Application Ref: **AWDM/0200/16**

Site location: **55 Victoria Road, Southwick, West Sussex BN42 4DJ**

Proposal: **Demolition of existing detached bungalow and erection of 1 no. detached 3-bedroom house fronting road and 1 no. detached 4-bedroom house with basement accommodation in rear garden.**

Planning Appeal Statement

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1. Introduction

1.1. This Appeal is submitted in response to the decision of the Local Planning Authority, Adur District Council ("**ADC**"), to refuse planning permission for the demolition of a derelict bungalow to be replaced by two detached dwellings (application number: AWDM/0200/16)(the "**Application**"). The proposed development is to replace the bungalow with a detached three bedroom house fronting Victoria Road (referred to as "**Unit A**" in this Statement). A detached, four bedroom house (referred to as "**Unit B**" in this Statement) will be built to the rear of the Site (as defined in the paragraph below) with access provided by a driveway running between the proposed Unit A and 53 Victoria Road. Full details of the Application and the proposals are set out in section 4.

1.2. The appeal site is principally located at 55 Victoria Road, Southwick, West Sussex, although it comprises various different titles, some of which are located to the rear of 55 Victoria Road and neighbouring properties (the "**Site**"). Full particulars of the Site are provided below; see section 3.

1.3. The Application was submitted to ADC by BPM (Architectural Services) Limited on behalf of the applicants, Mr T Barnard and Mrs N Barnard, on 4 February 2016.[1] The Application was submitted with the following documentation: (i) full existing sectional elevations; (ii) existing site, location and block plans; (iii) proposed sectional elevations (for both proposed houses and the Site generally); and (iv) floor plans for both

[1] The Application was validated on 5 February 2016.

proposed houses. Supporting documentation included: (i) a design and access statement; (ii) a supporting statement; (iii) an arboriculture survey; and (iv) an ecological survey. The foregoing documents, together with others, are exhibited to this statements as follows:

Appendix number	**Document**
Appendix I	Documents submitted to ADC, forming the Application (i) existing sectional elevations (ii) existing site, location and block plans (iii) proposed sectional elevations (iv) floor plans for both proposed houses
Appendix II	Documents submitted to ADC in support of the Application (i) a design and access statement (ii) a supporting statement (iii) an arboriculture survey (iv) ecological survey
Appendix III	(i) Notice of Refusal (ii) Delegated Officer Report
Appendix IV	Site plan detailing the specific plots which form the Site
Appendix V	Demolition Order
Appendix VI	Photographs showing the houses in the vicinity of the Site
Appendix VII	Photographs showing the "backland" development in Victoria Road
Appendix VIII	Initial Application proposed site plan Initial Application proposed elevations

References in this statement to the "Appendices" or to an "Appendix" are references to the above unless otherwise stated.

1.4. The Application did not receive any adverse comment from the 17 neighbouring properties consulted by ADC. The Application (at the Appeal stage) has in fact received the support of local residents (as explained further in this Statement; see paragraphs 5.9 to 5.11, for instance).

1.5. No adverse comments were received from:

1.5.1. West Sussex County Council Highways Authority;

1.5.2. West Sussex County Council's Drainage Engineer; nor

1.5.3. Adur and Worthing Council's Environmental Health officer.

Further details of the comments received are referred to at the relevant sections of this statement.

1.6. The Application was refused by the Planning Services Manager on 4 May 2016 (almost three months after it was submitted) (Appendix III). Three reasons for refusal were given. They provide:

01. The constraints of this site are such that in terms of its irregular shape and relationship to neighbouring dwellings the proposed back-land dwelling at the rear of the site by reason of its form, orientation and position on the site, would represent an anomalous and awkward form out of scale to adjacent buildings at odds with the prevalent street pattern, its character, and sense of place as well as resulting in harm to the living conditions of neighbouring residential occupiers. The development is therefore contrary to paragraphs 56 and 64 of the National Planning Policy Framework and Saved Adur Local Plan Policy AH2 with allied Supplementary Planning Guidance Development Control Standard No. 2.

(The above reason for refusal is referred to as "**Ground 1**" in this Statement.)

02. The new back-land dwelling at the rear of the site would, by reason of its position on the site and to the sycamore tree canopy, fail to provide adequate standards of residential amenity for future occupiers in terms of daylight and sunlight and outlook and privacy. The development is therefore contrary to paragraphs 56 and 64 of the National Planning Policy Framework and Saved Adur Local Plan Policy AH2 with allied Supplementary Planning Guidance Development Control Standard No. 2.

(The above reason for refusal is referred to as "**Ground 2**" in this Statement.)

03. The new back-land dwelling at the rear of the site, by reason of its position and inclusion of a basement within the Root Protection Zones of the preserved sycamore trees (subject to TPO No.1 of 1982 SW) and its orientation and arrangement of its fenestration onto the sycamore trees canopy *(sic)*, the Council is not satisfied that the new back-land dwelling is compatible with future health and longevity of the existing trees with consequential detrimental visual amenity, and failure to conserve and enhance biodiversity contrary to paragraph 109 of the National Planning Policy Framework and Saved Adur Local Plan policies AB25 and AH2.

(The above reason for refusal is referred to as "**Ground 3**" in this Statement.)

1.7. ADC has provided a Delegated Officer Report dated 3 May 2016 (the "**Officer Report**") in which ADC's considerations are explained in further detail (Appendix III). This Statement deals with the inaccuracies and inconsistencies in the Officer Report as appropriate.

