



ADUR DISTRICT COUNCIL

30 July 2021

| Adur Planning Committee | |
|--------------------------------|--|
| Date: | 9 August 2021 |
| Time: | 7.00 pm |
| Venue: | QEII Room, Shoreham Centre, Shoreham-by-Sea |

Committee Membership: Councillors Carol Albury (Chair), Stephen Chipp (Vice-Chairman), Dave Collins, Tania Edwards, Jeremy Gardner, Paul Mansfield, Steve Neocleous and Carol O'Neal

NOTE:

Anyone wishing to speak at this meeting on a planning application before the Committee should register by telephone (01903 221006) or e-mail democratic.services@adur-worthing.gov.uk before noon on Friday 6 August 2021.

Agenda

Part A

1. Substitute Members

Any substitute members should declare their substitution.

2. Declarations of Interest

Members and Officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

Members and Officers may seek advice upon any relevant interest from the Monitoring Officer prior to the meeting.

3. Public Question Time

So as to provide the best opportunity for the Committee to provide the public with the fullest answer, questions from the public should be submitted by midday on Thursday 5 August 2021.

Where relevant notice of a question has not been given, the person presiding may either choose to give a response at the meeting or respond by undertaking to provide a written response within three working days.

Questions should be submitted to Democratic Services – democratic.services@adur-worthing.gov.uk

(Note: Public Question Time will last for a maximum of 30 minutes)

4. Confirmation of Minutes

To approve the minutes of the Planning Committee meetings of the Committee held on Monday 19 July 2021, which have been emailed to Members.

5. Items Raised Under Urgency Provisions

To consider any items the Chair of the meeting considers urgent.

6. Planning Applications (Pages 1 - 18)

To consider the reports by the Director for the Economy, attached as Item 6.

7. Planning Appeals (Pages 19 - 40)

To consider the report by the Director for the Economy, attached as Item 7.

Part B - Not for publication - Exempt Information Reports

Recording of this meeting

Please note that this meeting is being live streamed and a recording of the meeting will be available to view on the Council's website. This meeting will be available to view on our website for one year and will be deleted after that period. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

| | |
|--|---|
| For Democratic Services enquiries relating to this meeting please contact: | For Legal Services enquiries relating to this meeting please contact: |
| Heather Kingston Democratic Services Officer 01903 221006 heather.kingston@adur-worthing.gov.uk | Beverley Rayner Assistant Lawyer (G&R) 01903-221035 beverley.rayner@adur-worthing.gov.uk |

Duration of the Meeting: Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.

This page is intentionally left blank



**ADUR DISTRICT
COUNCIL**

**Planning Committee
9 August 2021**

Agenda Item 6

Ward: ALL

Key Decision: No

Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/0800/21 Recommendation – APPROVE

Site: Marsh House, Park Lane, Southwick

Proposal: Installation of new external air source heat pump units within a timber enclosure within the grounds of Marsh House

2

Application Number: AWDM/0719/21 Recommendation – REFUSE

Site: 39 Alandale Road, Sompting, Lancing

Proposal: First Floor Rear Extension

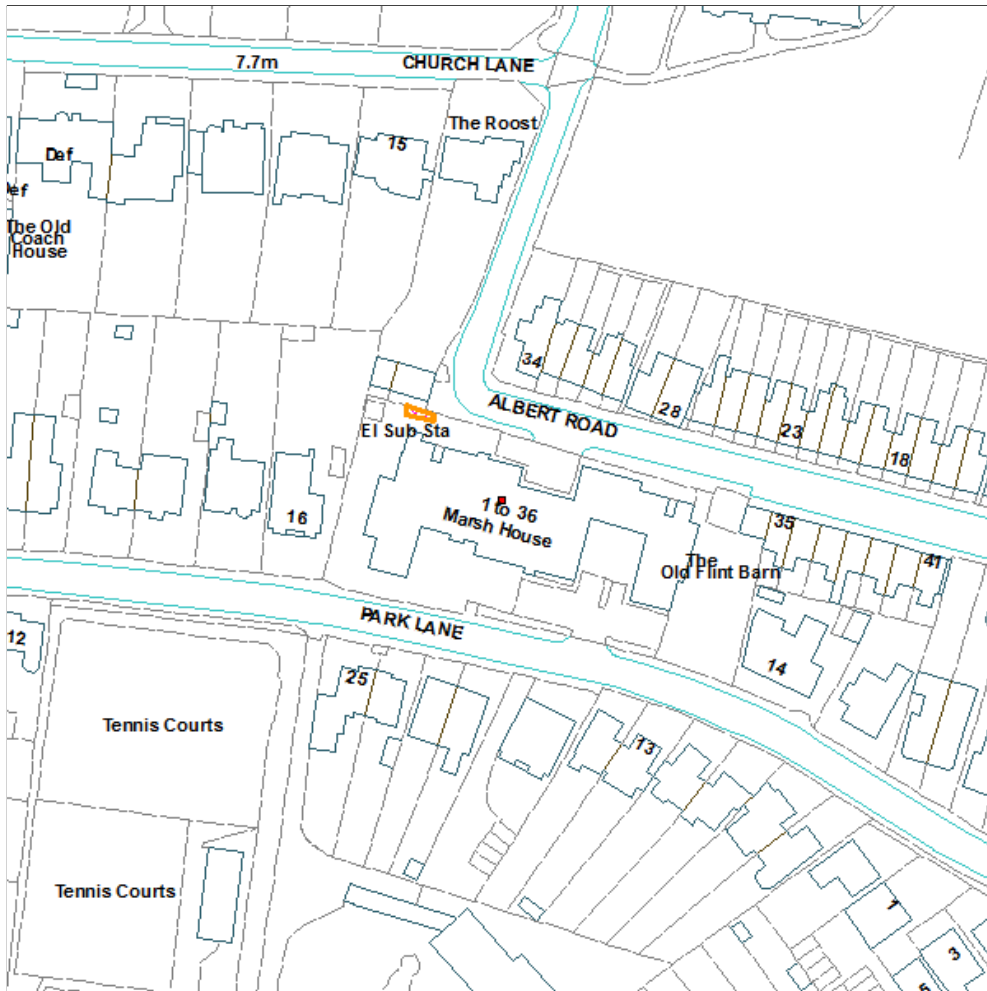
3

Application Number: AWDM/0873/21 Recommendation – APPROVE

Site: 13 Ferry Road, Shoreham-By-Sea, West Sussex

Proposal: Single storey rear extension and repositioning of A/C units onto flat roof of proposed extension.

| | | |
|----------------------------|--|---------------------------------|
| Application Number: | AWDM/0800/21 | Recommendation - APPROVE |
| Site: | Marsh House, Park Lane, Southwick | |
| Proposal: | Installation of new external air source heat pump units within a timber enclosure within the grounds of Marsh House | |
| Applicant: | Adur District Council | Ward: Southwick Green |
| Agent: | Mr Matthew Foster | |
| Case Officer: | Peter Barnett | |



Not to Scale

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

Proposal, Site and Surroundings

This application seeks permission to install five 45kw air source heat pumps in the grounds of Marsh House. The units are to be sited on the northern boundary, close to the NW corner of the site and an existing plant room. The units are to be positioned in a single row within a 3m high timber 'hit and miss' fenced compound measuring 12m long and 2.3m wide.

The application has been submitted by Adur District Council as part of the commitment to reduce carbon emissions from their properties. Grant funding has been secured to provide and install Air Source Heat Pumps (ASHP) which will replace the existing life-expired gas fired boilers and central heating and hot water system at Marsh House, a purpose built sheltered retirement housing block.

The site lies immediately adjacent to, but outside of, the Southwick Conservation Area to the north.

Relevant Planning History

None of direct relevance

Consultations

Adur & Worthing Councils: The **Environmental Health** officer has no objections. Comments that the acoustician has calculated the combined noise of the units of 66dB(A) and added 4dB(A) for the acoustic correction as indicated in BS4142 to give a 70dB(A) rating level. Based on their calculations, a 13dB(A) reduction by using the enclosure specification prescribed would bring the facade level 5m away from source down to 43dB(A).

