approval:
 - a) The angled step-in to the junction between the third and second floors of the building to the north western elevation to replicate the existing junction at first and ground floor levels;
 - b) The brick rainscreen projections with soldier courses;
 - c) The colour of the powder coated aluminium flashing; and
 - d) The treatment of the exposed areas of concrete

The details as approved shall be fully implemented within 6 months of the date of the approval of the details and thereafter retained.

- 3) Within 6 months of the date of this permission, a minimum of 2no electric vehicle charging points shall be provided on site and shall be retained as such thereafter.

- 4) Prior to the first occupation of each dwelling hereby permitted, the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of a minimum 30 megabytes per second through full fibre broadband connection shall be provided to the premises.

- 5) The beach tree protected by a TPO shall be retained during construction works, in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (or in an equivalent British Standard if replaced). The protection measures shall be implemented prior to the commencement of any works on site and be retained until all works have been completed.

- 6) The approved refuse and recycling shall be provided and retained in accordance with the approved details. The facilities shall thereafter be retained for use at all times.
- 7) The obscure glazed screens to the south west facing elevation (as shown on drawing nos: 2211SU_R0_300 & 101) shall be to a height of at least 1.65m above finished floor level and shall be retained as such thereafter.
- 8) The approved cycle store shall be provided and retained in accordance with the approved details. The provision for cycle parking shall thereafter be retained for use at all times.
- 9) The dwellings hereby permitted shall meet the optional requirement of building regulation G2 to limit the water usage of each dwelling to 110 litres per person per day. The subsequently approved water limiting measures shall thereafter be retained.
- 10) No works for the implementation of the development hereby approved shall take place outside of 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays.

END