1.8. This Statement accompanies a Notice of Appeal lodged against the decision of ADC and seeks to explain why, in fact and in law, the decision of ADC to refuse permission was wrong. The Statement goes on to explain why permission for the proposals should be granted on appeal. In summary:

1.8.1. The current state of the Site and the buildings on it are unsustainable. There is a pressing need, acknowledged by ADC, to develop the Site.

1.8.2. The Site and the proposals are both sustainable.

1.8.3. The proposals are in keeping with the local character of the neighbourhood (in which there is a history of infill development) and do not detract from the amenity value of the neighbourhood. In fact, if approved, the Application would make a substantial improvement to the amenity of the local area given the current state of the Site.

1.8.4. The proposals are consistent with the objective of the NPPF and should have found support in line with the presumption in favour of development set out therein.

1.8.5. ADC should only have rejected the Application on the basis that the adverse impacts of approval would demonstrably and materially outweigh the benefits of the proposals.

1.8.6. When properly considered, however, the benefits of the Application substantially outweigh any negative impact. In this regard, the Applicants are able to show that the considerations ADC weighed against the benefits of the proposals were misconceived and without any basis in fact or in law.

1.8.7. Further support for the Application can be found elsewhere in the NPPF and related case law if the same is properly interpreted and applied. As to this: there is a failure on ADC's part to deliver housing to meet local requirements; ADC's local plan is therefore out of date and not applicable, such that permission should be granted unless the proposals would cause serious harm to the local area (which they do not); the shortage of local housing (and the likelihood that ADC will continue to fail to meet its housing need weigh strongly in favour of approval; and the Application has the support of the local community.

1.9. The arguments of the Applicants are set out in full below under the appropriate headings.

2. The legal framework and planning policies

2.1. The legislative framework within which ADC should have decided the Application (and granted planning permission) consists of the following regulations and policy documents:

2.1.1. the National Planning Policy Framework (the "**NPPF**");

2.1.2. the Saved Policies of the Adur District Local Plan 1996 (the "**Saved Policies**"); and

2.1.3. subordinated legislation and good practice guides implemented by ADC, such as ADC's "*Good Practice Guidance Note: Internal Space Standards for New Homes*" and the "*Development Control Standard No.2 'Space Around New Dwellings and Flats*".

The NPPF

2.2. The Ministerial Foreword to the NPFF makes clear the intention and purpose of the NPPF and planning policy in general. That is, to allow sustainable development to go ahead without delay. The Foreword reiterates the presumption in favour of sustainable development. That is, the presumption in favour of development must be the basis for every plan and every decision (a presumption which is further codified in the NPFF itself).[2]

[2] Paragraph 49, NPPF.

2.3. The presumption in favour of the development of housing applications (such as the Application) is expressly set out in the NPPF. Provided, then, that the Application and the proposals therein are "sustainable" (which they are – see section 4, below) the Application should be approved on the basis of the presumption in favour of such development. It is against this background that the Application needs to be considered and against which the arguments of the Applicants need to be considered.

2.4. Sustainable development has three aspects: (1) economic; (2) social; and (3) environmental.[3] The social aspect of sustainable development requires the provision of housing to meet the needs of present and future generations. ADC has failed, and will continue to fail, to provide adequate housing.[4] The Application, if planning permission is granted, will assist ADC in meeting its target to deliver more than 5,000 new homes by 2031 (a target which ADC is forecast to miss by more than 40%).

2.5. The environmental aspect of sustainable development requires the enhancement of the built and natural environments. The particular aspects of sustainability must not be seen in isolation, however,[5] and they must be considered as a whole to deliver positive improvements to the quality of the built and natural environment. The NPPF specifically notes that this can be achieved by replacing poor quality design, such as the existing building on the Site (which is not habitable), with high quality homes, as provided by the proposals in the Application.

2.6. Under the heading *"Core planning principles"* the NPFF provides a set of core land-use planning principles, including to encourage the effective use of land by reusing land that has been previously developed (such as the Site), provided it is not of high environmental value (which the Site is not).[6]

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[3] Paragraph 7,NPPF.
4 "The ADC Annual Monitoring Report 1 April 2014 to 31 March 2015" shows that ADC has a shortfall in its housing need of 2209 homes for the period 2011 to 2031 (i.e ADC is only able to fulfil 60% of its objectively assessed housing need for the same period).
5 Paragraph 8, NPPF.
6 Paragraph 17, NPPF.

2.7. In conclusion, the NPPF provides a presumption in favour of sustainable development. The Application should benefit from that presumption: the proposals are sustainable and should benefit from the further, express, presumption in favour of housing applications. The Inspector needs to consider the Application against the positive backdrop created by the NPPF.

The Saved Policies

2.8. ADC does not have in place an up to date Local Plan, despite the NPPF noting that it is "*highly desirable*" for it to do so.[7] Instead, various policies have been retained, on an ad-hoc basis, from the ADC District Local Plan adopted in 1996 (and initially intended to cover the period ending 2006). The Saved Policies are some 20 years old and therefore pre-date the NPPF. As such, and at the very most, they need to be applied cautiously, and with careful reference to the NPPF.

2.9. However, the Saved Policies should, properly considered, be disregarded in their entirety and it is the Applicants' primary position that the Saved Policies should not be considered when determining this Appeal. The NPPF specifically states that, where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, the local development plans should not be considered as up-to-date.[8] ADC is unable to demonstrate that it has an adequate supply of housing, or that it has identified a suitable number of deliverable sites (particularly when compared to the "buffers" required by the NPPF[9]), and the Saved Policies should accordingly be considered as out-of-date.

