



Appeal Decision

Hearing held on 2 July 2024

Site visit made on 2 July 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/M3835/W/23/3321896

14, 16, 18 & 20 Windsor Road, Worthing, BN11 2LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Rob Crossan (SDR Group) against the decision of Worthing Borough Council.
 - The application Ref is AWD/1472/22.
 - The development proposed is the change of use from hotel (C1) to 44 ensuite bedroom shared living accommodation with associated kitchens, dining and living spaces (sui generis). External alterations to the building and forecourt, provision of soft landscaping and amendments to doors and windows to reinstate appearance of individual properties.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above was the one which was agreed by the main parties after the submission of the planning application.
3. After the Council made its decision on the planning application, the Worthing Local Plan 2023 (WLP) was adopted. It replaces the Worthing Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003), both of which are referenced in the reason for refusal. The Hearing provided all parties with the opportunity to comment on this matter and I have taken these into account in reaching my decision.
4. Subsequent to the Hearing but before I issued my decision, the Government published a consultation on proposed reforms to the National Planning Policy Framework and other changes to the planning system. In addition, the Secretary of State made a written ministerial statement entitled "Building the homes we need". Both main parties were given an opportunity to comment on these publications and I have taken the responses into account in reaching my decision.

Main Issue

5. Having regard to the written submissions and what I heard at the Hearing, the main issue is the effect of the proposed development on the character of the area and the living conditions of adjoining and nearby occupiers in respect of increased noise, disturbance and anti-social behaviour/fear of crime.

Reasons

6. The key WLP policies in this decision are: DM1 (Housing Mix), DM2 (Density) and DM5 (Quality of the Built Environment). These policies each set out a number of criteria designed to achieve the overall policy objective. Not all of the criteria in each policy are applicable to this appeal.
7. Of particular relevance are Policies DM1(a) which seeks to deliver mixed and balanced communities based on the character and location of the individual site; DM2(c)(i) and (iv) which requires consideration of the site context, character of the surrounding area and impacts on adjoining occupiers when establishing the optimum density of development; and DM5(a)(i), (vii) and (viii) which require developments to respect the prevailing character of the area; to create safe and secure environments; and to not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings.
8. At the Hearing the Council also highlighted Policy DM1(f) but as this relates to the conversion of dwellings into smaller units of self-contained accommodation it is not directly applicable to the appeal proposal.
9. Importantly, Policy DM2 acknowledges that proposals must make the most efficient use of land, which will usually mean developing at densities above those of the surrounding area. Furthermore, Policy DM1 recognises that housing developments should provide flexible, socially inclusive and adaptable accommodation to help meet the diverse needs of the community. Notably, the Local Plan does not establish a methodology, nor does it seek to impose any numerical limits or thresholds regarding the provision of Houses in Multiple Occupation (HMO) or other similar forms of shared accommodation.

Noise and Disturbance

10. It was confirmed at the Hearing that under the Council's current standards for properties in multiple occupation, the maximum occupancy of the building would be 83 people. Both main parties suggested a condition limiting maximum occupation to less than this, were the building to be used for temporary or emergency accommodation. It was also suggested that this could be limited to allocations by Adur and Worthing Councils only. Putting aside any concerns as to how enforceable such a condition might be, I must have regard to the potential total number of occupants of the building, rather than their housing status. As such, I have considered the scheme as having a maximum occupancy of 83 people.
11. The appeal site itself comprises the grounds and buildings of the former Windsor House Hotel. Nearby properties in Windsor Road and Brighton Road are predominantly, although not exclusively, single dwellinghouses.
12. That this area contains a number of houses in multiple occupation, or properties that offer similar, shared living accommodation, does not necessarily alter the overall residential character of the area. Similarly, a hotel of the sort that existed on the appeal site, would not be totally unexpected in a location such as this one and similarly, does not unduly alter how the area would be perceived as a whole.
13. I visited the site towards the end of a weekday and in the early evening prior to the Hearing. These visits are only a snapshot, but there were differences

between Windsor Road and Brighton Road. The former was noticeably quieter and more tranquil due to the much lower volume of traffic and limited pedestrian movements. Also, by virtue of the physical characteristics of the buildings, the plot sizes, the width of the road as well as the street trees and boundary planting, Windsor Road had a more spacious and suburban character than that of Brighton Road.

