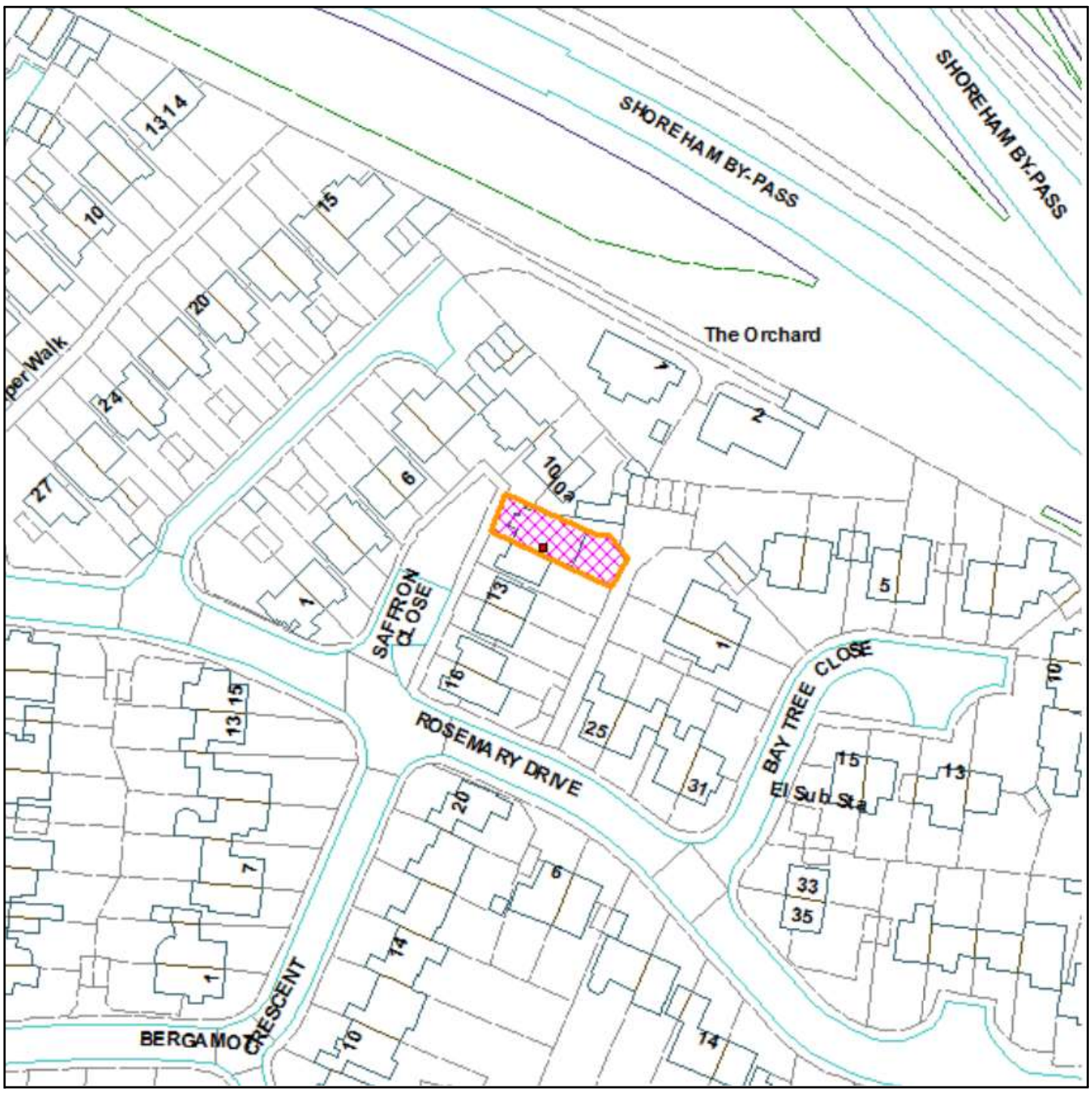
Application Number:	**AWDM/1740/23**	**Recommendation:** **i) REFUSE and,** **ii) Delegate the decision to take enforcement action to restore 11 Saffron Close to a single dwelling**
Site:	**11/11a Saffron Close, Shoreham-by-Sea**	
Proposal:	**Retrospective planning application to change existing annex into a separate domestic dwelling**	
Applicant:	Mr Ariful Haque	Ward: Buckingham
Agent:	Mr Darryl Shear	
Case Officer:	Gary Peck	



Not to Scale

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Background

In November 2023, a complaint was received alleging that number 11 Saffron Close and an ancillary annexe (which formed part of a planning permission for a rear extension granted in 2018), had been listed for sale as a separate address (11A). Planning permission is required to create a separate dwelling and the Council had no record of any such permission being obtained. In any case, a condition had been imposed on the 2018 permission preventing use as a separate dwelling.

