Expiry Date – 10/6, EOT to 1/10

Development Control – Delegated Officer Report

Application Number: AWDM/0627/21 Recommendation – Refuse

Site: **1 Windmill Parade, 163-183 Old Shoreham Road, Southwick**

Proposal: **Change of use ground floor restaurant and kitchen to 1no. Studio flat, 1no. one-bedroom flat and 1no. two-bedroom flat, with rear store to be used for cycle storage**

Neighbours checked: Y

Additional neighbour notifications: N

Date of Site Visit: 20.5

Site and Surroundings

This application relates to a two storey end of terrace building on the north side of Old Shoreham Road and the corner of Overhill in Southwick. The property is part of a commercial terrace with the ground floor occupied by an Indian restaurant/takeaway and the upper floor a self contained three bedroom flat. The restaurant at ground floor has been extended to the side with a curved fronted flat roofed extension which extends along the back edge of the pavement beyond the original rear wall. A single storey rear extension has also been added.

The site has a detached garage and store at the back accessed off Overhill. A small restaurant patio area sits between. The garage adjoins an access road to at least two other garages to the rear of Windmill Parade commercial properties. Next door, No. 2, is a chemist with flat over.

Land rises up from Old Shoreham Road into Overhill such that bungalows in Overhill, a wholly residential street, are on higher ground. On the opposite corner fronting Old Shoreham Road is a more modern two storey flat roofed Mitsubishi car showroom and garage with showroom parking on both road frontages and mechanical garage access off Overhill. Other properties in the terrace have extended into the roofslope with flat roofed dormers.

The site is not in a conservation area and is not listed. It is in Flood Zone One and is not shown to be at risk from surface water flooding.

Proposal

Permission is sought to convert the entire ground floor into three flats, a two bedroom flat accessed from the front and a studio and 1 bedroom flat accessed from the rear. The curved restaurant window is to be removed and small windows added to the side wall. Cycle storage is shown in the existing rear store with bin storage alongside.

This application follows the refusal of permission to convert part of the ground floor into two flats whilst retaining a take-away element.

Relevant Planning History

AWDM/1926/20 - Change of use of ground floor flank section of restaurant to Sui Generis Hot Food Takeaway with new entrance to south. Conversion of main restaurant area into 1no. one-bedroom flat and 1no. studio flat with rear store to be used for cycle storage. Refused 11.1.21

AWDM/0247/20 - Construction of first floor extension to west elevation with dormers to north, south and west elevations to provide 2 additional residential units including new, relocated flue for restaurant (Amendment to application AWDM/1456/18). Amendment includes enlargement of extension at ground floor level by 2.25m to the north. Granted 9.4.20

AWDM/1457/18 - Extension of garage to west elevation and conversion to residential unit with associated cycle and bin storage. Refused 30.11.18. Appeal Dismissed

AWDM/1456/18 - Construction of first floor extension to west elevation with dormers to north, south and west elevations to provide 2 additional residential units including new, relocated flue, for restaurant. Granted 13.12.18

SW/27/03/TP - Single-storey rear extension to restaurant kitchen & staff bedroom/en-suite WC in roofspace with side and rear dormers. Granted 24.9.03

SW/7/96/TP - Change of use of remainder of ground floor to take-away/restaurant; front and rear single-storey extensions; and alterations (incl. external stairs, etc). Granted 25.3.96

SW/11/95/TP - Change of use from Shop (Class A1) to hot food takeaway (Class A3) (closing earlier than 11PM). Refused 27.3.95

SW/1/95/TP - Change of use from Shop (Class A1) To Indian hot food takeaway (Class A3). Refused 6.2.95

SW/66/82 - Change of use to separate Shop for sale of pets and pet food (Retention of extension without complying with condition 3 of permission SW/90/80/TP). Granted 22.11.82

SW/49/82/TP - Bedroom - en Suite bathroom and two dormer windows. Granted 1.9.82

SW/90/80/TP - Alterations and extension at side (to enlarge retail sales area ttc.) and lean to extension on garage at rear (for cold store & general storage). Granted 8.12.80

SW/205/77/TP - Extension and wall. Granted 2.12.77

SW/157/77/TP - Stores for shop. Granted 18.10.77

Consultations

Southern Water

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.
To make an application visit southernwater.co.uk/developing and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part 3 of the Building Regulations

-Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined sewer

Guidance on Building Regulations is here:

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).
Website: southernwater.co.uk or by email at:
SouthernWaterPlanning@southernwater.co.uk

Technical Services

Flood risk- The application is within flood zone 1, the site is not shown to be at risk from surface water flooding.
Surface water drainage - the proposals include no/minor increases in impermeable area. Due to the scale and location of the development we have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with building regulations.

