Highways/Transport Comments

Consultee	Alasdair Walmsley, Principal Transport Development Officer For and on behalf of Brighton & Hove City Council in its capacity as Highway Authority (HA)
Date of Reply	24/01/2023
Application Number	AWDM/1859/22
Response Number	1
Address	Land East Of 24 To 30 Manor Close Gardener Street Portslade Brighton & Hove
Description	4No. three-bedroom two storey detached houses including new access road from Gardner Street and alterations to public footpath
Case Officer	Peter Barnett
Key Policies Applicable	CP7 (Infrastructure and Developer Contributions), CP9, and CP13 (Public Streets and Spaces) of City Plan Part One, DM33, DM34, DM35, DM36, DM37 of City Plan Part Two; Developer Contributions Technical Guidance

Response (preview)

BHCC LHA objects to this application.

We have worked with the applicant(s) on the now lapsed consent on this same site in order to agree an acceptable scheme of S278 works creating access from Gardener Street. Having failed to arrive at an acceptable scheme we advise that we do not consider that it can be built or accessed via Gardener Street.

Should the LPA nevertheless be minded to grant permission, we have suggested a number of planning conditions that would be required.

Consideration

Introduction

1. The proposal is for a development of 4 detached 3-bed houses on land to the East of Manor Close in Southwick on the site of a former plant nursery.

2. It is proposed that each of the 4 houses provides 2 car parking spaces and has bike stores.

3. Although the development site itself is in West Sussex, access is proposed via Gardener Street in Portslade which lies within the Brighton & Hove Local boundary and is controlled by the BHCC Local Highway Authority.

4. Between the boundary of the proposal site and Brighton & Hove lies a public right of way footpath that must be crossed to gain access. The footpath is under the control of West Sussex Public Rights of Way department.

Application History & Previous Responses

5. The proposal site received planning permission for 4 no. three bedroom dwellings at this site on 14th January 2019 under application reference AWDM/0756/18. The planning statement sets out that this is a similar application to that previously consented with no material change, the reason for the current application is because the previous consent has expired.

6. In our response to that application, we raised no objections to the application but recommended a revised highway works plan showing double yellow lines protecting access to the site be submitted prior to determination. We also sought conditions for Boundary Works, Off-Site Highway Works and Cycle Parking Implementation. Other key points we looked at were

    a. Crossing a public right of way along the boundary but noting the West Sussex Rights of Way Officer had commented on the application.

b. Speed Humps proposal requiring a TRO

c. Footpath gradients being non-compliant with DfT inclusive mobility but would nonetheless represent an improvement on current situation of steps only access, and so acceptable.

d. Unclear how the applicant could provide adequate visibility along the right of way, but details of these works and their implementation should be secured by condition. We note that this condition was imposed and remains to be discharged.

e. Proposed footway width of 1.5m is less than typical width sought, but acceptable as it continues the Gardener Street footway. BHCC would prefer to see the footway extend into the development, but this is outside of BHCC highway land.

f. Car Parking, 2 per property is above SPD14 maximum but this is not within BHCC and WSCC raised no objection.

g. Parking restrictions will be necessary on Gardener Street to secure access to the proposal site.

h. Deliveries and servicing are constrained, but BHCC will collect the refuse and their vehicles can turn in the space provided.

7. Following the approval of application AWDM/0756/18, BHCC LHA entered into a S278 process with the applicant in order to consider the highway works necessary to create access from Gardener Street. We were unable to arrive at a design that conformed to the gradient requirements laid out in the Design Manual for Roads and Bridges and that could be built at a reasonable cost. To date we have not seen, nor can we conceive of a practical design for vehicular access from Gardener Street. These concerns have not been resolved with the current application drawings and form the main grounds for our objection to the current application.

Site Access

8. Vehicular Access

   A speed hump or tabletop design has been proposed at the access to the site on what is public highway. This would require separate advertisement and permission. We concur with WSCC Highways response that this element of design is not necessary. Notwithstanding our objection to the current application, a S278 agreement would be required to make any changes to the public highway for access to the site, and the final design of highway works including the speed hump would be expected to alter during that process.