I don't know where the acoustician has measured from to ascertain the 5m to the nearest receptor but I will assume the nearest point from the edge of the line of pumps to the facade. They have then added the noise of all the heat pumps together and measured it as a single point source from this nearest edge, but in reality the noise sources are spread over approximately 15 metres. Each unit is 2m wide and there needs to be spacing of at least 1m in between each unit to allow for air flow and the chosen attenuation. Thus I expect that the original assessment has overestimated the noise contribution from the units by at least 4dB. There is also the point as to whether the noise from the units should be actually considered a line source for noise, this depends on the actual length of the array and the proximity to the receptor. The acoustic guidance states, "a line source has to be at least three times as long as the distance between the source and receiver, otherwise it behaves as a point source." With a line source the noise level drops 3dB per doubling of distance instead of 6dB reduction per doubling of distance for a point source. Modelling should maybe have been undertaken here to provide a more accurate picture of the noise impact from this development.

If we calculate the noise as 5 separate noise point sources and add their noise contribution together at the receptor rather than calculate it as one point source we

get a different answer. For example the nearest unit is 5m away from the receptor the furthest is 17+metres away. So on the assumption each unit is 2m wide and there is a 1m gap in between each unit to allow for air flow and the acoustic attenuation, I calculated the following:

Each unit produces 59dB(A) at 1m, and with attenuation this is reduced to 51dB(A).

Therefore the nearest unit with attenuation will contribute 37dB(A) at 5m, at the nearest receptor.

the second unit will contribute 33dB(A) at 8m

the third unit will contribute 30dB(A) at 11m

the fourth unit will contribute 28dB(A) at 14m

and the fifth unit will contribute 26dB(A) at 17m

Add these contributions together and you get 40dB(A) rounded to the nearest dB. If we halve that reduction in the event of it being a line source, i.e. a 3dB reduction per doubling of distance rather than 6dB, then we have 45dB(A). The worst case scenario is 1dB(A) below background and with an open window this would be 30dB(A) inside, so the noise level from these units would comply with BS8233. The measured background level was 46dB(A). If we add the acoustic correction of 4dB(A) as indicated in BS4142 because of the character of the sound, then we have a rating level at the facade of 44dB(A) and a worst case of 49dB(A). The BS41412 rating level provides an indication of the noise impact and is not the actual noise level at the receptor. A rating level below background means a low impact, depending on context and a rating level just over background is an indication of an adverse impact depending on context. The context in this case is whether a character penalty needs to be added to an attenuated noise source. Also this is the worst case scenario when all Air Source Heat pumps are operating, and in reality the operation of the heat pumps will be staggered and it will only be during really cold weather that all 5 pumps will be operating simultaneously. In such climatic conditions it is probable that windows will be kept closed.

The **Trees and Landscape** Officer: Considers that the use of a permeable load bearing Cell system within the trees RPA should ensure that there is minimal disturbance to the trees. There will still need to be some excavations for connecting pipes etc. However this should be able to avoid any major or anchoring roots. Therefore if the proposed works are done in conjunction with the Arb report he recommends approval.

Adur District Conservation Advisory Group: Approve

Representations

None received

Relevant Planning Policies and Guidance

Adur Local Plan 2017 Policy 1, 15, 17, 18, 19, 30, 34
Sustainable Energy SPD (August 2019)
CarbonNeutralPlan (Adur&Worthing Dec 2019))
Carbon Neutral Study for Adur & Worthing June 2020
National Planning Policy Framework (February 2019)

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

Principle

One of the main visions and objectives of the Adur Local Plan is to make progress *“towards a low carbon, sustainable community through sustainable construction, energy efficiency, the use of renewable energy, water efficiency measures, waste reduction measures and appropriate location of development and transport infrastructure to reduce air pollution and noise; and to make a significant contribution to low and zero carbon energy production.”*

Policy 19 encourages the use of *“low carbon energy, renewable energy and residual heat/cooling for both domestic and non-domestic developments.”*

At a local level, Adur District Council has declared a Climate Emergency and committed to being carbon neutral as a council by 2030. The council has also made the UK100 Cities Pledge to achieve 100% clean energy by 2050. The council has committed to work with partners to ensure all energy use be delivered through zero carbon sources. To help meet these objectives, the development of renewable, low carbon, or decentralised energy schemes should be supported through the planning system and those based on fossil fuel combustion should not be supported.

The Council has produced its own Carbon Neutral Plan for the council decarbonisation. This has a strong focus on moving away from gas fired heating systems towards renewable and low carbon alternatives, in particular heat pumps. This approach is aligned with national policy approaches to move away from gas based systems towards non-fossil fuel alternatives as set out in the Clean Growth Strategy.

The proposed air source heat pumps are therefore supported in principle.

Visual amenity and impact on setting of Conservation Area

The proposed pumps are to be sited adjacent to a low brick wall on the northern boundary and the new 3m high fence will be visible above the wall. As originally submitted the fenced compound would have been positioned slightly further east, where there is an existing 5 bar gate which would have made the development more prominent in views from Albert Road to the north, as well as being sited closer to windows within Marsh House itself. As amended, the compound has been relocated further west and is slightly less prominent, being partly screened by mature trees outside of the site. It will still be visible behind part of the gate but it cannot be positioned further west as sufficient space is required to enable noise attenuators to be fitted and for airspace around the ASHPs to ensure they operate efficiently.

While the new fence will be visible, it is not considered to be harmfully intrusive in the street scene, given its position and the presence of partial tree screening. A timber fence is also considered to be more acceptable than a metal louvred compound, which had been an option. The visual impact of the fence should also be weighed against the sustainable energy benefits of the development itself. On balance, the development is considered to preserve the setting of the Conservation Area and is acceptable in visual terms.

Residential amenity

The amended position of the pumps has taken them further from windows within Marsh House. A noise impact assessment report has been submitted which identifies that mitigation measures will need to be in place to minimise the potential negative noise impacts on the nearest affected flat located on the upper floor of Marsh House.

Discussions have been had with Adur District Council's Environmental Health Team on the Noise Impact Assessment and the required attenuation levels and it has been agreed that the proposed attenuation measures will achieve a mitigation level of 8dB(A) which should mitigate any potential acoustic impact on neighbouring residents. This level of mitigation can be achieved by the proposed attenuators being fitted to the sides and top of each ASHP, thereby avoiding the need for a higher and larger acoustic louvred metal enclosure. While less than the 13 dB(A) recommended in the Noise Assessment the Environmental Health Officer has provided a detailed reasoning (set out in full above) as to why he would be satisfied with an 8dB(A) reduction. That reasoning points out that, in reality, the operation of the heat pumps will be staggered and it will only be during really cold weather that all 5 pumps will be operating simultaneously. In such climatic conditions it is probable that windows will be kept closed.

The Environmental Health Officer has confirmed that he has no objection to the proposal on this basis.

