Introduction

This statement has been prepared by Domus Architecture Ltd in relation to an application to discharge a condition attached to a planning permission, submitted on behalf of our client Mr Bernard and relating to landscaping, retaining walls and garden levels.

This statement should be read with the submitted drawings:

1817-A1-08 Rev D	Part Rear Garden Plan
0345 42 Lancing	Landscaping proposals by Nicholas Dexter Landscape Architects

Grant of Planning AWDM/0970/23

The consent for this project was granted on 04 September 2024 with the description as follows:

Demolition of existing dwelling and construction of a 4-bedroom detached dwelling over 3 levels with rear terrace and associated works. New outbuilding with raised terrace to the south. New detached garage with guest bedroom over and cycle store to the north. Application to vary condition 1 (approved plans) of previously approved AWDM/0923/21. Amendments: increase in height of house by 0.85m, addition of lightwells to front. Increase in height to garage block by 0.37m; addition of cladding to garden room

Condition 16 of the Grant of Planning states:

Within one month of the date of this permission plans shall be submitted to the local planning authority for its written approval showing a reduction in the ground levels of the rear garden and an associated landscaping scheme, plus details of a retaining wall to the front garden boundary with No. 44 Brighton Road, to reduce the impact on the occupiers of No.44 Brighton Road to an acceptable level. The plans and scheme shall include a timetable for the implementation of the works. The works shall be carried out in accordance with the approved plans, scheme and timetable and completed prior to the occupation of the dwelling. Written notice must be given to the local planning authority to confirm that the garden works and landscaping have been completed in accordance with the approved plans, scheme and timetable prior to the occupation of the dwelling and the local planning authority must be permitted access to the development within 28 days of receipt of the written notice to check that the works have been completed in accordance with the approved plans. The dwelling is not to be occupied until the local planning authority has confirmed in writing that the garden works and landscaping have been completed in accordance with the approved plans, such confirmation to be provided within 14 days of the local planning authority's inspection of the development.

Reason: In the interests of visual and residential amenity and to prevent overlooking in accordance with policy 15 of the Adur Local Plan.

Policy 15 of the Adur Local Plan relates to the quality of the built environment and public realm. It ensures that development should be of a high architectural quality and respect and enhance the character of the site, and the prevailing character of the area, in terms of proportion, form, context, massing, siting, layout, density, height, size, scale, materials, detailed design features and landscaping. A relevant part of the policy states that development should:

Make a positive contribution to the sense of place, local character and distinctiveness of an area; and not have an unacceptable impact on adjacent properties, particularly residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook or open amenity space.

Application DWDM/0163/24

Running concurrently to Application AWDM/0970/23, a further application sought approval for similar landscaping proposals which comprised a reduction in external ground levels of the middle garden to the rear of the property by 450mm below what had been approved through application AWDM/0923/21, and a reduction of the part of the rear terrace of 1.0m below what was previously approved, with screen fencing offset from the boundary. The description was:

Demolition of existing dwelling and construction of a 4-bedroom detached dwelling over 3 levels with rear terrace and associated works. New outbuilding with raised terrace to the south. New detached garage with guest bedroom over and cycle store to the north. Application to Vary Condition 1 (approved plans) of previously approved AWDM/0923/21. Amendments: Inclusion of a trellis/privacy screen along the area of terrace next to the sunken seating as part of proposed landscaping scheme.

This application was referred by Officers to the Adur Planning Committee with a recommendation for approval, however, members resolved to decide against Officer recommendation and refuse the proposals. The reason stated on the decision was:

The rear garden levels as built are excessively high in relation to neighbouring gardens resulting in an overbearing development which causes overlooking, loss of privacy and a harmful loss of amenity for the occupiers of 44 Brighton Road, contrary to policy 15 of the Adur Local Plan.

Condition 16 Discharge Application

This application seeks part-discharge of Condition 16, specifically details relating to:

1. Plans showing a reduction in ground levels of the rear garden
2. Associated Landscaping Scheme
3. Front Retaining Wall details
4. Timetable for implementation

Reduction in Ground Levels

Plans have been submitted, illustrating the reduction in ground levels as per the previous submission, but now also including a further reduction to 500mm below the 2021 approval to the landscaping area immediately adjacent to the boundary with 44 Brighton Road.

