Adur District Council

Planning, Regeneration and Wellbeing

Mr James Boys
BPM
33 Stoneleigh Avenue
Brighton
East Sussex
BN1 8NP

PLANNING REFUSAL

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2015

APPLICATION NUMBER: AWDM/0200/16

Details of Development
DEMOLITION OF EXISTING DETACHED BUNGALOW AND ERECTION OF 1NO. DETACHED 3-BEDROOM HOUSE FRONTING ROAD AND 1NO. DETACHED 4-BEDROOM HOUSE WITH BASEMENT ACCOMMODATION IN REAR GARDEN

Location of Development
55 VICTORIA ROAD SOUTHWICK BRIGHTON WEST SUSSEX BN42 4DJ

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they REFUSE to permit the above development, in accordance with the application and relevant correspondence registered on 5th February 2016.

The reasons for the Council's decision to refuse to permit the development are stated on the schedule overleaf.

GPeck

Gary Peck
Planning Services Manager
04/05/2016

ADUR DISTRICT COUNCIL
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SCHEDULE

Reasons for Refusal

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

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

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, the Council is not satisfied that the new back-land dwelling is compatible with the future health and longevity of the existing trees with consequential detriment to 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.

Informatives / Notes to Applicant

01. For the avoidance of doubt this refusal relates to the following drawings/plans:-.

Reference/Drawing Number	Version	Date Rec
EXTG SITE/BLOCK PLAN	Drg No. E01	05.02.2016
PROPOSED LAYOUT/FLOOR PLANS	Drg No. P01A	05.02.2016
PROPOSED ELEVATIONS/SECTIONS	Drg No. P02a	05.02.2016
PROPOSED - REAR HOUSE	Drg No. P03A	05.02.2016
TREE CONSTRAINTS PLAN	Ref: 1275.E03	05.02.2016
ARBORICULTURAL SURVEY	PJC/3641/15	05.02.2016

Cont.../

02. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2015

YOUR ATTENTION IS DIRECTED TO THE FOLLOWING NOTES FROM THE ABOVE ORDER. THEY ARE FOR INFORMATION ONLY AND DO NOT PRETEND TO SET OUT THE WHOLE OF THE LAW ON THE SUBJECT. IT WOULD BE WELL FOR YOU TO CONSULT YOUR SOLICITOR IF YOU ARE IN ANY DOUBT

Appeals to the Secretary of State

1. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

2. If the decision relates to a householder application, and you want to appeal, then you must do so within 12 weeks of the date of this notice. If the decision relates to a non-householder application, an appeal must be lodged within 6 months of the date of the decision notice. Appeals must be made using a form which you can get from the Secretary of State online at https://acp.planninginspectorate.gov.uk or at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000)..

3. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

4. The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements to the provisions of any development order and to any directions given under a development order.

5. In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

6. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Planning Act 1990.

7. Where this notice conveys approval or permission, conditional or unconditional, please note that the decision given does not purport to convey any consent or approval which may be required under the Building Act and Building Regulations, or any other legislation.

Development Control – Delegated Officer Report

Application Number: **Recommendation – Refuse**
AWDM/0200/16

Site: **55 Victoria Road Southwick Brighton**

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.**

Date of site visit: 11-09-2015
Neighbours checked: Y
Additional neighbour notifications:

Proposal, Site and Surroundings

Victoria Road is a residential street, characterised by a mix of period and modern buildings. No. 55 is a derelict detached bungalow which occupies an unusual shaped garden plot. The garden is well vegetated, containing five sheds, two very small ponds and small trees located throughout. A Cherry tree on the eastern boundary is of relatively good condition. Larger mature Sycamore trees are located outside of the site boundary on the north boundary, in the tennis club. Collectively these have very good landscape value and are the subject of a Preservation Order (No. 1 of 1982 (SW)).

