TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

SITE LOCATION:

Brethrens Meeting Hall, Fronting Private Road , East of First Avenue, Lancing, West Sussex, BN15 9QF

PROPOSAL:

Demolition of Meeting Hall and Erection of 2 Semi-Detached Bungalows and 1 Detached Chalet Bungalow (Outline, Including Access and Layout Details)

LPA Ref. - ADC/0095/09

Appeal Ref. - APP/Y3805/A/09/2109215/NWF

HEARING STATEMENT



DW PLANNING 59 SADLERS WAY RINGMER EAST SUSSEX BN8 5HG

1. THE SITE AND ITS SURROUNDINGS

1.1 Attached at **Annex 1** is a general Site Location Plan, showing the Appeal site ("the site") in relation to the surrounding urban network. (also shown on this plan are the locations of 3 nearby sites where the Local Planning Authority – LPA – have recently permitted similar development to that the subject of this Appeal, and to which further reference will be made below).

1.2 **Annex 2** is a larger-scale site plan, showing the Appeal site in relation to its more immediate, residential, surroundings. Also shown on this plan is the site of Dorset Lodge, a block of 6 flats in close proximity to adjoining dwelling-houses, and which is an example of the mixed, high-density development characteristic of this part of Lancing.

1.3 This is illustrated further in **Annex 3**, an aerial photograph of the Appeal site, showing the existing, redundant, Brethrens` Meeting Hall building and the neighbouring residential development – in particular the nearest dwelling: the relatively new bungalow to the immediate north (No. 32A, Grinstead Lane).

1.4 The site comprises a vacant religious meeting hall, erected in 1972, with an ancillary car park. It is accessed by a rear service track from First Avenue, which eventually links to the main A27 trunk Road to the north.

1.5 The site, which lies within the designated built-up area of Lancing, is surrounded by a mix of residential development, of varying types and designs, but generally of a density and layout commensurate with such developing urban areas.

1.6 It is proposed to demolish the existing building, and erect on the site 3 new dwellings, comprising 2 semi-detached bungalows (with two parking spaces for each) on the east side of the site, and 1 detached chalet-style bungalow (with 2 parking spaces and a garage on the west side).

2. PLANNING HISTORY OF THE SITE

2.1 The Appeal proposals are a revised submission, following the refusal of 2 previous applications for redevelopment: one, for 6 flats, the other for 5 houses (which was dismissed on appeal).

2.2 Further reference will made to these earlier applications in the "Grounds of Appeal" section below.

3. HISTORY OF THE APPEAL APPLICATION

3.1 Originally submitted on 6th. May 2009, this was an outline application, but included details of access, layout and scale; matters of appearance and landscaping would thus have to be the subject of a subsequent "reserved matters" application should this Appeal be allowed.

3.2 Notwithstanding a recommendation for APPROVAL from Council Officers, the Development Control Committee REFUSED permission on 24th.June 2009, for the following reasons:

> ***" 1. The size and shape of the plot and its relationship to existing dwellings would not permit development of a standard compatible with existing development in the area and in consequence the proposal would constitute over-development that would be out of keeping with and detrimental to the environmental character and residential amenities of the locality, contrary to the policies of the Adur District Local Plan (AG1, AH).***

2. ***Having regard to the limited area and shape of the site and its relationship to existing residential properties, the proposal would give rise to an unneighbourly form of development which would be detrimental to the residential amenities and environment of the locality, resulting in loss of privacy and an overbearing effect on existing dwellings, conflicting with policy AH2 of the Adur District Local Plan".***

3.3 In arriving at this decision, the LPA were not in possession of any evidence to support their refusal reasons, other than the (subjective) views of objectors, to which undue weight and influence appears to have been given by the Members.

3.4 All other issues raised by objectors – highways access/road safety/parking; noise; security; damage to trees; loss of wildlife; and flooding – were not accepted by the LPA. Indeed, these issues do not appear in the refusal reasons, thus now eight whatsoever may be given to such objections, either as originally mad or in relation to this current Appeal.