2.10. Notwithstanding the need to disregard the Saved Policies, this Statement deals with those specific policies contained in the Saved Policies on which ADC relied in refusing permission for the Application.

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7 Paragraph 12, NPPF.
8 Paragraph 49, NPFF.
9 For example, paragraph 47 of the NPPF states that local planning authorities should look to have a buffer of more than 20% in the number of deliverable sites where there has been a persistent under delivery of housing.

3. The site

3.1. The site is comprised primarily of 55 Victoria Road, Southwick. The Site is considered by ADC to be sustainable. 55 Victoria Road is a wide, rectangular plot fronting Victoria Road. It is approximately 14m wide at the point it fronts Victoria Road and it is therefore as wide as the neighbouring plots which both house pairs of semi-detached dwellings (51 / 53 Victoria Road and 57 / 59 Victoria Road). Directly behind 55 Victoria Road there is a small rectangular plot which, at one stage, would most likely have formed additional garden to 55 Victoria Road.

3.2. The Site also comprises several other parcels of land, as follows:

3.2.1. Land which was once garden to 57 and 59 Victoria Road. The land is now in common ownership with 55 Victoria Road (on a separate title) and has already been "given up" as the gardens of 57 and 59 Victoria Road.[10] The areas are shown edged red and blue, respectively, on the plan at Appendix IV.

3.2.2. The rear of the site includes a large parcel of land that adjoins the rear of 27 Park Lane and the substantial house that occupies that site. The fact that the Site adjoins 27 Park Lane is a significant factor relied on is support of the Application. That is because, as explained further in this Statement, Unit B is not inconsistent in size, structure or form to the houses that already exist in the locality. Ground 1 is factually incorrect. The same land adjoins a private croquet club and a private tennis club. The area is shown edged green on the plan at Appendix IV.

3.2.3. It is understood that part of the garden of 55 Victoria Road was once used as a watchmaker's workshop (shown edged yellow on the plan at Appendix IV). It has been some time since this particular area (or any part of the site) has been used as garden area.

[10] The council initially appeared to have overlooked that the land no longer forms garden area to 57,59 and 61 Victoria Road.

3.3. The Site is mainly formed of semi-improved grassland, overgrown shrubs and unkempt fruit trees. As well as the derelict bungalow, the Site houses five derelict sheds and two small ponds.

3.4. The Site is no longer in use by the owners. None of the outbuildings can be restored to use at reasonable cost, and the majority of the trees and shrubs on the site are of little or no amenity value.[11] Where trees and shrubs located on the Site have a degree of amenity value, the proposals look to retain them.

3.5. Only the plot housing 55 Victoria Road has direct access from Victoria Road. The other plots are "land locked" and cannot be accessed other than through 55 Victoria Road.

3.6. At its widest, the Site measures 28m across and from "front to back" it measures 62m (at its longest). It is an unusually large plot for the area.

3.7. The Site and its various sections and features are described in further detail in this Statement, as necessary.

"Backland development" or brownfield land

3.8. The Officer Report characterises the Site as "garden land" and notes that the NPPF[12] states that local planning authorities should seek to resist such development. This is wrong on two counts:

3.8.1. First, the Site cannot properly be considered as garden or "backland" development. Although the Site comprises some garden area, it is also formed of parcels of land which, it is understood, have never been used as, or formed, garden to neighbouring properties. The Site does not therefore fall within the ambit of paragraph 53 of the NPPF and the development should not be resisted just by virtue of the type, classification or previous use of the land.

[11] Refer to the Arboriculture statement.
[12] Paragraph 53.

3.8.2. Secondly, the conclusion of the Officer Report that the NPFF sets the case for local authorities to resist development such as that proposed in the Application is wrong. Instead, a "golden thread" running through the NPPF is the presumption in favour of development; the Application should have only been rejected by ADC if it can establish that material considerations mitigate against the presumption in favour of development. As explained further in this Statement, ADC have failed to demonstrate that there are material considerations which mitigate against permitting the proposals.

The current condition of the bungalow at 55 Victoria Road

3.9. 55 Victoria Road is a large, detached bungalow sitting between two pairs of semi-detached houses (51 and 53 Victoria Road and 57 and 59 Victoria Road). In recent years 55 Victoria Road and the adjoining land which forms the Site has fallen into disrepair. The bungalow itself has been subject to two fires and has never been subject to proper repair. It has gradually worsened in condition and has been cause for complaint for both local residents and ADC.

3.10. Such is the poor condition of 55 Victoria Road, ADC served on the owner a Demolition Order pursuant to Part 1 of the Housing Act 1985 on 30 June 2014 (the "**Demolition Order**") (Appendix V).

3.11. ADC rely on the following deficiencies and hazards (amongst others) in support of the Demolition Order:

3.11.1. elements of the internal wall structure are missing;
3.11.2. the condition of the roof allows water penetration;
3.11.3. the staircase is unstable and secured at the upper end by fire damaged members;
3.11.4. the wall structures are largely missing and have been replaced by fabric wall hangings;
3.11.5. the ceilings and walls are largely constructed of asbestos cement and are poorly maintained;
3.11.6. the ceiling joists are fire damaged in several rooms and are also exposed to water damage; and

3.11.7. the condition of the outbuildings, untended fruit trees and the condition of the Site generally harbour vermin.

