Development Management - Delegated Officer Report

Application Number: AWDM/0250/21 Recommendation – Refuse

Site: Oxen Court, Oxen Avenue, Shoreham-By-Sea

Proposal: Proposed upward extension to form 6 no.flats within an additional floor to blocks 1 and 2 and a new two storey building to east of block 5 garages (which also incorporates 2 no. garages on the ground floor); 5no. new parking spaces; new balconies to existing flats in block 1; new pitched roof to existing garages at block 5; new landscaping and resurfacing of existing parking areas

Date of site visit: 17 March 2021

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

Oxen Court is a development of two storey flats and houses built in the former grounds of Shoreham Court. It is proposed to upwardly extend the northernmost blocks 1 and 2 to form an additional storey containing 4 flats and to construct a new two storey building in front of a block of existing garages fronting The Close to the east, to provide a further two flats.

The additional floor to block 1 will increase its height from two storeys to two and a half storeys, with dormer windows shown within the eaves, increasing the height of the block by 1.75m. Block 2, which is attached to Block 1 and sits perpendicular to it, will have a full storey height increase of 2.65m. Balconies are shown as being added to the existing flats in Block 1, as well as to the proposed flats, on their western elevation fronting Oxen Avenue (a total of 5 flats over 3 floors).

The new building in front of the garage block will be two storeys in height (5.4m), with garages on the ground floor and studio flats above, spanning across a ground floor access to the existing garages.

In addition to the proposed extensions and new build, there are proposed to be 5no. additional parking spaces on an existing lawn area fronting Oxen Avenue; new vehicular access to the new parking spaces and widening of existing access to existing parking spaces to the south; resurfacing of existing parking spaces with rolled gravel and block paviors; new landscaping with low-level shrubs and mixed hedges.

The site lies within the built up area and is within a residential area, characterised predominantly by two storey dwellings.

Relevant Planning History

None

Consultations

West Sussex County Council: The **Highways Authority** has no objection. In reviewing the standalone impact it is evident that the proposed development will have a negligible impact on the operation of the local network. The National Planning Policy Framework (paragraph 108 and 109) indicates that development should only be resisted where the cumulative impact is unacceptable. While the development does have a detrimental impact on the operation of the junction, the modelling demonstrates that it will continue to operate within theoretical operating capacity in a future year scenario, therefore the impact is not considered to be severe.

Adur and Worthing Councils: EHO Public Health: Recommend a Construction Management Plan condition on any permission granted to cover such things as resident liaison, site set up including where waste material and new building materials will be stored, traffic management and parking, etc.

EHO PSH: No objection to the proposed development on PSH grounds

Technical services: Flood risk- The application is within flood zone 1, the site is not shown as being at risk from surface water flooding.

Surface water drainage- the proposals include a new area of hard standing, plans indicate that these areas will be permeable. Please can the applicant supply a construction detail drawing for these areas indicating the permeable construction

West Sussex Fire and Rescue Service: Evidence will be required showing all parts of all flats are within 45 metres of a fire appliance in accordance with Approved Document B: Volume 1- 2019 Edition B5 section 13. Paragraph 13.2 states: For flats, either of the following provisions should be made.
a. Provide access for a pumping appliance to within 45m of all points inside each flat of a block, measured along the route of the hose.
b. Provide fire mains in accordance with paragraphs 13.5 and 13.6.
Any areas not within the 45 metre distance will need to be mitigated by the fitting of domestic sprinklers to BS 9251 or BS 8458 standard.