3.5 More importantly, the LPA`s decision was contrary to professional advice, to which more detailed reference will be made below.

4. RELEVANT PLANNING POLICIES

4.1 National Guidance in **Planning Policy Guidance Note PPS3,** referred to in the Officer`s Report, is very relevant to the Appeal proposals. This states, inter alia, at paras. 40 – 51, that the efficient and effective use of land should be made, particularly within built-up areas and on previously-developed land, so as to avoid having to use " greenfield " sites.

4.2 As to the density of development, PPS3 clearly indicates that that of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. Indeed, it goes on to say that, if done well, the imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

4.3 It is considered that this is precisely the case with the current Appeal proposals, and as a result they are consistent with Government policy in these respects.

4.4 The recently-adopted **South East Plan** sets out the regional context. Policies SCT5 and H1 therein set housing targets for the Sussex Coast sub-regional area. These targets are to be met by focusing development in existing towns, by optimising the use of previously-developed land.

4.5 Again, the development of the site in the manner proposed would be entirely consistent with regional policy, and a contribution to meeting the housing targets for Adur.

4.6 The LPA, in their refusal reasons, refer to only 2 (saved) policies in the adopted Adur District Local Plans, as follows:

(i) **Policy AG1** – this is a general, District-wide policy, which stems from the objective to concentrate development within defined built-up area boundaries, as opposed to the countryside and coastal beaches. The policy itself states:

"Within the boundary, development will normally be permitted, subject to other policies in this Local Plan and to it not detracting from the existing local urban environment".

(ii) **Policy AH2** – this specifically applies to "Infill and Redevelopment", conceding that

there will continue to be opportunities during the Local Plan period for unidentified sites to come forward which constitute infilling, redevelopment, conversion or change of use. Such sites would contribute not only to the overall housing targets fro the District, but also the increasing need for small dwelling units.

4.7 The policy itself states:

"New residential development by way of infilling or redevelopment will be acceptable in the built-up area, providing the site is not allocated for any other purpose in this Local Plan. Any proposal will be expected to be designed so that:

(a) its appearance, character and scale create a pleasant place in which to live and is keeping with and enhances the existing local environment with particular attention being paid to the architectural form, height, materials, density and layout of both buildings and associated structures and hard surfaced areas;

(b) it respects the existing natural features of the site, including land form and trees;

(c) it does not have an unneighbourly effect on existing dwellings by reason of unacceptable loss of privacy, daylight/sunlight, outlook or open amenity space;

(d) it incorporates adequate standards of residential amenity for the new dwellings in terms of open amenity space, daylight/sunlight. Outlook, and privacy;

(e) access arrangements to the public highway and on-site parking arrangements are acceptable under Policy AT12; and

(f) it accords with the standards adopted by the District Planning Authority".

4.8 In general terms, the site complies with Policies AG1 and AH2, in that lies within the defined built-up area boundary; does not detract from the existing urban environment; and constitutes infilling/redevelopment (not being allocated for any other purpose in the Local Plan).

4.9 As to the criteria in AH2, it is difficult to assess which the LPA consider relevant, as they

do not refer to specific items in their refusal reasons, only the generality of that policy.

4.10 However, for the purposes of this Appeal, and from a reading of those refusal reasons, it appears that only criteria (a) and (c) are relevant - no reference is made to any others in the refusal reasons, no doubt due to the fact that there were no objections regarding natural features of the site; standards of residential amenity for the new dwellings; access/parking arrangements; nor other standards (in particular, the Council`s Development Control Standard No. 2 – "Space around New dwellings and Flats").

4.11 Reference will made in more detail to the above issues in the "Grounds of Appeal" section below.

5 GROUNDS OF APPEAL

5.8 Previous Schemes: as stated above, the Appeal scheme is a revised submission following the refusal of earlier proposals.