14. Given the type of accommodation proposed, future residents are likely to lead lives which are largely independent from one another. Whilst the scheme does not prevent couples occupying rooms, overall, there are likely to be fewer linked trips than with the previous hotel use. Furthermore, as this will be somewhere that people will be living, they will generate needs which are different from when people are on holiday. Residents are likely to have their own, separate routines with attendant levels of comings and goings, as well as deliveries and visitors at different times of the day and evening. It seems to me that these movements are therefore likely to exceed the movements typically associated with the daily comings and goings from a 30-room hotel.
15. A concentration of up to 83 people living at the site and using it as their home may also mean that the site would act as something of a focal point for some residents and their guests. People choosing to congregate in and around the building or Windsor Road itself would be likely to add to the level of movement and noise in and around the site.
16. Furthermore, residents of the building are unlikely to always want to spend all their time in their bedrooms. Similarly, they will not always wish to have social interactions in their bedrooms, especially if they are sharing it with an unrelated resident. Given the potential number of households within the one building, the lounge spaces are unlikely to fully accommodate the different needs of the residents for social interaction. In my view this is all likely to increase the attractiveness and thus use of the external areas.
17. Given the number of people potentially wishing to make use of the outside spaces there could reasonably be expected to be significant numbers of comings and goings with associated levels of noise and disturbance arising from these areas. Their use is also likely to be markedly different from the hotel use. I don't doubt that hotel guests and those attending functions made use of the gardens, but this would have been more likely during periods of good weather. Hotel functions could add specific spikes of activity but were unlikely to generate consistent use of the rear space as is likely to be the case with the proposed scheme.
18. The beach is close by and whilst some occupants might value this facility, it will not necessarily be attractive to all residents all year round. If residents are only wanting to be outside to, for example, have a cigarette or conversation, the rear garden area or Windsor Road itself are a more likely and convenient location than the beach.
19. I recognise that the previous use of this property was a hotel. As it has been shown to have been uneconomical and no other operators were prepared to take the site on, it seems that in reality the level of occupation/use and its impact on its surroundings would not have been high. However, I acknowledge that there was nothing to have prevented it from being fully occupied all year round, or its rooms from being occupied by more than one person. It was also licenced for functions until 1am.

20. Nonetheless, hotel guests generally tend to check in during the day and depart in the morning. During their stays they are usually away from the site for large parts of the day, mainly returning for evening meals or to sleep. The bar would have been governed by licencing laws. Furthermore, guests would have very different needs from households living on site. For example, they would not generally be having deliveries or friends come to visit or generate the same needs or use of the outside spaces. As such, the numbers on site were likely to be more stable and limited to the number of people the hotel could accommodate.
21. The profile of how the site would have been used as a hotel would therefore have been very different from that now proposed. Given the proposed concentration of people on the site and the way in which the building and its grounds would be likely to be used, the proposal would represent a significant increase in activity, noise and disturbance that would contrast markedly with the prevailing character of Windsor Road. The overall result would be harm to the residential character of the road.
22. Previously the hotel did not appear to use the access along the northern side of the building. From my site visit, it appeared to be a fire exit rather than an access that was in constant use. The proposal would see this used as a primary access to 12 bedrooms and so could be used by up to 24 residents, plus any visitors. In addition, it would provide access to the cycle parking for the site as well as one of the main pedestrian routes to and from the rear garden area. In my opinion this would give rise to additional activity, comings and goings along the site's northern boundary which would represent a significant increase in the noise and disturbance which the adjoining neighbour at No.22 Windsor Road would be likely to experience.
23. Given their proximity to the site, adjoining neighbours and those in nearby properties, would be particularly susceptible to the uplift in noise and disturbance that would arise from residents' use of the outside spaces, especially when using their own gardens. In addition, the neighbours on Windsor Road adjacent or near the site would also be most affected by the increase in noise and disturbance from the activity around and immediately outside the building and its curtilage. It would be difficult for these residents to take measures that would enable them to avoid or mitigate what are likely to be consistent and long lasting intrusions into their living conditions.
24. I acknowledge that the use of the fire escapes and external staircases could be conditioned to be used for maintenance and emergency evacuations rather than as amenity spaces. However, this would not overcome the noise and disturbance likely to be experienced by the occupiers of the adjoining and nearby properties from the concentration of people on the site.
25. Therefore, based on the evidence before me and my own observations on site, the noise and disturbance would be significant to adjoining and near neighbours and in particular to the occupier of No. 22 Windsor Road. The increase in activity and the noise and disturbance that would arise from the proposal would result in an adverse impact on these residents' living conditions.
26. I do not doubt that the appellant is a responsible operator who is prepared to work with the local community, the police and other stakeholders etc. I note that there is provision within the building for staff, who could be on site 24

hours a day, 7 days a week. They would be supported by facilities such as CCTV. A Management Plan could also be agreed with the Council and could be an evolving document allowing the operator to adjust their approach as necessary over time and thus maintain a proactive approach towards engagement with its own residents.

