Development Management – Delegated Officer Report

Application Number: AWDM/1269/24 Recommendation: Refuse

Site: Land Between 40 And 44 Brighton Road, Lancing

Proposal: Application for Approval of Details Reserved by Condition 16 (reduction in the ground levels of the rear garden and associated landscaping) of Application AWDM/0970/23.

Date of Site Visit: 23 September 2024

Neighbours Checked: Y

Additional neighbour notification: N

Proposal, Site and Surroundings:

The application site is on the south side of Brighton Road backing onto the beach. Planning permission was granted in 2022 (AWDM/0923/21) for the demolition of an original bungalow on the site and the construction of a 4-bedroom 2 storey flat roofed dwelling (when viewed from Brighton Road) with a lower ground floor at the rear, resulting in three storeys at the rear. At the rear, there was to be a raised terrace adjacent to the house with a lower garden level beyond, before stepping up again to a garden room sited at the southern end of the garden. At the front a two storey detached garage with guest accommodation above was proposed.

The approved plans under AWDM/0923/21 did indicate that the rear garden levels were to be altered as there had previously been a steep drop in ground level at the rear before it rose up again towards the beach. While an indicative line showing the new level was included on the approved plans, the planning permission also included condition 10 which stated:

"There shall be no alteration to ground levels within the site unless and until details have been submitted to and approved in writing by the local planning authority. These details shall include proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed levels to existing. Any such works shall be carried out in accordance with the agreed details and completed prior to occupation of the dwelling or in accordance with an implementation programme approved in writing by the Local Planning Authority."

The works that have been carried out were done so without the submission of further details. The approved plans suggested that the garden level at No. 42 would sit between 1.3m - 1.7m lower than the top of the wall on the boundary with No.44. However, the wall at No.44 was not built to the height shown on the original plans and, as a consequence, as constructed, the garden level is almost at the top of the wall, allowing clear views down onto the rear garden and pool at No. 44.



A previous application for a landscaping scheme to mitigate the impact of the garden works, including the lowering of a strip of land on the upper terrace between the boundary and the sunken seating area, with a new 1.8m high solid fence erected, positioned 2.3m from the boundary wall at No. 44, with a hedge planted on the inside edge of the fence was refused (AWDM/0163/24). That application also showed a proposed reduction in the height of the lower middle garden by 0.4m, which would make it 1.3m lower than the upper terrace. Hedge planting was also proposed along the boundary with No. 44.

Alongside that application was AWDM/0970/23 which dealt with amendments to the house itself. That application was approved but with a condition 16 which stated:

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.

This application seeks approval for details submitted pursuant to that condition. It shows a reduction from what has been constructed as per the previous application (AWDM/0163/24) i.e. a 1m reduction in a strip of land on the upper terrace between the boundary with No. 44 and the sunken seating area. A solid 1.8m high fence is proposed on the inside edge of the reduced level area with hedge planting in front of that. The remainder of the upper terrace stays at 4.35m.

In the middle part of the garden the latest plans show a reduction to 3.05m from that currently built, as with AWDM/0163/24, but with a further reduction of 0.05m to 3m for an area of the garden adjacent to the boundary with No.44. Hedge planting is shown on the boundary with further landscaping proposed to prevent access close to the boundary. The raised terrace at the end of the garden remains at 4.35m.

Levels on the landscaping plan are not consistent with those on the Part Rear Garden Plan but, for the avoidance of doubt, this application has been assessed using the measurements on the Part Rear Garden Plan.

Planning History:

AWDM/1288/20 - Demolition of existing bungalow and construction of 2 detached 4 bedroom dwellings over 3 storeys each with detached garages and associated landscaping works - approved but not proceeded with.

