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Adur & Worthing District Councils,
Planning Services,
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BN11 1LF.

186 Brighton Road,
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November 10th 2013.

Dear Mr Appleton,

Re: Revised Retrospective Planning Application, Ref: AWDM/1128/13
184B Brighton Road, Lancing, West Sussex, BN15 8LL
Retention of decking and storage area adjacent to Widewater Lagoon

Please accept my thanks for your letter dated October 31st 2013 to which I am responding as requested.

Background:

My wife and I have already submitted our objection to the unauthorised development of the excessively decked area of the former terraced garden on following basis:

- Detrimental Impact upon our residential amenity
- Loss of our privacy
- Overlooking our property
- Overshadowing and loss of light
- Excessively Large having an adverse impact on the Widewater Lagoon Nature Reserve
- Non-compliance with Planning Requirements
- The sole development of this nature on the entire Widewater Lagoon
- Factual discrepancies in the drawings and comments submitted by the Agent acting on behalf of Ms Killick.

REASONS FOR OUR CONTINUED OBJECTION IN ADDITION TO OUR EARLIER COMMENTS SUBMITTED DATED SEPTEMBER 23RD 2013:

Lancing Parish Council have objected to the development:

Since our original objection to the development, Lancing Parish Council, who are the lessees of the Widewater Lagoon and are therefore responsible for all aspects of its continued maintenance, have also objected to the development.

In the Minutes of the Planning Advisory Committee on Wednesday October 16th 2013, they registered their objection to the development:

76C Planning Applications

Application number	Location	Proposal	Comments
AWDM/1128/13	184B Brighton Road Lancing BN15 8LL	Retention of decking and storage area adjacent to Widewater lagoon	No objections
	Comments:- Committee objected to this application as it was considered to be over sized and out of character with the rest of the rear gardens fronting onto Widewater Lagoon. Committee was also concerned about the loss of privacy and light and that the decking was unsightly.		

However, there would appear to be a typographical error in the column headed 'Comments', where the wording 'No objections' contradicts the 'Comments' passed by the Planning Advisory Committee, but their objection to the proposed development is clear by the comments that they have appended.

The development also contravenes Condition 13 of the Planning Permission granted in March 2009 (Letter: 10/3/2009 James Appleton/Beecham Moore Partnership) - Extract copied below:

> **13.** **Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), the proposed dwellings shall not be extended and the parking space in front of the garage of each dwelling shall not be enclosed at the front (including by a door). No incidental building (exceeding 10 cubic metres in volume) shall be erected within the curtilage.**
>
> **Reason:** ***In the interests of amenity and the environment and to comply with policy AH2 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.***

From the scale drawings provided by the Agent, I estimate the volume of the storage area is approximately 13.5 cubic metres, before taking the area beneath the decked area behind the storage section and the land level of the original terraced garden, into consideration. This is in direct contravention of the restriction (copied above), ***'in the interests of amenity'***, imposed by Adur District Council, when Planning Permission Application Number: ADC0595/08 was originally granted. Would Planning Permission have been granted in 2009 for the original development with the same areas of decked rear gardens and 'Storage Units' and, if not then, why should it be any different now?

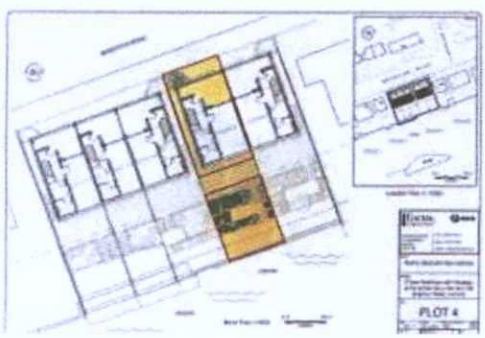
The Plans on which the decision will be based are inaccurate and give a false impression of an original situation which never existed.

'... the owner of the property (or land) in question is ultimately responsible for complying with the relevant planning rules ...' '... failure to comply with the relevant rules will result in the owner being liable for any remedial action (which could go as far as demolition and/or restoration).'

