



Appeal Decision

Site visit made on 25 April 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/M3835/D/23/3316761

1 Anscombe Road, Worthing BN11 5EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Bayley against the decision of Worthing Borough Council.
 - The application Ref: AWDM/0966/22 dated 6 June 2022, was refused by notice dated 24 November 2022.
 - The development proposed is to demolish side garage and living/conservatory above including rear conservatory. New two storey side extension with new rear ground floor extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application plans were amended during the application process and I have based my decision on the plans determined by the Council.
3. Since the application was determined and the appeal submitted, the Worthing Local Plan 2020 – 2036 has been adopted (March 2023) (Local Plan). I am advised that the new Local Plan supersedes both the Worthing Core Strategy and the Local Plan 2003, both of which are referenced in the reasons for refusal. I shall no longer refer to these policies.
4. I am required to determine the appeal on the basis of the development plan at the time of my decision, which is now the new Local Plan. In the determination of the application the Council referenced Policy DM5 of the Submission Draft Local Plan and provided a copy of the policy at that stage. I have now been provided with a copy of the adopted Plan. There are very limited changes to the policy in the adopted version of the Plan. As the Council relied on the draft version in its decision notice, which the Appellant has also referenced, I am satisfied that there is no need to seek the further views of the Appellant or the Council following the adoption of the Local Plan which I shall refer to in my decision.

Main Issues

5. The main issues in this appeal:
 - a) The effect of the proposal on the character and appearance of the existing property and of the local area, and

- b) The effect of the proposal on the living conditions of surrounding neighbours, with particular regard to outlook, overlooking and loss of privacy.

Reasons

Issue a) Character and Appearance

6. The appeal property is a detached property at the southern end and on the western side of Anscombe Road in a predominantly residential area set back from the coast road, by the West Parade open space. The southern elevation of the property is therefore particularly visible in street scene views.
7. As existing, the property has had a number of extensions and alterations, including to the side and to the rear as well as a roof dormer in the south facing elevation. The proposal would seek to replace these existing side and rear extensions with a two storey side extension and single storey rear extension, with a terrace at first floor, along the side and part of the rear with steps down to the rear garden. A privacy screen would be erected to the northern elevation of the terrace.
8. There is no objection to the principle of extending the property and I agree with the Appellant that the opportunity to replace the existing extensions with a bespoke solution has merit. However, I have concerns with the design and appearance of the two storey side extension which would be particularly prominent in street scene views. Although I agree that there is no particular merit to the existing side extensions, the design of the proposed extension with its flat roof and window design would not reflect and be in keeping with the design and proportions of the existing building. The height of the flat roof and its junction with the main house so that it would meet the main roof above eaves level would be a particularly jarring element which would be visually obtrusive with regard to both the character and appearance of the existing property and in street scene views. I understand the reasons for seeking the increased eaves level for the internal living arrangements, but these reasons do not outweigh the harm that would arise from the awkward junction between the existing roof and eaves line and the new proposal.
9. I do not agree with the Council that the provision of a two storey side addition together with terrace and stairs down to the rear garden would be overly dominant in relation to the scale and massing of the existing property but this does not overcome the harm I have concluded from the particular design of the proposal before me.
10. I therefore find that the proposal, and in particular the design and form of the two storey side extension, would not respect the character and appearance of the existing property or of the local area. This would conflict with Policy DM5 of the Local Plan and the National Planning Policy Framework, and in particular Section 12, all of which, amongst other matters, seek a high quality of design which respects the local context.

Issue b) Living Conditions

11. There are existing views from windows at the rear of the property over parts of the rear garden of the adjacent property to the north at No 3 Anscombe Road. The amended plans have reduced the length of the rear terrace and introduced a privacy screen along the northern edge. I am satisfied and agree with the

Council that the combination of these two revisions would protect the neighbours to the north from overlooking and loss of privacy as a result of the proposed development.