Upon further investigation, The Council's Senior Addressing Officer confirmed that the owner of number 11 had requested a separate address for 11A in July 2023 and had insisted to the Senior Addressing Officer that he had planning permission for a separate unit. The Senior Addressing Officer advised the property owner that the agreement to provide a separate address would be circulated to Planning to check that planning permission had been obtained. If the information provided was subsequently to be found incorrect then the matter would be referred to the Planning Enforcement team. A letter sent to the applicant stated,

'Please be informed the allocation of a postal address does not serve as confirmation that any structure or building has been authorised under Planning, Building Regulations or any other legislation. Owners/occupiers may be at risk of enforcement action if any necessary approvals have not been granted'

It was also discovered that both no.11 and 11A were being offered for sale via property websites and therefore a site visit was arranged to view the properties. The owner of no. 11 was present at the meeting and it was confirmed that the original dwelling had been subdivided internally to create 2 separate properties, no.11a was now numbered with its own front door and the rear garden had been similarly divided to provide 2 private gardens.

The owner was advised to submit an application as a matter of urgency for consideration by the Planning Committee.

Proposal, Site and Surroundings

The application therefore seeks retrospective permission for the use of the previous annex as a separate dwelling.

The application site is at the north eastern end of Saffron Close. The Close consists of 3 separate wings of semi-detached properties and the subject building is the northernmost of the eastern wing. A small communal parking area is to the southern end of the Close with a green to the north of it.

Number 10 Saffron Close is to the south, and numbers 12 and 12a to the north. Number 12a, which is mentioned in some representations, does have permission as a separate application and is the subject of a currently undetermined application for its own ancillary annex to the side/rear of the property.

As a result of the 2018 permission at number 11 and the erection of number 12a, the properties are relatively close together in an already dense location. Unlike the

majority of the properties in the Close which are brick and tile, the subject building has been rendered.

Relevant Planning History

Planning permission was granted in 2018 for the *Demolition of existing rear garage and construction of a single-storey attached annexe.* (AWDM/0315/18).

Condition 5 of the permission stated:

The accommodation hereby permitted shall be occupied solely for purposes ancillary to the occupation and enjoyment of the property as a whole (as it exists at the date of this permission) as a single dwellinghouse and shall not be used as a separate dwelling.

Reason: In the interests of residential amenity having regard to policies 15 and 20 of the Adur Local Plan.

AWDM/1838/21: Installation of a rear balcony to an existing flat roof (retrospective) - Application refused. The balcony has now been removed.

Consultations

Environmental Health

The proposed dwelling is presented as a 2b/3p property over two levels. The stated GIA of 55.4sq.m is far below the national technical space standard of 70 sq.m and so is not acceptable as an independent dwelling.

In addition, the bedrooms are both inner rooms as they are only accessible through open plan high risk areas. The first floor bedroom is particularly vulnerable as escape from a first floor window is not appropriate under the Housing Act 2004.

Council's Drainage Consultant

No objection

West Sussex County Council Highways

I refer to your consultation in respect of the above planning application and would provide the following comments.

The proposal seeks retrospective permission for the existing annexe at 11 Saffron Close, Shoreham-by-Sea to be used as a separate domestic dwelling. The 2 bedroom dwelling would generate the requirement for 2 parking spaces in this location. There is a nil parking provision associated with the property, there are opportunities within the adjoining road network for on street parking, should this be required by any prospective residents of the property. The LHA is unaware of any existing parking capacity concerns within the area, the LPA may wish to consider this when forming a decision on this proposal.

Secure and covered cycle storage has also been provided, within an outside store which is a secure and covered arrangement and considered suitable for use. Regular bus services run from nearby Upper Shoreham Road which offers further alternatives to the use of a car for residents, this allows travel to Shoreham-by-Sea, Rottingdean and Steyning. Shops and amenities are within reasonable walking distance or cycling distance of the site to alleviate the reliance on the use of a car for such journeys.