5.9 Those previous schemes, however, were for much larger developments, with higher numbers of housing units and greater site coverage, etc. accordingly, and are not therefore comparable or relevant to the (quite different) proposals the subject of this Appeal.

5.10 In relation to the latest of these schemes, ref. ADC/0381/07, this was for a total of 5 houses in 2 blocks – see layout plan attached at **Annex 4**. This was refused by the LPA, as recommended by Officers, on 22nd. August 2007, on 4 grounds, 2 of which related to inadequate provision for car parking and the turning of refuse/collection vehicles.

5.11 (No such objections apply to the current Appeal scheme, there being no objections from the Highway Authority or the Council`s Waste Services Manager).

5.12 A subsequent Appeal against this decision was dismissed on 17 October 2008 (ref. APP/Y3805/A/08/2063799/NWF).

5.13 The Appeal Inspector considered three main issues in that case: the adequacy of the proposals for vehicular access and car parking; the impact upon the character and appearance of the area; and the effect on the living conditions of neighbouring residential properties.

5.14 Merits of Appeal Scheme - The current, amended scheme addresses all those issues – a fact recognised in the Officer`s report to Committee (see copy provided as part of LPA`s Questionnaire) in the "Planning Assessment" section, as follows:

Issue 1: Access and Parking - *"in the case of the present application, the Highways Agency and West Sussex County Council no longer object. On balance, it is considered that, due to the reduction in the scale of development proposed and the improvements to the site entrance and parking provision, the access/parking arrangements are satisfactory".*

Issue 2: Density, Character and Appearance - *"Overall, although the proposed dwellings would clearly result in a much more built-up appearance as seen from the adjacent dwellings, it is not considered that they would be excessively overdominant or cramped in appearance".*

Issue 3: Residential Amenity – *"Subject to satisfactory boundary screening and re-positioning of the bedroom window to the rear elevation, on balance, it is not considered that this is unacceptable in terms of privacy and daylighting given the relatively low profile of the proposed bungalows....it is not considered that refusal is warranted".*

5.15 In support of issue 2, and by way of rebuttal of Refusal Reason No. 1, the proposed development would be at a density of 38 dwellings per hectare (dph), which is between the minimum of 30dph set out in the Government`s PPS3 and the South East Plan regional target of 40dph.

5.16 This proposed density is higher than that of the dwellings in Grinstead lane (26dph) but similar to those directly to the south in Orchard Way (37dph).

5.17 In overall terms, therefore, the proposed development IS of a standard compatible with existing development in the area.

5.18 In support of Issue 3, and by way of rebuttal of Refusal Reason No.2, attached at **Annex 5** is a Cross Section Plan, looking west, showing the respective outlines of the existing Meeting Hall building and the proposed chalet bungalow. This plan also shows the distance between the existing and proposed buildings from the rear gardens of the nearest properties in Orchard Way.

5.19 This plan illustrates that there is adequate, indeed improved, building-to-building separation which, although slightly below the Council`s minimum standard (22m compared with 18.2m) is nevertheless acceptable, as Officers concede, due to the existing 1.8m high boundary fence and the new windows being at ground floor level only. (the fence could, in any event, be increased in height with trellis panels, via a planning condition attached to any permission).

5.20 This plan also illustrates that the existing Meeting Hall building on the site is of a generally similar scale in terms of its height to the proposed new dwellings.

5.21 It should also be noted here that the recently-constructed detached chalet bungalow at No. 32A, Grinstead Lane, as shown on Annex 3, has a pair of patio doors and 2 windows in its south flank wall, facing the close-boarded boundary fence.

5.22 The close proximity of such features to the boundary appears to conflict with the LPA`s own guidance as set out in Development Control Standard No. 2, Section 2 as regards the relationship between dwellings/flats, sub sections 2.5 and 2.7.

5.23 Under these standards, the south-facing flank wall, which is only some 2 metres from the boundary fence, should be at least 11 metres distant from a side, rear or front boundary.