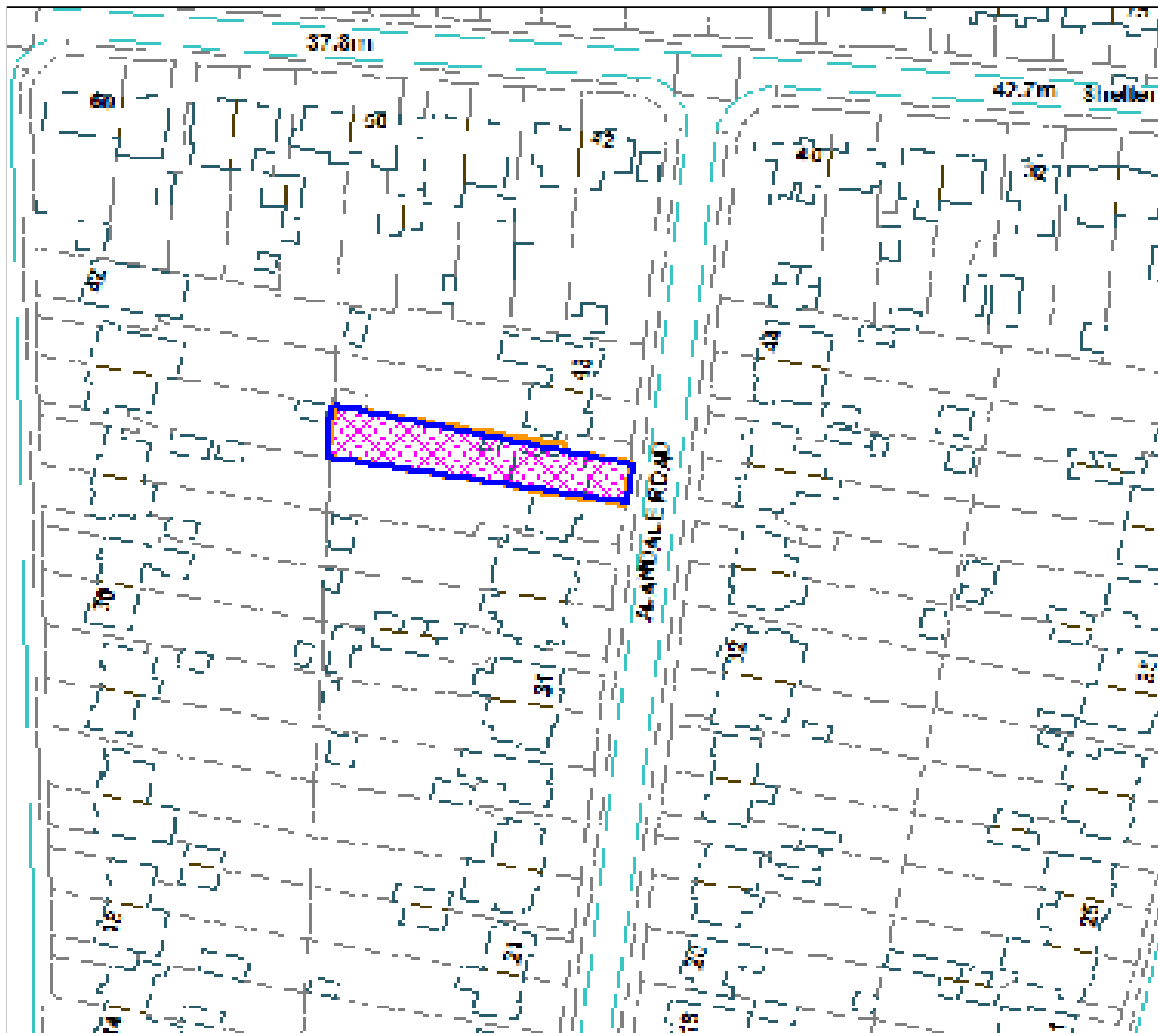
Trees

There are mature trees close to the development, outside of the site. An Arboricultural Impact Statement has been submitted which makes recommendations to minimise the impact on the tree roots. The Council's Tree and Landscape Officer is happy with these recommendations and has no objection.

Recommendation**Approve****Subject to conditions:-**

1. Approved Plans.
2. Standard time limit.
3. To be carried out in full accordance with the recommendations in the Arboricultural Impact Assessment
4. ASHPs not to be operated until timber compound built in accordance with approved plans

| | | |
|----------------------------|--|--------------------------------|
| Application Number: | AWDM/0719/21 | Recommendation - REFUSE |
| Site: | 39 Alandale Road, Sompting, Lancing | |
| Proposal: | First Floor Rear Extension | |
| Applicant: | Sophie Bowden-Caldwell | Ward: Cokeham |
| Agent: | Jaimie Blomqvist | |
| Case Officer: | Hannah Barker | |



Not to Scale

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

Proposal, Site and Surroundings

The application relates to a semi-detached chalet bungalow on the west side of Alandale Road in north Sompting. The property has already been developed with a hip to gable roof extension with rear dormer and single storey rear extension. There are no planning records for such works and it appears to have been carried out under permitted development. There is off street parking to the front of the bungalow.

Consent is sought to add a first floor rear extension above the existing single storey extension to extend from the existing rear dormer and connect with the existing roof space. The first floor projection will follow the same height as the existing dormer, projecting in line with the ground floor extension. It will be built up to the boundary with the attached dwelling. The ground floor projection is 3.1 metres and at first floor from the ridge a total of 6.8 metres. The plans show the extensions to be built with tile and render to match existing.

Representations

None received

Relevant Planning Policies and Guidance

Adur Local Plan 2017 Policy 15

'Supplementary Planning Guidance' comprising: Development Management Standard No.2 'Extensions and Alterations to Dwellings'

National Planning Policy Framework (February 2019)

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

Principle

The proposal comprises upgrading the existing housing stock located within the built up area and can be supported in principle. The relevant issues are the effects on the amenities of neighbouring residential occupiers and the effect on the character and appearance of the dwelling and its surroundings.

Visual amenity

The first floor addition will be visible from the street when approaching from the north due to the spacing between the properties, the change in levels and the scale of the proposed development. The development will also be visible to the rear from surrounding neighbouring properties. In terms of its scale, bulk and design it will be an incongruous and unsympathetic enlargement which will represent poor design and over development. It will be out of character with the existing bungalow by effectively extending the existing dormer over the ground floor extension to form a full first floor addition to a chalet bungalow. Such development is detrimental and would set a precedent for further similar development on other chalet bungalows within the vicinity which would cumulatively be significantly harmful.

To the north the neighbouring bungalow has a large first floor addition of similar design to that proposed here. There is no planning record for this development other than reference to extensions in 1977. It therefore does not set a precedent or justify the form of development proposed in this case. The existing adjacent extension is of poor design, a clear example as to why this form of development is harmful. It can be seen in the street scene as a large feature detrimental to the character and appearance of the area. The proposed development combined with this adjacent, imposing building will result in a severely detrimental outcome therefore this proposal should be resisted.

It is noted that within this locality there are various extensions and alterations that have taken place to most bungalows with many large front and rear dormers visible and single storey flat roof additions. This is the general character of the area, however this does not set a precedent or allow for the large-scale, unsympathetic development proposed here which is of a different form and scale than the current surrounding built environment.

Residential amenity

The rear extension will be visible from properties either side and to the rear of the application site. In the case of the attached bungalow to the south this is at a lower level and there are no additions to the rear. The proposed first floor addition will result in an imposing and overbearing form of development, to the detriment of the occupiers of this neighbouring bungalow due to the excessive scale, depth and height of the extension.

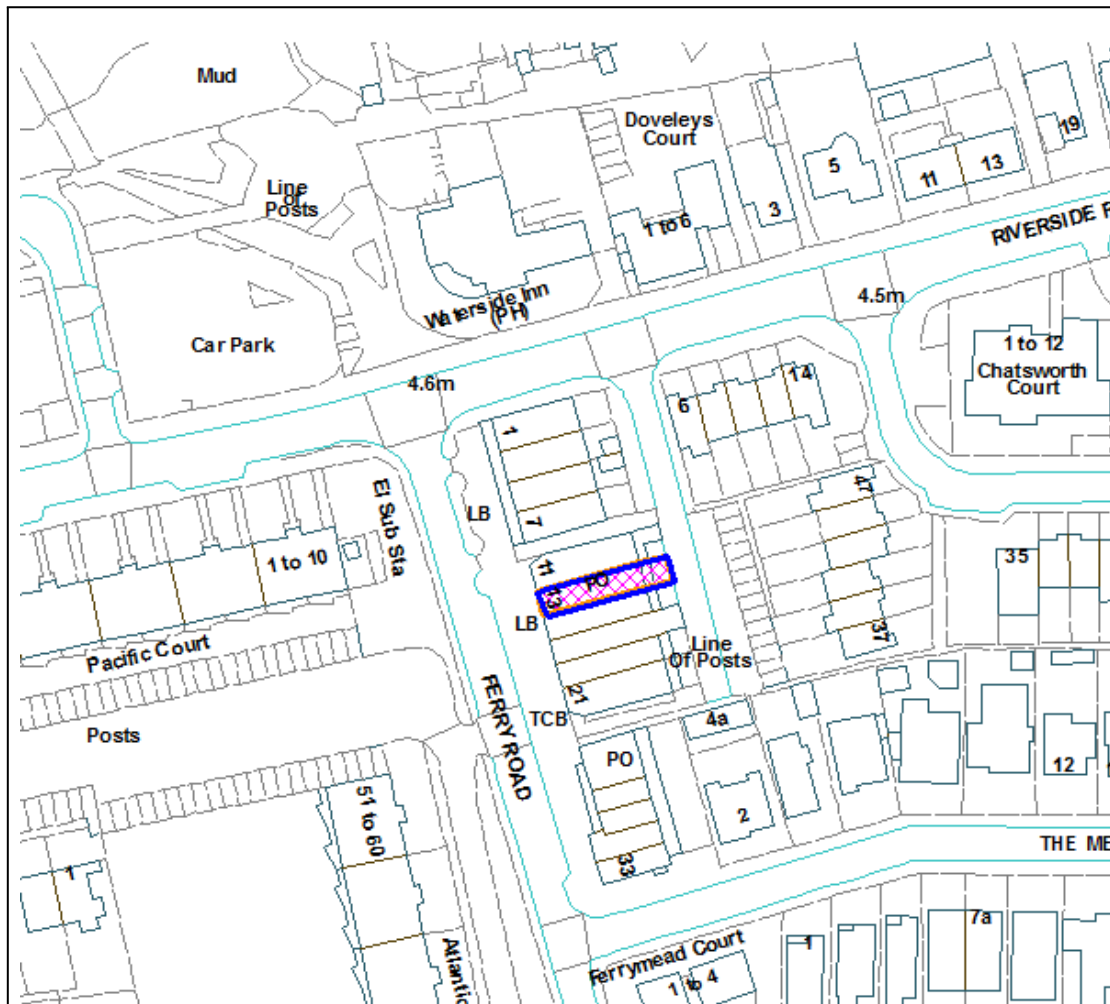
To the north is the large-scale development as mentioned above and there is spacing between the properties. There will be no adverse impact upon the amenities of the occupiers of this adjacent property. However the proposed development will be a large imposing feature when viewed from the neighbouring garden.