The LHA does not consider that the proposal would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (para 115), and there are no known transport grounds to resist the proposal.

Southern Water

It appears that the developer has built over a public sewer without consent, accordingly they are required to submit a retrospective Build-over application Build over or near to a public sewer (southernwater.co.uk) with a CCTV survey, which can be arranged by Southern Water and will include the sonde location. Southern Water will then review the original plans and as-built plans whilst also checking the structural condition of the public sewer which has been built over, to confirm that the sewer is of a suitable material to support the build over (i.e. not plastic) and in good structural condition, and that the minimum stand-off distance from the new foundations has been achieved. Southern Water will require evidence the new foundations extend to a depth of at least 150mm below the invert level of the adjacent public sewer to ensure no additional loading is placed on the sewer. Depending on the findings, Southern Water may be able to progress the application to a Conditional Approval, however, should the build over not satisfy our conditions then we will not be able to progress it to an approval stage without additional works at the applicant's expense. Accordingly, we advise that any works to build over a public sewer should not be progressed on site until a Conditional Approval response letter has been provided by Southern Water to avoid the possibility of additional expensive repair costs to rectify the situation. Please refer to our Build-over application details including the Technical Guidance build-over-a-sewer-guidance-notes.pdf (southernwater.co.uk) for further information.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, the following condition is attached to the planning permission; the developer must advise the local authority, in consultation with Southern Water, of measures which will be undertaken to protect the public sewers.

Representations

6 letters of objection have been received from the residents below on the following grounds:

9 Saffron Close

OVER DEVELOPMENT This corner of Saffron Close will be overdeveloped. (10a and 11a) both with retrospective planning applications made for residential properties with 10a garage work ongoing for a B&B. 11a has a front door which is directly opposite number 10's front window and is extremely close and takes away any privacy they have.

SEWERAGE SYSTEM 11a has been built over the main sewer. This sewer blocks very regularly and the 2 new properties have now cut into the sewer which potentially could cause Health & Safety problems.

FENCES No 11 Saffron Close have built a fence around the properties which is in contravention of the covenants of our Deeds. Which states no fences, walls, erections or outbuildings to be built in the front of properties in Saffron Close.

PARKING. In the front of Saffron Close there are 6 parking spaces which is tight at the best of times. Neither of the two new properties have garages which will exacerbate this problem.

OTHER PLANNING APPLICATIONS. These owners have already made previous retrospective planning applications which have been refused. This being a balcony at the rear of the property which looks like it is still there with just the railings removed.

HOW DID THIS GET THROUGH? We are at a loss as to how the owners of 11 Saffron Close got this through the Land Registry to obtain the new address (11a). This new address is now on all address list for postal services and also on the Council's website. How is this possible without a planning completion certificate?

10 Saffron Close

We are concerned about the area being over developed in the back right hand corner of Saffron Close. In the past 6 months we have had retrospective planning for 10a and now addition of 11a, creating two new residences in the area. The new front door for 11A has been put in which looks directly into our property. The original plans for the annex state the property should be accessed through an internal door through the main porch which we assume had been happening until the new door was erected which we were not informed was occurring.

The sewer system blocks regularly and new residencies will put pressure on a system which is already facing problems. Future blockages could cause a health and safety problem and financial cost to us which has happened previously.

Saffron close has 6 parking spaces which is increasingly getting tighter, two new residences would put pressure on this as they don't have garages.

We were unaware 11a had the intention of becoming a separate property until we saw the property for sale. Very confused as to how a property can be registered with local authority/postal services when it technically shouldn't be a separate property.

6 Saffron Close

The parking in the Close is very limited to only 6 spaces and the new property does not have a garage/driveway which will add to the parking congestion.

The corner of the close where two new properties are is unsustainable due to overcrowding. I feel this area is overdeveloped which would had to the problems already experienced with the sewerage drains. Frequently blocking. This property has but a fence which is not allowed in accordance with the Deeds of Saffron Close
I do not understand how this has been allowed as another neighbour had to have planning permission for a conservatory. understand that this owner has already had planning applications refused/declined.

