



Appeal Decision

Site visit made on 3 October 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/C3810/W/23/3334787

30 Devonshire Road, Bognor Regis, West Sussex PO21 2SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval of details required by a condition of a planning permission.
 - The appeal is made by Mr Henry Stamp against the decision of Arun District Council.
 - The application Ref BR/71/23/RES sought approval of details pursuant to condition No.1 of an outline planning permission BR/283/19/OUT.
 - The application was refused by notice dated 8 June 2023.
 - The development proposed outline planning permission for erection of a small dwelling following demolition of garaging and workshop.
 - The details for which approval is sought are: layout, scale, appearance, access and landscaping.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely layout, scale, appearance, access and landscaping details submitted in pursuance of condition No.1 attached to planning permission Ref BR/283/19/OUT dated 26 March 2020, subject to the conditions set out in the schedule below.

Preliminary Matters

2. On 26 March 2020 the Council granted outline planning permission for the erection of a new dwelling, following the demolition of garaging and workshop. Condition 1 of that planning permission required that details were subsequently submitted for matters of layout, scale, appearance, access and landscaping. The appellant made an application to the Council for approval of those reserved matters in March 2023, and the refusal of that application is the subject of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of 30 Devonshire Road.

Reasons

4. Policy DDM1 of the Arun Local Plan 2018 (the ALP) requires, among other things, a minimal impact to users and occupiers of nearby property and land, for example by avoiding significant loss of outlook. Policy DDM4 requires that extensions do not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties.
5. No.30 Devonshire Road is a detached property set within a residential area. It has been subdivided into two self contained residential units, known as no.30

on the ground floor and no.30A on the first floor. I observed that each flat occupies the entirety of those floors and as a consequence they benefit from windows in multiple elevations. The rear garden to the northern side of the property has also been subdivided, giving a small area of grass and planting space to each flat, and which adjoins the verdant gardens of neighbouring properties beyond.

6. The proposal would entail the removal of the single storey garage and workshop structures to the north western side of the existing building, and its replacement with a two bedroom dwelling set across two floors with pitched roofs above. The footprint of the development would broadly follow that of the existing garage and workshop, being attached to the existing building and projecting significantly beyond its rear elevation.
7. On the ground floor level, no.30 has north facing windows in the rear elevation. These are large openings, extending across much of the width of the rooms they serve and they include doors which provide access into the garden. The window closest to the proposed development serves a living/ dining room, which is also served by a large window in the front of the property which gives open outlook over the front garden and is south facing. The proposal would introduce a substantial flank wall, very close to the rear facing living/ dining room window. The proposed development would breach a 45 degree line taken from that window as set out in the Council's Design Guide 2021 and as a result it would be prominent in the outlook from that window and could give rise to dark and oppressive conditions at the back of that room. However, as this room is dual aspect, and given the characteristics of the other front facing window, the effects on the room overall would be acceptable.
8. No.30 also has a kitchen window and door in the rear elevation positioned further from the proposed development. While this is the only window serving that kitchen, given its distance from the appeal site and north-facing orientation, the effects on its outlook and natural lighting would be acceptable. In combination these factors would result in the effects on no.30 on the ground floor being acceptable.
9. No.30A on the first floor similarly has a living/ dining room closest to the proposed development. This room similarly benefits from windows to the front and rear of the property which provide outlook and natural lighting to the room. The proximity of the proposed flank wall to the rear window would be very likely to breach a 45 degree line taken from the centre of that window, as described in the Council's Design Guide 2021. It would partially enclose the rear facing window and may reduce natural lighting to some extent. However, as that room would retain its front facing window, which receives uninterrupted outlook, sunlight and daylight, the conditions experienced in that room overall would remain acceptable.
10. No.30A otherwise has a bathroom window in its rear elevation which is obscure glazed and further from the area of the proposed development. The effects on that room would also be acceptable. Overall, the development would not have unacceptable effects on the living conditions of no.30A.
11. The proposed east facing flank wall of the development would appear dominant from the gardens of both no.30 and no.30A. However, those gardens would otherwise benefit from open aspect to the north and east, and

their verdant boundaries would be retained. Given their size and as the gardens are north facing, levels of sunlight are already likely to be low, and there is not substantive evidence to suggest that a significant reduction in natural lighting to the gardens would be experienced. Overall, the proposal would not have a harmful effect on the way those gardens are enjoyed.

12. For the reasons given and taken together, the proposal would not cause adverse effects or a significant loss of outlook or natural lighting to the occupants of the flats in no.30 or their garden areas. The proposal would comply with policies DDM1 and DDM4 of the ALP insofar as they relate to the living conditions of neighbouring properties. Although not specifically referred to in the reason for refusal, for the same reasons I do not find conflict with policy QESP1 which similarly relates to residential amenity. Neither do I find conflict with the Framework insofar as it relates to healthy living conditions and standards of amenity, or Part H of the Arun Design Guide 2021 in relation to these issues. While there would be some conflicts with the 45 degree test described in the Council's Design Guide, given the particular circumstances here, the effects overall would be acceptable.

Other Matters

13. I have had regard to the Council's officer report, which finds the proposal to be acceptable in all other respects. Based on the evidence before me I have no strong reason to doubt those conclusions or to reach a different view.

Conditions

14. Planning Practice Guidance advises that the only conditions which can be imposed when reserved matters are approved are conditions which relate directly to those reserved matters. It is relevant that there are existing conditions on the outline permission which would be applicable to the development, including timescales for implementation. Having regard to the Council's officer report, I have suggested conditions on which I have invited the main parties to comment.
15. To provide certainty, the development is conditioned to be carried out in accordance with the approved plans. For reasons of visual amenity, the palette of materials described with the planning application is conditioned. Despite the concerns raised in its officer report, the Council now considers the proposed materials options to be acceptable and I have no strong reason to reach a different view. While the planning application pre-dates the statutory Biodiversity Net Gain requirement, a condition requiring biodiversity enhancements is necessary to meet the local plan requirement for net gain in policy ENV DM5. As this could include particular landscape features or additions to the appearance of the building, it is appropriate and necessary that they are conditioned here. While I appreciate concerns relating to the Council's resources raised by the appellant, these conditions are nonetheless necessary to make the development acceptable in planning terms.

Conclusion

16. The proposal would be compliant with the development plan and the appeal is allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawings:
HS:11/6/22 (Site Location Plan),
HS:11/6/22 (Block Plan)
HS 23/3/23 (Existing Structures and South Elevation)
BR/283/19/OUT (North End: Option B, Roof Plan, West Elevation, East Elevation)
HS:21/6/22 (First Floor Plan),
HS 21/6/22 (Ground Floor Plan),
HS 23/3/23 (East Elevation with roof Option A)
HS 23/3/23 and 26/6/22 (Cross Sections BB and AA)
HS 23/3/23 (Roof Plan)
HS 23/3/23 (West Elevation with roof Option A)
HS 23/5/22 (South Elevation)
HS 23/5/22 and 12/4/23 (North Elevations)
HS 6/22 (Landscaping Plan)
- 2) The development shall be carried out in accordance with the details of materials contained within the document titled 'Statement and Details concerning Approval of Reserved Matters, and other matters' rev 12/4/23.
- 3) Within six months of the first occupation of the new house, biodiversity enhancements shall be installed to the site in accordance with details that have first been submitted to, and approved in writing by, the local planning authority. Those biodiversity enhancements shall be maintained thereafter.

End of Schedule