



Appeal Decision

Site visit made on 23 September 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th October 2024

Appeal Ref: APP/C3810/W/24/3346379

Antonia Court, Terminus Road, Littlehampton, West Sussex BN17 5BS

- 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 F Morelli, N Morelli and C Casey against the decision of Arun District Council.
 - The application Ref is LU/305/23/PL.
 - The development proposed is the erection of an upward extension to the existing three storey residential building to provide two additional floors comprising 8 No flats along with associated external alterations to the existing building.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of an upward extension to the existing three storey residential building to provide two additional floors comprising 8 No flats along with associated external alterations to the existing building at Antonia Court, Terminus Road, Littlehampton, West Sussex BN17 5BS, in accordance with the terms of the application Ref LU/305/23/PL and the plans submitted with it subject to the conditions set out in Annex A.

Preliminary Matters

2. For clarity and certainty, I have used the description of development given on the Council's Decision Notice. This reflects the changes to the proposal following the submission of revised plans during the course of the application and is therefore, not subject to the Wheatcroft principles¹. Accordingly, the appeal can be determined on the basis of the revised plans as submitted to the Council and upon which it based its decision, which have also been subject to public consultation.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. However, on 30 July 2024 the new Government published a consultation on proposed reforms to the Framework and other changes to the planning system.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment (JPL, 1982, P37)

4. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to Paragraph numbers are to this version.

Main Issue

5. The main issue in this appeal is the effect of the proposal on the Littlehampton River Road Conservation Area (CA).

Reasons

6. Antonia Court is located close to Littlehampton rail station, an area where the principal of development is accepted. The host dwelling looks onto Terminus Road and is a brick and tile, three-storey building that has a mansard style roof above with parking to the rear.
7. The surrounding area is typified by a variety of built form including multi-storey buildings on the southern side of Terminus Road as they lead towards Littlehampton town centre. For example, the contemporary style buildings adjacent to the host dwelling on Old Market Lane. Other multi-storey apartment buildings can be seen on the other side of the highway.
8. To the south of the host dwelling River Road forms part of the CA, which includes several listed buildings. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) provides, at section 72(1), that with respect to any buildings or other land, in a CA, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area. The development would be adjacent to the CA and therefore, the contribution of the proposal to the setting of the CA is a material consideration.
9. The CA along River Road is typified by substantial residential dwellings including Nos 1, 4, 5, 7, 8, 10 and 12 River Road. The houses have significance related to previous dignitaries who may have lived there as part of historical seafaring and other marine type associations. The high-quality architecture of the buildings is synonymous with the status of the previous occupiers. Indeed, the dwellings are representative of a period of time when its affluent owners would have aspired to live in close proximity to the sea.
10. The Council has concerns that the bulk and height of the proposed development would be overly prominent and overbearing on the setting of the CA and that it would be out of keeping with the prevailing pattern of development. I find to the contrary. There is no doubt that the proposal would be seen in the wider views, for example from Surrey Street and High Street. However, the distance from the appeal site would be sufficient to minimise the visual change to the host dwelling from these vantage points. Moreover, the presence of existing multi-storey buildings in this town centre location would mean that the proposal would not dominate the skyline or appear as an alien addition.

11. Furthermore, while mindful of the setting of the CA, my attention has been drawn to the Arun Design Guide, which says that development should continue the rhythm of the street. Notwithstanding the additional fenestration, the shape and curve of the upward development would represent a mostly seamless link to the built form on Old Market Lane in this specific section of Terminus Road.
12. Indeed, the extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. In this location, while the dwellings on River Road can be appreciated directly from the highway to the front, over the last 200 years the setting of the CA has changed to such an extent that, in addition to the more contemporary dwellings nearby, the properties on River Road no longer benefit from a direct sea view.
13. Nonetheless, I acknowledge that Nos 10 and 12 River Road back onto the appeal site and that the proposed upward extension would be seen between the dwellings and from some of the garden spaces on River Road, including No 18. Glimpses of the proposed development would be relatively limited and softened by existing vegetation. Nevertheless the proposal would be of a greater mass than the existing dwelling and hence would have a negative effect on the CA.
14. Overall, given my findings above, I conclude that the proposal would cause less than substantial harm, albeit at the lower end, to the setting of the CA and its significance as a designated asset.
15. Therefore, the proposal would be contrary to Policies D DM1 and HER DM3 of the Arun Local Plan 2011-2031 (2018), which say, amongst other things, that new buildings and structures in the CA should acknowledge the character of their special environment, and the Framework when read as a whole.

Heritage and Planning Balance

16. Paragraph 205 of the Framework states that great weight should be given to an asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial. In accordance with Paragraph 207 of the Framework, I am required to assess the extent of such harm. I have found that the harm would be 'less than substantial', albeit on the lower end. The courts have also confirmed that less than substantial harm does not equate to a less than substantial planning objection, and this is supported by the national Planning Policy Guidance (PPG) which requires that whether a proposal causes substantial harm will be a judgement for the decisionmaker, having regard to the circumstances of the case. As such, Paragraph 208 of the Framework requires this harm to be balanced against the public benefits arising from the proposal. In addition, as the Council cannot demonstrate a 5 Year Housing Land Supply (HLS), the 'tilted balance' under Paragraph 11(d)(ii) of the Framework is also engaged.
17. The proposal would provide 8 new homes on an existing site, thereby contributing to the Council's HLS shortfall. The dwellings are likely to be delivered in a relatively short period of time to nationally prescribed space standards. As such, I afford substantial weight to the social and economic benefits of the provision of the dwellings and the short-term economic benefits associated with their construction.