Associated Landscaping Scheme

Nicholas Dexter Landscape Architects have prepared a detailed landscape scheme in support of the proposals. This includes 3 trees (2 x Pine, 1 x Crat) and extensive planting as detailed.

Front Retaining Walls

The details are included in Page 7 of the landscaping proposals

Timetable for implementation

The applicant has confirmed the following timescales for the relevant works:

Element of Work	Commencement (Relative to decision)	Duration from Commencement
Reduction in Ground Levels	2 Weeks	6 Weeks
Retaining Wall to Front	6 Weeks	2 Weeks
Landscaping Scheme	10 Weeks	3 Weeks

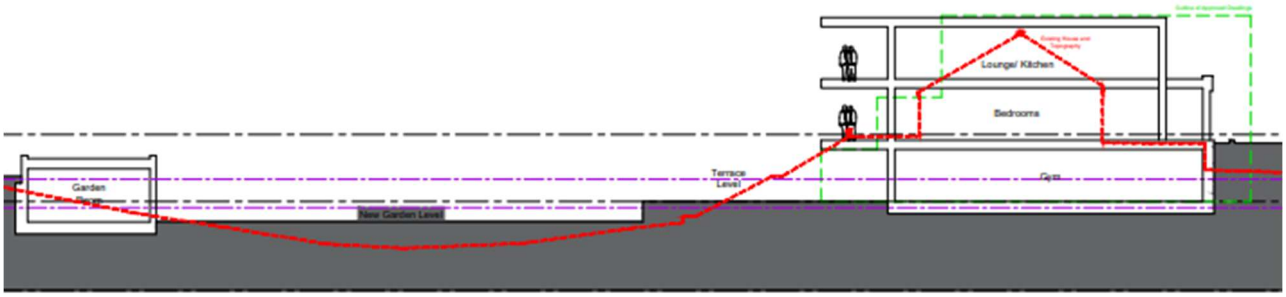
These timescales are subject to weather conditions and entirely dependant on when a decision is made.

Justification

Officers were minded approving the proposal submitted in support of application AWDM/0163/24. These included proposals aimed at mitigating the perceived overlooking. Members decided against the recommendation for approval, however the applicant feels that Members have failed to understand the planning context in relation to existing, approved and proposed garden levels, in addition to the adjustment of levels to the adjacent property at 44 Brighton Road.

Existing (Pre-Development) Levels

A pre-development topographical survey plan and existing section with elevations were submitted in support of application AWDM/0923/21 and appear on the list of approved drawings on the Decision Notice. This information confirms that the existing rear terrace was at a level of 7.53m AOD. Beyond the external terrace, the garden sloped for approximately 7.4m down to a level of 3.6m AOD. The approved external terrace was set at, and subsequently confirmed by the LPA survey to be set at 4.35m AOD. The approved terrace extends 17.1m into the garden and the point of intersection of the existing slope was 8.02m. This means that 8.02m (47%) of the terrace as approved is lower than the existing, pre-development levels. 9.08m (53%) of the approved terrace is higher than the existing, pre-development levels. Of the 9.08m length of higher terrace, 3.07m is taken up by the sunken seating (and therefore at a reduced level) and 2.6m is allocated to planting/landscape, not usable for sitting and/or standing. The usable area of terrace above the pre-development levels is 3.9m (23%).