5.24 In such a cramped environment, such a drastic relaxation of standards is unjustified. particularly as it brings the new dwelling closer to the Appellant`s site boundary and therefore severely restricts his ability to properly develop his land in line with the same standards.

5.25 Again, a case of the LPA applying one rule for one, and another rule for a different applicant.

5.26 Notwithstanding the above, the Appellant maintains that the proposed development does NOT give rise to an unneighbourly form of development, nor would it be detrimental to the residential amenities and environment of the locality.

5.27 Other Relevant Developments in Locality – it is considered necessary here to draw attention to other similar forms of redevelopment in the vicinity of the site, not only to illustrate how the Council has approached the merits of those schemes, but also to point out the inconsistent approach the LPA have taken as between those other schemes and that the subject of this Appeal.

5.28 Such a comparison also strengthens the view expressed above that, in arriving at their decision to refuse, the Members gave undue weight to local objections, and insufficient weight to the merits of the case before them.

5.29 This is especially relevant in the light of the LPA granting planning permission for similar schemes, as outlined below, which are of high density and with some individual houses having very limited amenity space.

5.30 Attached at **Annex 6** is an aerial photograph showing the location of 2 such (backland) sites – Ardmore Nursery School and Kingdom Hall, Wembley Gardens, both of which were referred to in the above-mentioned Officer report on the current Appeal scheme.

5.31 In the case of the former Ardmore Nursery School site, this was the subject of a planning application in 2008, ref. ADC/0489/08, for the demolition of the redundant buildings and the erection of 9 terraced houses in two blocks, with two parking areas providing 11 car spaces.

5.32 This was recommended for approval, for the following reasons:

"The proposed development is within the built-up area and would help meet the need for additional housing without detracting from the existing local urban environment. It can take place without resulting in unacceptable detriment to the residential amenities of nearby properties and without detraction from highway safety. It would consequently not conflict with relevant policies of the Adur District Local Plan (including AG1 and AH2) *and the* (then) *West Sussex Structure Plan".*

5.33 Notwithstanding considerably more objections, on the same grounds, than those made to the Appeal proposals, the Members of the Committee in this case accepted their Officer`s recommendation and granted planning permission.

5.34 Regarding the Kingdom Hall site, the application here, in 2009, ref. ADC/0036/09, was for redevelopment with 6 one-bedroom dwellings, with 3 parking spaces.

5.35 This was also recommended for approval, for exactly the same reasons outlined at paragraph 5.25 above.

5.36 Again, in spite of objections from local residents on similar grounds to the current Appeal, Members granted permission.

5.37 Attached at **Annex 7** is an aerial photograph showing the recent development at the

Former Athletics Club site, also in Wembley Gardens.

5.38 An initial application for this site – ref. L/191/01/TP, for the erection of 6 one-bedroom flats - was refused by the LPA in January 2002.

5.39 However, a subsequent Appeal was ALLOWED on 22 January 2003, ref. APP/Y3805/A/02/1093361.

5.40 Although the main issue in this case was the effect of the development on highway safety and the free flow of traffic, having regard to the proposed access and car parking arrangements, nevertheless the Inspector, in his decision letter, also commented upon other matters which are relevant to this current Appeal.

5.41 For example, as to concerns as to over-development, he concluded that there would be adequate amenity space around the proposed flats, especially as the guidance in the (then) PPG3 encouraged higher density development and the best use being made of urban land – this for a very cramped scheme with less garden and amenity space than proposed in the current Appeal scheme, as Annex 7 clearly illustrates.

5.42 Also, as to concerns that the scheme would be out of keeping with the area, he concluded that PPG3 encourages the creation of mixed communities and advises that different types of housing and tenure need not be bad neighbours.

5.43 (This scheme was amended in a subsequent application, ref. L/147/03) to one for 6 one-bedroom terraced houses which was approved by the LPA, and is the scheme as now built and shown on Annex 7).

