



Appeal Decision

Site visit made on 13 June 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/M3835/W/24/3338557

Wenban Smith Limited, 14 Newland Road, Worthing, West Sussex BN11 1JT

- 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 Mr Matt Kemp-Potter (Wenban Smith Limited) against the decision of Worthing Borough Council.
 - The application Ref is AWDM/0232/23.
 - The development proposed is described as: "Proposed new second floor / side extension to form 4 self-contained flats at first / second floor levels and office area at rear of first floor level. Ground floor showroom is to remain."
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Decision

1. The appeal is allowed and planning permission is granted for a proposed new second floor / side extension to form 4 self-contained flats at first / second floor levels and office area at rear of first floor level. Ground floor showroom is to remain, at Wenban Smith Limited, 14 Newland Road, Worthing, West Sussex BN11 1JT in accordance with the terms of the application, Ref AWDM/0232/23, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are in draft and therefore may be subject to change before the final document is published. I have sought comments from the parties as to whether these proposed reforms have any relevance to the appeal, and I have taken the comments received into account in my consideration of the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host building and the surrounding area.

Reasons

4. The appeal site (No. 14) comprises a two storey building adjacent Newland Road, used as a shop/showroom on the ground floor with a machine/storeroom and office areas on the first floor. It forms part of a wider timber merchant yard and is near to Worthing town centre. The public vehicular entrance to this premises is immediately to the side of No. 14. On its other side, No. 14 adjoins a row of two-storey Victorian terraced dwellings which have entrance steps

above partially exposed basements, and there are also two storey terraced dwellings opposite.

5. The existing flat roof of No. 14 clearly projects above the eaves level and front roof slope of the adjoining terrace. It is of utilitarian appearance, with no window openings at first floor level. It therefore does not relate well to the adjoining and surrounding buildings, and does not contribute positively to the character of the surrounding area.
6. The streetscene also contains some commercial buildings. Of note is a two-and-a-half storey ornate public house building (The Toad in the Hole) on the opposite side of Newland Road, and a modern contemporary building known as Norfolk House, which has a long frontage with Newland Road and a distinct sloping monopitch roof at its highest point. It contains a gym and retail premises with flats above, and ranges in height from three storey (alongside No. 14) to seven storey facing the roundabout with the A24. Both these buildings are taller than No. 14 and frame the approach to it at either side from the A24. Although the other approach from along Newland Road is of traditional two storey character, it can nonetheless be viewed within the context of the taller and modern form of Norfolk House immediately beyond.
7. The scheme would provide an additional storey of built form and residential fenestration to the existing blank façade below it. The additional front elevation height would be recessed through the provision of continuous front balconies. Although the building's flat roof form would project beyond the adjoining terrace's traditional roof slope, it would be lower than its ridgeline and also lower than the nearest section of Norfolk House. The second-floor height and fenestration would also be lower than both floors below, which would avoid a top-heavy appearance to the overall building.
8. Views of the proposal from the top of the A24 bridge above the railway line are blocked by the large supermarket building. This route is identified by the Council as a key entrance to the town. However, views of the proposal would only emerge around the corner of this building and even within this more intimate context, it would sit well within lower ground amongst the existing taller buildings at either side.
9. The proposed design is contemporary, including in terms of its external materials, and does not take any references from the surrounding terraces. I noted that whilst the terraces share many similar fenestration designs, they have a significant mixture of external material types and colours. This variation, along with the modern and imposing design of Norfolk House, lends support to the proposed external materials palette, and the precise specification can be secured by means of planning condition.
10. I see no need for the proposal to take its cues from the older and traditional building designs along Newland Road, as there are also larger and more modern buildings in its immediate vicinity. The Council has criticised some other details of the proposed design, including the "chunky" oversailing roof soffit/fascia and the "heavy framing" of the balcony screens. However, I noted that Norfolk House has similar design features and is of greater scale and prominence than the appeal proposal.
11. Based on my above observations, I have found that the design, height and bulk of the appeal proposal integrates well within an area of transitional character

and scale. The scheme remodels an existing building that does not positively contribute to the character of the area and in this context, it would provide a modest level of improvement to the character of the appeal building, and would not harm the surrounding area.

12. For the above reasons, the appeal proposal therefore complies with Policies DM2 and DM5 of the Worthing Local Plan (2023) which require, amongst other things, development to achieve high quality design that respects and enhances the character of the site and the prevailing character of the area. The proposal also satisfies the guidance in the Council's Guide for Residential Development Supplementary Planning Document 2013 (SPD), insofar as it seeks good quality architectural design that takes account of local characteristics. This SPD also advises that where appropriate, innovative and contemporary design solutions will be encouraged.

Other Matters

13. Although not forming a reason for refusal, the officer report raises concerns regarding the proposed kitchen areas within the living rooms receiving no natural light, and the provision of balconies that would not receive any direct sunlight. The kitchen areas are designed to be integral with the larger living areas, which is not an uncommon layout design for flats in urban locations. Although the orientation of the balconies to the northwest would restrict the amount of sunlight received, in my judgement the appeal accommodation would nonetheless be provided with an adequate level of natural light, and would receive summertime sunlight in the evening and early morning periods.
14. The officer report also raises concern as to whether the juxtaposition of residential and commercial uses in close proximity is compatible, and that this could lead to future conflict affecting the viability of the business. However, the appeal proposal is supported by a professional acoustic report and adequate acoustic measures for its future residents can be secured by appropriately worded planning conditions. Any future proposed development within or around the appeal site can be assessed on its individual planning merits, irrespective of this appeal decision, which I have also considered on its own merits and having regard to the evidence put before me.