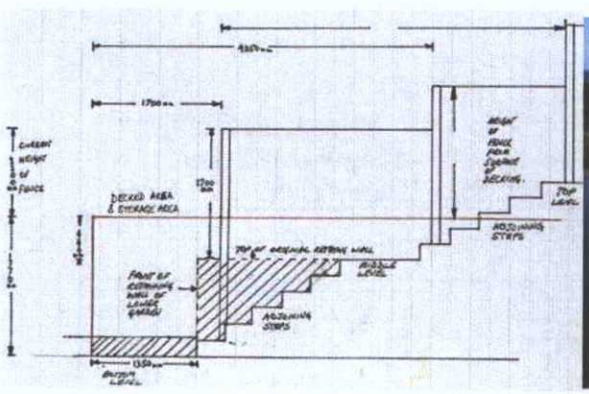
'Without a planning system everyone could construct buildings or use land in any way they wanted, no matter what effect this would have on other people who live and work in their area.'

Source: http://www.planningportal.gov.uk/permission/responsibilities/

It is the responsibility of the applicant to ensure that all drawings and comments in their Planning Application are accurate, particularly those showing dimensions of the site and development. If the Application includes inaccuracies then surely Planning Permission cannot be approved.



The drawings labelled 'Existing' in every drawing that has been submitted have never existed. The original plan, which was the actual one of the rear garden layout, and approved by Adur & Worthing Council in 2009 is shown in the opposite image. Even in drawing 37-13A, the 'Original Section A-A' never existed.
When we returned home on the evening of June 9th 2013 we were faced with the 'Existing Section A-A', in Drawing 37-13A as a *'fait accompli'*. Why has the actual 'Original Section A-A' never been illustrated as part of this and the previous Planning Application? My drawing of the true 'Existing Section' (below left) and an image (taken in August 2012) of the actual 'Existing Section' appear below left and below right.





The development took place over the weekend of Saturday June 8th and Sunday June 9th 2013, when the rear garden of 184B was transformed from how it was in the above (right) image to what it is now and was a *'fait accompli'* by

Sunday evening. This included the 'Storage Area', which is not shown in any of the **'Existing'** plans (37-13-01A, 37-13-02A, and 37-13-03A) but is evident in the image of my wife standing in front of it on Page 5 of this letter. I will repeat again, **the 'Existing Ground Floor Plan' shown in Drawing 37-13-01A NEVER existed!**

The garden area went from a terraced rear garden, on three levels, to the decked area with storage underneath in the period of two days (Saturday June 8th and Sunday June 9th 2013). The 'Delegated Officer Report' on 4/3/2009 confirms the original rear garden lay-out and is copied below:

> **Each house will have a terrace leading out from the first floor living area onto the top of the secondary sea defence embankment with a rear garden then stepping down to the lagoon.**

The plans are therefore inaccurate and give a false impression of the 'Existing Situation' which, as I have always stated, and continue to maintain, never existed in reality. How can you agree to accept inaccurate plans of non-existent situations to be submitted, with similarly inaccurate comments, by the Agent, for use in the decision-making process? Why do none of the 'Existing' plans show the actual terraced rear gardens as they existed, on the morning of Saturday June 8th 2013, before the complete unapproved development was finished by the evening of Sunday June 9th 2013?