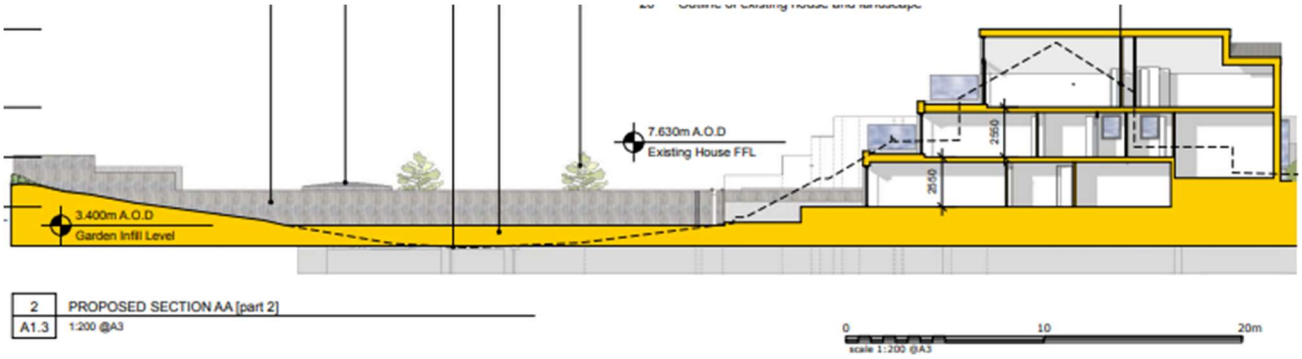


Members should be made aware that a return to pre-development levels of the external terrace would see part of the terrace raised by 3.1m from the approved position. Potential for overlooking into the garden of 44 Brighton Road has significantly decreased for 10.8m of the terrace (to include the sunken seating) and mitigated for a further 2.6m.

Approved Levels

During application AWDM/0923/21, the LPA requested confirmation of site levels and a section through the site. These are contained within drawings 1817-A1-02 Rev F and 1817-A1-04. These drawings confirm that the existing external terrace has been constructed in accordance with the levels provided and as noted on the list of Approved Drawings.

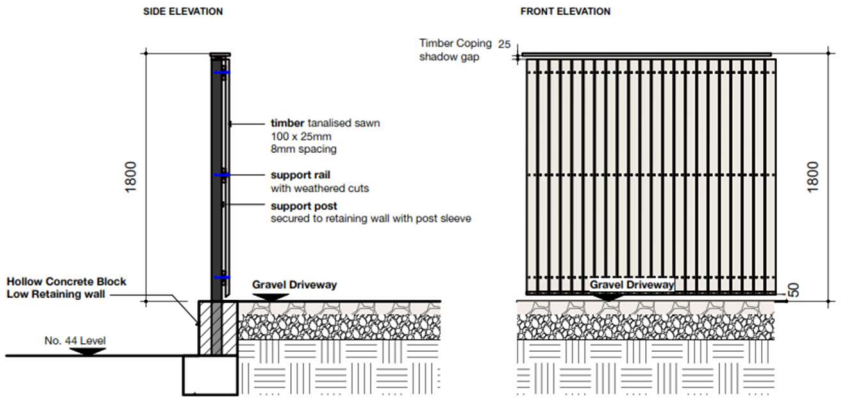
Furthermore, the same information as provided in support of an earlier application AWDM/1288/20 comprising "*Demolition of existing bungalow and construction of 2 detached 4-bedroom dwellings over 3 storeys each with detached garages and associated landscaping works*"



Proposed Section A-A of the approved drawings showed a similar arrangement to the current proposals, in raising the garden levels to 3.4m AOD. Whilst there have been numerous discussions around the validity of Condition 10 from approved AWDM/0923/21, the idea of raising the rear garden areas have been proposed in 2 previous planning applications and approved both times.