Recommendation

REFUSE for the reason(s):-

The proposed first floor extension due to its height, bulk, scale and design will result in an incongruous and unsympathetic form of development which will be detrimental to the character and amenities of the local environment. It would set a precedent for further development which would cumulatively have a severely harmful impact thereby conflicting with policy 15 of the Adur Local Plan.

| | | |
|----------------------------|--|---------------------------------|
| Application Number: | AWDM/0873/21 | Recommendation - APPROVE |
| Site: | 13 Ferry Road, Shoreham-By-Sea, West Sussex | |
| Proposal: | Single storey rear extension and repositioning of A/C units onto flat roof of proposed extension. | |
| Applicant: | Mr Erkan Basar | Ward: Marine Adur |
| Agent: | Mr Dave Collins | |
| Case Officer: | Hannah Barker | |



Not to Scale

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

Proposal, Site and Surroundings

The application site is a mid terrace commercial unit, convenience store and Post Office. It has flats above and other commercial units on either side. It forms part of a commercial parade within Shoreham Beach on the east side of Ferry Road.

To the rear is a service access with some informal parking, access and rear windows serving the commercial units and access to the first floor entrances to the flats. There are existing air conditioning units to the rear of the building at ground floor wall mounted. Consent is sought for a single storey, flat roof rear extension the full width of the premises. The existing A/C units are to be repositioned on the roof of the proposed extension as shown on the submitted drawings. The extension is 3.3 metres in depth and 3.3 metres high and will be built in materials to match existing.

Adur & Worthing Councils: The **Environmental Health** officer has no EH objections to this application. Please can we ensure that the A/C unit is mounted on anti vibration mounts to reduce any structure borne noise.

Representations

None received

Relevant Planning Policies and Guidance

Adur Local Plan 2017

'Supplementary Planning Guidance' comprising: Development Management Standard No.2 'Extensions and Alterations to Dwellings'

National Planning Policy Framework (July 2021)

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

Principle

The A/C units are as existing and will be repositioned on the roof of the proposed extension. Matters for consideration here are the impact of the A/C units being moved and the proposed extension upon the residential amenities of the adjacent

occupiers in the flats above. Also for consideration is the visual appearance of the proposal and its impact upon the character and appearance of the locality.

Visual amenity

The extension is to the rear of the property and visible from the rear servicing road and surrounding residential properties which overlook the site. It will not be visible within the street scene in Ferry Road. It is modest in scale and although the A/C units will be elevated from their existing position there will be no visual harm to the character and appearance of the locality.

Residential amenity

Although the proposed development will be visible from properties to the rear surrounding the site the main impact will be upon the residential properties above the application site. The single storey extension will be visible however being at ground floor there will be no loss of light, outlook or privacy to the flats above. As stated above the A/C units will be repositioned on top of the extension bringing them closer to the flats above. The plans show the units coming no higher than the floor of the platform above therefore no visual adverse impact will occur. In terms of noise Environmental Health have advised that the details accompanying the application in relation to the units are acceptable and that there will be no impact in terms of noise provided that anti vibration mounts are used. The applicant's agent has confirmed that these are currently fitted and a condition is attached to ensure this remains the case.

The commercial properties either side of the site at ground floor have some visible rear openings however as these serve ancillary rooms to the commercial premises and are not residential any loss of light or overbearing impact would not warrant a refusal in this case.

Recommendation

Approve

Subject to conditions:-

1. Standard time limit
2. Approved plans
3. The air conditioning units when in position shall not exceed the ground level of the first floor, external raised platform. The units shall also be mounted on anti vibration mounts to reduce any structure borne noise at all times unless otherwise approved in writing by the Local Planning Authority.
4. Materials to match existing.

9 August 2021

Local Government Act 1972

Background Papers:

As referred to in individual application reports

Contact Officers:

Peter Barnett
Principal Planning Officer
Portland House
01903 221310
peter.barnet@adur-worthing.gov.uk

Hannah Barker
Senior Planning Officer
Portland House
01903 221475
hannah.barker@adur-worthing.gov.uk

Schedule of other matters

1.0 Council Priority

- 1.1 As referred to in individual application reports, the priorities being:-
- to protect front line services
 - to promote a clean, green and sustainable environment
 - to support and improve the local economy
 - to work in partnerships to promote health and wellbeing in our communities
 - to ensure value for money and low Council Tax

2.0 Specific Action Plans

- 2.1 As referred to in individual application reports.

3.0 Sustainability Issues

- 3.1 As referred to in individual application reports.

4.0 Equality Issues

- 4.1 As referred to in individual application reports.

5.0 Community Safety Issues (Section 17)

- 5.1 As referred to in individual application reports.

6.0 Human Rights Issues

- 6.1 Article 8 of the European Convention safeguards respect for family life and home, whilst Article 1 of the First Protocol concerns non-interference with peaceful enjoyment of private property. Both rights are not absolute and interference may be permitted if the need to do so is proportionate, having regard to public interests. The interests of those affected by proposed developments and the relevant considerations which may justify interference with human rights have been considered in the planning assessments contained in individual application reports.

7.0 Reputation

7.1 Decisions are required to be made in accordance with the Town & Country Planning Act 1990 and associated legislation and subordinate legislation taking into account Government policy and guidance (and see 6.1 above and 14.1 below).

8.0 Consultations

8.1 As referred to in individual application reports, comprising both statutory and non-statutory consultees.

9.0 Risk Assessment

9.1 As referred to in individual application reports.

10.0 Health & Safety Issues

10.1 As referred to in individual application reports.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified.

13.0 Legal

13.1 Powers and duties contained in the Town and Country Planning Act 1990 (as amended) and associated legislation and statutory instruments.

14.0 Financial implications

14.1 Decisions made (or conditions imposed) which cannot be substantiated or which are otherwise unreasonable having regard to valid planning considerations can result in an award of costs against the Council if the applicant is aggrieved and lodges an appeal. Decisions made which fail to take into account relevant planning considerations or which are partly based on irrelevant considerations can be subject to judicial review in the High Court with resultant costs implications.

This page is intentionally left blank



ADUR DISTRICT
C O U N C I L

Adur Planning Committee
9 August 2021
Agenda Item no. 7

Ward: N/A

Planning Appeals

Report by the Director for Economy

1. Members will recall that it was recently agreed that appeal decisions would be included on the agenda for Members information. The attached two appeal decisions are both significant for different reasons and this short report highlights some of the key issues that the appeals highlight.

Appeal Decision - The Haven

3. This is a disappointing decision given that both the Parish Council and the Committee felt very strongly that this open area in front of the Haven apartments contributed to the open character of the area. The application was refused on the following grounds:

01. The proposed development, by reason of its scale, siting in front of The Haven and proximity to the road, would result in a prominent and dominant development which would intrude into the open character of this part of Brighton Road to the detriment of the visual amenities of the locality. The proposal is therefore contrary to policy 15 of the Adur Local Plan and paragraphs 127, 130-131 of the NPPF 02.