27. However, it is unclear how for instance it would be possible to control the comings and goings of residents or their visitors. It may be possible to exert some control over the times of the day when for example residents could make use of the amenity spaces; or control the use of facilities such as the bike store. However, I am also mindful that any measures, if incorporated into a Management Plan, would not extend beyond the confines of the site. Indeed, on-site restrictions may simply direct residents to congregate on Windsor Road and around the site, resulting in further harm to the area and neighbouring residents.
28. I am conscious that the Council's Environmental Health Teams have considered the proposal from the perspectives of public health and private sector housing and raised no objections. However, this does not prevent me from reaching a wider planning judgement on the proposal.
29. Overall, I find that the appeal scheme would represent an intensive use of the site. The nature of the use and the level of occupancy proposed would result in noise and disturbance that would be harmful to the character of the area and the living conditions of adjacent and nearby occupiers.
30. The proposal is therefore contrary to Policies DM1, DM2 and DM5 of the WLP insofar as these policies require that new development respects the character and location of the site, the character of the surrounding area and does not have an unacceptable impact on the occupiers of adjacent properties.
31. In this respect the proposal would also be contrary to the National Planning Policy Framework (the Framework), which seeks to ensure that developments are sympathetic to local character and that developments create places with a high standard of amenity for existing users.
32. I have also been referred to the Council's Supplementary Planning Document: Guide to Residential Development 2013 (SPD), and in particular Policy 16 and paragraphs 3.1, 3.3 and 3.11. This policy is largely concerned with design and physical works and how these relate to the wider built environment. These aspects of the proposal were not a contentious issue in this appeal. I am satisfied that the appeal proposal is not contrary to these aspects of the SPD. However, this does not alter my overall conclusions.

Anti-social behaviour/fear of crime

33. Concerns were expressed that aside from noise and disturbance, future acts of anti-social behaviour could arise in the area as a result of the proposal. It was also evident from the Hearing that a fear of crime is a concern locally. It seemed to me that all these apprehensions rested not wholly on an extrapolation of past events in the area. There were assumptions as to the characteristics of possible future occupiers if the building were used as temporary or emergency accommodation. However, I am mindful that this is not a proposal for supported accommodation and there is no substantive

evidence that it would be occupied by vulnerable people requiring a high level of support.

34. Concerns regarding such acts of anti-social behaviour and a fear of crime can be material considerations but, in planning terms, the focus has to be the use of the land. Furthermore, there must be some reasonable evidential basis. Submissions linked solely to the characteristics of future occupiers would not justify a refusal of permission.
35. I have considered the information submitted by the appellant, which included the CrimeRate Insights Report (February 2024) and data from the Sussex Police Website. These do not indicate the Seldon ward or the area around the site to be a high crime area. Although it was suggested at the Hearing by interested parties that recorded figures were not an accurate representation of the situation, there is no other data before me.
36. It was also suggested at the Hearing that the recent drop in some crime figures for the area has coincided with the closure for refurbishment of the Wolsey Hotel. This is located at 179-181 Brighton Road and provides accommodation for up to 19 people. Whilst I cannot rule this out, it is not something which is proven within the evidence.
37. The Police did raise some concerns regarding the recent proposal for No.6 Windsor Road and its use as a house in multiple occupation for 14 people. However, there was not an objection to that proposal from the Police. Similarly, in commenting upon the appeal scheme, the Police highlighted that historically developments of multiple occupancy have given rise to instances of anti-social behaviour but there was not a specific objection to the scheme.
38. Whilst the experience and concerns of local residents presented in this appeal are undoubtedly real, there is no undisputed data to indicate the area has a high crime rate compared to other parts of the borough or that the Police have assessed the overall likelihood of crime risk from this proposed development to be high. As such, there is not a sufficiently robust evidential basis before me to conclude that the concerns raised are sustainable within this planning context.
39. Accordingly, I do not find the proposal contrary to Policy DM5 of the WLP insofar as it seeks to ensure that safe and secure environments are created. In this regard the proposal would also comply with the Framework objective of ensuring crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters

