Application Number: ADC/0427/08 Recommendation – REFUSE

Site: **Land adjacent to 22 River Close Shoreham-by-Sea BN43 5YF**

Proposal: **Change of use of highway authority grassed area to residential curtilage and enclosure by 2m high closed-boarded fence**

The Application

This application relates to a grassed area (with 2 relatively recently planted trees) occupying a corner area on the eastern side of this cul-de-sac. According to WSCC, it is a grass verge forming part of the adopted public highway and maintained by them. It has a length of 28m and width of 9m-15m.

It is proposed to use it as part of the curtilage of the adjacent semi-detached bungalow to the south (22 River Close) and enclose it by 2m high close-boarded fencing. At present its corner is crossed obliquely by a public footway which would be removed. There is no footway around its roadside boundaries but the proposed fencing would be set back 2m from the kerbline on the north side/northwest corner and 3m from the kerbline on the west side.

A previous outline application by WSCC to develop the land with a proposed house was refused in January 2007 (ADC/0259/06) on grounds that:-

1. *The proposed house is located within an area identified as a high flood risk zone and is at unacceptable risk of flooding by deep fast-flowing waters with no opportunity for safe, dry access to land outside the identified flood risk area. The Flood Risk Assessment submitted with the application does not demonstrate that the proposed development would be safe or meet the 'exception test' contained in Annex D of PPS25. The proposal consequently conflicts with policy AP3 of the Adur District Local Plan, ERA4 of the West Sussex Structure Plan and PPS25.*
2. *The proposal would result in the loss of an open space which is an important component of the environmental character of River Close and which is valuable for amenity and play space purposes, and would therefore be contrary to policy AB22 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.*

Consultations and Representations

West Sussex County Council: Transport Planning Services state no objection but point out that a Highways 'stopping-up' Order would be required (as the whole site is currently part of the adopted public highway) and the existing footway would need re-alignment along the kerb edge and a pedestrian dropped kerb crossing point provided on the north side.

Adur District Council: The Parks section state that, as Beach Green is very close, they see no reason why the land is needed for local children to play on or why it could not be sold. They state that, as far as they know, it has been maintained by WSCC's contractor.

Third Parties: Letters/e-mails have been received from No's 10, 13, 16, 18 & 19 River Close. The main grounds of objection are:-

- Loss of a green space (with 2 trees) as an amenity for all the residents of the close. It is an integral part of the original development and its enclosure as private garden would destroy the open aspect, environmental character and appearance of the close.
- The proposed 2m high fence would create a very ugly narrow 'canyon' and would be an eyesore.
- The proposal would cause loss of a safe play area for the high number of children in the close, overlooked from the houses.
- The proposed 2m high fence would create a blind corner resulting in danger, especially to children, from traffic entering and leaving the close.
- This grassed site acts as a natural soakaway and any alteration could cause flooding.
- It is needed for the well-being of the community.
- One e-mail asks that the issue of why this land was sold rather than kept for its original use needs investigation as do methods of bringing it back into public use and compensating the present applicants.
- This e-mail also states that if, notwithstanding their objection, the change of use were to be permitted, the fence should be required not to exceed 1.8m high and be set back at least 3m from the road and the whole site should be covered in vegetation, not be used for any form of building (even sheds)

[NB. the resident of No.16 River Close has requested to speak at the Committee meeting]

Relevant Planning Policies and Guidance

Adopted West Sussex Structure Plan 2001-16 (WSCC 2005) (saved policies): LOC1, NE1, CH1, ERA1, DEV1
Adopted Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, AB22, AB25
Design Bulletin "Trees and Landscaping" (ADC 1996)
PPS1 'Delivering Sustainable Development' (ODPM 2005)

Planning Assessment

Policies

Structure Plan policies give significant weight to making the best use of land provided that the impact on the character of the area and environment is acceptable (LOC1, ERA1, CH1) and subject to policy DEV1 requiring high quality development. DEV1 requires layout, appearance and landscaping to be of high quality taking account of the need to integrate with and, where possible, enhance adjoining land uses; and to have regard to local context including the characteristics of the site in terms of natural and man-made features; morphology, streetscape, views into and out of the site; and to create a sense of place which is easy to understand through the use of distinctive buildings, open spaces, routes and landmarks.