0.2 The loss of the open space and the introduction of the proposed parking area in close proximity to the ground floor bedroom windows of residents in The Haven will cause a loss of amenity by way of noise, fumes and lights. The proposal is therefore contrary to policy 15 of the Adur Local Plan and paragraphs 127, 130- 131 of the NPPF

4. The Inspector did not accept that there was any significant loss of amenity to the Haven flats from either the loss of open space or proximity of car parking. On the open space issue the Inspector concluded that,

'Whilst there would be some impact on visual amenity arising from the loss of the site's open character, this would be offset by the high architectural quality of the proposed development. I therefore conclude that the scheme would make a positive contribution to the sense of place, local character and distinctiveness of the area and it thus complies with Policy 15 of the Adur Local Plan 2017 (ALP).'

5. Whilst, it is not explicit in the Inspector's assessment of the scheme, he was clearly influenced by the housing need argument and specifically refers to what has been termed the *tilted balance* contained in the NPPF where a lack of a 5 year supply of housing exists. The Inspector refers to the delay in bringing forward strategic sites in Adur and the historic failure to meet housing requirements. This argument is increasingly being used to support development proposals across the District and can in certain circumstances override the harm caused by housing schemes. The following paragraphs highlight this issue:

'The Council's strategic sites have begun to deliver units but predicted build-out rates cannot be guaranteed. The proposal's contribution to the delivery of new homes, set in the context of a history of under-delivery of housing in the 3 year period since 2017, therefore attracts significant weight. Even relatively small sites such as this can contribute to addressing the current housing shortfall.'

Paragraph 68 of the Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. It further advises decision-makers to support the development of windfall sites and give great weight to the benefits of using suitable sites within existing settlements for homes. Paragraph 118 of the Framework promotes and supports the development of brownfield and under-utilised land, especially if this would help to meet identified needs for housing where land supply is constrained – as in this particular case. These aspects of Government policy all weigh in favour of a grant of planning permission.'

6. It is frustrating that the Council is unable to demonstrate a 5 year supply as this is due to the failure of the larger strategic sites to deliver housing as originally envisaged in the 2017 Local Plan. Ironically the Council is partly in

this position because of the delays caused by the Government with the New Monks Farm development. Members will recall that the decision was held up for over 7 months whilst the Secretary of State decided whether to call in the application for his determination. The delays with the West Sompting application being submitted following the adoption of the Local Plan has also affected the expected housing delivery trajectory. Whilst a number of strategic sites are now delivering new housing, the Council is at risk of potentially losing more appeals where arguments of harm are finely balanced and regard has to be given to the benefits of delivering additional housing..

7. The Local Plan review which has just started will need to review the Council's proposed housing trajectory and there will be pressure once more to allocate additional land to meet the objectively assessed housing needs of the District.

Appeal Decision - 66 Old Fort Road

8. This appeal decision highlights the increasing risk of costs being awarded against Councils where they cannot provide sufficient grounds to defend a decision.
9. The application was recommended for approval but overturned by Members on the grounds that,

'The proposal, by reason of its excessive scale and massing, would be out of keeping and detrimental to the character and appearance of the surrounding built environment therefore contrary to Policy 15 of the Adur Local Plan.'

10. However, the Inspector felt that the numerous examples of similar developments on Shoreham Beach and its eclectic mix of architectural styles meant that the Council had not been consistent in its approach and that the decision to refuse was unreasonable. Particular attention is drawn to the following paragraph:

'It is apparent that in refusing this proposal the council has not been consistent in its approach to development within this area and as a consequence the appellant has felt it necessary to pursue the appeal. In submitting evidence, the Council has been somewhat vague in substantiating its reason for refusal having regard to the examples clearly found within the area for which it has given permission.'

I therefore find that unreasonable behaviour by Highways England, resulting in the appellant incurring unnecessary and wasted expense, as described in the PPG, has been demonstrated and a full award of costs is justified. ‘

11. Members will note the error in the last paragraph (reference to Highways England rather than Adur District) which is somewhat unfortunate.. Nevertheless the decision does bring into sharp focus the need to ensure that any refusal of permission needs robust refusal reasons to avoid cost claims in the future. As yet the claim for costs has not been submitted.
12. Members will be aware that Adur has a very good success rate at appeal (notwithstanding the above decisions). The Government monitors appeal performance and if local authorities do not meet performance standards there is a risk of designation. Once a Designation Notice is served for reasons of speed of determination or quality of decision a developer may be able to apply directly to the Planning Inspectorate to determine the application. A further report to the Committee will provide an update on performance matters for 2020/21.

13 Recommendation

Members to note the report and the attached appeal decisions.

Local Government Act 1972

Background Papers:

Appeal decisions and relevant planning applications

Contact Officer:

James Appleton
Head of Planning and Development
01903 221334
james.appleton@adur-worthing.gov.uk



Appeal Decision

Hearing held on 5 May 2021

Site visit made on 6 May 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/Y3805/W/20/3256355

Land north of The Haven, Brighton Road, Lancing BN15 8EU

- 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 T Naylor of Dean Dugdale Ltd. against the decision of Adur District Council.
 - The application Ref AWDM/0063/20, dated 15 January 2020, was refused by notice dated 16 March 2020.
 - The development proposed is Residential (9 No. Dwellings) and associated development including means of access, car parking, refuse and cycle storage, drainage infrastructure, amenity space and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of 8 no. flats (4 x 2 bed and 4 x 3 bed) within 2-storey building and 1 no. 2 bed flat (9 in total) within link-detached single-storey building, with 12 no. parking spaces, 10 no. cycle spaces, bin store, amenity space and landscaping at Land north of The Haven, Brighton Road, Lancing BN15 8EU in accordance with the terms of the application, Ref AWDM/0063/20, dated 15 January 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development set out in the banner heading is taken from the application form. The Council used different wording on the decision notice but this was agreed by the appellant at the hearing. The amended description is more precise and therefore I have used it in my formal decision.
3. Following requests from the occupiers concerned to view the site from their properties, I made pre-arranged visits to Nos 1, 22 and 27 The Haven. This was unaccompanied by the main parties, as agreed at the hearing.

Main Issues

4. The main issues are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) the effect of the proposed parking area on the living conditions of the occupiers of ground floor flats in The Haven, with particular regard to noise, air quality and light nuisance.

Reasons

Character and appearance

5. The appeal site covers 0.2 hectares and sits between Brighton Road and the residential apartment block known as The Haven. Approximately 50 years ago, it was occupied by a substantial Victorian villa, in use as a care home, which extended onto adjoining land to the south. That building was demolished to make way for The Haven. Although the approved plans indicated some amenity landscaping on the appeal site, it was outside of the application site for The Haven development and on land that was reserved for future road widening. Those highway improvement plans were abandoned; hence the County Council has disposed of the land to the appellant as being surplus to requirement.
6. The land is presently laid to grass, with no signs of above ground structures. Nevertheless, there is no dispute that it has been previously developed, albeit many years ago. For the purposes of determining this appeal, I am satisfied that it complies with the definition of 'previously developed land' set out within Annex 2 of the National Planning Policy Framework (the Framework).
7. Although it has no public access rights or functional linkage with The Haven, the land is seen in the foreground of this apartment block from Brighton Road. The grassy area has some visual amenity value, but is not integral to the design of The Haven in terms of providing a landscaped setting. I presume that the original intention would have been to modify the road alignment to reinstate the character of a building close to the road frontage. As it stands, without the highway improvements being undertaken, the apartments are set well back from the road, particularly at their eastern end.
8. The proposed building would occupy the eastern part of the site, between an existing path and the side boundary. It would be much closer to the road than other properties in the immediate vicinity and for this reason the Council is concerned that the development would be dominant in the street scene. It was argued that views open out in the westerly direction towards Beach Green, as a consequence of The Haven and other flatted developments to the south of Brighton Road being set back. That is true, to an extent, but I do not agree that the siting of proposed development would be out of keeping, given the varied townscape which exists along Brighton Road. There is no consistency in building line on the south side of the road, and when travelling west existing property frontages largely screen the site until the last moment.
9. The new flatted block would present a strong and active frontage onto the street and its modest two-storey scale would be comparable to other buildings along this stretch of road. The use of primary colours for window surrounds would give the design a contemporary twist, and this would add interest to a street scene which is characterised by an eclectic mix of architecture. The development would be split into three discrete blocks with subservient links; this would ensure that the mass is well-articulated with the same horizontal emphasis that is a characteristic of The Haven and other nearby apartments.
10. The Haven is a distinctive feature of the local area, not so much for the quality of its architecture, which is relatively austere, but due to its white coloration. The building presents its principal aspect towards the sea, but its northern elevation is not unattractive. Whilst I do not share the appellant's view that this side of the building would benefit from being cloaked with new development, equally it is

not of such importance that justifies preservation of the status quo. The development would obscure some views from Brighton Road, notably from a short stretch of road immediately in front of the new building and from Penhill Road. However, The Haven would maintain a strong presence in the street scene, with the entire elevation being visible on the approach from Beach Green.