3.12. The development of 55 Victoria Road is also, therefore, consistent with the need for local authorities to identify and bring back into residential use empty buildings.[13]

3.13. Further, the proposed re-development of the bungalow and of the Site generally is consistent with the need for local authorities to introduce policies for the effective use of land by re-using those sites which have been previously developed.[14]

3.14. In conclusion, ADC note in the Demolition Order the *"parlous state"* of the Site, and consider that it could not be put back into use at reasonable cost. ADC further state that *"a cleared site would have sufficient space for at least two properties providing much needed accommodation in the area"* and that the *"visual appearance of the existing building is detrimental to the amenity of the area and there is likely to be an overall improvement if the building were removed"* (emphasis added).

3.15. The Demolition Order accurately describes the condition of the Site and sets out a persuasive position as to why the existing bungalow should be demolished and why the Site needs to be developed.

3.16. The current state of the Site – and in particular 55 Victoria Road - is unsustainable. The Application, as demonstrated in this statement, addresses ADC's concerns (as laid out in the Demolition Order) and should have found the support of ADC. In refusing permission for the Application, ADC note only that the bungalow is *"nondescript and its loss is not resisted"*[15]; ADC have overlooked the *"parlous"* state of the property and the apparent need to demolish the building as soon as reasonably possible. ADC should have attached greater weight to the need to develop the Site when determining the Application. Instead, ADC preferred non-material (and incorrect) considerations in deciding to refuse permission for the Application.

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[13] Paragraph 51 of the NPPF.
[14] Paragraph 111 of the NPPF.
[15] The Officer Report.

The surrounding locality: the alleged street pattern

3.17. ADC suggest that "*the proposed back-land dwelling at the rear of the site* [Unit B] *by reason of its form, orientation and position on the site, would represent an anomalous and awkward form out of scale to adjacent buildings at odds with the prevalent street pattern [and] its character* (see Ground 1). There is, however, very little consistency in the buildings adjacent to the proposed dwelling at the rear of the Site and very little consistency with the "prevalent street pattern" in the houses in the immediate vicinity of the Site. For example:

3.17.1. 53 and 51 Victoria Road are designed to an Edwardian style and are consistent with the prevalent street pattern and character (so far as the same can be said to exist) of the houses to the north-east of Victoria Road. However, the "street pattern" ends with 53 and 51 Victoria Road; the houses to the south-west and opposite the Site demonstrate no consistency whatsoever and none are built to an Edwardian style.

3.17.2. 57 and 59 Victoria Road are a pair of semi-detached houses. They are built to a post-war style which is inconsistent with the Edwardian style of houses to the north-east of Victoria Road. The semi-detached style of these houses is the only common feature of this pair of houses to the street pattern.

3.17.3. 61 Victoria Road is a large detached residence built on a triangular plot to the south of the Croquet Club (Appendix VI). It is incongruous with what ADC refer to as the "prevalent street pattern". The property is also built within the tree canopy of the Sycamore trees referred to by ADC in Ground 2 (see section 3 below).

3.17.4. 63 Victoria Road is a modern bungalow built on a small corner plot to the south-east of 61 Victoria Road (Appendix VI). It, too, is incongruous with what is said by ADC to be the "prevalent street pattern" and it, too, is built within the tree canopy of the protected Sycamore trees.

3.17.5. The houses directly opposite the Site – 38, 40 and 42 Victoria Road – are built to a modern style (Appendix VI). They bear no resemblance to what is said to be the prevalent street pattern.

3.17.6. 44 Victoria Road (opposite the Site to the south-east) is a large detached house built on a small plot that backs on to the railway line (Appendix VI). It is incongruous with the street pattern, as alleged.

3.17.7. 46 Victoria Road (opposite the Site to the south-east) is a modern bungalow built on a small corner plot running adjacent to the railway line (Appendix VI). It is incongruous with the street pattern, as alleged.

3.18. Ground 1 (and the Officer Report) go to some length in attempting to establish that Unit B would be out of character and anomalous to the locality of the area. As explained above, however, there is very little pattern to the existing dwellings in the immediate vicinity of the Site. Ground 1 should therefore be disregarded on the basis that it is factually unsustainable.

3.19. To the extent there is any pattern to the dwellings in the vicinity of the Site (which is denied), the design of Unit A is in keeping with the buildings which would flank it and therefore retains any existing character in the street. ADC acknowledge this in the Officer Report. Unit B, however, is located to the very rear of the Site and would be all but invisible from Victoria Road. The fact it is not designed to the same style as the Edwardian properties should not, therefore, be a material consideration to ADC. Notwithstanding, ADC wrongly considered the appearance of Unit B in refusing permission for the Application. Such a decision runs contrary to the general presumption in favour of sustainable development and, more specifically, runs contrary to paragraphs 60 and 65 of the NPPF.

3.20. In addition, it is noted that the NPPF provides that local planning authorities should not attempt to impose architectural styles or particular tastes through an unsubstantiated requirement to conform to certain development form or styles.[16] Any such attempt by ADC in this case (and it is submitted that Ground 1 attempts to impose such a constraint) should be disregarded in this particular instance: there is no demonstrable local distinctiveness in the locality of the Site which ADC can legitimately seek to protect or reinforce through the imposition of such conditions.

The surrounding locality: no precedent for backland development in Victoria Road

3.21. The Officer Report, in apparent justification of Ground 1, seeks to establish that there is no history of "backland development" in Victoria Road, other than that at 16 Victoria Road. This is incorrect; there *is* a well-developed and demonstrable trend towards backland and infill development in Victoria Road. As to this:

3.21.1. 27 Park Lane (with access between 47 and 45 Victoria Road) (Appendix VII). The buildings at 27 Park Lane - which adjoin the rear gardens at 53, 51, 49, 47, 45, 43, 37 and 35 Victoria Road - represent substantial infill development and the development in each case is substantially closer to the pre-existing dwellings than as proposed for Unit B. Unit B can be seen as a continuation of that development, albeit on a far more modest scale. 27 Park Lane is discussed in further detail below.

