

ADDENDUM TO WORTHING PLANNING COMMITTEE AGENDA

MEETING DATE - 10th February 2016

The following agenda item has updates to the original Committee report.

Application Number: AWDM/1805/14

Recommendation – Withdraw potential harm to 6 Grand Avenue by reason of overshadowing to rear garden as grounds for refusing, reaffirm overall unacceptability of appeal proposal against the relevant tests and agree revised affordable housing offer.

Site: Land South Of 6 Grand Avenue West Parade Worthing West Sussex

Proposal: Demolition of existing buildings at 25-26 West Parade and 4 Grand Avenue and residential redevelopment in the form of a block of 35 flats (including 7 affordable homes), arranged as 3 storeys tall and rising to 6 storeys in the northern part of the site; 7 storeys in the east and 11 storeys tall in the south west corner of the site, together with associated 34 car parking spaces (including 26 in basement), new accesses and landscaping.

**Appellant: Mr Ben Cheal
Case Officer: Peter Devonport**

Ward: Marine

Since the report was published, comments have been received from Mr and Mrs Lazzarini, the occupiers of No 6 Grand Avenue on the overshadowing issue and also Save Or Seafront campaign (David Clark) spearheading the opposition to the appeal proposal. These have been referred to the Council's daylight consultants and the key elements of the dialogue are reproduced below.

Save Our Seafront

I have read the Calfordseaden Review of Daylight and Sunlight Report and have very few issues with its findings. The proposed Roffey development does appear to meet or get close to the BRE guidelines for daylight and sunlight into neighbouring properties.

Our issue is with transient overshadowing and therefore the loss of sun into the garden of No 6 Grand Avenue and indeed other houses immediately to the North. The revised Anstey Horne Daylight and Sunlight report shows that the proposed development just about meets the relatively low bar set by the BRE that in this case the garden at No 6 Grand Avenue should still have at least 50% of its area in sun for 2 hours on the 21st March. However the Anstey report also shows that the loss of sunlight into the back garden will be significant and in our view supports the first reason the Planning Committee gave for refusal, namely that “the proposal has also failed to demonstrate that unacceptable overshadowing of the back garden of 6 Grand Avenue would not result. This would be to the detriment of these neighbours’ living conditions.....”

If you look at the diagrams in the appendices to the report it shows the loss of sun throughout the day on the 21st March if the development goes ahead. I have calculated the loss to be as follows:

8.00am - None

10.00am - None

12.00pm — 66% of the garden is in sun now but only 30% will be in sun once the development goes up. So between 10.00am and 12.00pm there will be a significant reduction in sun.

2.00pm — 37% of the garden gets sun now but there will be none post the development. A major loss with no sun after lunchtime.

4.00pm - Both today and once the development is built there will be no sun by 4.00pm. HOWEVER this means that between 2.00pm and 4.00pm today Sue and Alberto enjoy some sun but there will be none once the tower block is built.

By June the impact is negligible. However between March and June the cumulative loss of sun could be very significant, in terms of many hours lost. There will be a very large reduction in amenity and in our view unacceptable.

We do not have diagrams for June through to December although by December there is no sun before or after. Also I do not believe the impact between January through to March has been demonstrated.

It is acknowledged that Worthing enjoys a micro climate and residents live here in part to enjoy the sunny weather (as was the case with Sue and Alberto) so why should they have their amenity so significantly reduced especially when a better designed somewhat lower rise development would mitigate the problem?

It simply goes to support the general view that the proposed building is unduly assertive and its mass and bulk will have an overbearing impact on Sue and Alberto at No 6 in line with the first reason given for refusal.

We also believe that the impact of overshadowing on Dolphin Lodge and Regis Court has been glossed over. As we have shown in our Statement of Case there will be a blocking of sun onto Dolphin Court in winter months. However we appreciate that this was not given as a reason for refusal.

6 Grand Ave

I have been reviewing the plans you kindly sent me with your letter of 27th August 2015.

It is unclear to me whether the heights shown on the 3D Massing Models are taken from sea level (the level of my property) or from the starting level of the proposed development.

For example it shows that the third level is 15.005 metres high. However as you know the proposed development starts at least one metre above the ground level for my house (see my comments below) So should I add on a further metre to ascertain the real height?

Also it quotes 6.3m at the front and side which looks like the base line for the development. Surely that cannot be right? What is this measure?

I have a further question on the windows being proposed between my house and the proposed development. According to the drawings you sent only the bathroom window is obscured. I recall being reassured that in fact the lounge windows on the ground and first floor will also be obscured given that they look directly into my property. Can you please confirm that this is the case?

I have today written to you in reply to your letter of 7th January. My apologies for the delay.

In essence we still believe that the loss of sun into our garden particularly during the spring months will be significant. Do you think it is acceptable for my wife and I to lose all sun into our back garden from 2.00pm during this period? This is my reading of the diagrams included in the Anstey report but perhaps you could confirm that this is indeed the case as we are not experts.