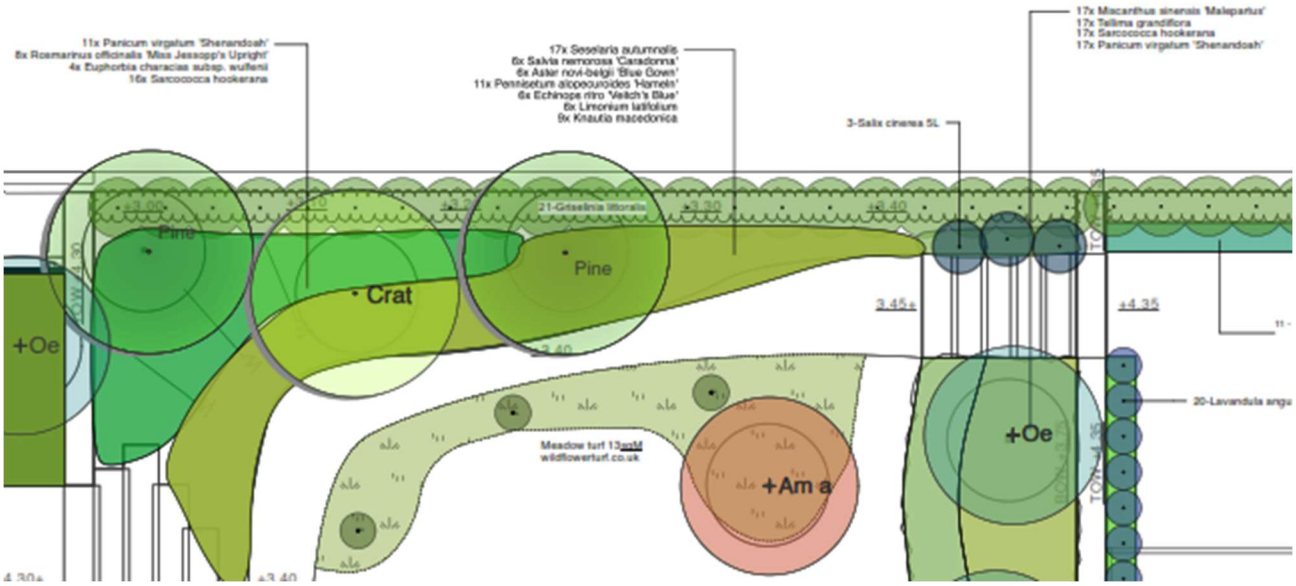
Proposed Levels

This application seeks approval of measures that Officers accepted previously, plus an additional reduction of part of the rear garden to 500mm along the rear boundary with 44 Brighton Road. The landscaping scheme includes details of the retaining wall to the front, comprising a hollow block wall with sleeved timber posts and a solid timber fence.



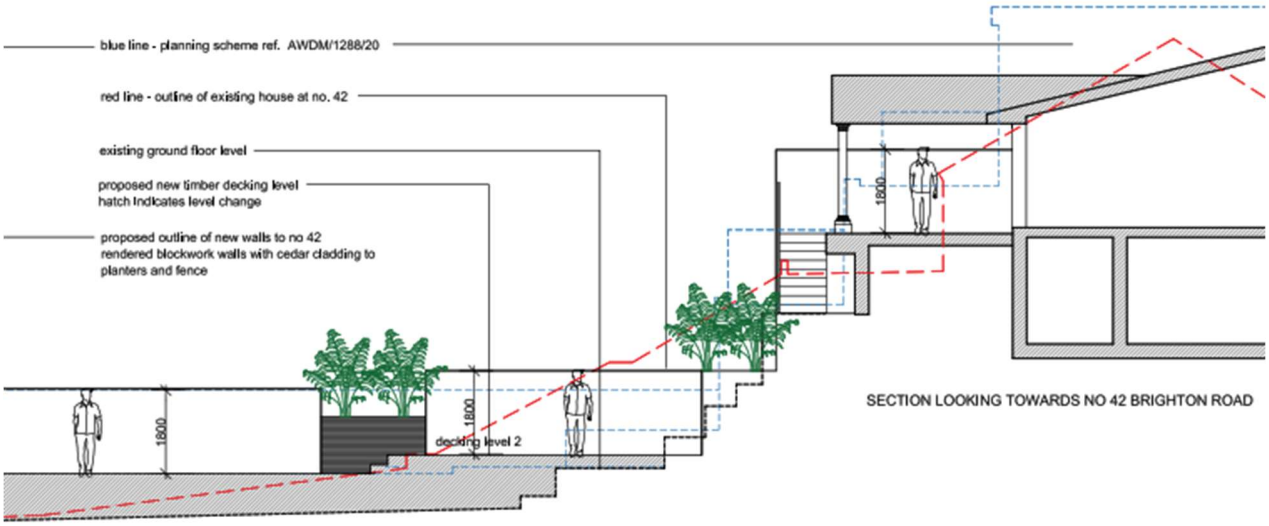
The middle part of the rear garden is proposed to be reduced by 450mm from the approved levels (as previously proposed), with the planting area along the boundary reduced by 500mm from approved. This would result in a