Highways

The site has extant permission for construction of first floor extension to west elevation with dormers to north, south and west elevations to provide two additional residential units under ref: AWDM/1456/18 and amended under AWDM/0247/20. It appears from the submitted plans that the current proposal is submitted as an alternative to the permitted scheme, not in addition to the permitted scheme.

The application is also a resubmission of AWDM/1926/20 which was refused by the LPA, for change of use of part of ground floor to hot food takeaway and conversion of main restaurant area to 2 flats.

The site benefits from a vehicular access onto Overhill serving the existing use – no alterations to the existing access or parking arrangements are proposed and the form states that no parking will provided for the dwellings, however the garage and parking area are included within the site boundary. The West Sussex Car Parking Demand Calculator expects a minimum of 5 parking spaces for the proposed dwellings. Whilst on street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be a detriment to highway safety. We would not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. The LPA may wish to consider the potential impacts of this proposal on on-street parking from an amenity point of view.

The site is located within walking distance of a variety of local shops and services, including local schools. Bus stops and Southwick train station are located within walking distance of the site providing access into Brighton, Worthing and further afield. Cycling is a viable option within the vicinity and the plans show covered and secure cycling parking for four bicycles.

Conclusion
The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

If the LPA are minded to approve the application the following condition should be applied:

Condition
Cycle parking
No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with the approved Proposed Floor Plans and Elevations.
Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

Private Sector Housing:

Please could the following informative be placed on any planning permission that may be granted:

The Private Sector Housing team of Adur & Worthing Councils have identified that some aspects of the development may result in hazards that require action under the Housing Act 2004. Typical hazards can include 'inner' rooms (where the only means of escape in

the case of fire is through another risk room i.e. bedroom, living room, kitchen, etc.) or where there are inadequate windows or outlook from habitable rooms.

In this case the bedrooms in flats 2&4 can only be accessed through the high risk kitchen/lounge and so are inner rooms. The risk can be mitigated by ensuring that the windows to all bedrooms comply with fire escape window requirements. The windows to flat 2 open directly onto a commercial street and so there are privacy issues.

There is unsympathetic stacking between the existing flat 1 and Flats 2 and 3. There is no kitchen to Flat 1.

Compliance with Building Regulations will not necessarily address the hazards identified and you should contact the Private Sector Housing team to confirm that the layout of the property is acceptable prior to commencing the development in order to avoid the need for any formal intervention or the requirement of retrospective works.'

Environmental Health:

'The acoustic report is ok, I would condition the glazing specified in the report. Ventilation options have been provided for consideration by the applicant's M & E consultant. As the rooms on the noisy facade are south facing I would recommend a mechanical ventilation option.

The Brighton Road development opted for Sonair F, as this allowed for mechanical ventilation, providing greater ventilation levels when needed during warmer weather, and acted as passive ventilators when switched off.

So to confirm, I have no objection to the application subject to conditions specifying the glazing and agreeing the final ventilation solution with the applicant.'

Previous comments:

'I see the new plans do not show the first floor extensions previously approved.

I am aware I did not ask for a noise assessment for the previous application. This was an oversight at the time on my part.'

Representations

1 objection received from the adjoining property:

'It will be out of character to have flats at ground floor in a commercial parade. Inadequate car parking.'

Relevant Planning Policies and Guidance

The National Planning Policy Framework 2021

Adur Local Plan 2017 Policies 1, 2, 3, 12, 15, 18, 20, 27, 28, 34 and 36 including adopted Development Management Standard No. 1 ‘Space Around New Dwellings and Flats’.
ProPG2017: Planning and Noise - New Residential Development

Planning Assessment

Principle

The principle of development can be supported as it provides additional units of residential accommodation on a brown field site within the built up area boundary. For consideration is the impact on the shopping parade, quality of the accommodation to be provided, design, neighbour amenity and highways.

