



Appeal Decision

Site visit made on 4 December 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/Y3805/W/23/3323554

11a West Street, Shoreham BN43 5WF

- 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 Roland Ham-Riche against the decision of Adur District Council.
 - The application Ref AWDM/1846/22, dated 11 November 2022, was refused by notice dated 2 February 2023.
 - The development proposed is the part demolition of former nightclub building and conversion into single dwelling house.
-

Decision

1. The appeal is allowed and planning permission is granted for the part demolition of former nightclub building and conversion into single dwelling house at 11a West Street, Shoreham BN43 5WF in accordance with the terms of the application, Ref AWDM/1846/22, dated 11 November 2022, subject to the conditions within the attached Schedule.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published in December 2023 accompanied by a written ministerial statement. The revised Framework is a material consideration which should be taken into account from the day of publication. Having considered the revisions, the parties have been provided with an opportunity to comment on the revised Framework.

Main Issues

3. Whilst I note the single reason for refusal, from the wider evidence, the main issues are:
 - whether the proposal preserves or enhances the character or appearance of the Shoreham Conservation Area (CA);
 - the effect of the proposal on the living conditions of the occupants of neighbouring properties, with regard to outlook; and
 - whether suitable living conditions would be provided for future occupants of the development and occupants of No 11 West Street (No 11), with regard to external space.

Reasons

Conservation Area

4. The appeal site is located to the rear of No 11 and consists of a two-storey building. The site is within the CA, which covers the town centre. The rear gardens of properties in West Street forms the boundary of the CA. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. The CA is focussed on the town centre of Shoreham, including the narrow streets leading away from the High Street. These streets have a narrow, linear form, as seen within West Street. West Street is primarily characterised by terraced dwellings positioned to the back edge of the footway each side of the road. Development is typically two-storey in scale and there is a prevalence of Georgian-style buildings, particularly to either side of the site. Therefore, the significance of the CA, insofar as it relates to this appeal, lies in the manner in which the range of historic buildings of varying types and ages reflect the town's evolution over time.
6. The existing building at the site is an uncharacteristic feature within the rear gardens. There is a larger building to the rear of Numbers 19 to 21B West Street, although this is accessed via High Street and outside of the CA. The building is largely concealed from West Street by the frontage development, but can be seen fleetingly from the High Street beyond the car park and properties to the rear. The existing building has an uneasy relationship with its surroundings given its unsympathetic material finish and its unconventional form. Whilst discreetly positioned, the building has a negative effect on the significance of the CA in its current form.
7. The proposal seeks to convert the building into a dwelling and alter the exterior through the replacement of the unsympathetic external materials and alterations to the fenestration. In addition, parts of the building would be removed reducing the overall built form at the site. The works to the exterior would significantly improve the appearance of the building, and would retain the attractive flint wall to the boundary with the adjoining car park. Furthermore, the removal of some elements, including the removal of the single-storey feature to the side of the building, would simplify its form and improve the relationship the building would have with the surrounding development. Consequently, the proposal would enhance the appearance of the CA.
8. The presence of a residential property in a backland position would be unusual within the locality. However, as the area is predominantly in residential use, an additional residential property would not be at odds with the prevailing character of development in the area. The proposal would therefore preserve the character of the CA.
9. I conclude that the proposal would preserve and enhance the character and appearance of the CA. The development therefore accords with Policies 15, 16 and 17 of the Adur Local Plan (2017) (the ALP), which collectively require development to be of a high standard of design, respecting its context and preserve and enhance the character and appearance the historic environment,

including Conservation Areas and the Framework which seeks to conserve the significance of designated heritage assets.

Living conditions - outlook

10. The existing building is in close proximity to No 11 and No 13 West Street (No 13) and forms part of the side boundary with the adjacent property. Given its scale and position, the building dominates the rear of No 11 and No 13 and is an overbearing feature.
11. The removal of part of the building closest to the neighbouring dwellings would increase the space between the building and these properties. The increased separation distance would diminish the dominance of the building and would improve the outlook from the surrounding dwellings.
12. I conclude that the proposal would not harm the living conditions of the occupants of neighbouring properties. The proposal would therefore accord with Policy 15 of the ALP, which seeks to ensure that development would not have an unacceptable impact on adjacent properties and the Framework which seeks to provide a high standard of amenity for all existing and future users.

Living conditions – amenity space

13. The proposal would subdivide the rear garden of No 11. The Development Management Standard No. 1 Space Around New Dwellings and Flats (DMS1), sets out the guidance for the garden areas for new dwellings. There is no indication that DMS1 has been formally prepared, including whether any consultation has been carried out, and has the status of a Supplementary Planning Document. Nevertheless, the DMS1 is a useful starting point for the provision of garden areas for new dwellings. For a detached three-bedroom dwelling, the guidance requires 85 square metres.
14. It is agreed between parties that No 11 would retain an area of 81 square metres and the proposed dwelling would have an area of 50 square metres, which are below the standards set out in the DMS1. However, the gardens would be of a size commensurate with those of the surrounding properties, which are within an urban environment where external space is more limited. Furthermore, the layout of the gardens would provide sufficient external space for existing and future occupants of No 11 and the development.
15. I conclude that the proposal would provide suitable living conditions for future occupants of the proposed dwelling and No 11. The proposal would therefore accord with Policy 15 of the ALP, which seeks to include a layout and design which take account of the potential users of the site and the Framework which seeks to provide a high standard of amenity for all existing and future users.