The proposed development is to demolish the current bungalow, replacing it with a detached two-storey 3 bed house with a street frontage and build a new detached two-storey 4 bed house behind in the northern part of the site. The building behind would be accessed via a drive at the side (the existing vehicular access and crossover is to be widened). Each dwelling would be provided with 2 parking spaces on site.

To the north-west is a private lawn tennis club (without public access), with residential buildings to the east and south. Residential buildings are either side of no. 55. The local area is an outer residential suburb of Southwick.

This application is supported by an aboriculturist survey and ecological survey.

Relevant site history
AWDM/1132/15
Demolition of existing detached bungalow and erection of pair of semi-detached 4-bedroom houses and one detached two-storey 4-bedroom house with basement accommodation in rear garden.
Withdrawn 18.09.2015

Consultations (summarised)
Southern Water: *Add informative*

West Sussex County Council Highway Authority: *No anticipated highway safety or capacity concerns raised.* **Access** *Both dwellings provided access onto Victoria Road which is unclassified road subject to 30 mph speed limit at this point. 3 bed dwelling provided frontage access onto Victoria Road. Access will serve 2 off street car parking spaces aligned perpendicular to Victoria Road. Layout would require vehicle to reverse into or out of spaces, however noted this seems common access arrangement for Victoria Road. Checked most recently available verified accident data records and these points of access appear operating safely at present. No concerns raised to access arrangement. 4 bed dwelling provided access via a 4.4 metre wide access driveway circa 35 metres in length. Given driveway will provide access to one dwelling this width of access driveway considered appropriate. Formation of these crossover access points must be implemented under licence to specification obtained from WSCC Highways.* ***Vehicle Parking & Turning*** *Each dwelling provided with two allocated off street car parking spaces. Assessed this against WSCC car parking demand calculator and considered appropriate provision for dwellings of this size in this location. Appropriate cycle parking facilities have been demonstrated.* ***Other Matters*** *On collection day refuse bins for 4 bed dwelling wheeled to position closer to publically maintained highway for collection by waste collection service. This would negate need for refuse vehicle to enter site to collect refuse. If LPA minded to grant consent following conditions and informative note: Access, Constriction Plant and Materials Storage, Pedestrian Visibility (2 x 2 metres at each side of perpendicular parking spaces), Vehicle Parking (3 bed dwelling), Vehicle Parking & Turning (4 bed dwelling)* ***Informative*** *Minor Highway Works The applicant is advised to contact the Highway Licensing team (01243 642105) to obtain formal approval from the highway authority to carry out the site access works on the public highway.*

Adur & Worthing Councils Drainage Engineer: *Site within flood zone 1 is affected by surface water flooding, but appears to have no history of flooding. Slightly concerned with basement construction as area prone to high ground water levels. Providing architect/applicant is made aware of groundwater issue and design to accommodate this water, structure should be suitable. Applicant indicated intention to use soakaways for disposal of surface water. Applicant needs to assess if use of soakaways is viable on site. Location for soakaways will need to be more than 5m from existing or new structures, and need to be soakage test undertaken at each of three locations to ascertain if soakaway will adequately empty. Appears from drawings sufficient area to adequately site soakaways. Only comments we wish to make at this time relates to disposal of the surface water. In absence of any ground investigation details or detailed drainage details in support of application although the applicant has indicated his intention to utilize soakaways we request that should approval for this new build be granted it be conditional such that 'no development approved by this permission shall commence until full details for the disposal of surface water has been approved by the Planning Authority' Soakage tests in accordance with BRE Digest 365 (1991) would be required to be undertaken on the proposed site as soon as possible to provide the data to ascertain the size of the soakaway required for the roofs and other impermeable and semi impermeable areas. Full design calculations should be provided for the soakaway soakage test result, and the ensuing soakaway and permeable paving designs, along with the rainfall calculations*

with the additional rainfall quantities appropriate for climate changes, as required under planning policy.