3.21.2. Rear of 24 Victoria Road (Appendix VII). The access to this site is approximately 1m wide and suitable for access on foot only. The property to the rear is substantial, and appears to be closer to the pre-existing dwellings and larger in scale than that envisaged for Unit B.

[16] Paragraph 60, NPPF.

3.21.3. Rear of 16 and 18 Victoria Road (Appendix VII). The access to this site is approximately 2.5 to 3m wide and the development itself is considerably higher and closer to the pre-existing dwellings than is proposed for Unit B. The backland development bears no resemblance to the street pattern, notwithstanding that the house is actually built in an area in which there is a well-defined street pattern.

3.21.4. Rear of 26 and 28 Victoria Road (Appendix VII). This site is used a Volvo vehicle repair garage (Amber Garage Limited). Again, the backland or infill development bears no resemblance to the existing street pattern. It is also noted that the fumes, disturbance and negative impact on the amenity of the neighbouring properties caused by a commercial mechanics premises is likely to be far greater than any such impact from Unit B. Yet ADC cites such disturbance in support of Grounds 1 and 2 (see paragraphs 5.8 and 5.11, below).

3.21.5. Rear of 5 and 9 Victoria Road (Appendix VII). There is further backland development to the rear of 5 and 9 to such an extent that 9 Victoria Road does not have any amenity area.

The rear of the Site: 27 Park Lane

3.22. To the rear, the Site adjoins 27 Park Lane. The property on that site is a substantial villa formed of several incongruous buildings which, over time, have been extended and joined together. In this regard, ADC have failed to properly consider the existence of 27 Park Lane in refusing the Application in reliance on the reasons set out in Ground 1. As to that:

3.22.1. In that part of 27 Park Lane bordering the Site where Unit B is proposed to be located, there sits an existing building (shown edged red at Appendix VII). That building is approximately 4.6m in height. Unit B, however, is only 3m high where it is single storey. It is only 6m at its highest (where it is two storeys) and the northern elevation of unit B is only 5.6m (see sectional elevations at Appendix I). Accordingly, much of Unit B is therefore lower in height than the

buildings which already exist in the proposed locality of Unit B. This has been overlooked by ADC.

3.22.2. It follows that ADC's reference (in the Officer Report) to the two storey massing of Unit B being out of character with surrounding properties is also incorrect. The vast majority of the neighbouring properties are two storeys.

3.22.3. 27 Park Lane is large. Although its exact size is not known to the Applicants, it is plain from the title plans and images obtained from Google Earth (Appendix VII) that the existing buildings are substantially larger than the proposed Unit B.

3.22.4. In addition to the scale of the buildings at 27 Park Lane, ADC have failed to properly consider the positioning of the buildings on that same site. The buildings on the site are built on the curtilage of 27 Park Lane where it borders the rear gardens of 53 to 35 Victoria Road (inclusive). A large brick wall, built on the boundary line of the site, borders the rear garden of all properties in Victoria Road from numbers 53 to 35 (Appendix VII contains a photograph showing the wall from the rear garden of 47 Victoria Road).

3.23. Against the backdrop described above, it is difficult to see how ADC can suggest that the proposed Unit B would be anomalous, awkward, out of scale or detrimental to the character and sense of place such that it would result in harm to the neighbouring dwellings. Plainly it wouldn't: the neighbouring properties (being 53 to 35 Victoria Road) already have a large dwelling adjoining their gardens and the proposed Unit B will have no further impact on them.

Conclusion on the Site

3.24. In summary, 55 Victoria Road is in an unacceptable and dangerous condition. It blights the amenity of the local area and is in urgent need of demolition and redevelopment. ADC agree. The Application needs to be seen and considered in light of not only the relevant policy guidance, but the factual matrix too: That includes the urgent need to demolish and replace 55 Victoria Road with sustainable family housing. The proposals

addresses the various concerns raised by ADC and provide for the development of two sustainable family homes; the Application should, therefore, be approved without further delay.

3.25. There is little consistency in the houses neighbouring the Site and the Application should not have been refused on the basis that the proposals are not considered to be in keeping with the existing streetscape. Further, Unit B is in keeping with the scale, form and position of the neighbouring dwellings and as demonstrated above, it would not be "awkward", "anomalous" or out of scale to the neighbouring properties, as alleged. In those circumstances Ground 1 is unsustainable as a matter of fact, and should properly be disregarded when this appeal is considered. At a minimum, the Planning Inspectorate should reconsider Ground 1 against the correct factual matrix; not ADC's disillusioned and incorrect understanding of the Site and its locality.

4. Planning history

4.1. The Applicants submitted a pre-application enquiry to ADC in around October 2014 (the "**Pre-Application Enquiry**"). The enquiry was based on a proposal to demolish the existing bungalow at 55 Victoria Road and to replace it with a pair of semi-detached dwellings at the front of the site with one detached house at the rear. Access to the rear of the Site was provided by a driveway to the south-west of the proposed semi-detached dwellings. The proposal was for a single story, detached dwelling at the rear of the Site. ADC responded to the Pre-Application Enquiry on 11 December 2014. Due to factual errors in ADC's initial response, a second response (in substantially similar terms) was provided shortly afterwards (albeit under letter also dated 11 December 2014).