12. Again, there are existing views from the rear of the property towards the rear of properties in Anscombe Close, and those properties on the southern side of the Close have different arrangements of glass conservatories and terraces at the rear. However, the introduction of the proposed terrace at first floor level, as a result of height, extent and proximity, would materially exacerbate the extent of views towards and over the rear of neighbouring properties in Anscombe Close and their gardens, which would materially harm the living conditions of neighbours in these properties.
13. I therefore conclude that the proposed extensions and alterations would materially harm the living conditions of the neighbours in Anscombe Close. This would conflict with Policy DM5 of the Local Plan and the National Planning Policy Framework and in particular paragraph 130, all of which amongst other matters, seek a high quality of design which respects the amenities of existing and future occupiers.
14. Were no other matters of concern and planning permission were to be granted, it might be possible to devise a privacy screen to protect the living conditions of the neighbours. However, in view of the harm I have already concluded under my first issue, I shall not address this further.

Other Considerations

15. I understand that the site lies at the edge of Flood Zones 2 and 3, with parts of the garden and building falling within these zones. The proposals would not substantially increase the footprint of the building but would propose to accommodate bedrooms at ground floor level. Whilst it would be preferable to address as part of the application, I agree with the Council that were no other matters of concern and planning permission were to be granted, flood risk considerations could be addressed by condition.
16. The Appellant has drawn my attention to other extensions permitted in the immediate local area. Each proposal must be considered on its individual merits but in so far as the information has been made available to me, I have taken them into account. However, they do not persuade me to a different conclusion on either of my main issues, given the harm I have concluded under both issues.

Conclusion

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

L J Evans

INSPECTOR



Appeal Decision

Site visit made on 25 April 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/M3835/W/22/3299096

Land west of 2 Lansdowne Road, Worthing BN11 4LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Slipstream Developments Ltd against the decision of Worthing Borough Council.
 - The application Ref: AWDM/1790/21 dated 24 September 2021, was refused by notice dated 13 January 2022.
 - The development proposed is detached 4 bedroom dwelling house with new access, parking space, bicycle store and bin area.
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Decision

1. The appeal is allowed and planning permission is granted for detached 4 bedroom dwelling house with new access, parking space, bicycle store and bin area on land west of 2 Lansdowne Road, Worthing BN11 4LY in accordance with the terms of the application Ref: AWDM/1790/21 dated 24 September 2021, subject to the conditions set out in the schedule at the end of this decision letter.

Preliminary Matters

2. The application plans were amended during the application process and I have determined the appeal on the basis of the scheme plans determined by the Council.
3. The application forms referred to 2 Lansdowne Road, whereas the Council's decision notice referred to land west of 2 Lansdowne Road. I consider the latter address to be a more accurate description given my understanding that the land the subject of this appeal is now in separate ownership to No 2 Lansdowne Road. A similar description has been used by the Appellant in a number of the supporting documents.
4. Since the application was determined and the appeal submitted, the Worthing Local Plan 2020 – 2036 has been adopted (March 2023) (Local Plan). I am advised that the new Local Plan supersedes both the Worthing Core Strategy (2011) and the Local Plan 2003, both of which are referenced in the reasons for refusal. I shall no longer refer to these policies.
5. I am required to determine the appeal on the basis of the development plan at the time of my decision, which is now the new Local Plan. In the determination of the application the Council referenced Policies DM5 and DM24 of the Submission Draft Local Plan and provided a copy of the policies at that stage. I

have now been provided with a copy of the adopted Plan. There are very limited changes to these policies in the adopted version of the Plan. As the Council relied on the draft version in its decision notice, which the Appellant has also referenced, I am satisfied that there is no need to seek the further views of the Appellant or the Council following the adoption of the Local Plan which I shall refer to in my decision.

Main Issues

6. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the Heene Conservation Area, including on the setting of No 2 Lansdowne Road, and
 - b) The effect of the proposal on the living conditions of the occupiers of No 2 Lansdowne Road, with particular regard to overlooking and loss of outlook as well as loss of light and noise disturbance.