Adur & Worthing Councils Environmental Health: *No objections. Add informative regarding demolition. Advise applicant need to contact environmental health for a demolition notice under the Building Act 1984.*

Adur & Worthing Councils Tree Officer: *Detrimental to preserved trees within Sussex Croquet Club. The building is within the root protection area, and directly adjacent to the main crown of the trees. This in my opinion could be damaging to the root system, as it is to be a new two story building, with a below ground area to the north east, which would prevent use of a raft foundation system. The north-west elevation faces directly into the crown of the trees, this will very likely create future pressure due to the direct proximity, and reduced light to widows and proposed solar panels.*

Representations
None

Relevant Planning Policies
National Planning Policy Framework
Saved Local Plan policies: AG1, AB25, AH2, AH5, AH6, AP4

Planning Assessment

Principle

The saved policies of the Adur District Local Plan comprise the Development Plan here but the Government has accorded the National Planning Policy Framework considerable status as a material consideration which can outweigh the Development Plan's provisions where such plan policies are out of date; or silent on the relevant matter. In such circumstances paragraph 14 of the NPPF states that where the proposal is not otherwise in conflict with specific restrictive policies in the Framework, development should be approved unless the harm caused significantly and demonstrably outweighs the benefits when assessed against the NPPF overall.

Adur District Council has unmet housing need. The proposal would make a marginal contribution toward increasing the choice of market housing by providing two family homes.

The site can be considered to be sustainably located (as much as any other within the built-up area) but unlike 'brownfield' land, garden land such as is involved here, is not identified as a priority for residential development and the NPPF states local planning authorities should consider the case for setting out to resist inappropriate development of residential gardens where development would cause harm to the local area (paragraph 53).

Paragraph 64 of the NPPF states that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

Reflecting this, Saved Local Plan Policy AH2, which is in conformity with the NPPF Core Planning Principle pertaining to high quality design and a good standard of amenity for occupants, sets out that new residential infilling in the built up area is only acceptable subject to satisfying a set of design criteria set out in detail in the Council's adopted Development Control Standard No. 2 SPG *Space around new dwellings and Flats* and Good Practice Guidance Note *Internal Space Standards for New Homes.*

Townscape and visual amenity

Paragraph 64 of the NPPF states permission should be refused for development that fails to take the opportunities available for improving the character and quality of an area. Policy AH2 requires the appearance, character and scale of a building to be in keeping, including particular attention to height, density and layout.

The existing bungalow is nondescript and its loss is not resisted. The majority of unpreserved trees on site have limited public amenity value, so their loss would not be resisted. The new frontage building would be built in a modern interpretation of an inter-war design and style, in keeping with either flanking buildings. Its scale would be comparable and its position would respect the building line. The distances to the neighbouring buildings means it would not be cramped visually.

Although the new building behind would be a modern building built to distinguish itself by contrasting with the design of dwellings in the immediately surrounding area, there is no reason why this architectural style should be visually harmful within its particular setting, provided that the detailed design of the building is of good quality.

Nonetheless, back-land residential development is not typically characteristic of the local pattern of development. Victoria Road exhibits a particularly well defined building form, made up of a fairly regimented line of dwellings fronting the street with lengthy rear gardens. Even accounting for the dwelling built behind No. 16 (allowed only because it occupied an area already covered by existing buildings), the position of the newly proposed dwelling behind No. 55 would be markedly at odds with the prevailing street character.

The contrived orientation and deep siting of the back-land dwelling well away from the street frontage, together with its excessive size and two-storey massing, would represent an anomalous form, out of scale to adjacent buildings, resulting in an uncomfortable and awkward relationship to the existing form and layout of development in the local area.

It would not satisfy the criteria of Policy AH2(a) in that its appearance, character and scale would not be in keeping with the existing local environment. This is an inappropriate development of a residential garden that would cause harm to the local area, and as such it is it should be resisted in accordance with paragraphs 53 and 64 of the NPPF.

Residential amenity – existing and future neighbours

Saved Policy AH2 requires new developments not have an unneighbourly effect on existing dwellings by reason of unacceptable loss of privacy, light, outlook.