18. Additional economic and social benefits would weigh in the balance through the patronage of local services and employment by local and town centre businesses of the occupiers of the new dwellings. I afford these benefits moderate weight.
19. The development would be in a sustainable location next to a mainline rail station near to Littlehampton town centre. As this would be likely to reduce the need for car travel by the new residents of Antonia Court, I give this benefit some moderate weight.
20. There would be biodiversity gains such as bird and bat boxes, a log pile, wildflower planting, gravel trays and a green roof associated with the proposed development. I attribute these environmental gains some moderate weight.
21. Drawing these benefits together, in accordance with the balancing exercise contained in Paragraph 208 of the Framework, I conclude that the public benefits of the scheme outweigh the 'less than substantial harm', albeit at the lower end, to the setting of the CA.

Other Matters

22. I acknowledge representations from Littlehampton Town Council and other interested parties in respect of the proposal. In addition to the main issues, concerns included the provision of parking, waste management and lifts, the quality of the existing and proposed construction of Antonia Court, disruption during construction, overlooking and sunlight, as well as the potential for noise and disturbance associated with the new dwellings. However, given my findings above, including consideration of the submitted technical evidence, and the suggested conditions provided by the Council, I have found no justification to dismiss the appeal, or the benefits associated with the provision of 8 new dwellings.

Conditions

23. I have considered the Council's suggested conditions against Paragraph 56 of the Framework and the PPG and imposed the following conditions. For certainty a standard time limit condition and a condition requiring that the development is carried out in accordance with the approved plans.
24. There is a condition for the external materials and finishes to external walls and roofs of the proposed extension. This is imposed in the interests of the character and appearance of the area.
25. The fenestration of the winter garden at the 3rd floor level of the proposal is conditioned to protect the amenity of Terminus Road.
26. To protect priority species and habitats, conditions are needed for the biodiversity enhancement programme.
27. A construction management plan condition is imposed to protect the amenity of residents during construction. For similar reasons related to general amenity, a condition for waste management and recycling has been imposed.
28. To encourage sustainable transport, I have imposed a condition for cycle parking spaces.

- 29.Paragraph 56 of the Framework and the PPG state that conditions should not be imposed if it fails to meet one of the 'six tests'. In this case, I have no substantiated evidence before me to conclude that the restrictions to parking suggested by West Sussex Highways department would be enforceable or monitored. Moreover, the occupation of the scheme and individual need for parking allocation will change over time. As such, as I am persuaded that there is street parking capacity nearby, it would not be reasonable or desirable to fix parking provision associated with the overall scheme in this way. Therefore, no condition in this respect has been imposed.
- 30.Fire safety is a matter for other primary legislation, Building Regulations, which enforce a set of legally required precautionary measures with the aim of protecting life, including fire safety matters within and around buildings. Therefore, it has not been necessary for me to impose a condition in this respect as it would duplicate other legislative requirements.

Conclusions

- 31.For the reasons given above, the appeal should succeed subject to the conditions set out in Annex A.

J E Jolly

INSPECTOR

Annex A: Conditions:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Location Plan PL01, dated 31 October 2023
 - Proposed Site Plan PL07, dated 31 October 2023
 - Proposed 3rd Floor Plan PL10, dated 31 October 2023
 - Proposed 4th Floor Plan PL11, dated 31 October 2023
 - Proposed Roof Plan PL12, dated 31 October 2023
 - Proposed Elevations PL13, dated 31 October 2023
 - Proposed Elevations PL14, dated 31 October 2023
- 3) No development other than structural improvements to the existing building shall take place until a detailed colour schedule of materials and finishes to be used for external walls (and roofs) of the proposed extension have been submitted to and approved in writing by the Local Planning Authority and the materials so approved shall be used in the construction of the extension.
- 4) The winter garden hereby approved located to the 3rd floor western elevation, shall be at all times obscured up to 1.5m above the finished floor level of the winter garden and be non-opening below this point. The obscured glazing/material and non-opening requirements are required to the western elevation only, the southern and northern returns remain unrestricted.
- 5) Prior to occupation of the dwellings a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Impact Assessment - Version 2 (EMP), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - No less than 2 bat boxes,
 - A sparrow terrace,
 - No less than 2 swift bricks,
 - A biodiversity green/brown roof to include log piles, native species wildflower mixes and gravel trays.
- 6) The biodiversity green/brown roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used by people in the case of essential maintenance or repair or escape in case of emergency.

- 7) No development shall take place until a Construction and Environmental Management Plan and accompanying site setup plan has been submitted to and approved in writing by the Local Planning Authority who shall consult with National Highways, WSCC Highways, the council's environmental health officer and ecologist as appropriate. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval:
- a) An indicative programme for carrying out of the works
 - b) Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s), to be in accordance with BS5228:2009
 - c) The parking of vehicles of site operatives and visitors
 - d) Loading and unloading of plant and materials, including permitted times for deliveries
 - e) Storage of plant and materials used in constructing the development
 - f) Details of any special requirements and traffic management that might be required to minimise disruption on the local road network and to safeguard highway users and existing occupiers of Antonia Court and adjacent buildings and businesses.
 - g) Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided.
 - h) A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties.
 - i) No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no work on Sunday or Bank/Public Holidays.
- 8) 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 in writing by the Local Planning Authority. The spaces so provided shall be retained in perpetuity.
- 9) The development shall not be occupied until details for the storage of waste and recycling on the site have been submitted to and approved in writing by the Local Planning Authority.

*****End of Conditions*****