9. Pedestrians (including visually and mobility impaired people)

   a. Access to the site, crossing the public right of way is complicated by the level difference on site and visibility splays onto and from the public right of way. Because of the level changes required for vehicular access, the public right of way would have to be reconfigured over a distance requiring agreement with neighbouring properties of no.'s 57 and 36 Gardener Street.

   b. It is proposed in the drawings that visibility to and from the public right of way will be secured by keeping the hedge of 36 Gardener Street trimmed to 600mm above ground level. As with the lapsed consent this agreement with the owner of no.36 will need to be secured via condition to ensure suitable visibility is secured in perpetuity.

   c. The submitted drawings allow for extension of the footway on Gardener Street up to the Public Right of Way footpath, however there is no continuation of this public footway into the proposal site. In our response to the previously consented scheme we stated, "The Highway Authority notes the Department for Transport's recent announcement within the Inclusive Transport Strategy (25 July 2018): "we are requesting that local authorities pause any shared space schemes incorporating a level surface they are considering, and which are at the design stage. We are also temporarily suspending Local Transport Note 1/11. This pause will allow us to carry out research and produce updated guidance." Our concern remains that a shared access is

proposed into the development however we note this is outside of the BHCC boundary.

d. The proposed access to the site would need to be implemented via the S278 process, within which a Road Safety Audit would be required to show that the finalised layout can work within acceptable limits of safety with regards pedestrians to and from Gardener Street and pedestrians using the public right of way footpath.

10. Cyclists

Cyclist access is shared with vehicular access but unlike for pedestrian footway where it appears there is room to allow for segregated access within the site, the constraints of the site do not afford room for a segregated cyclist access. We can accept this arrangement.

11. Bus and public transport

The site has very good access to stops for Busses no.1, 16, & 60 all within a 3-minute walk. Access to trains is also very good with Fishersgate Train station a 2-minute walk away.

12. Refuse and recycling

The lapsed consent showed BHCC City Clean were happy to provide the service and vehicle turning details of this application remain unchanged.

13. Other servicing and deliveries.

a. Access appears acceptable. Although the local streets are tight, and movement is restricted by parked cars the arrangements for the proposal site would be an improvement on these roads with a turning head included on the plans.

b. As noted by WSCC Highway Authority it is unclear whether the turning head within the development would be proposed for adoption or kept private. WSCC assume that it is intended to remain private and is therefore of little public benefit. BHCC LHA agree with that conclusion.

14. Emergency service access

WSCC LHA have requested swept path analysis to show fire engines are able to operate within the space set out on the plans.

15. Construction access

a. Before any construction is commenced on site the applicant would need to construct vehicular access from Gardener Street. As described in point 7 we have been unable to arrive at a scheme of highway works allowing access from Gardener Street, thus construction access should seriously be considered from alternative routes e.g., pedestrian access (wheelbarrow only) via the PRoW, or from Manor Close subject to suitable legal agreement.

b. Notwithstanding this general advice on the problems with construction access from Gardener Street, we have considered some of the other constraints on construction access as proposed should consent be granted and an acceptable design be arrived at.

c. It is noted that deliveries and construction trips are exceptions to the TRO restricting use of surrounding streets for HGVs and vehicles above 7.5T. However, access by HGVs will be difficult along Gardener Street, and it is possible parked cars will be damaged. Notwithstanding the method statement approved for the earlier application, should permission be granted for this scheme, we will require a Construction Environment Management Plan (CEMP) to be secured by condition. The CEMP should set out how the use of HGVs will be minimised and set out measures to prevent damage to parked cars on the surrounding roads.

d. The safety of pedestrians using the public right of way has been commented on by the WSCC rights of way officer. It was suggested that the path may require diversion or other methods of ensuring public safety on the right of way during construction. Details of measures to protect pedestrians during construction should

be included within the CEMP.

e. It is noted that the immediate vicinity of the site has a brick fill foundation, there is the possibility of heavy vehicles leading to subsidence and a detrimental impact on the roads. As part of the S278 agreement for this site we will require a pre-commencement condition survey (PCCS) to be carried out at the developer's expense, and for the developer to repair any damage to the surrounding highway caused by site construction traffic. We would also expect to see strong control methods for stopping HGVs coming to site set out in the CEMP.