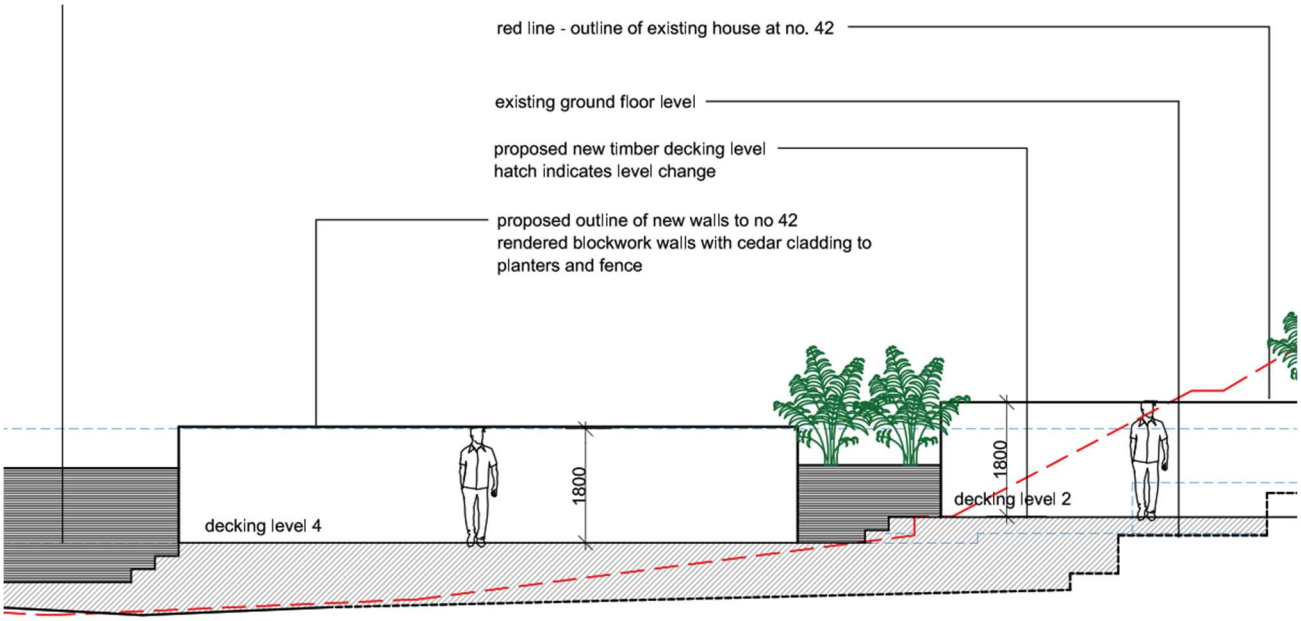
nominal level of 3.0m AOD in an area that is fully planted, in addition to a boundary hedge and 3 trees. It will not be possible to access this area.



44 Brighton Road

Members also need to be made aware that the ground levels to 44 Brighton Road were significantly amended during recent alterations. The approved section for this work shows the existing, pre-alterations groundline to be stepped in a similar profile to the pre-development levels of the application site. The section shows that the existing ground level to 42 Brighton Road (red dashed line) was significantly higher than the levels at 44 Brighton Road for all the area marked as Decking Level 2. Additionally, the section shows that the land at Decking Leve 4 has been raised by up to 1m from existing levels, resulting in the land being higher that the pre-development levels on the application site.





Conclusion

This statement is written in support of an application to discharge condition 16 of permission AWMD/0970/23. The applicant has made a further concession in terms of reducing external levels from what was approved previously. The key points for consideration in determining this application are summarised as:

- Existing, pre-development levels were found to be significantly higher than the external terrace, or where not the case, mitigation measures have been offered to resolve any perceived overlooking.
- Levels in the middle rear garden have been reduced by 450mm below what Officers have approved twice previously.
- The garden along the rear boundary with 44 Brighton Road has been reduced further to 500mm below previous approvals and extensively planted.
- The land at 44 Brighton Road has been raised by up to 1m, making this land higher than the corresponding land on the application site.

The council are urged to take account of the previous support for similar proposals and further concession made, the granting of 2 mutually exclusive planning applications with identical proposed levels, the continuing efforts of the applicant in attempting to resolve the issues raised after the granting of the planning permission by Members and noting that levels have been materially altered to the adjacent property without a proportionate level of scrutiny that the application site has been subject to, and resolve to discharge condition 16 without delay.