40. Although the Council has recently adopted its Local Plan, the Housing Delivery Test results published in January 2022, indicated that the Council's spatial strategy is not achieving the level of housing growth expected by national policy. There is a demand in the area for various forms of housing, including for single person households and the scheme would deliver housing that would help meet the diverse needs of the community. The Council is also failing in its wider duties to provide sufficient levels of temporary or emergency accommodation within its boundaries.
41. The proposal would bring a vacant building into residential use without the loss of any existing residential accommodation. This accords with the thrust of national policy and the recent written ministerial statement which encourage

the prioritisation of brownfield land in the delivery of new housing. Similarly, increased densities are specifically supported by local policy and the written ministerial statement. This all weighs in favour of the scheme.

42. The physical works would tidy up the site which is now unoccupied and would see parts of the building refurbished. Separate entrances would in some small way give the impression of there being separate dwellings. Whilst I do not find the existing appearance of the building to be particularly harmful, the removal of much of the hardstanding to the front forecourt and introduction of landscaping would represent an overall improvement that can be given some small amount of positive weight.
43. I have been presented with different approaches towards assessing whether the proposed use would represent an over-concentration of HMOs and similar accommodation in the area. The evidence presented has provided useful background to the immediate area as well as this part of Worthing more generally. However, there is no national approach to such matters nor has the Local Plan put in place any methodology to determine what might be a suitable balance of uses for the area. Accordingly, it is not possible for me to reach a definitive position on this matter. I have therefore considered the scheme on its own merits and having regard to the development plan policies.

Planning Balance

44. Given the Council's Housing Delivery Test results, Paragraph 11(d)(ii) of the Framework is engaged.
45. The Framework's policies seek to boost the supply of housing from a variety of sites, and the reuse of previously developed land within existing towns is encouraged. The scheme would deliver accommodation for up to 83 people. This all represents an important benefit in an area that has an under provision of housing.
46. There would be some short-term economic benefits whilst the building was being converted, as well as some longer-term economic benefits once occupied. The provision of housing for single person households would have social benefits and there would also be some benefit from the external works, principally the reduction in hardstanding and provision of landscaping.
47. While I have not found harm in terms of the effect of the proposal on anti-social behaviour and the fear of crime, I have found harm in respect of the character of the area and the living conditions of the neighbouring occupiers as a result of the noise and disturbance likely to arise. These harms in this instance are likely to be significant and long lasting. The need to protect the character of an area and the living conditions of its residents is in direct compliance with the Framework.
48. Furthermore, the provision of new housing should not be at the expense of these matters as otherwise it risks undermining the Framework's objectives at Paragraphs 131 and 135 of achieving high quality places that function well and add to the overall quality of the area; create a high standard of amenity for existing users; as well as producing welcoming and distinctive places to live, work and visit.
49. Overall, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably

outweigh the benefits. The scheme would not therefore be sustainable development.

Conclusion

50. Whilst there would be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.

51. I therefore conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Isabella Tafur	Barrister, FTB
Matt Brewer	Director, Urbanspace Planning Ltd
Rupert Corney	Chief Executive, SDR Group
Rob Crossan	Director, SDR Group

FOR THE LOCAL PLANNING AUTHORITY:

James Appleton	Head of Planning, Adur & Worthing Councils
Louise Prew	Principal Planning Officer, Adur & Worthing Councils
Kevin Jenkins	Councillor, Adur & Worthing Councils
Rosey Whorlow	Councillor, Adur & Worthing Councils

INTERESTED PERSONS:

K Anderson	Local Resident
S Barker	Local Resident
K Hill	Local Resident
P Joyce	Local Resident
F MacDonald	Local Resident
H Mann	Local Resident
L Pierce	Local Resident
G White	Local Resident
J Wood	Local Resident
P Wood	Local Resident

T Laughton	Speaker on behalf of local residents
P Marchant	Fishermen Society
K Walker	Councillor, Adur & Worthing Councils

T Favier	Director for Housing, Adur & Worthing Councils
A Eremie	Head of Housing, Adur & Worthing Councils

P Holden	Worthing Journal
----------	------------------

Other local residents asked procedural/administrative questions about the Hearing process.