Application Number: ADC/0560/08 Recommendation - APPROVE

Site: **Accessway formerly forming part 59 Penhill Road Lancing BN15 8HB**

Proposal: **Single-storey office building with store in roofspace (attaching to sides of No's 57 and 61)**

The Application

This is a different proposal following the refusal of the previous application, in October 2008, for a one-bedroom dwelling on the site (ADC/0411/08). The previous application was refused on grounds that:-

1. *The proposed dwellinghouse would be detrimental to the streetscene by reason of its excessively cramped appearance and by reason of its design which would appear incongruous with the neighbouring buildings to which it would be attached.*
2. *The proposed dwellinghouse would be of insufficient size to provide satisfactory living conditions for the occupant(s) and would result in loss of light and outlook to the attached house (No.57), and would consequently be detrimental to the residential amenities of the locality.*

The site comprises the private access way leading to the 'backland' site (known as No.59) behind the pair of semi-detached houses converted to flats (No's 61 & 63) on the road frontage. On the road frontage to the west is a terrace of houses (No's 51-57). No.59 formerly consisted of a warehouse and has been commenced to be redeveloped with a block of 5 one-bedroom dwellings, accessed from another existing accessway further east. Consequently, the present application site is no longer needed to access this redevelopment site at the rear (and is now in separate ownership). The proposed plot is 3.35m wide and 27m long.

The proposal is to infill the gap between the end-of-terrace house (No.57) to the west and the semi-detached house (No.61, now a pair of flats) to the east by constructing a single-storey office building with mezzanine store within the roofspace (served by front and rear rooflights). It would be joined to both the houses either side.

The new building would be 3.35m wide and 7.2m deep with an overall ridge height of 5m, plus a small flat-roofed rear projection 1.8m deep and 2.1m wide (on the east part of the rear elevation). It would comprise an office (with WC and sink) on the groundfloor with an internal spiral staircase to the ancillary store within the roofspace. The internal floorspace is 31sqm.
At the front would be a single parking space occupying almost the whole of the area in front of the proposed dwelling other than a binstore and path to the front door.

The application is accompanied by a brief Design and Access Statement which states that the site is in a residential area and the proposal would sit comfortably between two-storey houses. It is stated that its footprint aligns with the existing street configuration and acts as a medium between the houses each side, with its ridge below, and materials matching those in the surrounding area. It states there will be a refuse store and a hard landscaped area to the front with one car parking space and some soft landscaping will be added in

front of the dwelling (although it is not shown on the plan). The applicant points out that the site was formerly part of business premises at the rear.

Consultations and Representations

West Sussex County Council: No highways objection, given that the site is no longer needed to give access to the site being redeveloped at the rear (No.59). Comments that the site is in a sustainable location which should enable less dependence on the private car for access and the single parking space at the front using the existing access is acceptable. No section 106 sustainable transport contribution is required.

Adur District Council: The EHO has no objection subject to imposing conditions restricting hours of use to 8am-6pm Mon-Fri and 9am-1pm Sat (with no working on Sundays or public holidays) and requiring details of any air conditioning to be approved. He expresses doubts about the suitability of the spiral staircase from a health and safety viewpoint and questions whether the relocation of the balanced flue on the side of No.61 has been agreed (NB. the latter are not planning matters).

Lancing Parish Council: No comments.

Third Parties: 5 letters have been received from or on behalf of the residents of No's 53, 57, 61 (groundfloor flat), 61 (firstfloor flat) & 63A Penhill Road. They object mainly on grounds that:-

- 'sandwiching' business premises between the existing dwellings would not be in keeping with the residential aspect of the road.
- the accessway is not disused and, until the applicant recently put a locked gate across it, was in daily use by the residents of No's 51, 53, 55, 57 & 61. It is needed to gain access to the rear of the neighbouring houses on foot and cycle (and for wheeled refuse bins and to move in large items of furniture) and for emergency vehicles. Solicitors acting for No.57 state that they have lodged a prescriptive right of way having had uninterrupted access over it since they took possession in 1971 and that this is the subject of adjudication by the Land Registry. They add that No.61 also has right of access.
- the proposal would result loss of light to the rear conservatory of No.57, making it impossible to clean its side windows, and also cause loss of light to the flats at No.61.
- the new building would not be in keeping with the style and age of the houses.
- The parking of a car on the driveway as proposed could block visibility from the hardstanding/accessway at No.57. When applying for permission for their access, WSCC required pedestrian visibility splays to be provided with their front wall reduced to 0.6m high.
- there are boiler flues and air vents on the sides of the adjacent dwellings, and a mains water pipe under the accessway.
- the proposal could affect the stability of the foundations of the adjacent houses which are both over 100 years old and result in damp problems because of underlying aquifers.
- Loss of property value (NB. not of itself a planning consideration).