Southern Water: In order to protect public sewers, Southern Water requests that if consent is granted, the following conditions are attached to the planning permission:

1. The developer must agree with Southern Water, prior to commencement of the development, the measures to be taken to protect the public sewers.
2. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water

Brighton City Airport: Satisfied that the proposed application as submitted is unlikely to have any impact on the safe operation of the airport.
However, we would draw the applicant's attention to the fact that the use of cranes at this location for the construction of the proposed development would

need to be subject to a separate application and assessment by the airport in accordance with UK Civil Aviation Authority requirements

Representations

45 letters of objection received (10/3/21) from occupiers of:

1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 14 Oxen Court
2A, 4, 9, 11, 17, 17A, 21, 23, 25 Oxen Avenue
11, 19, 21, 23, 25 Windlesham Road
1, 3, 4, 7 Seafields, The Close
Friars Oak, The Close
7, 12, 18, 20 The Close
Seafields Residents Association
40 Mill Lane
2A, 6 Shoreham Court, The Close
Ambleside, The Street

- Noise and disruption
- Lack of parking and increased traffic
- No objection to new parking, resurfacing and landscaping
- Development will take away loft space
- Capacity issues with gas, electricity, water and sewerage
- Buildings will be taller than neighbours and will appear out of place
- Overlooking
- Surprised that this is being pursued in spite of objections of residents of Oxen Court
- Out of keeping with 2 storey building heights elsewhere at Oxen Court and in street
- Balconies are out of character and will increase overlooking
- Changes to garage forecourt will reduce ability of emergency vehicles to access site
- Will harm character of the area, contrary to Policy 15 of the ALP
- Within an area of low density and low height development
- Increased bulk and scale will be imposing, exacerbated by raised level of site
- Loss of light and privacy
- Harm to outlook
- Oppressive to 4 Oxen Avenue, where there is less than 14m between buildings
- Overbearing to neighbouring dwellings
- Does not meet Council's space standards between buildings
- Unsuitable development for this area
- Detrimental to public realm
- Conflicts with development plan and NPPF and is not sustainable development
- Reduction in grassed area could lead to increased risk of flooding
- Unattractive design for building in front of garage block
- Overdevelopment

- Existing buildings may not be able to take additional weight of another floor
- Loss of turning area for larger vehicles
- Building fronting The Close will be forward of established building line
- Will make it difficult for large vehicles to manoeuvre in The Close and add to congestion in the Close
- The proposed development represents an extremely significant change to the established character of the area
- The community at Oxen Court is well established and is mostly occupies by retirees. The retirees have chosen to move and live here based on its original charm and character, also on the grounds that it could not be 'over developed' and their tenure secured.
- Utterly appalled at the way the 'architect' and 'freeholder' have gone about their business.
- As a freeholder I will not approve any work to the existing garages
- Cynical attempt to make money at the expense of a community with no consideration of the social/community impacts.
- Proposals are affecting residents' health

Relevant Planning Policies

Adur Local Plan 2017 policies 2, 3, 15, 18, 20, 22, 28, 34, 34, 36
'Supplementary Planning Guidance' comprising: Development Management Standard No.1 'Space Around New Dwellings and Flats'
West Sussex 'Guidance on Parking at New Developments' and 'Parking Demand Calculator' (WSCC 2019)
National Planning Policy Framework (February 2019)
Technical Housing Standards – nationally described space standard (DCLG 2015)

Planning Assessment

Principle

The proposal comprises upgrading the existing housing stock located within the built up area and can be supported in principle. The relevant issues are the effects on the amenities of neighbouring residential occupiers and the effect on the character and appearance of the existing buildings and their surroundings.

Housing Land Supply and Delivery

In February 2020 the Government published the results of the Housing Delivery Test. Adur failed the test and delivered 56% of its housing delivery target. Therefore, the Council has applied a 20% buffer to its five year housing land supply calculation. Taking this into account, as at 1st April 2020, Adur (Adur Local Plan area) had a 4.8 year land supply. Subsequently, 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.

The presumption that planning permission should be granted unless there are ‘adverse impacts which would significantly and demonstrably outweigh its benefits’ is known as the ‘tilted balance’ and it has been held that such balance should be expressly considered in the determination of any relevant application.