Reasons

Issue a) Character and Appearance

7. The appeal site relates to part of the former garden to No 2 Lansdowne Road (No 2), which is a large Victorian, detached property on the corner of Lansdowne Road and Heene Road within a predominantly residential area. I am advised that the main house and later extensions have been divided into some 15 flats.
8. The site lies within the Heene Conservation Area and the existing building at No 2 is identified as a Local Interest Building. There are several mature trees along the southern and eastern boundaries of No 2 protected by a Tree Preservation Order (TPO 16/1993).
9. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Policy DM24 of the Local Plan confirms that Buildings of Local Interest are regarded as non-designated heritage assets and will be a material consideration when determining planning applications. The policy goes on to indicate that they have been identified for their contribution to the character of the area and that development proposals should respect, support and where possible, positively contribute to the essential character of these heritage assets. Paragraph 203 of the National Planning Policy Framework (Framework) also indicates that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining an application.
10. No 2 appears to be one of the original substantial Victorian villas in the local area and there are a number of other large Victorian villas but a number of these, like No 2, have been extended and altered, and they are now very much intermingled with replacement and infill development. Whilst I agree with the Council that where still remaining, the sizeable Victorian Villas, such as No 2, contribute to the significance of the Conservation Area, the size of individual dwellings and the spacing between dwellings across the Conservation Area is noticeably mixed, particularly as a result of later replacement and infill development. As a result, the pattern of development and spacings between buildings, which now characterises the local area, is very varied. Nonetheless

there remains a verdant appearance to individual properties which together with the many mature trees contributes to the attractive and leafy appearance of the local area and to the significance of the Conservation Area. Boundary walls, many of flint, are also an attractive and unifying feature to the individual street scenes.

11. The proposal would introduce a new detached dwelling into part of the former garden to No 2, fronting Lansdowne Road. It would be set broadly in line with the front of No 2, facing Lansdowne Road, and would be three storeys with windows facing primarily to the front and to the rear. The proposed design would be traditional in form and appearance and would be primarily of brick under a tile hung pitched roof and with tile hanging to the front bay. Although it would be set on a narrower plot to No 2, there would remain a clear spacing with No 2 and a generous open gap to the property to the west (Heene Rectory).
12. Whilst I appreciate that there would be the loss of some of the former garden area to No 2, I am satisfied that there would remain adequate spacing around the building and between the existing building and the proposed new dwelling which would reflect the varied pattern of development and spacings between individual buildings in the local area. Indeed, it is my view that the spacing would be more generous than in many other examples in the vicinity. As a result, I do not agree with the Council that the new development would appear as a cramped or 'crammed' form of development.
13. Similarly, there would remain adequate spacing around the existing building at No 2 so that its presence in the street scene would not be diminished. I also do not consider that in street scene views along Lansdowne Road the new proposal would detract from the existing building, given the spacing and smaller scale of the new dwelling. Moreover, I am satisfied that it would fit in comfortably with the wide range of spacings now found and form part of the prevalent pattern of development throughout the Conservation Area.
14. Part of the existing boundary wall would be removed to allow for a vehicular access but the submitted images indicate that the rest would be retained or rebuilt to continue the boundary wall which is a feature in the Conservation Area. In terms of trees and planting, there would be scope to add new planting to the existing to be retained to maintain the verdant character and appearance of the street scene and of the Conservation Area. From the information provided to me, the protected trees under the TPO appear all to relate to that part of the site which remains as part of the curtilage to No 2.
15. I am therefore satisfied that the proposed new dwelling would respect the significance of and the setting of the Local Interest Building at No 2 and the significance of the Heene Conservation Area. It would therefore preserve the character and appearance of the Heene Conservation Area. There would be no conflict with Policies DM5 and DM24 of the Local Plan and the Framework with particular reference to Sections 12 and 16, all of which amongst other things seek a high quality of design which respects the local context and the significance of both designated and non-designated heritage assets.

b) Living Conditions

16. The existing original building at No 2 has windows in the side elevation facing towards the appeal site over three floors, and the two storey extension towards

the rear has windows facing to the side and to the south towards the appeal site. I have been provided with no detailed information to confirm the rooms which the windows serve or the number of flats to which they relate.