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-2016 (WSCC 2005) (saved policies): LOC1, NE1, NE5, ERA1, DEV1, DEV4-5
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AE15
Revised West Sussex Parking Standards and Transport Contributions Methodology (WSCC 2003 and ADC 2004)
PPS1 'Delivering Sustainable Development' (ODPM 2005)
PPS23 'Planning and Pollution Control' (ODPM 2004)

Planning Assessment

Policies

The site is located just outside the town centre as defined in the Local Plan, within a mainly residential part of the built-up area, and is not identified for any particular use or development on the Proposals Map. There are, however, a mixture of uses within the part of the road to the west of the site, including a number of commercial and business premises.

Structure Plan policies give significant weight to making the best use of land within built-up areas through higher density development provided that the impact on the character of the area and environment is acceptable (LOC1, ERA1) and subject to policy DEV1 requiring high quality development. Policies NE1 and NE5 require the provision of sufficient new employment development to meet the needs of the population and to secure an appropriate range of sizes and types.

Policy DEV4 states (amongst other things) that development should not be permitted unless the travel needs it generates are met. DEV5 states that "Development should not be permitted unless the level of parking is compatible with the need to avoid environmental or safety problems and the need is to encourage walking, cycling and the use of passenger transport where this is or can be a realistic alternative". The explanatory text refers to a transport contributions methodology for both residential and business development (now adopted as TAD payments to sustainable transport improvements).

The relevant Local Plan policy AE15 states:-

> *Permission may be granted for the development of small buildings (300sqm or less) within the built-up area but outside business and industrial areas as shown on the Proposals Map, for business purposes within Use Class B1.....subject to all of the following criteria:-*
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> *(a) there will be no loss of amenity to nearby residents;*
> *(b) on-site car parking arrangements and access to the public highway are acceptable under policy AT12 (NB. this policy has not been 'saved'); and*
> *(c) any buildings are of a scale and design, including construction materials, appropriate to the locality.*

Government policy is set out in Planning Policy Statement PPS1 'Delivering Sustainable Development'. Relevant paragraphs are 17, which refers to the commitment to protecting and improving the environment; 18 which states that planning should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental

quality through positive policies on issues such as design; and 34 which states that good design is indivisible from good planning and that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area, should not be accepted.

Character and Appearance

Although the plot is quite long, it is extremely narrow, with a width of only approximately 3.4m . In terms of character and appearance, it is the narrowness of the proposed building and its siting 'squeezed' between the adjacent houses that are the main concerns. The neighbourhood has a wide mixture of building types but none appears as narrow as this proposal.

As previously stated, the adjacent flats (in No's 61/63) to the east occupy a pair of hip-roofed semi-detached houses. Their design would not lend itself to a two-storey building being squeezed into the gap as it would create a terrace, joining the relatively distinctive semi-detached pair of houses onto the terrace of houses to the west. The semi-detached pair need to remain visually separate from the terrace to retain their character and quality of appearance.

The view has previously been expressed that a simple low profile single-storey building might be acceptable if it were to fit beneath the eaves line and be set back from the main front elevations so as to appear as a subservient and unobtrusive extension. The previously submitted proposal for a dwelling, with its front projection and dormer window in the roof, appeared too prominent and its design was incongruous with the bay-fronted design of the houses either side.

However, the present proposal differs in that the front projection has been deleted and the front wall of the new building would now align with the houses either side. The roof design has been changed, with a lower ridge set well back (the front portion of the roof being flat but disguised by a front pitch). A dormer is no longer proposed, only a rooflight. The overall effect is a smaller and plainer building that would not contrast with the existing houses and would appear as a relatively unobtrusive link extension. It is considered that it would not detract from the streetscene.

Residential Amenity – effect on existing dwellings

On the previously refused proposal, the house at No.57 would have been adversely affected by the proposed building projecting further at the front (by 1.1m), causing some loss of light and outlook to its adjacent front bay window, and also at the rear, where the building would have partially abutted the conservatory of No.57.

However, on the latest application, no front projection is proposed. At the rear, although there is a 1.8m flat-roofed rear projection proposed, it is sited 1.2m away from the side of the conservatory. There would be some adverse effect in terms of reduced light and outlook to the rear conservatory but it is not considered that the degree of detriment to the overall residential amenities of No.57 would justify refusal.

With regard to No.61, the proposal would only project beyond the main rear wall of the groundfloor flat by approximately 0.75m and would not have a significant effect on the residential amenities of that flat. It should be noted that rear extensions projecting up to 3.5m are normally permitted adjacent to boundaries of attached dwellings (as stated the

the Council's Development Control Standard No.3 'Extensions and Alterations to Dwellings').