The next issue to be considered, therefore, is whether the tilted balance should, in effect, sweep away the provisions of planning policy because of the lack of housing supply and therefore potentially lead to a grant of planning permission. This is a matter that has been considered in the Court of Appeal only recently in respect of housebuilding proposals in Essex and Northamptonshire. A developer argued that when the tilted balance is engaged due to a housing land shortfall, decision-makers have to assess proposals against relevant policies in the NPPF and that local plan policies simply "do not come into that exercise".

The Court of Appeal judges ruled, however, that, even where development plan policies are rendered "out of date" by housing land shortfalls, they remain "potentially relevant" to the application of the tilted balance and decision-makers are "not legally bound to disregard them". The court's ruling established, therefore, that the provisions of the NPPF remain subordinate to the overriding principle established by section 38(6) of the Planning and Compulsory Purchase Act 2004 that decision-makers must have first regard to the terms of development plan policies.

In conclusion, paragraph 11d of the NPPF does not make the policies of the development plan irrelevant. The policies of the development plan, in this case the Adur Local Plan 2017, may still be taken into consideration by the decision-maker even after issues of housing supply initiate the presumption in favour of sustainable development. Therefore, if a development causes harm to the character of an area or to residential amenity, contrary to development plan policy, it follows that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits and the presumption in favour of sustainable development (the so-called ‘tilted balance’) would not be engaged in support of the application.

Visual amenity

Oxen Court sits on slightly elevated ground and block 1 projects forward to sit closer to the road than the rest of the development. It has a two storey pitched roof form and is of a scale which is in character with the surrounding area. The proposed upward extension and associated alterations would increase the height and prominence of the building, resulting in a three storey form which would be taller than the other buildings within Oxen Court itself and out of keeping with the scale and character of development in the area.

While the increase to block 1 is a half storey, it raises the eaves and ridge height, adds dormer windows to the north and south elevations and balconies to the west elevation, all of which increase the bulk and scale of the development. Balconies are not common features in this part of the townscape.

The increase in height of block 2 is more pronounced, resulting in an additional full storey. The combined effect of the extensions is to result in a substantial scale of building at the northern end of Oxen Court which is out of keeping with the rest of the development and surrounding buildings.

The construction of a new two storey building in front of the existing garages fronting The Close is considered to be harmful to the visual amenities of the street and out of character. It will bring development forward, closer to the road and at a greater scale and height than currently exists. The design of the building is considered to be poor, with a shallow pitched roof and undercroft, which does not relate to other buildings in the street and is particularly jarring when viewed in relation to the fine architectural details of Shoreham Court to the south.

The new parking area on the west side of the development would result in the loss of a lawn area which currently forms a pleasant setting to the flats and adds to the character of Oxen Avenue in general. Its loss to car parking would have an adverse impact on the street scene.

Overall, the proposal is considered to be out of character and harmful to the street scene.

Residential amenity – proposed occupiers

Block 1 would comprise 2 no. one bedroom, one storey, two person flat (55m.sq). Block 2 would comprise 2 no. two bedroom, one storey three person occupancy flat (61m. sq) and Block 5 would comprise 2 no. one bedroom, one storey, single occupancy flat (38 sq.m). The proposed flat sizes are in accordance with the National Housing Standards. The balconies provide a small area of outdoor space for the proposed flats, as well as introducing new amenity space for existing flats in block 1.

There are no concerns in respect of residential amenity for the proposed occupiers.

Residential amenity – neighbouring occupiers

The upward extensions to blocks 1 and 2 have the greatest impact on 4 Oxen Avenue which sits immediately adjacent to the northern boundary of the site. It is a two storey dwelling which fronts Oxen Avenue so that its side elevation faces the site. It is separated from the site by a flat roofed garage and there is approximately 13m between the side of the house at 4 Oxen Avenue and the side of Block 1. Block 2 comes closer to the boundary and is only around 2.2m from the boundary with the rear garden of No.4. There is an outbuilding in the rear garden adjacent to Block 2 and there is an existing window within the side of Block 2 which currently overlooks the adjoining garden.