Loss of privacy and Overlooking our property

Relevant extracts from the 'Delegated Officer Report' (dated 4/3/09) follow:

expires 10/3
Subject to S106

Development Control – Delegated Officer Report

Application Number: ADC/0595/08 **Recommendation - Application Permitted**

Site: **184 Brighton Road Lancing West Sussex BN15 8LL**

Proposal: **Demolition of existing buildings (184 and 186 Brighton Road) and erection of 5 no. dwellings (3 no. 3-bed and 2 no. 4-bed)**

As originally constructed, with terraced rear gardens, we (and the occupants of the four other properties) enjoyed the degree of privacy as stated below (Delegated Officer's Report 4/3/2009):

> ***Residential Amenity***
>
> **The proposal as designed will not unduly impact on the privacy of the neighbouring houses. The side elevations feature two windows at first and second floor level serving stairwells only, and a further small ground floor window serving a wc/utility. This constitutes a reduction in the number of windows from that which currently exist and there will be no adverse overlooking as a result of this design.**

However, the construction of the decked area has reduced the height of the boundary fence in the garden of the property (184B) being constructed above the ground levels on which the height of the privacy fencing was originally based. It is now possible for anyone standing on the decked area to look directly into our private internal living space thereby invading our right to privacy. I believe that this is in contravention and is non-compliant with Adur and Worthing's Development Standard 3 which states that:

'alterations should not result in direct overlooking of rooms in neighbouring properties, nor excessive overlooking of garden areas,'

It is Excessively Large

> **Internally, the proposed houses will have access, garages and utility spaces on the ground floor, living quarters at first floor opening onto the embankment (garden), and three or four bedrooms above. The Council's Environmental**

With 184B already having a garage with additional space for the storage of two bicycles, why is such an additional and exceptionally-large external decked and storage area required? A copy of **'Condition No. 06'** of the Planning Permission (Letter: 10/3/2009 James Appleton/Beecham Moore Partnership) follows:

> 06. **No dwelling, hereby approved, shall be occupied until covered secure cycle parking spaces have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.**
>
> **Reason:** ***To provide alternative travel options to the use of the car in accordance with PPG 13 and DEV4 of the West Sussex Structure Plan.***

The Agent acting for Ms Killick has commented subjectively that: ***'the terraces were narrow and their use was ... very restrictive'***. Would Planning Permission have been granted for the original development of the rear gardens of the properties with such decked rear gardens and 'Storage Units'? If not then, why should it be any different now?

In fact, the 'Delegated Officer Report' written on 4/3/2009 contradicts the Agent's comments and states that the garden is 'well above the 65 sqm identified in the DC Standard' as follows:

> **To the rear the garden areas for the 4 bed semi detached pair are 82 and 89sqm which is less than the 100 square metres in the Council's DC Standard for houses of this size. However, it is no less than is afforded by the similar nearby developments and is considered acceptable. For the 3 bed terraced properties, the garden area is 80sqm for the end units (well above the 65sqm identified in the DC Standard) but only 59sqm for the mid terrace dwelling. However, this is only just below the 65sqm identified in the above DC standard and is considered acceptable.**

Why is such an excessively large decked area required when the size of the original garden area was known at the time that the property was purchased and is (objectively and professionally) deemed to be 15 sqm larger than the Council's minimum Standard? This is especially relevant when the gardens of the other four properties in the development are deemed to be adequate by their owners despite those of 186 and 186A are 18 sqm and 11 sqm, and 184A is 6 sqm less than the Council's minimum Standard stated in the same paragraph of the 'Delegated Officer Report'?

Overshadowing and loss of light

A degree of loss of light has already been experienced by virtue of the storage area being constructed. However were additional fencing to be erected above the original boundary fence then this would have a far greater impact on our amenity space, especially as it would appear, from only one the plans, to extend to the edge of the Lagoon.

The fencing which exists at present is 2860mm in height above our concrete landing, yet only 1100mm above the decked area. Originally it was 1800mm in height, thereby providing us with privacy. To increase the height by another 700mm, making it 3560mm in height, and extending it to the water's edge would mean that we would be in constant shadow on our lowest level. This is completely unacceptable to us as well as Lancing Parish Council (please see earlier reference). Increasing the height of the fence by less than 700mm would not provide the privacy that we enjoyed before the development occurred.

It is also worthwhile to note that whilst 'new screen fencing' is shown on Drawing 37-13-01A, no dimensions are provided. Why not? By not so-doing, *carte blanche* could be given to our neighbour to erect whatever height of fence that they desire, which is completely unacceptable also.