4.2. ADC noted in response to the Pre-Application Enquiry that although redevelopment of the Site could be supported in principal, ADC had concerns as to the suitability of the Site for three houses.

4.3. The comments from ADC were taken on board by the Applicants who consulted with the residents of 53 Victoria Road. Due to concerns they had with the proximity of the proposed semi-detached houses to 53 Victoria Road, it was agreed between the residents of 53 Victoria Road and the Applicants that the access way to the rear of the Site would be moved to the north-east of the Site such that it would run between the proposed semi-detached dwellings and 53 Victoria Road (rather than between he proposed dwellings and 57 Victoria Road), thus providing greater distance between the proposed semi-detached houses and 53 Victoria Road. The proposed location of the driveway leading to Unit B has been retained in all subsequent applications (including the Application) at the request of the residents of 53 Victoria Road.

4.4. Following the consultations, an application was submitted to ADC on 24 July 2015 with reference number AWDM/1132/15 (the "**Initial Application**"; Appendix VII). The Initial Application included provision for a pair of semi-detached houses at the front of the Site with access to the north-east of those dwellings to a detached, two storey residence (with basement) to the rear of the Site.

4.5. The Initial Application received adverse comments from the residents of 53 Victoria Road and 61 Victoria Road. In summary:

4.5.1. 53 Victoria Road were concerned at the height of the semi-detached houses and that the semi-detached houses would result in a loss of light to 53 Victoria Road (which has substantial fenestration to its south-eastern elevation).

4.5.2. 61 Victoria Road were concerned at the perceived loss of privacy, as the proposed dwelling at the rear of the Site included a balcony at second story level to the south-east elevation.

4.6. On 16 September 2015, ADC emailed with its preliminary thoughts on the Initial Application, stating that permission for the proposal would not be forthcoming. The following reasons were cited:

4.6.1. the rear house would be un-neighbourly by reason of its scale and orientation;

4.6.2. the rear house would be intrusive and invasive causing a loss of privacy to the residents at 61 Victoria Road;

4.6.3. the height of the eaves of the semi-detached houses fronting were incongruous to the existing street-scene and were considered a poor imitation of the "*fine imitation Edwardian houses*" on Victoria Road;

4.6.4. that the proposed site layout, with the access to the north-east and truncated rear gardens would be "*highly contrived*"; and

4.6.5. that the comments received from the Highways Authority (which were not provided or disclosed to the Applicants) demonstrated the difficulty of developing the Site successfully.

4.7. As a result of the comments from ADC and neighbouring residents, the Initial Application was withdrawn before it was decided.

5. The Application and proposed development

5.1. Substantial changes were made to the Initial Application and the Application was subsequently submitted on 4 February 2016. The proposal is to demolish the existing bungalow and replace it with a detached three-bedroom property fronting Victoria Road (Unit A). Access will be provided to the north-east of Unit A (i.e between Unit A and 53 Victoria Road) leading to a detached 4 bedroom house to the rear of the Site (Unit B).

5.2. Both Unit A and B have been designed to a very high standard and offer sensitive and sustainable housing responding to the built and natural environment in which they are situated. Unit B, for example, responds to the fact that it is built in relatively close proximity to sycamore trees (some of which, but not all, are subject to Tree Preservation Orders). It does so by providing substantial fenestration to the south-eastern ground floor area (in an area that will not detract from the privacy of neighbouring dwellings, nor result in overlooking to the residents of Unit B) thus ensuring that

residents will benefit from an abundance of natural light. The proposals for Unit B include substantial garden and outside amenity areas that will benefit from natural daylight at different times of the day. The Applicants propose to reside in Unit B and care has therefore been taken to ensure that it is a pleasant dwelling in which to reside.

5.3. In terms of assessing by objective standards the quality of the design of Units A and B, both Unit A and Unit B not only meet, but exceed, ADC's own guidance for new build houses, as set out in the *"Good Practice Guidance Note: Internal Space Standards for New Homes"* and the *"Development Control Standard No.2 'Space Around New Dwellings and Flats"*. Specifically:

5.3.1. ADC suggests that new 4 bedroom dwellings have a total minimum floor area of 106sqm. Units B exceeds this.

5.3.2. ADC suggest that new 3 bedroom dwellings have a total minimum floor area of 93sqm. Unit A exceeds this.

5.3.3. ADC requires the minimum distance between the rear of one or two storey dwellings to be a minimum of 22m from the rear of any other dwelling. At all points the rear of Unit B is 22.5m from all existing properties (including 61, 59, 57 and 53 Victoria Road and the proposed Unit A). At most points the distance is substantially greater.

5.3.4. The guidance suggests that Units A and B should have an amenity area of not less than 85sqm: the proposals include amenity areas well in excess of this requirement.

5.4. The proposals create four additional off-street parking spaces. The proposals in the Application also include provision for cycle storage and therefore alleviate an existing parking issue in Victoria Road caused by the industrial units on the adjoining Brighton Road.

5.5. The design of Unit A is in keeping with the existing streetscape, bridging the gap between the Edwardian semi-detached houses at 53 and 51 Victoria Road and the more recently built pair at 57 and 59 Victoria Road.

5.6. Unit B is also in keeping with the surrounding area, featuring as it does a mix of substantial detached dwellings (61 Victoria Road and 27 Park Road), moderate detached houses (38 to 44 Victoria Road) and dwellings of different designs, material finishes and appearance (38, 40, 42, 44, 48, 61 and 63 Victoria Road, for example).