Parking

16. Blue badge holder parking

    No disabled parking has been proposed, however as the parking spaces are on West Sussex land these requirements should be derived from West Sussex policy and whilst it appears there may be room to design some of the parking to accessible standards, it is not considered that disabled residents or visitors to the new development should need to use on-street parking, and so we have no additional requirements on this matter.

17. Cycle parking

    The proposed cycle parking sheds appear acceptable according to BHCC Policy SPD14. The parking proposed will be on West Sussex land, but we request details of the implementation to be secured by condition prior to occupation.

18. Loading/unloading for deliveries and servicing

    We consider that the turning head space marked on the submitted drawings will suffice as a temporary loading/unloading bay for deliveries to the residences and enable small delivery vans to access and egress the site in forward gear.

19. General car/van and motorcycle parking

    In response to the previous application we had no objection to the on-site parking provision and did not foresee the creation of overspill parking from the development. The details have not changed, and we maintain the view that suitable on-site space for general car parking is proposed.

Travel Forecasts

20. Given the scale of this development we would anticipate only a negligible effect on local road network.

Operational impact

21. Road network

    The proposed new access will form a slope from Gardener Street up to the Public Footpath where it will form a level surface that extends into the new development. A suitable drainage scheme will need to be secured to ensure that water does not enter the highway on Gardener Street. The design of this drainage scheme will need to be agreed with BHCC LHA and can be secured by condition to enable consultation with the Rights of Way team.

22. Road safety

    Since the consent of the earlier scheme on this site we have engaged with the applicant to agree a scheme of S278 works to provide for access to the site. To date no suitable and safe design has been arrived at, and the access drawings submitted with this application do not enable us to perform a highway design check and road safety audit as required by the S278 process. Our advice is that no acceptable design is achievable for access from Gardener Street, however, should consent be granted for the current application we would not unreasonably withhold attempts by the applicant to enter into a new S278 process to agree a new suitable design. This would however be

subject to the payment of fees by the applicant with no guarantee of success.

Parking Stress/Overspill

23. There is sufficient parking proposed on the development site itself to cater for residents use, but this does not account for visitors. However, for a development of 4 houses, this impact should be acceptable.

24. In order to secure the access to this development it will be necessary to create double yellow lines at the end of Gardener Street. This would restrict the current practice of cars parking on the road, which would lead to a small amount of overspill on to surrounding roads equivalent to the length of the double yellow lines. Whilst we view this impact should also be acceptable, the installation of the double yellow lines should be secured by condition and will be subject to successful application for a TRO.

Equality

25. Although it is not yet clearly identified on the plans, it is likely the ramp to access the public footpath from Gardener Street will be too steep to meet the guidance on accessible ramp design provided in BS8300. This specifies that ramps should be no steeper than 1:12, and only then with a 1.2m flat landing for every 350mm gain in height. As a result, wheelchair users and other people with mobility difficulties would be unable to access the proposed properties, or the public footpath. As with our response to the previously approved plan at this site, we do note that although too steep, it is an improvement on the current situation with stepped access only. In this case, and given the restrictions on the site, we wouldn't see this in itself as a reason for objection.

Highway Works

26. As mentioned in point 7, we have previously been unable to agree a workable scheme of highway works to allow for access to the development from Gardener Street. Because of this we are objecting to the current application. Should the LPA notwithstanding our objection be minded to grant approval, we note the following points regarding Highway Works as laid out in the submitted plans.

27. An acceptable scheme of Highway Works is required to provide for the extension of Gardener Street carriageway and footways onto the public footpath that crosses the site entrance. These works will be required before construction commences to allow for construction vehicles to enter the site.

28. As a pre-commencement condition or obligation, the applicant must enter into a Section 278 Agreement with Brighton and Hove City Council (the Highway Authority) to carry out modifications to the existing public highway, in accordance with the Highways Act 1980.

29. Notwithstanding the discussions and outcome of the planning stage, the works to be included in the Section 278 Agreement will require technical approval. The technical approval process will include a Stage 2 Road Safety Audit in accordance with GG 119 for developer/third-party led schemes with BHCC as LHA in the role of Overseeing Organisation.

30. Please note work must not commence on the public highway until a Section 278 Agreement has been completed and a start date has been agreed with BHCC Streetworks following technical approval of the detailed design by the City Council.