Conditions

15. The Council has suggested 11 conditions in the event that the appeal is allowed. I have considered these against the tests in the Framework and Planning Practice Guidance, and have amended their wording, where necessary, in the interests of clarity, consistency, precision and enforceability. I agree that a condition specifying time limits for the development (condition 1) is necessary in the interests of planning certainty and for this same reason, I have added a condition listing all the approved plans (condition 2).
16. I agree that a pre-commencement condition requiring agreement of external materials (condition 3) is necessary, in the interests of the character of the area. The appellant has agreed in writing to this condition in its final comments on the appeal. Condition 4 is necessary to provide and encourage sustainable modes of transport. I have added a retention clause to this condition, to secure its requirements. The suggested hours of construction (condition 5) are necessary to protect living conditions of residents.

17. Conditions 6 and 7 are necessary to provide adequate acoustic measures for future residents. These conditions also require tests to be undertaken to demonstrate that the attenuation measures are effective and protect the residential unit from noise. I have therefore added a further requirement to both these conditions to ensure that the results of these tests are submitted to and approved in writing by the local planning authority prior to first occupation. I have replaced the word "have" in Condition 7 with "has", as it requires submission of a singular scheme. Condition 8 is necessary to safeguard the living conditions of neighbouring properties and residents of the development.
18. I have incorporated the Council's suggested condition governing the protection of neighbouring premises from dust into an overall Construction Management Plan condition (condition 9). I consider this, along with conditions 10-11, to be necessary in the interests of living conditions and sustainability. I have amended the wording of condition 10 to explicitly state that it requires details to be submitted to and approved in writing by the local planning authority. I have also added the approved site plan drawing number and a retention clause, to secure its requirements. I have replaced the Council's suggested reference to "LPA" in condition 11 with "Local Planning Authority", in the interests of clarity.

Conclusion

19. I have found that the appeal proposal would not harm the character and appearance of the host building and the surrounding area. The appellant considers that the proposed draft reforms to the Framework would further support the appeal proposal, given the increased emphasis to housebuilding and the use of brownfield land. The Council has not provided any comments on these proposed draft reforms but as they are still out to consultation, I only afford them limited weight. The proposal would nonetheless make a positive contribution to housing supply within the existing built-up area, and in a manner which is in accordance with the development plan as a whole.
20. For the reasons given above the appeal should be allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1072023 / 01 Rev. A; 1072023 / 02 Rev. A; 1072023 / 03.
- 3) No development shall be carried out unless and until a schedule and samples of materials and finishes to be used for the external walls (including windows and doors) and roofs and balconies of the proposed development has been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved schedule.
- 4) No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The agreed scheme shall thereafter be retained.
- 5) No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08.00 and 18.00 on Monday to Friday and between 08.00 and 13.00 hrs on Saturday. No works shall take place on Sundays or on Bank or Public Holidays.
- 6) The development hereby approved shall not be occupied until the ventilation and overheating system has been implemented in accordance with the 'Acoustic report' dated April 2023. The noise level of any ventilation units when in use should not exceed the levels specified in BS8233:2014 and all duct work should be fitted on anti-vibration mounts. Following approval and completion of the scheme, a test shall be undertaken to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential unit from noise. The results of this test shall be submitted to and approved in writing by the local planning authority prior to first occupation.
- 7) The development hereby approved shall not be occupied until the scheme for protecting the residential units above the commercial unit has been implemented in accordance with the 'Acoustic report' dated April 2023. The scheme shall achieve a minimum airborne sound insulation value of 50dB (DnTw + Ctr dB) for all floors. Following implementation of the scheme, a test shall be undertaken to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential unit from noise. The results of this test shall be submitted to and approved in writing by the local planning authority prior to first occupation.
- 8) Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
 - a) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the Local Planning Authority.

9) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Management Plan shall be adhered to throughout the construction period. The Plan shall provide for:-

a) the anticipated number, frequency and types of vehicles used during construction;

b) the method of access and routing of vehicles during construction;

c) HGV construction traffic routings shall be designed to minimise journey distance through the Councils Air Quality Management Areas (AQMA's);

d) the parking of vehicles by site operatives and visitors;

e) the loading and unloading of plant, materials and waste;

f) the storage of plant and materials used in construction of the development;

g) the erection and maintenance of security hoarding;

h) a commitment to no burning on site;

i) the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);

j) methods to control dust from the site towards existing neighbouring premises;

k) a commitment to following BS5228:Code of Practice for noise and vibration control on construction and open sites; and

l) details of public and neighbour engagement both prior to and during construction works.

10) No new dwelling shall be first occupied until provision for the storage of refuse and re-cycling has been made in accordance with details of the design, construction and appearance of the provision shown on the approved site plan (1072023 / 03), plus details of provision to serve the existing building, to be submitted to and approved in writing by the local planning authority. The agreed scheme shall thereafter be retained.

11) Development shall not commence unless and until details of proposed climate change mitigation and adaptation have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied unless and until the agreed climate change mitigation and adaptation measures have been implemented and shall thereafter be retained.