5.7. The proposals set out in the Application are sustainable. They provide high quality housing designed sympathetically to their surroundings and the neighbouring properties. The sustainability of the proposals are further demonstrated elsewhere in this Statement.

5.8. The proposals sought to address the concerns expressed by the neighbouring residents (as described in summary at paragraphs 4.5.1 and 4.5.2 above) and the feedback provided by ADC (described above at paragraph 4.6). The Application seeks to address those concerns as follows:

5.8.1. The size and scale of Unit B has been reduced;

5.8.2. The form of Unit B has been amended. It is no longer proposed to be two storeys at all points, but is now, instead, single storey to a significant degree. The single storey elevation is closest to the point at which the Site borders 61 Victoria Road and was introduced to address the privacy concerns raised by the residents of 61 Victoria Road. Additional basement accommodation has been included to minimise the impact of Unit B on neighbouring dwellings.

5.8.3. For the same reason, Unit B no longer contains extensive fenestration, nor a balcony, at second storey level to its south-eastern elevation.

5.8.4. The southern elevation of Unit B no longer contains as much fenestration, addressing any concern that the proposals may result in a loss off privacy to neighbouring properties.

5.8.5. The Initial Application proposed a pair of semi-detached houses fronting Victoria Road. The Application proposes only a single detached house (Unit A) which, in turn, addresses the concerns of both ADC and the residents of 53 Victoria Road as follows:

a. a single detached house allows for a wider access to Unit B (4.4m as opposed to 3m in the Initial Application);
b. Unit A is now substantially further away from 53 Victoria Road, addressing any concern that that property may suffer from a loss of light or a loss of privacy;
c. Unit A is substantially "shallower" than the semi-detached houses proposed in the Initial Application. This again addresses the concern as to the impact on the light and privacy enjoyed by 53 Victoria Road.

5.9. Paragraph 66 of the NPPF states that applicants will be expected to work closely with those directly affected by their proposals so as to evolve designs that take account of the views of the community. Where applicants do so, paragraph 66 states that such applications should be looked on more favourably. As a result of consulting with the owners of dwellings neighbouring the Site, significant changes have been included in the Application when compared to the proposals laid out in the Initial Application. It is telling that the Application did not receive a single objection from the 17 Neighbours consulted by ADC and, further, that during the progress of this Appeal the Application is expected to receive the support from the owners of neighbouring dwellings. The Applicants can demonstrate the extent to which they have taken on board the views of the community and the Application should, therefore, be looked on favourably.

5.10. ADC failed to properly consider the views of the community in refusing permission for the Application.

5.11. Instead, ADC overlooked the fact that the current neighbours did not raise any concerns with the Application – and now support it[17] – substituting instead its own unfounded concerns as to the impact of the proposals on neighbouring dwellings. In this regard the Officer Report (in support of Ground 1) sets out a number of perceived issues with the Application in respect of the impact of the proposals on the existing and future neighbours. The points raised by ADC have very little (if any) merit:

5.11.1. ADC note that the bedroom windows of 53 Victoria Road will look across the proposed driveway to Unit B and ADC consider that as such, the proposals will negatively impact the residents at 53 Victoria Road. As noted at paragraph 5.8 above, however, the proposed driveway to Unit B was located to the side of 53 Victoria Road at the request of the current residents of that property. Far from causing them a nuisance or detracting from the amenity value of the dwelling, having the driveway located as proposed creates a greater distance between 53 Victoria Road and the proposed Unit A. This trade off was considered extensively by the current residents of 53 Victoria Road who are of the view that the proposed driveway is likely to have very little impact on the amenity value of the property.

5.11.2. The Officer Report further states that the principal outlook to bedroom 3 of Unit B would be across the private gardens on the properties to the north-east of 53 Victoria Road (i.e 51 Victoria Road to 47 Victoria Road). However, such a conclusion overlooks the fact that there is substantial vegetation and large trees obscuring any view over the gardens that bedroom 3 of Unit B may have.

5.12. In reliance on the above grounds, ADC conclude that the proposals for Unit B are contrary to Saved Policy AH2. The Inspector is reminded, however, that it is the primary position of the Applicants that the Saved Policies should be disregarded by reason of ADC's failure to meet its housing requirements - see paragraph 5.3 below. In any event, the concerns raised by ADC have been overstated and too much weight has been given to concerns which will not have a material adverse impact on neighbouring

[17] By implication, all of the current neighbours support the development by reason of the fact that they have not raised any concerns with the Application.

dwellings. ADC reached the wrong conclusion in refusing permission for the Application.

The residential amenity of Unit B

5.13. ADC make much of the fact that Unit B is built close to the tree canopy of the protected Sycamore trees on a neighbouring property. Specifically, ADC consider that the proposed location of Unit B would mean the proposed kitchen / dining room and bedroom 1 (and to a lesser extent, bedroom 2) of Unit B would suffer from a lack of light in summer months (when the Sycamores are in leaf) to the detriment of the occupiers. Again, ADC has given too much weight to an immaterial consideration. The proposed occupiers of Unit B have considered at length the impact of the Sycamore trees. To counter the shadowing, the kitchen / dining room of Unit B has been designed with substantial fenestration on it southern, easterly and westerly aspects. The Applicants consider that the extent of the glazing will ensure that Unit B receives sufficient light at all times of day and at all times of the year. Likewise, bedroom 1 is expected to receive sufficient light by reason of substantial glazing to two aspects (albeit the glazing to the southern aspect will be obscured to ensure the privacy of the residents of 57 and 59 Victoria Road).