It is the neighbours to either side and at the rear who would be principally impacted upon by this development (which is physically removed from the remainder).

Immediate neighbour to north-east (No. 53 Victoria Road)

No. 53 is a two-storey semi-detached single dwelling. Its fenestration is arranged predominantly to the west, along its length in close range of the shared boundary.

Its bedroom windows would face across the drive and parking space of the new dwelling behind. This proximity has the potential to negatively impact on the neighbour's living conditions by way of noise nuisance and vehicular fumes, and reduction in privacy. The neighbouring property's ground floor windows are largely screened by boundary treatment, although detrimental noise and fumes would be experienced. Fenestration inter-visibility onto all other elevations would be oblique in nature, and consequentially no loss of privacy is anticipated.

The separation distance between the existing and both new buildings satisfies the Council's adopted SPG to give adequate privacy between facing windows (22m in the case of 2-storey) and daylight provision, so negating the potential for adverse overbearing or overshadowing.

Neighbours to north-east beyond No. 53

The angle of garden plots of neighbouring buildings beyond No. 53 means the new building at the rear has a principal clear glazed bedroom window facing onto these, so allowing penetrative intimate views into the private gardens of neighbours to the detriment of their living conditions.

Neighbour to south-west (No. 57 Victoria Road)

This neighbouring building has no principal windows in its flank facing onto the application site. The new frontage dwelling would protrude only marginally forward of this neighbouring building. Fenestration inter-visibility onto all other elevations would be oblique in nature, and consequentially no loss of privacy is anticipated.

The separation distance between the existing and both new buildings satisfies the Council's adopted SPG to give adequate privacy between facing windows (22m in the case of 2-storey) and daylight provision, so negating the potential for adverse overbearing or overshadowing.

Residential amenity – future occupiers

Saved Policy AH2 requires new developments to incorporate adequate standards of residential amenity in terms of open amenity space, daylight/sunlight, outlook and privacy.

Future occupiers would benefit from logical layouts inside. The internal room standards and outdoor amenity space of both new dwellings exceeds the Council's relevant SPG and Good Practice Guide. Occupiers of the street frontage dwelling would be provided unfettered light and outlook to provide satisfactory living conditions.

However in relation to the new back-land dwelling, the principal light and outlook to its kitchen and bed 1, and to a lesser extent bed 2, is onto the dense canopy of preserved sycamores. During summer months these main habitable spaces would experience significant shadow and light reduction, to the detriment of the living conditions of future occupiers.

Additionally, the principal outlook and light to bed 3 would face onto the neighbour's rear garden. This is the principal window, so needs to be clear glazed. As it is within 2 metres of the shared boundary with neighbours, its future users would not be afforded privacy as neighbours would have penetrative intimate views into this private room.

It is concluded that the living conditions of future occupiers of the new back-land dwelling would not be afforded adequate standards of living. The proposal therefore conflicts with the aims of Adur Local Plan policy and the SPD, to ensure that development does not unacceptably reduce amenity for local residents. This is in line with the National Planning Policy's Framework's aim to secure a good standard of amenity for all. As such the new dwelling behind would not satisfy Policy AH2 (d) in that it does not incorporate adequate standard of residential amenity for the new dwelling behind in terms of light and outlook, and privacy.

Accessibility and parking

The Highway Authority raises no anticipated highway safety or capacity concerns, subject to conditions.

The dwelling behind would be accessed via a 4.4 metre wide drive, 35 metres in length. According to highways, the drive width of the access is not inappropriate as it would serve one dwelling. Vehicles reversing out of this access of the new street frontage dwelling is not believed to present a highway safety risk (the highway authority says it is a common access arrangement for Victoria Road).

Each dwelling would be provided with 2 parking spaces on site. As assessed against the WSCC car parking demand calculator this provision is considered to be appropriate. Bins will be collected at the end of the drive on collection day. A construction management plan is proposed to minimise disruption during build out.