Housing Supply

In February 2021 the Government published the Housing Delivery Test 2020 measurement results. Adur delivered 48% of its requirement, and therefore the presumption in favour of sustainable development applies.

However, the Local Plan trajectory demonstrates that, when measured against the Local Plan delivery target, this shortfall can be addressed later in the plan period. Commitments are predicted to increase significantly in 2023/24.

Shopping

This is a local shopping parade. Policy 27 seeks the following:

‘In the areas designated as local shopping parades, shopping and other town centre uses will be supported at ground floor level but a predominant shopping use (as defined in the Town and Country Planning (Use Classes) Order 1987 as amended) on ground floor premises will be retained. Where proposals would result in there no longer being a predominant shopping use, this will only be acceptable where it can be demonstrated that retail is no longer a viable use in that unit, particularly where it has remained vacant for a long period (normally a minimum of one year) and that reasonable attempts have been made to market it for retail purposes.’

The loss of this town centre supporting use is in direct conflict with policy 27. The overall parade does not have a predominant retail use. The further erosion of this local shopping parade with a non commercial use at ground floor, even residential, would further undermine it. No evidence has been supplied to support the argument that this restaurant/takeaway is unviable. Indeed it appears to be operating still.

Character

The introduction of residential units into this local shopping parade would be anomalous. The changes to the shopfront and the loss of the glazing around the corner would highlight the non shopping use in this shopping parade. These changes would not make a positive contribution to the sense of place or local character

Neighbour amenity

The additional units of accommodation will not be harmful to neighbour amenity.

Highways

This site is sustainably located within easy reach of bus stops to Brighton and Shoreham. It is also within walking distance of Southwick railway station. Cycle parking is shown within the development.

Future Occupiers Living Conditions

In order to be satisfied that road traffic noise and noise from extract equipment will not harmfully impact on future occupiers living conditions the applicant latterly submitted an acoustic report. Environmental Health are satisfied with the acoustic glazing proposed and have suggested the use of Sonair F for ventilation purposes.

The three units meet the minimum required space standard in the DCLG's Technical Housing Standards of 2015. However, bedroom windows would abut the pavement edge. These windows would also need to be increased in size to meet adequate means of escape under the Housing Act 2004, see comments above. Bedroom windows onto the pavement edge would result in poor privacy and potential nuisance to occupiers.

In addition the studio flat would have a northern outlook only and would overlook the communal bin stores for the three units to be created and the existing unit.

Consequently the layout is less than ideal and fails to fully take account of the needs of potential users of the site.

Comparison with approved scheme over.

This proposal shows cycle parking for the proposed units in the existing garage outbuilding on site with proposed bin storage alongside. Extant permission AWDM/0247/20 for two additional units at first floor and in roof extensions shows cycle and bin storage in the same garage outbuilding.

Conclusion

The loss of this end restaurant unit and its replacement with residential accommodation is in direct conflict with policy 27 of Adur Local Plan as it will undermine the viability of this local parade. In addition the two bedroom unit relies on bedroom windows onto the pavement edge which would result in a poor living environment for occupiers due to poor privacy levels and potential disturbance.

Recommendation REFUSE for the following reasons:

1. The proposed loss of supporting town centre commercial floorspace would threaten the viability of this local shopping parade to the detriment of local amenity. It is

therefore contrary to policy 27 of the Adur Local Plan and the National Planning Policy Framework.

2. The two bedroom unit relies on bedroom windows onto the pavement edge which would result in a poor living environment for occupiers due to poor privacy levels and potential disturbance. The studio flat has a northerly aspect over the communal bin stores which would result in noise nuisance and poor outlook. The proposal is therefore contrary to policies 15 and 34 of the Adur Local Plan and the National Planning Policy Framework.

Informatives

1. 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 any representations? No

Case Officer signed:	MOK	Date: 17.9.21
Authorised and signed by:	Peter Barnett	Date: 17 September 2021