2 Bay Tree Close

This should be deemed one property and not two. Parking will be an issue.

8 Saffron Close

We express serious concern regarding the development within this limited area. The property, marketed as a 2-bedroom house, falls significantly below the space standards stipulated by Environmental Health Private Sector Housing. Issues pertaining to the bedrooms' accessibility have been raised, posing potential
risks.
Contrary to the initial plans for the annex, which indicated access through an internal door in the main porch, a new door was erected without our knowledge, raising questions about compliance with the approved plans.

The existing sewer system experiences frequent blockages, and the addition of new residences will exacerbate the strain on an already problematic system. Potential future blockages could pose health and safety risks and financial burdens for neighbouring properties.

Parking availability on Saffron Close is already constrained, with six spaces becoming increasingly limited. The introduction of two new residences, lacking garages, will further strain the parking situation.

Additionally, there is confusion regarding the registration of address 11a with the local authority, considering it lacks planning permission. Clarification on this matter is essential for transparency and adherence to regulatory processes.

12 Saffron Close

As a joining neighbour we had no issue with the attached annex, when the main house was being used by a mother and father and the annex utilised by their son. However when the main property was put on the market and marketed by the agent as a terraced house, alarm bells rang for us. Not only because we now knew that the annex would be sold as a separate dwelling, but by doing so, would no longer mean our house was classed as semi detached. This affects not only our insurance but the retail price of our property as well as our mortgage. None of this was discussed

with us and we received no notification. Surely this would need to go through planning first to gain consent and give us the right to contest?

There has been another retrospective planning application for the same corner of Saffron Close, in an area which is already overcrowded. How can so many dwellings get approval in such a small square footage?

There is very limited parking in the close and it is getting harder to park, this would now add extra stress to an already stretched area.

We notice that the front door to the annex has been placed on the outside, adjacent to a neighbours window but after receiving the retrospective letter and looking at the plans, there is only consent for an inner door via the porch as access.

There is extra strain on the sewerage system if all these dwellings are approved.

How did this get through the land registry as a separate dwelling without consent? We knew the property was going to be sold but always believed that it would be sold as an annex and part of the main house.

Relevant Planning Policies and Guidance

Adur Local Plan 2017 - Policies 11, 15, 20, 32 and 35
'Supplementary Planning Guidance' comprising: Development Management Standard No.1 'Space Around New Dwellings and Flats'; No.2 'Extensions and Alterations to Dwellings'

WSCC Guidance on Parking at New Developments (Sept 2020).

National Planning Policy Framework (December 2023)
Technical Housing Standards – nationally described space standard (DCLG 2015)
Circular 11/95 'The Use of Conditions in Planning Permissions' (DoE 1995)
Circular 10/97 *'Enforcing Planning Control' (DoE 1997) ie. relevant to certificates of lawfulness*

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

The main issues in the determination of the application are i) whether the introduction of a separate dwelling is acceptable in planning policy terms having regard to the living condition of future occupiers ii) the effect of the proposal upon the character and appearance of the area and iii) the effect of the proposal upon highway safety.

The background to the current situation has been discussed with the applicant. The applicant believes that the granting of a separate address and the fact that the works to form the annexe were signed off by Building Control meant that he had the required permission.

It is a matter of fact, though, that a condition imposed upon the 2018 permission specifically prevented the use of the annex as a separate dwelling (although a separate application is required in any case even if a condition had not been imposed). The existence of the condition, therefore, should have made it clear to the applicant that a further application would be required for the creation of a separate dwelling.

As stated previously the Council's Senior Addressing Officer had made it clear both verbally and in writing that if planning permission had not been granted for the annex then the applicant could be at risk of enforcement action.

In terms of the Building Regulations, the applicant used an Approved Inspector and hence the Council's Building Control Officers were provided with an Initial Notice and a further notice on completion but would not have visited the site. Again, it is difficult to see how this could be inferred that the planning permission could have been granted for the works.

The annex as approved in 2018 was understood to provide separate living quarters for the applicant and parents, but the front door entrance to the property would be shared as would be the garden. Such arrangements are not uncommon and while it was clear that part of the annex would provide a relatively small unit of accommodation, the fact that the applicant had a family link to the rest of the accommodation as well as sharing the external amenity area meant that the annex was acceptable in planning terms.