Drainage

According to the Council's drainage engineer the local area has high ground water levels. However the site is in flood zone 1, the lowest flood risk category so to accommodate this in the basement design is a matter for building regulations (no human health would be put at greater risk to warrant planning intervention).

There appears to be capacity on site to be reliant on soakaways as a means of disposal of surface water drainage, but the final detail can be agreed by condition as suggested by the Council's drainage engineer.

Preserved trees and natural habitat, including vegetation and wildlife

A Protected Species Walkover survey took place in March 2015, noting the long, semi-improved grassland had high potential as natural hibernacula for 3 common species of reptile, although the derelict bungalow has low potential for roosting bats.

The survey recommended a new mixed native hedgerow be planted along the northwest boundary as a mitigation measure considered necessary to protect wildlife, replace any lost nesting bird habit from the demolished sheds, as well as compensate for site clearance.

This recommendation has not been incorporated into the scheme, and the suggested wild flower meadow is impractical to retain given it would be the principal outdoor play space for a family home.

The submitted tree report is not an arboricultural impact assessment so the effects of construction works and measures for the protection of trees on or overhanging the site have not been fully accounted for. The report recommends siting the back-land dwelling as far away from the sycamores as feasible and consideration be given to the positions of the main light providing windows stating that further crown maintenance works are relied upon to ensure suitable light levels for the development. The report awards the sycamores category B. It also notes the Cherry tree located on eastern boundary (annotated as T20) is of category B condition.

These recommendations have not been adhered to in the design of the scheme. The Cherry tree is awkwardly positioned narrowing the drive and turning space of the new dwelling behind, so there is reasonable likelihood of the tree being lost. The new dwelling behind is shown to be built within the Root Protection Zones of the sycamores. It is to be built with a large basement, so there is likely to be harmful impact to the root systems. The preserved Sycamore trees have a dense canopy. The principal light and outlook to the kitchen and two bedrooms is onto the canopy, with significant shadow and light reduction. Their close position in relation to the dwelling's elevation and of the fenestration in the elevation is such as to render the trees vulnerable to felling in the future. The LPA would come under significant pressure from future occupiers to for substantial canopy cut back that would misshapen its shape and form. This would materially diminish the character of the area as the Sycamore's contribute to public visual amenity at present.

As such it would not satisfy policy AH2 (b) it does not respect the existing natural features of the site, including trees, nor saved Local plan policy AB25 which resists granting approval where development adversely affects existing trees.

Recommendation

REFUSE for the reasons:-

i) 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

ii) 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

iii) By reason of its position and the 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, the Council is not satisfied that the new back-land dwelling is compatible with the future health and longevity of the existing trees with consequential detriment to 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

Informative:

i) For avoidance of doubt this refusal relates to the following plans/documents:-

Drawing No. E01 tiled Existing site, location and block plans date valid 05-02-2016
Drawing No. P03a titled Proposed sections and elevations – rear house date valid 05-02-2016

Drawing No. P02a titled Proposed sections and elevations date valid 05-02-2016
Drawing No. P01A titled Proposed site plan and front houses FF + SF plans date valid 05-02-2016
Drawing No. 1275.E03 titled Tree Constraints date valid 05-02-2016
Document titled PJC Ref No: PJC/3641/15 titled Arboricultural Survey 55 Victoria Road Southwick BN42 4Dj date valid 05-02-2016

ii) *The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.*

Is recommendation contrary to letter(s) of representation? N

Case Officer: Matthew Porter Date: 03-05-2016

Authorised by: Peter Barnett Date: 3 May 2016

Appendix IV



Image showing the composition of the Site (outlined approximately in black).

Land edged yellow:	landlocked parcel of land.
Land edged red:	Land formerly garden land to 57 Victoria Road
Land edged blue:	Land formerly garden area to 59 Victoria Road
Land edged green:	Land at rear of Site bordering the croquet club and tennis courts.