The impact on the preserved trees and natural habitat, including vegetation and wildlife

5.14. The Officer Report, in support of Ground 3, deals with the perceived impact of the proposals (principally from Unit B) on the preserved sycamore trees and current habitat of the Site.

5.15. The Applicants consider that, again, ADC has given too much weight to considerations which, in this case, could have been dealt with by way of attaching conditions to the grant of planning consent. The concerns of ADC do not, when all the circumstances of the Application are considered, warrant refusing permission for the Application. In this regard:

5.15.1. In line with paragraph 118 of the NPPF, permission should only be refused so as to protect the bio-diversity of a site where significant harm would result from development and that harm cannot be mitigated against, controlled or compensated for. The impact on the preserved sycamore trees (and the bio-diversity of the Site generally) can in this case be mitigated against.

5.15.2. ADC consider that the proposed location of Unit B is within the root protection zone of the preserved sycamores. That being so, the proposed location of Unit B is as far away from the root protection zones of the preserved sycamores as is practically possible (in line with the recommendations contained in the arboricultural survey). If approved, it is submitted that conditions can be attached to the planning approval to minimise the disturbance of excavations on the roots of the preserved trees.

5.15.3. It is not stated which of the 6 sycamore trees on the western boundary of the Site are preserved. However, the arboricultural survey notes that of the six sycamore trees on Site and the adjoining croquet club, only three have amenity value justifying a "Category B" rating.[18] The three other trees are given a "Category C" rating.[19] It is therefore suggested that although of some amenity value, the sycamores are not of such value that their protection or preservation would merit their retention at all costs (although all reasonable measures will be taken to protect the sycamores). Again, paragraph 118 of the NPPF is relevant. It implies that, even in the case of ancient woodland and irreplaceable habitats (which the Site and sycamore trees are not), development should be permitted where the benefits clearly outweigh the loss. In the case at hand, the sycamore trees are not of significant cultural or amenity value (only being awarded a Category B rating, at best) and so a lesser test than that envisaged by paragraph 118 of the NPPF needs to be considered. It is suggested that the benefits of the proposals and two sustainable family homes outweigh the benefit of three trees that have a life expectancy of less than 20 years.

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[18] A Category B rating is given to *"trees of moderate quality with a life expectancy of less than 20 years"*.

[19] A Category C rating is given to *"trees of low quality with an estimated remaining life expectancy of at least 10 years..."*.

5.15.4. The Officer Report wrongly implies that the basement area of Unit B is located within a root protection zone. It is not. In any event, measures can be implemented to protect the trees from harm during any construction.

5.15.5. ADC wrongly consider that the location of Unit B close to the preserved Sycamores will put the Local Authority under substantial pressure to reduce the canopy of the preserved trees. As noted above, however, there are already three dwellings built within the canopy of the preserved trees (being 63, 61 and 59 Victoria Road) such that ADC will already be under pressure to reduce the canopy of the preserved trees. If any further evidence of this were needed, there is currently a live application, made pursuant to section 211 of the Town and Country Planning Act 1990, to reduce the crown height of the trees by up to 3 metres; reduce the radial spread of the trees by up to 2 metres; and thin by up to 10% the remaining canopy of the sycamore trees (planning reference AWDM/0541/16).

5.15.6. ADC note that the proposals fail to address the recommendation in the Protected Species Walkover survey that a native hedgerow be planted to the northwest boundary of the Site. The proposals do however contain provision for planted borders to the northwest of the Site and to the borders at the south and southwest of the Site. In any event, there is scope to include further native hedgerow and this minor consideration could have been dealt with by way of a requirement for the planting of such a hedge (imposed as a condition on the planning approval, if necessary).

5.15.7. The Officer Report suggests that the cherry tree (Category B rating, numbered T20 on the proposals) would come under pressure from the residents of the proposed Unit B since it is *"awkwardly positioned narrowing the drive and turning space"* available to Unit B. Such a suggestion is without any merit, and the proposed rear garden of Unit A has been shaped specifically to widen the turning space in the vicinity of the cherry tree. In any event, the protection of a cherry tree should not outweigh the need for sustainable housing such as that proposed in the Application.

5.16. It needs to be remembered that the *golden thread* of the NPPF is the presumption in favour of development. It is against that backdrop that the Application should have been considered, and ADC should only have refused permission where the negative impact of the proposals outweighs the positives. The Applicants again stress that the perceived negative impacts are just that; perceptions on the part of ADC which have very little justification in fact or in law.

6. Conclusions

6.1. The Application should be permitted. The proposals are sustainable and should therefore benefit from the presumption in favour of development laid out in the NPPF.

6.2. ADC should only have refused permission where the harm caused by the proposals would outweigh he benefit to be gained from them. It is submitted that there is little harm, if any, threatened by the proposals in the Application and ADC gave too much weight to illogical and factually incorrect considerations when considering the impact of the proposals.

6.3. As to the grounds relied on by ADC, this Statement has shown that they are largely without any merit and should be disregarded.

6.4. ADC were wrong to refuse the Application and in doing so they have limited the opportunity to make the most of the Site and to create much needed housing in an area where the Local Authority is expected to miss its targets for new housing to an embarrassing extent.

6.5. Not only do the proposals create much needed housing, they do away with a property which is a blight on the local amenity and which must now be replaced with some urgency.

6.6. The Inspector is respectfully urged to overturn the decision of ADC and to approve the Application for all of the reasons set out above.

The Applicants
5 July 2016.