11. That said, it must be acknowledged that the proposed development of the site would represent a significant visual change, particularly for those local residents who have always known it as an undeveloped parcel of land. However, change does not always equate to harm and in this instance the design and layout of the scheme adheres to well-established design principles. The provision of high quality landscaping would help to soften views of the car parking and assimilate the development into its surroundings.
12. Whilst there would be some impact on visual amenity arising from the loss of the site's open character, this would be offset by the high architectural quality of the proposed development. I therefore conclude that the scheme would make a positive contribution to the sense of place, local character and distinctiveness of the area and it thus complies with Policy 15 of the Adur Local Plan 2017 (ALP).

Living conditions

13. The scheme would make provision for a total of 12 parking spaces which would be located immediately to the west of the existing access road. The Council is concerned that the close proximity of this parking area to ground floor bedroom windows in The Haven would harm the living conditions of the occupiers of those flats by reason of noise, fumes and car headlights.
14. The Council does not contest the trip generation figures set out within the submitted Transport Statement. This predicts that the development would give rise to 28 vehicle movements over the period 0800 to 2000 hours, including 3 movements in each of the morning and evening peaks. The number of comings and goings would be modest, with activity spread across the course of the day.
15. The proposal is to erect an acoustic screen fence along the southern boundary of the parking area. This would provide effective mitigation against any noise from vehicles arriving, departing and manoeuvring within the parking area. It would also prevent any nuisance from headlights. Although the fence would significantly alter the outlook from the affected bedroom windows, it would not be so close as to be oppressive and the planting of a privet hedge in front of the fence would soften its appearance and provide screening in the long term.
16. The Council does not provide any substantive evidence to support its concerns over car fumes. The submitted Air Quality Assessment concludes that, whilst there is the potential for air quality impacts as a result of traffic exhaust emissions associated with vehicles travelling to and from the site, these are likely to be negligible due to the limited number of anticipated vehicle trips. There is no counter evidence to lead me to a different conclusion.
17. The relationship of the proposed parking to flats would be no worse, and better if anything, than that which already exists at the eastern end of The Haven where vehicles routinely park and manoeuvre directly in front of habitable room windows. I have seen no substantive evidence to demonstrate that this is a problematic arrangement. This, together with the absence of any objection from the Environmental Health Officer, lends weight to the appellant's case.

18. Accordingly, I conclude that the proposal would not have a materially harmful impact on the living conditions of the occupiers of ground floor flats in The Haven. There is no conflict with ALP Policy 15 insofar as it seeks to ensure that new development does not have an unacceptable impact on adjacent properties.

Other Matters

19. The proposal would significantly alter the outlook from north-facing windows in The Haven. For some apartments, it may interfere with long distance views of the South Downs. I acknowledge that this will be a concern for residents, who are used to the site being open and undeveloped, but I do not consider that the impacts would justify dismissal of the appeal. The new building would not be so close as to be overbearing and the separation distances would be such that adequate levels of privacy could be maintained. The Council does not contest the submitted Daylight and Sunlight Assessment which concludes that the proposal would have an acceptable relationship with The Haven. I am mindful that the living rooms would continue to enjoy an open aspect towards the sea.
20. The scheme would comply with the stipulations of the Council's Development Management Standard No.1 'Space Around New Dwellings and Flats' which states that where a two-storey building backs onto a three-storey building a minimum distance of 28m is required. The single-storey building at the rear of the new development would be closer but it would be a modest structure and would not have windows to habitable rooms facing onto The Haven.
21. The proposed parking provision complies with the West Sussex Guidance on Parking at New Developments (2020). These standards are robust in taking account of expected future growth in the demand for parking until the end of the current local plan period. As such, I have no reason to consider that the scheme would lead to parking overspill onto Penhill Road. Although concerns have been raised in relation to visibility at the access onto Brighton Road, splays would be provided to the appropriate standard. The Highway Authority considers the proposal to be acceptable in highway terms and I concur.
22. Concerns are raised that the development would provide a poor quality living environment for its occupants, due to noise from traffic. The submitted Noise Assessment proposes that adverse noise impacts are mitigated through glazing specification and installation of a Mechanical Ventilation with Heat Recovery system. The Environmental Health Officer is satisfied with this approach and I have no reason to take a different view. Vibration from heavy goods vehicles is not dealt with specifically in the evidence, but there is no technical analysis to demonstrate that this would be a barrier to development.
23. It has been agreed between the parties that, in the circumstances of this case, there is no requirement for a S106 planning obligation. The proposal falls below the threshold for affordable housing provision in Policy 21 of the ALP. As such, no contribution is necessary from the scheme.
24. I have taken account of all other concerns raised in representations, including those in relation to precedent, foul and surface water drainage and the proposed bin stores, but based on the information before me these matters do not form grounds to dismiss the appeal. Drainage matters can be addressed by imposing appropriate planning conditions.

Planning Balance

25. It is common ground that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. Based on the assessment at April 2020 the supply figure was 4.8 years. Furthermore, in the Housing Delivery Test published in January 2021 the Council had delivered only 48% of the housing requirement during the measurement period (2017-20). The ALP acknowledges that the housing requirement already falls some way short of meeting the full, objectively assessed needs due to the constraints imposed by environmental factors such as the South Downs National Park and flood zones. Set in this context, the need for housing is urgent and a step change in delivery is required.
26. The Framework explains¹ that in circumstances where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous 3 years, permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) 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.
27. The application of policies that protect areas or assets of particular importance do not provide clear reason for refusing the development proposed. The site is not affected by any designations that are the subject of specific policies in the Framework, and is not in an area of flood risk. Moreover, there is no impact on heritage assets. The parties are therefore agreed that it is the tilted balance set out within limb (ii) which is applicable.
28. The Council's strategic sites have begun to deliver units but predicted build-out rates cannot be guaranteed. The proposal's contribution to the delivery of new homes, set in the context of a history of under-delivery of housing in the 3 year period since 2017, therefore attracts significant weight. Even relatively small sites such as this can contribute to addressing the current housing shortfall.
29. Paragraph 68 of the Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. It further advises decision-makers to support the development of windfall sites and give great weight to the benefits of using suitable sites within existing settlements for homes. Paragraph 118 of the Framework promotes and supports the development of brownfield and under-utilised land, especially if this would help to meet identified needs for housing where land supply is constrained – as in this particular case. These aspects of Government policy all weigh in favour of a grant of planning permission.
30. The site lies within the Built Up Area boundary (BUA) for Lancing as defined on the ALP Policies Map. It is within walking distance of shops and services and has good access to public transport. Development within the BUA is supported in principle by ALP Policies 2 and 3. The proposal would meet the minimum density requirements set out in ALP Policy 22 and it would deliver a mix of 2 and 3 bedroom properties, and therefore dwellings of a type that ALP Policy 20 expressly supports in order to meet identified needs.

¹ Paragraph 11 (d)

31. I have not identified any material harm in relation to the character and appearance of the area, or the living conditions of the occupiers of The Haven. It follows that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal. As such, the proposal would constitute sustainable development for which there is a presumption in favour within ALP Policy 1 and the Framework.

Conditions

32. The Council supplied a list of conditions for discussion at the hearing. I have considered these against the tests set out in paragraph 55 of the Framework and the Planning Practice Guidance. Where necessary, I have adjusted wording to improve precision and enforceability.