5.44 The Appellant believes all these decisions are material to the consideration of his Appeal, showing as they do the LPA`s (up to now) consistent approach to the

development of backland sites for housing purposes, within the built-up area, notwithstanding local opposition, and for high-density schemes on sites closely surrounded by existing residential development. (the Inspector is accordingly recommended to visit these 3 sites himself, to appraise the similarities between them and the current Appeal site).

5.45 To treat his application differently appears to the Appellant to be perverse – especially as the Officer`s reasons for recommending approval thereon are virtually identical to the two cases mentioned above (save for the substitution of the superseded Structure Plan policies by the new South East Plan policies.)

5.46 The Appellant thus concludes that, having regard to all the above, it appears to him that Members had a pre-determined view, if not bias, regarding his own application, and were unduly influenced by the more vigorous "lobbying" from local residents than was the case with the other schemes.

5.47 They also ignored the advice from Officers that the latest scheme the subject of this current Appeal had satisfactorily addressed the concerns and issues raised by the previous Inspector in relation to the earlier application for 5 houses under their ref. ADC/0381/07, referred to above.

5.48 This is not only inconsistent behaviour on the part of the LPA, but is also unfair and irrational.

5.49 The implications for an award of costs, should this Appeal succeed, are clear – and may be pursued, dependent upon the extent to which the LPA can or cannot substantiate their reasons for refusal, with evidence, at the forthcoming Hearing.

6 CONCLUSIONS

6.8 The Appeal site lies within a built-up area, where national, regional and local planning policies encourage sustainable development, and making the most effective use of previously-developed land at the higher densities commensurate with surrounding development.

6.9 The proposals are consistent with other planning policies in the development plan.

6.10 There would be no adverse impacts upon any interests of acknowledged importance were this Appeal to be allowed.

6.11 The current proposals adequately address the reasons for refusal under ref. ADC/0381/07, and the subsequent Appeal decision thereon.

6.12 All in all, therefore, there appear to be no sound or clear-cut policy reasons to warrant rejection of this application – the proposals are consistent with PPS 3 and development plan policies regarding making efficient use of built-up area sites at densities commensurate with the character of area.

6.13 The site is not within a Conservation Area, nor any other area of particular character which warrants special policy protection; indeed, the area may be described as somewhat nondescript in appearance, comprising as it does a mix of dwelling types, styles, plot sizes and densities.

6.14 Many examples of similar redevelopment schemes are to be found in the vicinity, and the current scheme represents a sensible compromise between the character and appearance of the street scene; the amenities of adjoining properties; and the efficient use of land within a defined built-up area.

6.15 Far from representing *"over-development"* and an *"unneighbourly"* form of development, the Appeal proposals are considered by the Appellant – and also, critically, the LPA`s own Planning Officers - to be entirely compatible with, and sympathetic to, the character and appearance of the locality, and at a similar density.

6.16 Equally, the proposals would not have any adverse impacts upon the residential amenities and environment of the locality, nor any loss of privacy or any overbearing effect on existing dwellings – again as accepted by the LPA`s professional advisers.

6.17 As such, there are NO conflicts with the relevant planning policies in this case – AG1and AH2.

6.18 Having regard to all the above, the Appellants` request that their Appeal be **ALLOWED**.

6.19 The Appellant reserves the right to comment upon any further evidence produced by the LPA at the Hearing, including any conditions they may recommend therein, and any representations from third parties in relation to the Appeal.

6.20 The Appellant also reserves the right to consider a claim for costs against the LPA, depending upon their case, and/or their behaviour at the Hearing itself.

7 EXPERT EVIDENCE

7.8 In accordance with Section 1.13 of the Procedural Guidance for Appeals (PINS 01/2009), the following endorsement applies:

The evidence which I have prepared and provided for this appeal ref. APP/Y3805/A/09/2109432/WF in this written statement is true and has been prepared and is given in accordance with the guidance in my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Signed: [redacted] Date: 1 September 2009