Local Plan policy AB22 states that development of open spaces in the built-up area will not be permitted if they are important to the character of the neighbourhood, or for amenity or recreation purposes.

Government policy is set out in Planning Policy Statement PPS1 'Delivering Sustainable Development'. Relevant paragraphs are 17, which refers to the commitment to protecting and improving the environment and 18 which states that planning should seek to maintain and improve the local environment.

Loss of open space

It is considered that this small open grassed area, which according to WSCC is a wide grass verge, is of significance to both the visual and residential amenities of River Close. However, it is not specifically identified as a public open space in the Local Plan and whether it is of such importance as to be be contrary to policy AB22 of the Local Plan is a matter of judgement.

This open space appears to be part of the concept of the original development, with the line of tall houses on the north side facing onto it and, to a significant degree, is the focal point within the Close, forming an essential part of its character and giving it a sense of place. 2 trees have been planted in the middle of it which, in time, will form a significant feature improving the appearance and shielding the view of the rear of properties from the north.

Use of the land as part of the garden of the neighbouring bungalow and, especially its enclosure by fencing, would have a detrimental impact on the character and environment of the close. The existing screen fence on the north side of No.22 has an unattractive appearance but is not too prominent because of its distance from the road.

The open space is also capable of serving a functional purpose, providing a safe play space for young children, directly overlooked from the houses. The large Beach Green recreation ground (with children's play equipment) adjoins River Close to the west but it is separated from River Close by a screen wall and is less suitable for unaccompanied young children because it is not overlooked from houses.

Visual amenity

As stated above, the open space is of significance to the visual amenity of River Close. Its use as part of the curtilage of the neighbouring bungalow could still, in principle, retain the relatively open appearance but, in practice, for the applicants to make beneficial use of it as garden, it would need to be enclosed. It is the enclosure that is the greatest concern visually and its enclosure by timber fencing 2m high, as applied for, would be particularly detrimental to the character and appearance of the Close. Houses face onto the site and it occupies a prominent corner. Tall fencing close to the road would be very unsympathetic and also gives rise to concerns about its durability in this coastal location exposed to strong winds. To avoid rapid physical deterioration, suitably supported walls are normally required on sites adjoining the highway.

Any means of enclosure would have some detrimental effect. A lower form of enclosure of a more attractive design (eg. a wall with fence panels set between piers) with a greater set back from the road and sufficient shrub-planting/landscaping around its outer sides could be a compromise between, on the one hand, maintaining a relatively open and less

unsatisfactory appearance in the River Close streetscene and, on the other, meeting the functional needs of the applicant to be able to use it as garden. Nevertheless, it is considered that it would still be detrimental, albeit to a lesser degree, to the appearance of River Close.

Owing to the new 'permitted development rights' which came into force on 1 October 2008, the possibility of incidental buildings (eg. sheds, greenhouse or garage) being erected upon it in future is also a serious concern. However, this could be prevented/controlled by imposing a condition on any permission granted.

Highway matters

WSCC state that, for pedestrian safety, they consider the existing footway crossing the corner would need re-alignment along the kerb edge of the site. This is not shown by the applicant on the submitted plan but could be required by imposing a condition on any permission granted.

WSCC also point out that the proposed change of use, if planning permission is granted, cannot proceed without the site being subject to a formal Highways 'Stopping-Up' Order under the Town & Country Planning Act , plus an agreement under section 278 of the Highways Act regarding the replacement footway. These are separate procedures from the planning application.

Recommendation

REFUSE on ground that:-

1. The proposal would result in the loss of an open space which is an important component of the environmental character of River Close and which is valuable for amenity purposes, and would therefore be contrary to policy AB22 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.

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