33. In addition to imposing the standard time limit for commencement, I have attached a condition specifying the approved plans in the interests of certainty. To ensure that the development takes place safely without undue harm to the environment or residential amenity, a condition is necessary to require the submission for the Council's approval of a Construction Method Statement and Plan. Pre-commencement conditions are also needed to secure details of foul and surface water drainage. Following discussion at the hearing, the parties have agreed an amended wording for the latter which improves monitoring whilst also taking into account the fact that the principles of the surface water drainage strategy have already been agreed.

34. In the interests of the character and appearance of the area, conditions are necessary to secure details of materials and finishes for the building, surfacing and boundary treatments. For the same reason, a condition is needed to require the implementation of the hard and soft landscaping scheme.

35. To ensure satisfactory provision of car parking, a condition is needed to require the vehicle parking and turning spaces to be laid out prior to first occupation of the development. A condition is also needed in connection with the provision and specification of the electric vehicle charging spaces. The design of the scheme makes provision for covered and secure cycle parking to encourage sustainable alternatives to car use, and I have attached a condition requiring this to be provided. In the interests of highway safety, conditions are also necessary to ensure that the access is constructed in accordance with the approved plans with visibility splays onto the Brighton Road.

36. The Council's suggested condition regarding sustainable construction measures is vague and not justified by local plan policy which only seeks low carbon and renewable energy on major schemes. I have therefore adjusted the wording to relate to a minimum water efficiency standard, in line with ALP Policy 18.

37. The submitted Noise Assessment recommends an acoustic protection scheme to protect future occupiers of the development from traffic noise. A condition is needed to require implementation of this scheme. I have imposed further conditions relating to obscure glazing and bin storage, to ensure that residents have privacy within bathrooms, and to ensure adequate refuse storage.

Conclusion

38. The law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate

otherwise. The proposal accords with the development plan read as a whole and as such there are no reasons for permission to be withheld.

39. For the reasons given above I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|---|--------------------------------|
| Zack Simons | Landmark Chambers |
| Jonathan Vernon Smith BSc (Hons) Dip (Arch) RIBA | Director, Urban Design Box |
| Dr Thomas Roche BA (Hons) PhD BTP (Dist) MRTPI | Director, Roche Associates Ltd |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-------------------------------------|----------------------------|
| Peter Barnett BA(Hons), DipTp MRTPI | Principal Planning Officer |
| Moira Hayes BA (Hons) MA MRTPI | Planning Policy Manager |

INTERESTED PARTIES:

| | |
|------------------|----------------------|
| Cllr Ann Bridges | Local councillor |
| Angela Davey | Resident |
| Andrew Gordon | Resident |
| Tim Loughton MP | Member of Parliament |

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg nos 3488_01_B, 3488_0001_E, 3488_01_02_T, 3488_02_01_I , 3488_02_02_B, 3488_03_01_F, 3488_03_02_F, 3488_03_03_F, LLD1731_100_11, LLD1731_200_02, LLD1731_201_02, LLD1731_202_02, LLD1731_203_01, 3488_001, 3488_01_03, 3488_03_02_C and 3488_05_01_A.
- 3) No development shall commence on site until a Construction Method Statement and Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Method Statement and Plan and shall be adhered to throughout the construction period. The Statement and Plan shall provide for: -
 - a) the anticipated number, frequency and types of vehicles used during construction – HGV construction traffic routings shall be designed to minimise journey distance through the AQMA's;
 - b) the method of access and routing of vehicles during construction;
 - c) parking of vehicles of site operatives and visitors;
 - d) loading and unloading of plant, materials and waste;
 - e) a commitment to no burning of waste material on site;
 - f) storage of plant and materials used in constructing the development;
 - g) the erection and maintenance of security hoarding;
 - h) wheel-washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
 - i) measures to control the emission of dust and dirt during construction;
 - j) details of public engagement both prior to and during construction works;
 - k) details of working hours on site.
- 4) No development shall commence on site (excluding preliminary site clearance and ground works) until details of the proposed means of foul water drainage have been submitted to and approved by the local planning authority and the building shall not be first occupied until all foul water drainage works have been carried out in accordance with the approved details.
- 5) No development shall commence on site (excluding works of site clearance, survey, investigation and/or preliminary groundworks) until detailed construction drawings of the catchpits, manholes and pipe bedding associated with the approved surface water drainage scheme to be implemented in accordance with the 'Surface Water Drainage Strategy' prepared by Ambiental Environmental Assessment, have been submitted to and approved in writing by the local planning authority. No part of the building shall be first occupied until the surface water drainage system has been implemented in full accordance with the approved details.

- 6) No construction works shall progress beyond slab/foundation stage until details and samples of facing materials and finishes to be used in the construction of the external walls, roofs, windows, doors, balconies, footpaths and ground floor patios of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Thereafter the development shall only be carried out in accordance with the approved details.
- 7) The development hereby permitted shall not be occupied until boundary walls and/or fences have been erected in accordance with details that have been first submitted to and approved in writing by the local planning authority.
- 8) The development hereby permitted shall not be occupied until covered and secure cycle parking has been provided in accordance with the approved plans and details. The cycle parking shall be properly maintained and kept available for the parking of bicycles thereafter.
- 9) The development hereby permitted shall not be occupied until the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Additional information plan – illustrative plan showing sight lines' dated February 2020 and numbered 3488_01_03 (no revision) with the provision of tactile paving either-side of the bellmouth to assist with the crossing of pedestrians at this point.
- 10) The development hereby permitted shall not be occupied until visibility splays of 2.4m by 43m have been provided at the site vehicular access onto A259 Brighton Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level.
- 11) The development hereby permitted shall not be occupied until the vehicle parking and turning spaces have been laid out in accordance with the approved plans and surfaced in a material to be first agreed in writing with the local planning authority. The parking spaces shall thereafter be retained for their designated use.
- 12) The development hereby permitted shall not be occupied until Electric Vehicle Charging spaces have been provided in accordance with plans and details that have been first submitted to and approved in writing by the local planning authority.
- 13) The development hereby permitted shall not be occupied until provision for communal refuse storage has been provided in accordance with the approved plans and details. The refuse store shall thereafter be retained for use by occupiers of the development.
- 14) The development hereby permitted shall not be occupied until the bathroom windows on the south elevation have been fitted with obscured glazing. The obscure glazing shall thereafter be retained at all times.
- 15) The development hereby permitted shall not be occupied until measures to achieve a water efficiency standard for each dwelling of no more than 110 litres per person per day have been incorporated into the development. Details of the measures incorporated shall be provided to the local planning authority on request.

- 16) All works, which form part of the approved acoustic protection scheme, shall be completed before any part of the development is first occupied. The glazing specifications outlined in the Noise Assessment December 2019 shall be implemented in full and the scheme shall include a MVHR ventilation system, which shall include a summer bypass to prevent overheating. Following approval and completion of the scheme, a test shall be undertaken to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential units from noise and certification to confirm this shall be provided to the local planning authority prior to the first occupation of the development.
- 17) Immediately following the completion of construction of the surface water drainage system in accordance with the details pursuant to Condition 5 above, the developer shall provide to the local planning authority details of the 'as-built' drawings together with a verification report prepared by a suitably qualified person confirming that the scheme has been implemented in accordance with the approved drawing(s) and is fit for purpose. The operational efficacy of the scheme shall subsequently be maintained at all times during the lifetime of the development.
- 18) All soft landscape works shall be carried out in accordance with the approved scheme no later than the first planting season following completion of the development. 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 the following planting season with others of similar size and species, unless the local planning authority gives any consent for variation. The approved hard landscape works, including car park surfacing, shall be completed prior to first occupation of the buildings.

*** END ***

This page is intentionally left blank



Appeal Decision

Site visit made on 9 June 2021

by **J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 29 JUNE 2021

Appeal Ref: APP/Y3805/W/21/3270585

66 Old Fort Road, Shoreham-by-Sea BN43 5HA

- 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 Andrew Pollard against the decision of Adur District Council.
 - The application Ref AWDM/1085/20, dated 13 July 2020, was refused by notice dated 9 February 2021.
 - The development proposed is demolition of a two-storey house and replacement with a part three storey detached house.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of a two storey house and replacement with a part three storey detached house at 66 Old Fort Road, Shoreham-by-Sea BN43 5HA in accordance with the terms of the application, Ref AWDM/1085/20, dated 13 July 2020, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Andrew Pollard against Adur District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is set within a road of residential development which demonstrates an eclectic mix of dwellings. Large detached houses are the dominant type of development, and these vary considerably in respect of scale, design and age, which is an interesting display of the evolution of architectural fashion.
5. The proposal would be unashamedly contemporary in its design, which would reflect the more modern developments within the area. The ground floor would provide the largest footprint with each floor above set in slightly from the front, rear and sides of the storey beneath to give a tiered effect. The range of dwellings in the area includes 1,2 and 3 storey dwellings and whilst the overall height would be of a 3-storey dwelling it would not be out of context within the wider area. The tier design would reduce the bulk of the upper floors and a

separation in excess of one metre would be maintained from the side boundaries. Collectively these factors would ensure that the spaciousness and open character of the area around the built form would be retained, and the building would not be experienced as an overbearing or oppressive form of development.

