Expires 15/7/08

Development Control – Delegated Officer Report

Application Number: ADC/0257/08 **Recommendation – Refuse Application**

Site: **The Royal British Legion 9 - 11 Buckingham Road Shoreham-by-Sea West Sussex**

Proposal: **Covered area in rear yard to accommodate smokers (retrospective)**

The Application

The application site is the Royal British Legion building located on the west side of Buckingham Road, Shoreham. The unit is mid-terrace within a parade of shops and flats just north of the Shoreham Conservation Area. To the rear/west is a communal passageway to the rear gardens of Queens Place beyond.
This application seeks retrospective permission for a wooden smoking shelter that has been erected in the rear yard of the building. The structure itself is 2.4 metres in height, 2.4 metres in width, and 4.2 metres long with a corrugated clear plastic roof.

Consultations and Representations

Consultations/Comments

Chief Environmental Health Officer	One complaint has been received from neighbours regarding raised voices emanating from the use of this area for smoking purposes. The shelter does not comply with the Health Act regulations 2006 as it is substantially enclosed. The construction appears little more than an extension of the original premises, the use of which is causing disturbance to the neighbouring properties that back onto the club.

Third Parties

The residents of No's 39, 40, 41, 42 Queens Place and the Queens Place Residents Association object on the grounds that:

- Noise disturbance (in the form of voices and music) has increased considerably due to the close proximity of the shelter to the rear gardens of Queens Place. This disturbs the young children who live in these properties and compromises their living areas and general quality of living, even when windows are shut. The opening hours of the building mean that this disturbance has to be tolerated until 11pm each evening.
- Smoke pollution into the neighbouring properties and gardens.
- Visual intrusion as the shelter can be seen from the neighbouring rear gardens. The corrugated plastic roofing is out of keeping with the neighbouring cottage-style buildings.
- Any smoking shelter should be at the front of the property where there is existing outside seating provision.
- The rear passageway could be used as a means of entry/exit to the shelter further increasing general disturbance.

[Nb The resident of No.41 Queens Place has requested to speak at the committee meeting]

Contributors

No representations have been received.

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-2016 (WSCC 2005): LOC1, DEV1
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved until adoption of the new Adur Development Plan): AG1, AP7, AE16
PPG24 'Planning and Noise' (DoE 1994)

Planning Assessment

Policies

Structure Plan policies seek to protect, and where possible, enhance the character and distinctiveness of an area, requiring high standards of design, layout and construction (DEV1). Local Plan policy AE16 encourages alterations or improvements to existing businesses in residential areas providing they meet access and parking standards (Structure Plan policies DEV4-5) and will cause no significant adverse effects on the amenity of nearby residents. This impact is reflected in policy AP7 that seeks to minimise the effects of, amongst others, noise pollution on residential areas. PPG24

'Planning and Noise' (para.10) states that Local Authorities 'must ensure that development does not cause an unacceptable degree of disturbance', particularly to residential areas.

Visual Amenity

The proposal sits off the rear elevation adjacent to a 1.8-2 metre high flint walls that from the boundary to the rear passageway. Beyond are the rear gardens to Queens Place behind a further smaller flint wall. As the shelter sits above the flint wall it can be seen from both the passageway and the rear windows and gardens to Queens Place. Its plastic corrugated roof and light timber supports do not blend in well with the surrounding flint walls and form an incongruous feature within the vegetated rear gardens of Queens Place, which is within the Shoreham Conservation Area.

Residential Amenity

The main concern is with regard to the impact the use of the structures will have on neighbouring properties, the majority of whom are sited directly behind the shelter with rear elevations 13.5 metres from the rear boundary wall. Indeed the shelter is sited just 2.5 metres from the rear gardens of these properties. All of the neighbours on Queens Place have objected on the grounds of noise disturbance generated by patrons of the club using the shelter until late into the evening every day of the week. This is upheld by Environmental Health objections. Having conducted a site visit it is clear that this proximity is sufficient for any noise, be it general chatter or music, to be heard within the neighbouring rear gardens. This affords clear unacceptable detriment to the previous quiet enjoyment of the local residents of their private rear gardens.

It is therefore considered that the use of this structure as a congregational point directly adjacent to private garden spaces to a number of properties is detrimental to the general amenity of the area, contrary to both policies AP7 and AE16 of the Local Plan. It is noted that the club already features a limited outside seating area at the front of the building that can be used as an alternative site for smokers.

Other Issues

The covered seating area is used primarily as a smoking shelter. The objectors are concerned that the shelter does not comply with current legislation and that the fumes generated by its use cause nuisance to nearby properties. Whilst the smoking shelter does not conform to the government requirement to be over 50 percent open sided, this is not a material planning consideration. Given the distances to the neighbouring rear gardens (a minimum of 2.5 metres), it is though considered that the smoke fumes are sufficient to unacceptably impact on the peaceful unpolluted enjoyment of the residents' rear gardens.

Recommendation

REFUSE on ground that :-

H23R (amended) 'The ~~existing~~ covered seating area generates a level of ~~constant~~ activity and noise disturbance which is detrimental to the residential amenities and quiet enjoyment of the ~~existing~~ nearby properties in the locality, contrary to the policies of the WSSP (DEV1) and the ADLP (AG1, ~~AE2~~, AE16).'

Case Officer:.....

Date: 4/7/09