17. I am satisfied that would be no overlooking or loss of privacy for the occupants within the original dwelling as there would be no windows in the side elevation at first floor level or above (except for two roof lights) facing towards No 2. Moreover, and taking into account the distance between the windows in the existing side elevation of the original part of No 2 and the new proposed dwelling, with the garden area in between, I do not consider that the outlook from these existing windows would be materially harmed.
18. Although there would be windows in the rear elevation of the proposed dwelling at first and second floor levels, and there are windows facing south and to the west in the extension to No 2, any overlooking would be at a very oblique angle which I do not consider would lead to a material loss of privacy. Furthermore, the window at first floor level in the proposed dwelling closest to No 2 would serve a bathroom, and a condition would be imposed to ensure that this was in obscure glazing.
19. The Council has raised in its second reason for refusal that the proposed dwelling would overshadow the neighbouring property at No 2. Neither the Council nor the Appellant has provided any technical evidence in this regard. However, given the distance between the proposed and the existing main house at No 2 I consider that any overshadowing of windows would be very limited. Although the remaining communal garden to No 2 would be south facing, there would potentially be some overshadowing of part of the garden area during late afternoon / early evening during the summer months. However, I do not consider that this in itself would justify withholding planning permission.
20. In terms of noise and disturbance, this is an existing residential area and there is no basis to consider that the addition of one house would lead to a material increase in noise and disturbance to the residents of No 2, particularly taking into account that the existing property is divided into some fifteen flats.
21. I therefore conclude that the proposed development would not materially harm the living conditions of existing and future occupants, with particular regard to overlooking and loss of privacy, overshadowing and loss of light and loss of outlook. There would be no conflict with Policy DM5 of the Local Plan, the Council's Guide to Residential Development SPD 2013 and the Framework with particular reference to paragraph 130, all of which amongst other matters seek to respect the living conditions of existing and future occupiers.
22. I have also had regard to concerns raised by neighbouring residents about overlooking and loss of privacy as a result of the proposed new dwelling. However, given the distances to other surrounding residential properties, I am satisfied that the living conditions, with particular regard to overlooking and loss of privacy would not be materially affected.

Other Considerations

23. I agree that the proposed dwelling would be in a generally accessible location and within an existing residential area. It would also make a contribution, albeit

very modest, to the Council's housing land supply figures with attendant socio-economic benefits.

Conditions

24. In terms of conditions, I agree that further details of materials, hard and soft landscaping including boundary treatments need to be provided in the interests of protecting the character and appearance of the Conservation Area and the setting of No 2. I consider that none of these require to be pre-commencement conditions but can be required to be approved prior to any works above slab level, or later in the construction period.
25. I agree that to protect the character and appearance of the local area, existing trees to be retained require to be protected but this can be addressed by requiring the scheme to be undertaken in accordance with the submission and plans by Lizard Landscape Design and Ecology, rather than requiring further details to be submitted.
26. Provision of the access and parking spaces require to be in place in accordance the approved plans prior to first occupation in the interests of highway safety. Further details of an electric charging point and covered cycle store require to be approved and implemented prior to first occupation to ensure alternative sustainable transport options are available from the outset of occupation.
27. Given the scale of the scheme for one dwelling, with access direct from Lansdowne Road, I do not consider it necessary to require a construction management plan over and above the requested condition relating to hours of construction, to respect the amenities of nearby residents.
28. I agree that a condition should be imposed to prevent further windows being added to the side elevations without specific consent, to protect the living conditions of neighbouring residents. For the reasons already set out I shall impose a condition to require the bathroom windows in the rear first floor to be in obscure glazing and fixed shut below 1.7m above floor level. However, given the size of the plot and relationship with surrounding development, I do not consider that there is any planning reason to withdraw all permitted development rights as requested by the Council; it would not meet the tests set out under paragraph 56 of the Framework.
29. The Council has proposed a condition requiring a range of sustainability measures to be approved but the condition is very loosely worded and some of the measures referenced are already covered by other conditions, and some may be required under legislation. Whilst the objective is to be commended, there is insufficient detail before me to justify its imposition. There is however, very limited information provided on surface water drainage and further details are required to be approved and implemented prior to first occupation to ensure a satisfactory development in terms of drainage that incorporates sustainable drainage measures. In addition, details of the storage for refuse and recycling requires to be submitted and approved prior to first occupation, to ensure a satisfactory development.
30. I shall list the approved plans for the avoidance of doubt and in the interests of sound planning. I have sought to remove areas of repetition and have amended some of the wording to reflect latest guidance.