6. The use of lightweight materials with clean lines and expanses of glass would respond positively to the seaside location and contribute to the diverse range of architecture along the road. The glass would create an element of permeability to the dwelling, which would not only reflect the openness and vast expanse of the adjacent sea, but also reduce the overall perceived mass of the dwellinghouse.
7. I find that the proposal would be a complimentary addition to the area. It would comply with Policy 15 of the Adur Local Plan which requires development to be of a high architectural quality and respect and enhance the character of the site and the prevailing character of the area.

Other Matters

8. I have considered the representations made in relation to the proposal. Whilst the built form would extend closer to the boundaries than the existing dwelling, I consider that the retained level of space around the dwelling, combined with the wider openness of the area, would ensure that the development would not be overbearing. The existing relationship with No 64, which is set towards the highway, would result in a different outlook for occupiers of No 64. However, the design of the dwelling to include a set back at upper level would not create an oppressive development. Privacy glazing would be incorporated in the balconies which would be secured by condition. Obscure glazing would be used in the east and west elevations on the upper floors. I am satisfied that the building has been designed to ensure that it would not be harmful to living conditions of neighbouring occupiers. There are a number of examples of sites along Fort Road being redeveloped, with replacement dwellings varying considerably. The appeal scheme does not set a precedent, each scheme must be assessed on its own merits.
9. Whilst I have carefully considered the representations made, the issues raised do not lead me to reach a different conclusion in respect of the appeal.

Conclusion and Conditions

10. I have found that the proposal would comply with the development plan when taken as a whole, and the appeal should succeed. I have considered the suggested conditions set out in the evidence of both the Council and appellant. I have amended the conditions for clarity and to ensure that they meet the necessary tests.
11. I have specified the plans for certainty. I have specified hours of construction and consider it necessary to ensure that external fixed plant is properly installed to ensure that the proposal does not adversely affect living conditions of neighbouring or future occupiers. I have attached conditions to secure obscure glazing on the first and second floor east and west elevations, restrictions on any additional openings on those elevations, and privacy glazing for balconies. These conditions are necessary to ensure that the proposal does not have a harmful effect on the living conditions of neighbouring occupiers.

12. Due to the location of the appeal site it is necessary to include a condition securing compliance with the Flood Risk Assessment. Electric charging points are necessary to encourage sustainable methods of transport. I have included conditions relating to materials for the dwelling, carport and outdoor kitchen. I consider these necessary to ensure that the materials used sit comfortably within the character of the site and wider area.
13. I have specified that car parking should be provided, and the garage retained for parking of vehicles, to ensure that the site accommodates the level of associated parking and does not have an adverse impact on highway safety in this regard.
14. As this development is for a single dwelling in an area with good highway visibility and accessibility, with a condition secured relating to hours of construction, I do not consider it necessary to secure a construction method statement.
15. For the reasons above and having regard to all other matters raised I conclude that the appeal is allowed.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CONTEXTUAL ELEVATIONS ADC 1268/17 REV A; PROPOSED NORTH ELEVATION ADC 1268/13 REV D; LOCATION & BLOCK PLAN ADC1268/LP REV B; PROPOSED GROUND FLOOR PLAN ADC 1268/09 REV D; PROPOSED FIRST FLOOR PLAN ADC 1268/10 REV D; PROPOSED SECOND FLOOR PLAN ADC 1268/11 REV B; PROPOSED SIDE ELEVATION ADC 1268/14 REV C; PROPOSED WEST ELEVATION ADC 1268/15 REV D; PROPOSED EAST ELEVATION ADC 1268/16 REV E; LANDSCAPING PLAN ADC 1268/18 REV C; EXISTING FLOOR PLANS ADC 1286/01; EXISTING ELEVATIONS ADC 1268/02.
- 3) No development other than site survey and investigation shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) 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 08:00 - 18:00 Hours Saturday 09:00 - 13:00 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
- 5) No development other than site survey and investigation shall take place until a scheme is submitted to and approved by the local planning authority for attenuating all external fixed plant. The scheme shall have

regard to the principles of BS 4142:2014+A1:2019 and ensure there is no detrimental impact to the nearest residential dwellings. A test to demonstrate compliance with the scheme shall be undertaken within one month of the scheme being implemented. All plant shall be maintained in accordance with manufacturer's guidance and any future plant shall also meet the specified levels within the approved scheme.

- 6) The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref: ADC 1268, dated 13 July 2020, by Alistair Dodd Consulting) and the following mitigation measure it details: Finished floor levels shall be set 300mm above existing ground levels (section 5.4). This mitigation measure shall be fully implemented prior to occupation. The measure detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
- 7) No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated purpose.
- 8) No part of the development shall be first occupied until the electric vehicle charging space(s) have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.
- 9) The building hereby permitted shall not be occupied until the window on the upper floors of the east and west elevations have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 10) No additional openings shall be installed on either the east or west elevations.
- 11) The balconies shall be fitted with privacy screens as detailed in plans Proposed West Elevation – ADC 1268/15 Rev D; Proposed East Elevation – ADC 1268/16 Rev E; Proposed Side Elevation – ADC 1268/14 Rev C. The privacy screens shall be retained in perpetuity.
- 12) Prior to construction of the carport and outdoor kitchen shown on the approved plans details of the design and construction and finish of these structures shall be submitted to and approved by the Local Planning Authority. Work shall be carried out in accordance with such details unless otherwise approved in writing by the Local Planning Authority
- 13) The garage hereby permitted shall remain for storage and parking of vehicles only.

END OF CONDITIONS



Costs Decision

Site visit made on 9 June 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 JUNE 2021

Costs application in relation to Appeal Ref: APP/Y3805/W/21/3270585 66 Old Fort Road, Shoreham-by-Sea BN43 5HA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Pollard for a full award of costs against Adur District Council.
 - The appeal was against the refusal of planning permission for demolition of a two-storey house and replacement with a part three storey detached house.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. The PPG is clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, in not determining similar cases in a consistent manner. This is basis of the case for the appellant. I have been provided with evidence of a number of larger three storey dwellings in the vicinity of the appeal site that have been permitted, the appellant asserts that the Council has failed to determine similar cases in a consistent manner.
4. It is clear from my decision on the appeal that upon considering the evidence and conducting a site visit I found the area to be an eclectic mix of properties, demonstrating a variety of architectural styles in both form and scale. This variation can be accommodated due to the vast openness of the area, which allows for larger properties to sit alongside more modest ones, all benefitting from generous sized plots.
5. Having regard to some of the comparative buildings that have been permitted, there is a lack of reasoning in the council's case in respect of the harm that they assert would be caused by this dwelling. Each proposal must be considered on its own merits. However, in this particular area there is a clear evolution in building design that has been permitted over a period of time by the Council. These larger dwellings are spread out such to avoid clusters of

dominant forms, and the proposed dwelling subject to this appeal would not be in a cluster. When assessed on its own merits, whilst having regard to the surrounding development, the proposal would comply with the development plan.

6. It is apparent that in refusing this proposal the council has not been consistent in its approach to development within this area and as a consequence the appellant has felt it necessary to pursue the appeal. In submitting evidence, the Council has been somewhat vague in substantiating its reason for refusal having regard to the examples clearly found within the area for which it has given permission.
7. I therefore find that unreasonable behaviour by Highways England, resulting in the appellant incurring unnecessary and wasted expense, as described in the PPG, has been demonstrated and a full award of costs is justified.

Conclusion

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Adur District Council shall pay to Mr Andrew Pollard, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Highways England to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J Ayres

INSPECTOR