Response from consultants

1. *The extract below from page 20 of BR209 explains why we analyse in the way that we do. We assess overall values and not specific*

Where there are existing buildings as well as the proposed one, 'before' and 'after' shadow plots showing the difference that the proposed building makes may be helpful. In interpreting the impact of such differences, it must be borne in mind that nearly all structures will create areas of new shadow, and some degree of **transient** overshadowing of a space is to be expected.

In fact if one considers the vagaries of British weather we can only ever assess probabilities. That is to say, that when it is predicted that sunlight will be available there might be cloud cover and thus the sun would not be visible but equally there would be no shadow cast.

2. *I cannot agree that the 50% is a 'low bar'. Firstly BRE recognise that this level is not always achievable although desirable, secondly it is a higher standard than that which was considered acceptable between 1991 and 2011.*

3. *I have given my opinion on the matter of overshadowing. It is of course for the council to decide whether it is acceptable. I can merely state that BR209 is guidance only and that the BRE recognise that and state that it should not be used as an instrument of planning policy. See clause 1.6 below*

1.6 The guide is intended for building designers and their clients, consultants and planning officials. The advice given here is not mandatory and the guide should not be seen as an instrument of **planning policy**; its aim is to help rather than constrain the designer. Although it gives

4. *I do not know how Mr Clark has calculated the losses, based on the hourly images which are not to scale. Anstey Horne have provided no evidence on this and I have not personally assessed on this basis as it is not referenced anywhere in BR209 and in my opinion is not a valid methodology for the reasons stated above.*

5. *I think it is important to note that the likelihood of sunlight being available i.e. not subject to cloud cover, increases in June and here the evidence demonstrates the impact is minimal.*

6. I am unable to comment on the 'micro climate' my visits have been noticeable for the lack of sunlight but perhaps I have just been unfortunate.

7. I fail to see how Mr Clark can justify the use of the term 'glossed over' in reference to Dolphin Lodge and Regis Court. The results are stated in the Anstey Horne report and my assessment of those results is set out in my report.

8. Mr Clark adds in his PS "It would be helpful to know which 2 hours during 21st March that Alberto and Sue will still enjoy sun into 50% of their garden". This is found by looking at the transient overshadowing drawings appended to Anstey Horne's report.

Turning to the questions raised by Ms Lazzarini, I can answer as follows:

1. Levels are given from geostationary satellites. Sea level and Newlyn datum are no longer used. I have to reason to doubt these.

2. I cannot comment on the 6.3M. This would have to be referred to Anstey Horne and in any event it is not related to daylight and sunlight assessment.

3. I cannot comment about the windows in the proposal

4. I believe my response above deal with the overshadowing question.

Save Our Seafront

Can I just clarify one thing as it seems somewhat surprising. Am I to understand that the diagrams ROL 7146 8 300 through to ROL 7146 8 304 in the Daylight and Sunlight report from Anstey are not to scale and therefore do not show a true representation of the amount the garden that will be in sunlight at a particular time before and after the proposed development. If so what are they trying to show?

Consultants response

Firstly the reproduction is not to scale. Copying distorts the image and secondly consultants use the computer software to measure areas not paper copies. At the reduced size of the printed drawings each line could scale up to as much as 1 metre in width. You only have to look at Land Registry guidance to see this. It is for this reason that consultants never scale off drawings.

When any consultant appends images it is merely to show that the calculations have been undertaken and to give an indication of the effect. If you think about it each image is at the hour. In fact when we run the model we can do second by second but it would be pointless putting each of these images onto paper.

Affordable Housing

The applicant has provided some further comments regarding the revised affordable housing contribution:

Firstly, we must make it clear that the proposed financial contributions in lieu of on-site provision were made with the significant additional benefit of being paid within 30 days of commencement of the development. (Commencement of ground works, rather than demolition, which can be defined fully with the S.106). Such funding would therefore be front loaded and received by WBC approximately two years earlier than a relatively standard timing trigger for such contributions.

If on-site provision were to be suggested we would not wish tenure to be defined for the 6 units as we strongly consider that a single offer from an RP to provide affordable rent is not reasonably market tested and any developer must reasonably expect at least 2 offers to be received in order for the value to be market tested.

On the basis that on-site provision (tenure not defined) may be preferred by Members/officers our amended offer would be as follows;

6 on- site units within 3 storey element. Affordable Housing on-site (tenure not defined)

**Additional commuted payment of £80,850.
Total Off Site Contribution - £361,462.50. (50% paid on occupation of 15th Open Market Property (50%) and remaining 50% on occupation of 22nd (75%) Open Market Property.**

If on-site provision is not deliverable a further commuted payment the equivalent to the on-site mix would be forthcoming @ 2 x 2 bed (£80,850 x 2 = £161,700) and 4 x 1 bed (£79,560 x 4 + £318,240).

Total = £479,940. (50% paid on occupation of 15th Open Market Property (50%) and remaining 50% on occupation of 22nd (75%) Open Market Property.

Officer comments

The consultant has addressed the residual queries raised and the consultant's conclusions that the impact of the revised scheme is not unacceptable remains robust.

In terms of the revised affordable housing Officers are considering the further comments from the applicant/appellant and Members will be updated at the meeting.