The proposed extension to Block 2 will increase its height and bulk, but with a hipped roof rather than a gable as currently exists. No additional windows are proposed within the extension on the north side. While 4 Oxen Avenue does not directly face the side of the flats, it is considered that the increase in height of Block 2 would have an overbearing impact when viewed from that

property's rear garden. The impact is exacerbated by the close proximity of the building to the boundary and the lack of any screening.

The extension to Block 1 is considered to have less impact on 4 Oxen Avenue, however, because of its position adjacent to the side of the house where there are no windows facing south and there is currently a line of conifer trees which form an effective screen. However, new windows are shown on the northern elevation of the flats, serving a bedroom and living room, which could increase overlooking, particularly from the bedroom window. Such overlooking would be towards the rear garden of 4 Oxen Avenue, which is already overlooked by the existing window in Block 2 and by a large rear dormer at 25 Windlesham Road. On balance, the impact of overlooking is not considered to be so harmful as to warrant refusal.

There is 23m between the side of Block 2 and the rear of 25 Windlesham Road. The building does not fill the full width of the garden of No.25 but the new three storey form results in the building falling short of the 28m separation required between taller buildings, as specified in DM Standard No.1.

The proposed balconies will face west across Oxen Avenue towards the front of dwellings opposite, around 22m away. While they will introduce new windows and balconies which have the potential to cause overlooking, it is considered that, as they face towards a public street rather than private gardens or the rear of dwellings, there will not be a serious loss of privacy. However, in visual terms they are considered to be out of character as there are no other balconies in the area.

The new building in front of the garages will sit forward of the building line and will face towards Friars Oak, 18 and 20 The Close at a distance of approximately 22m and will include balconies. As with the balconies on the west side in Oxen Avenue, they will be out of character with the street scene but will not cause significant overlooking, as they face a street rather than private areas.

Parking and Access

The proposal will result in 6 new 1 bed flats/studios and 5 no. new parking spaces, plus 2no. new garages under the studios fronting The Close. Many representations have been received objecting to the lack of parking in the area and expressing concern that the proposal will worsen the situation.

However, the proposal appears to provide sufficient parking to meet the demands of the development and the Highway Authority has no objection on highway safety or capacity grounds. Therefore, while the concerns of residents are noted, there are not considered to be sustainable reasons to refuse the application on highway grounds.

Conclusion

The proposal would result in the enlargement of two existing blocks of flats, resulting in an increase in height and scale which would harm the character of the Oxen Court development and the character of the area. The new block of

flats fronting The Close would be unsightly and unduly prominent, to the detriment of the street scene and the character of the area.

The proposal would therefore result in demonstrable harm to the character and appearance of the area. Taking account of the social, environmental and economic factors of sustainable development, overall, the adverse impacts of the proposal significantly and demonstrably outweigh the modest benefits of providing 6 new flats. As such, according to planning law and the NPPF amongst other material considerations, planning permission should be refused as it conflicts with the provisions of Policy 15 of the Adur Local Plan 2017 and guidance contained within the National Planning Policy Framework.

Recommendation

REFUSE, for the following reasons:

1. The proposed extension to Blocks 1 and 2, and associated works, would result in an unacceptable and harmful increase in height, scale and bulk and would result in an unduly prominent building which would be out of character with the scale of existing development at Oxen Court and the adjoining area. The proposal is therefore contrary to policy 15 of the Adur Local Plan and the National Planning Policy Framework.

2. The proposed new building in front of the Block 5 garages would result in an unacceptable and unduly prominent building which would not respect the street scene and would be harmful to the character and appearance of the area. The proposal is therefore contrary to policy 15 of the Adur Local Plan and the National Planning Policy Framework

3. The proposed extension to Block 1 would result in an unacceptable and harmful increase in height, scale and bulk which would be overbearing to the occupiers of 4 Oxen Avenue. The proposal is therefore contrary to policy 15 of the Adur Local Plan and the National Planning Policy Framework.

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 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.

Case Officer: Peter Barnett Date: 6 April 2021

Authorised by: Gary Peck Date: 6 April 2021