As to the use of the building for office purposes, it is not considered that such a very small scale proposal would cause nuisance or disturbance provided it is restricted to office use within Class B1 only. The definition of Use Class B1 'business' is that such uses can be carried on in a residential area without detriment to amenity. However, office use within Class A2, financial and professional services dealing primarily with visiting members of the public, would be likely to result in much more activity and movement of people and cars, and is therefore considered unsuitable for this narrow site located between dwellings.

The outer side walls of the existing dwellings, plus the new walls of the proposed building, should provide ample insulation against transfer of sound from within the building. However, to safeguard against external noise at unsocial hours, it is considered that a condition restricting hours of use is justified, plus a condition requiring approval of details of any air conditioning unit.

Access and Parking provision

The site is in a sustainable location close to central Lancing. The plan shows a proposed front hardstanding to provide space for one car (utilising the existing dropped kerb access). This complies, for a 30sqm office, with the maximum standard of one car space in the Revised West Sussex Parking Standards. One secure cycle parking space is also required. The access already exists (formerly serving a larger building at the rear) and is satisfactory to serve the one parking space.

The loss of the site as an accessway through to the rear would prevent the existing residents from gaining access to their rear gardens. They would have to go internally through their houses or flats. There was an alternative much narrower pedestrian means of access to the rear of the houses via the path at the side of No.51 but it is disused. According to the owners of No.57, it was blocked 20 years ago, thus casting doubts as to whether private rights over it by the other houses could be re-exercised.

The loss of access to the rear would cause inconvenience to the residents concerned. It seems likely to result in residents storing their refuse bins in their front gardens which would have a detrimental effect on the streetscene and the owner of the firstfloor flat at No.61 (which has no front garden) stated that she will have nowhere to put her refuse and recycling bins. However, it is not considered that this carries sufficient weight to justify refusal of the application. If private access rights exist in law, then the proposed development (even if it is granted planning permission) cannot take place without the consent of the owners of the properties having those rights.

Solicitors acting for the owners of No.57 have lodged a unilateral right of prescription with the Land Registry stating that, in the period since they took possession of their house in 1971, they also have had uninterrupted access over the application site (but this has not been proven in law). They have also stated that No.61 enjoys access rights over the application site.
On the other hand, the applicant disputes that there is any right of way over the application site either by No.57 or 61 and, in respect of No.57, points out that that property has no access directly onto the site, only via the gate off the narrow rear access path (although this does not disprove the existence of access rights over the site as the rear access path joins onto the application site).

These disputed private rights of access are not a matter upon which the Council can adjudicate and it is essentially a civil matter to be resolved directly between the parties concerned (or through an arbitrator or the Courts if necessary).

Other matters

The neighbours have pointed out that the proposal cannot be built without relocating and making alternative provision for various services located on the outer walls of their house/flats either side. On the side of No.61 (2 flats), there is a projecting boiler flue outlet (with projecting casing) and 3 air vents flush with the wall, plus 2 further air vents protruding from the ground. On the side of the house at No.57, there is a high level projecting boiler flue, plus 2 pipes projecting from the wall.
Whether it is feasible to relocate or alter these items is a matter of negotiation between the applicant and the neighbouring owners concerned and the relevant regulations relating to the utilities involved. The applicant's agent has responded that they believe that it would not be necessary to interfere with the boiler flue at No.57 but previously stated that the boiler flue of No.61 had no right to be there. On the last application, the agent contended that the services represent an unlawful use of the land and the applicant does not recognise any right for them to be there.
Whilst the issue of services is clearly very important for the neighbours, as with loss of the accessway, it is a private civil matter between the parties concerned (and partly covered by other legislation) and not a matter that would justify refusal of planning permission.

Recommendation

APPROVE for the reason:-

The proposed development is within the built-up area and would help meet the need for additional employment within the District without significant detraction from the local environment. It can take place without resulting in unacceptable detriment to the amenities of neighbouring properties and without detraction from highway safety. It would consequently not conflict with the relevant policies of the Adur District Local Plan (AG1, AE15) and the West Sussex Structure Plan (LOC1, NE1, NE5, ERA1, DEV1, DEV4-5).

Subject to:-

1. C1Ci (Standard time limit)
2. C16Ai (Restriction of use to office within Class B1 only and no other purposes within Class B1) (amended)
3. C10B (Restriction of hours of use to 8am-6pm Mon-Fri and 8am-1pm Sats)
4. C10Di (No outside storage or display)
5. C8Bi (Provision and retention of car parking space) (amended)
6. C17B (No air conditioning to be installed without submission and approval of details)

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