AWDM/0923/21 - 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 - approved

AWDM/0776/22 - Application for Approval of Details Reserved by Condition 6 (Drainage) of previously approved AWDM/0923/21 - approved

AWDM/0970/23 - 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 - approved

AWDM/0163/24 - 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 - refused

AWDM/1209/24 - 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), 14 (no use of first floor front area as balcony) and 15 (first floor front patio doors to be replaced with fixed glazing) of previously approved AWDM/0970/23. Amendment: To use the flat roofs as balconies and revert to sliding doors and glazed balustrading. Additionally, side elevations would feature an opaque, glazed screen up to 1.8m from finished floor level to maintain privacy to the side elevations - refused

Consultations:

Lancing Parish Council: No comments received

Representations

Letter of objection received on behalf of the occupiers of 40 and 44 Brighton Road:

- The application wrongly states that there would be reduction in ground levels on a small part of the garden.
- The ground levels as built have not been approved and, as such, there is no reduction, rather an increase over the original levels.
- Proposal retains a significant portion of the garden sitting significantly higher than the garden levels of neighbouring properties
- Results in harm to visual and residential amenity as well as an unacceptable loss of privacy
- Proposal does not meaningfully address neighbours' concerns
- No good reasons to approve a partial compromise
- Hard and soft landscaping proposed would sit above neighbouring walls at around 3m in height
- Will cause sense of enclosure, overbearingness and overshadowing
- Fences could be removed in the future as there is no requirement for them to be in situ in perpetuity
- Enforcement action is needed to return the garden level to the same level as that of neighbouring gardens

Relevant Planning Policies

Adur Local Plan 2017 Policy 15
'Supplementary Planning Guidance' comprising: Development Management Standard No.2 'Extensions and Alterations to Dwellings''
National Planning Policy Framework (December 2023)
WSCC Guidance on Parking at New Developments (Sept 2020).

Planning Assessment

The rear garden and the changes to the ground levels has resulted in the greatest impact to neighbours, particularly the occupiers of No.44 to the east. That property underwent its own development recently which included changes to ground levels, including a raising of ground levels in the centre of the garden, and the construction of new boundary walls. Both properties, in common with many along this stretch of Brighton Road, originally had pre-development garden levels which were higher than the finished ground levels closest to the houses. However, in the case of No.42, this consisted of an overgrown slope which it was not easy to access, as can be seen in the photo below.



The changes to the rear garden level at No.42 has resulted in an increase in the height of the garden overall and, in the case of the area adjacent to the rear of the house (the upper terrace) it is now possible to stand at almost the same height as the top of the boundary wall with clear views down onto the neighbours' patio and pool area.

The plans for the rear garden of No. 42 show a sunken seating area close to the boundary with an outdoor dining area on higher ground beyond that. There is a swimming pool on the west side of the garden. The garden then steps down to a lower central area before stepping up again to a garden room and pergola at the end of the garden.

The previous landscaping plans submitted under AWDM/0163/24 attempted to mitigate the impact of the raised levels as previously described in this report. At the Planning Committee meeting in September, Members refused the application for the following reason:

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

Greater mitigation was required and the applicants were given one month to submit a new landscaping scheme. The submitted scheme does not show a significant change from that previously refused and, as a result, it is not considered to go far enough. The only change from the previous refusal is a further 0.05m reduction of the middle garden at an area closest to the boundary. It is not considered that this will be sufficient to prevent overlooking.

The concerns and objections of the adjoining residents are understandable as the raising of the garden level has resulted in significant overlooking.

A survey plan shows that the original rear terrace was at a level of approximately 7.53m AOD before sloping down to between 2- 2.2m and then rising again towards the rear to a height of 5.2m. The proposed mitigation to the upper terrace aims to prevent people from standing right on the boundary at that higher level. With the features proposed in place, there will be a reasonable distance between the closest point where a person could freely stand and the boundary, thereby reducing the opportunities for overlooking from that upper terrace. The fence will be positioned 2.3m from the boundary and not appear overbearing when viewed from No.44 and will not reduce light to any significant extent. The boundary wall steps up in that location, further reducing the impact of the set back fence.



However, the impact of the garden levels across site as a whole need to be assessed and it is considered that a more significant reduction of the middle garden is required as what is currently proposed would not be sufficient to prevent overlooking.



A reduction to 2.5m, with associated landscape planting, is considered to be a reasonable compromise, allowing an increase from the original levels but a more meaningful reduction from the current, as built, level.

It is considered that the current application does not go far enough and should be refused with enforcement action authorised to seek a reduction along the lines as set out above.

Recommendation

REFUSE, for the following reason:

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, contrary to policy 15 of the Adur Local Plan

Is recommendation contrary to letter(s) of representation N

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

Case Officer: Peter Barnett Date: 12 November 2024

Authorised by: Gary Peck Date: 14 November 2024