Other Matters

16. The conversion of the building for residential purposes would increase activity at the site, including within the internal passageway to the side of No 11. However, any effect would be limited due to the small scale of the development. In addition, the site is within a residential area close to commercial premises and the addition of one property would not demonstrably increase noise and disturbance over and above the existing situation.

17. The dwelling would include three first floor windows, which would face towards the rear of the neighbouring properties. The windows would be positioned at a higher level above the internal floor, restricting the potential for overlooking of the neighbouring properties to occur. Given the positioning of these windows, the proposal would not result in a significant loss of privacy for occupants of neighbouring properties.
18. Concern has been raised that the proposal would not provide suitable disabled access. However, the dwelling would need to accord with the relevant standards as set out in the Building Regulations, which includes ensuring suitable access is provided.
19. The proposal would not include the provision of car parking spaces and it is noted that there is limited on-street parking available. The Council and local highway authority consider that the lack of parking would be acceptable given the accessible location of the site within walking distance of local facilities and services, including sustainable modes of transport. I see no reason to disagree with this conclusion.
20. In addition, there is a concern that No 11 could be converted into flats. The conversion of No 11 does not form part of the proposal before me, so I have not considered this matter further.

Planning Balance

21. There is no dispute between the parties that the council is currently unable to demonstrate at least a five year supply of housing land. The appellant highlights that the Council's Annual Monitoring Report states that it has a 4.8 year supply, which is below the required level of five years. The Council has not disputed this figure.
22. Paragraph 11 d) of the Framework states that in these circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposal would make a positive contribution to housing supply within walking distance of services and facilities with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, the contribution of a single dwelling to meeting housing need in the District through a more efficient use of land in an urban area and the associated benefits are limited by the scale of development proposed.
24. In the particular circumstances of this case, I have concluded that the proposal would not harm to the significance of the CA and would be acceptable in respect of the living conditions of future occupiers and occupants of neighbouring properties. The development would accord with the relevant policies of the development plan and the Framework. Therefore, the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conditions

25. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.

26. In order to protect the character and appearance of the area, I have also imposed a condition requiring the details of the external materials to be used. As these details relate to construction works, it is necessary for this condition to be discharged prior to the commencement of the development.
27. A condition is included to provide details of the covered cycle parking and retain the provision thereafter. This is required to encourage sustainable modes of transport and improve the sustainability of the development.
28. The site is adjacent to the Shoreham Air Quality Management Area. A condition is included requiring the submission of an emissions mitigation assessment in the interests of the living conditions of future occupiers. Given the existing use of the building, a condition regarding contamination is necessary.
29. Conditions setting out the construction working hours and requiring the submission of construction management arrangements are required to safeguard the living conditions of local residents and to prevent adverse impacts on the local road network during the construction phase.
30. As the conditions relating to air quality, contamination and construction management would affect the early stages of construction, they need to be discharged prior to the commencement of the development.

Conclusion

31. The proposal would accord with the development plan as a whole and there are no material considerations, which would indicate that a decision should be made otherwise. For the reasons given above I conclude that the appeal should be allowed.

J Pearce

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: PL-01, PL-02A, PL-03C and PL-04A.
- 3) Notwithstanding the submitted drawings, no development shall commence until precise details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to commencement of the development hereby permitted, an emissions mitigation assessment shall be submitted to and approved in writing by the local planning authority. Any mitigation measures shall be implemented prior to first occupation and shall thereafter be retained for the lifetime of the development.
- 5) Prior to commencement of the development hereby permitted, 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:
 - i) 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;
 - ii) A site investigation scheme, based on i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures require and how they are to be undertaken; and
 - iv) 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 arrangement for contingency action. Any changes to these components require the express consent of the local planning authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction or demolition work, a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency

action, as identified in the verification plan, and for the reporting of this to the local planning authority.

If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol/diesel/solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development shall be carried out until it has been investigated by the developer. The local planning authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the local planning authority.

- 6) Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday – Friday: 0800 - 1800 Hours
Saturday: 0900 - 1300 Hours
Sundays and Bank Holidays: no work permitted

Any temporary exception to these working hours shall be agreed in writing by the local planning authority at least five days in advance of works commencing. The contractor shall notify the local residents in writing at least three days before any such works.

- 7) Prior to commencement of the development hereby permitted, including any works of demolition, a Construction Management Plan shall be submitted to, and approved in writing by the local planning authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as follows:
- i) the method of access and routing of vehicles during construction;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) the loading and unloading of plant, materials and waste;
 - iv) storage of plant and materials used in the construction of the development;
 - v) the erection and maintenance of security hoarding;
 - vi) no burning on site;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) details of public engagement both prior to and during construction works.
- 8) No part of the development hereby permitted shall be occupied until details of covered and secure cycle parking spaces have been submitted to and approved in writing by the local planning authority. The cycle parking spaces shall thereafter be retained for the lifetime of the development.

End of Schedule