31. As part of the S278 process, a pre-commencement condition survey must be organised through BHCC Highway Maintenance team and the fees for the pre and post construction survey must be met by the developer.

Response

BHCC LHA Object to the current proposals, in our view suitable highway access is unable to be constructed.

Notwithstanding our objection, should the LPA be minded to grant permission, we ask that the following conditions and

obligations are secured.

Conditions

Condition 1 - Construction Environment Management Plan

No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. They shall include:

1. The phases (if applicable) of the development hereby permitted, including the forecasted completion date.
2. A scheme setting out how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site.
2. Details of proposed site accesses and any pitlanes or loading / unloading areas within the highway, which shall be sufficient to allow all vehicles to enter and exit these in forward gear without reversing on the highway.
3. Details of hours of demolition and construction including all associated vehicular movements.
4. Details of the demolition and construction compound.
5. A plan showing demolition and construction traffic routes and the type and the number of vehicles forecast to use these.
6. Details of measures to protect highway assets and to mitigate impacts on public transport and emergency services and provide for their continued operation during the works.
7. Details of vehicle cleaning facilities to prevent mud and dirt being trafficked onto the highway from the site or being washed onto it.
8. Details of any temporary traffic management and signage along the construction routes, at site access and elsewhere in the vicinity of the site.
9. Details of employee and contractor parking.

The demolition and construction works shall be carried out in accordance with the approved CEMP and no part of the development hereby approved shall be occupied until the approved highway works have been carried out in accordance with the agreed details.

As this matter is fundamental to the protection of neighbouring amenity, highway safety and managing waste throughout development works and to comply with Policies CP8 and CP9 of the Brighton & Hove City Plan Part One, DM20, DM33 and DM40 of the emerging Brighton and Hove City Plan Part Two, WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and SPD03.

Condition 2 - Boundary Treatment (for Number 36/36A Gardener Street to secure Visibility Splay

Prior to commencement of the development hereby permitted, a scheme to lower the fence and planting to the northeast of the site and bounding number 36/36A Gardener Street shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include layout plans, elevations, visibility splays and evidence of the agreement with landowners. The agreed scheme shall be implemented in full prior to commencement of development.

Reason: To ensure that safe and unobstructed access is provided to and from the development and for passing pedestrians, and to comply with policies CP9 of the City Plan Part One and DM33 of the City Plan Part Two. The pre-commencement condition is requested as the measures are essential to providing safe access to the site and the works will need to be agreed and implemented before construction can take place.

Condition 3 - Boundary Treatment for reconfigured section of Public Right of Way for numbers 36/36A & 57 Gardener

Street

Prior to commencement of the development hereby permitted, a scheme to reprofile the boundary of the public footpath to the south and bounding number 57 Gardener Street, and to the north-east of the site and bounding number 36/36A Gardener Street shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include layout plans, elevations, visibility splays and evidence of the agreement with landowners. The agreed scheme shall be implemented in full prior to commencement of development.

Reason: To ensure that safe and unobstructed access is provided to and from the development and for passing pedestrians, and to comply with policies CP9 of the City Plan Part One and DM33 of the City Plan Part Two. The pre-commencement condition is requested as the measures are essential to providing safe access to the site and the works will need to be agreed and implemented before construction can take place.

Condition 4 - Highway Works for securing access to the development from Gardener Street with double yellow lines

Prior to first occupation of the development hereby permitted, the proposed highway works to provide access to the site shall have been implemented. In addition, double yellow line restrictions at the end of the existing cul-de-sac on Gardener Street, to allow refuse vehicles to access the site unimpeded, shall have been installed.

Reason: To ensure that safe and unobstructed access is provided to and from the development, including for refuse vehicles, and to comply with policies CP9 of the City Plan Part One & DM33 of the City Plan Part Two.

Condition 5 - Cycle Parking Implementation

The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of the Brighton & Hove City Plan Part Two.

Section 106 obligations

Highway works

A scheme of highway works shall be presented covering access to the site from the end of Gardener Street covering

- Highway design
- Footway design, including areas marked for adoption if any
- Ensuring visibility to and from the public right of way

1. The works should be secured via a section 278 agreement (to be secured in turn via a section 106 agreement). The agreement should incorporate a final set of agreed detailed drawings that have achieved full technical approval.

2. No development should commence until the s278 agreement is signed.