The creation of a separate dwelling, however, and its sale for occupation by unconnected individual(s) is considered to be a different matter. The plans as submitted by the agent state that the floor area of the dwelling is 55 square metres (a previous calculation by Council Officers had concluded that the floorspace was slightly lower) but either way, the floorspace falls some way short of the National Space Standard for a 2 bed 2 storey dwelling of 70 square metres. Policy 20 of the Local Plan states:

New dwellings across all tenures will be expected to meet the minimum nationally described space standards unless it can be demonstrated that, in terms of dwellings created through conversion or subdivision, there are exceptional reasons why some or all of these requirements cannot be met.

It is not considered that there are any exceptional reasons why the standard cannot be met as the site is simply not big enough to accommodate a dwelling to meet the required standards. Moreover, the Environmental Health Officer has raised concerns not only to the size of the dwelling but to the means of escape under the Housing Act.

Even if the above concerns could be dismissed against the provision of an additional housing unit, the relationship between the respective housing units could not be considered acceptable. As shown below, Bedroom 1 wraps around the back of the neighbouring properties kitchen and is adjacent to its dining room.



The garden area (seemingly shown incorrectly on the plans) is similarly unusual as it also dog legs within the rear garden area itself. The garden area is shown at 21 square metres, while the Council's standard for such dwellings is 85 square metres. While the latter figure is in practice difficult to achieve and often has to be taken in context with existing surrounding gardens, nonetheless the amenity area provided is less than a quarter of the Council's standard and would be the smallest in the surrounding area.

Your Officers cannot come to any other conclusion, therefore, that the creation of a separate dwelling is fundamentally contrary to Local Plan policy.

In visual terms, the built form is as previously permitted except for the addition of a front door facing north and therefore directly towards neighbouring properties. The positioning of the door is solely to access the additional dwelling unit and causes a loss of amenity to neighbouring properties as causes unnecessary overlooking and activity.

Concerns have been raised regarding this development in addition to works at the neighbouring dwelling 10a. However, this property has planning permission and met space standards at the time of its permission as there was adequate space within its then garden to accommodate it. While an application has been made for its own annex to serve 10a, this is within part of an existing garage building and is stated to be for ancillary purposes to the existing dwelling. It is not considered a comparable situation therefore.

Concerns have also been raised regarding parking in the area. The estate as a whole is undeniably an area of some parking pressure but there is space available on the public highway as well as in the communal area for vehicles to park and it is not considered that the introduction of an additional 1 or 2 vehicles in the area would meet the national policy test of causing a severe impact upon highway safety sufficient to refuse permission.

Conclusion

This is a highly regrettable situation where a retrospective application has been submitted for works already completed. Planning law is quite clear that the application must be considered in exactly the same way as if the works had not yet been undertaken. Had preliminary advice been sought on this proposal, Officers advice would have been firmly that an application would not be supported because of the policy conflicts outlined above. The submission of the application has been considered carefully, but it is concluded that the application should be refused.

In light of this recommendation it is also appropriate to consider taking enforcement action to remedy the breach of planning control. This is particularly relevant in this case as the 'annex' is currently being occupied as a separate dwelling by the applicant and is marketed for sale as a separate dwelling. It is considered expedient to take such action as there is a clear breach of planning control in this instance and Officers will investigate whether enforcement action is taken via the service of a Breach of Condition Notice (BCN) or an enforcement notice. The advantage of a BCN is that there is no right of appeal. An appropriate timescale for either notice would be 3 months as there are limited works necessary to ensure that the new property is altered to ensure it is returned to a single dwelling house with annexe accommodation.

Recommendation

REFUSE planning permission for the following reason:

1. The separate dwelling hereby created fails to comply with National Space standards and would not provide a satisfactory living environment for future occupiers by its limited internal floorspace, relationship with adjoining dwellings and limited external amenity space. The proposal therefore fails to comply with policies DM5 and DM20 of the Adur Local Plan, National Space Standards and guidance contained within the National Planning Policy Framework.

2. It is further recommended that the Committee authorises taking enforcement action to ensure that the property is returned to a single dwelling house with the final decision to serve the notice to be delegated to the Head of Planning and Development in consultation with the Head of Legal and Democratic Services.

5 February 2024

Local Government Act 1972
Background Papers:

As referred to in individual application reports

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