Conclusion

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

L J Evans

INSPECTOR

Schedule of Conditions (Conditions 1 – 14 inclusive)

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development shall be undertaken in accordance with the following approved plans: 1272/01; 1272/03 Rev A; 1272/02 Rev B; 1272/04 Rev A; 1272/05 Rev A; 1272/06 Rev A; 1272/07 Rev A; 1272/08 Rev A; LLD2402-ARB-DWG-001 and LLD2402-ARB-DWG-002.
3. No development hereby permitted shall be carried out above slab level until a schedule and samples of materials and finishes to be used for the external walls (including windows, rooflights and doors) and roof of the proposed building have 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. The development hereby permitted shall be undertaken in strict accordance with the Arboricultural Impact Assessment and Method Statement by Lizard Landscape Design and Ecology (reference LLD2402-ARB-REP-001 dated December 2021) together with LLD2402-ARB-DWG-001 – Tree Constraints Plan, LLD2402-ARB-SCH-001 – Existing Tree Schedule and LLD2402-ARB-DWG-002 – Tree Retention and Protection Plan.
5. The development hereby permitted shall not be first occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping. The soft landscaping scheme shall include planting plans; written specifications; schedules of plants stating species, sizes and numbers/densities; and the implementation programme. Hard landscaping scheme shall include hard surfacing materials, all boundary treatments including the details of the retained or reconstructed wall to Lansdown Road, finished levels and location and details of biodiversity measures. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within the first planting and seeding seasons following the first occupation of the building. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping shall be provided prior to the first occupation of the development hereby permitted.

6. The proposed first floor windows in the rear elevation of the development hereby permitted serving en-suite bathrooms shall be glazed with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the window is installed and thereafter so retained.
7. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification), no additional window or any other opening shall be inserted into any side wall of the dwelling hereby permitted (other than as hereby approved).
8. The development hereby permitted shall not be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority.

9. The development hereby permitted shall not be first occupied until such time as the vehicular access has been constructed in accordance with the approved site plan.

10. The development hereby permitted shall not be first occupied until facilities for storing refuse and waste, including for waste that can be recycled, have been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority. Such facilities as provided shall thereafter be retained and used only for the storage of refuse and recycling waste.

11. The development hereby permitted shall not be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

12. The development hereby permitted shall not be first occupied until an electric vehicle charging spaces has been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority.

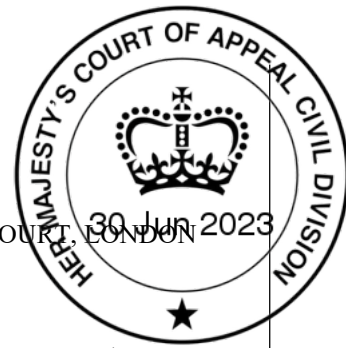
13. No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08.00 and 18.00 on Monday to Friday and between 08.00 and 13.00 hrs on Saturday. No works shall take place on Sundays or on Bank or Public Holidays.

14. The development hereby permitted shall not be first occupied until surface water drainage works shall have been implemented in accordance

with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non- statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The drainage system shall be implemented in accordance with the approved details, prior to first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details.



FRIDAY 30 JUNE 2023



IN THE COURT OF APPEAL

ON APPEAL FROM ADMINISTRATIVE COURT AND PLANNING COURT, LONDON
CO/1221/2022

BEFORE SIR GEOFFREY VOS, MASTER OF THE ROLLS
SIR KEITH LINDBLOM (SENIOR PRESIDENT OF TRIBUNALS)
LADY JUSTICE ANDREWS
CA-2022-001665

B E T W E E N

ON PAPER

Application No.

CA-2022-001665

PERSIMMON HOMES (THAMES VALLEY) LIMITED

DEFENDANT /
APPELLANT

- and -

WORTHING BOROUGH COUNCIL

DEFENDANT /
RESPONDENT

- and -

SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES

INTERESTED PARTY

UPON HEARING counsel for the Appellant and the Respondent

AND UPON reading the documents filed

IT IS ORDERED that:

1. The appeal is dismissed.
2. The Appellant shall pay the Respondent's costs, subject to detailed assessment if not agreed.

(The Court sat on 17th May 2023 from 10.32 to 16.11)

BY THE COURT

* This order was drawn by Ann Marie Smith (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to The Associate, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44456 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 0207 947 7183 and 0207 947 7856.