No reference is made to the proposed 'new screen fencing' in Drawing 37013-02A but illustrated in Drawing 37-13-01A. Is no 'new screen fence' to be erected adjacent to our property?

If there is to be 'no access to the storage roof' then why is 'new screen fencing', which would have a severe impact on our amenity space, as well as our 'right to light', required? The following image illustrates the situation (in mid-summer) and the shadow cast even before any (indeterminate and yet to be detailed) 'new screen fencing' is erected. This situation is far worse in mid-winter when we would lose sunlight far earlier.

To take a fence of an indeterminate height to the edge of the concrete landing is completely unacceptable to us. Even a fence that is 2860mm above the landing is unacceptable to us, let alone one that could be higher. We must be given the opportunity to comment when the actual height of the 'new screen fencing' is known. Why should we suffer?

The relevance of the use of 2860mm above our concrete landing (on which my wife is standing on the evening of June 9th 2013 in the image below) is that 2860mm is the current height of the boundary fence above the concrete landing, although it is only 1100mm in height above the newly-decked area.



The 'Berlin Wall' was only 3600mm in height, before it was demolished, yet a fence of indeterminate height (according to the submitted drawings) could create a similar situation adjacent to our property.



The above image was taken on the evening of Sunday, June 9th 2013 after the development had been completed (including the storage area) and illustrates the inaccuracy of the Agent's comments and drawings which have been submitted.



The above (same) image illustrates the effect that by simply extending the existing fence (which is 1100mm above the decked surface) would have, thereby creating a fence that is 2860mm in height, which is a mere 740mm lower than the Berlin Wall.

By permitting such a development, despite inadequate knowledge of the proposed height of the 'new screen fencing' it would not only affect the two adjacent properties (184A and 186) but also 184 and 186A. Furthermore, it would also affect other properties on both sides of the development. How can a decision of such importance be taken without the owners of these properties being denied the opportunity to pass comment bearing in mind the devastating effect that it would have on their residential amenity?

The development, as it currently stands, has already been criticised by Lancing Parish Council as being ***'....oversized and out of character with the other gardens fronting onto the Widewater Lagoon ....'*** and yet the applicant is wanting to increase its size yet again in this revised submission.

How can anyone make a objective and reasoned decision, or how can I pass comment on critical aspects of the development when incomplete details and inaccurate drawings have been provided? Everyone needs to know precisely what impact the proposed development will have on all of the aspects to which I have referred.

Does the comment ***'No Access to Storage Roof'*** also preclude its use for other purposes such as the placing of planter tubs and dog kennels on it. Does it also mean that Ralph (the dog) who barks continuously at anything that moves from his 'high-point' on the decked area, would be denied access also?



My reason for asking is illustrated in the opposite image, where his unsecured dog kennel blew off the decking and onto our lower concrete landing causing damage to our property. Had my wife, I, our children or our grandchildren been on the landing at the time then it would/could have caused severe injury or even, in the case of our grandchildren, death.

Adverse impact on the Widewater Lagoon Nature Reserve

The decked area is excessively large and out of character with the Widewater Lagoon, which is a Local Nature Reserve as well as being a West Sussex (County Council) Site of Nature Conservation Importance. Inappropriate developments which are out of keeping with such protected areas should not be permitted and I believe that my view is supported by the following statement: This is not only our opinion but that of the lessee, Lancing Parish Council (please see copy of their comment).

In 1991 Lancing Parish Council purchased the lagoon and agreed that action needed to be taken to restore it - primarily because of its importance for nature conservation. At the same time it was hoped that its value as a public amenity (in terms of its general appearance and condition) could be enhanced. For this reason, in 1993 a management plan for the site was commissioned, with funding provided by Adur District Council, West Sussex County Council, Natural England and the National Rivers Authority (Now the Environment Agency). **(Source: Introduction to Management Plan - Lancing Parish Council 2009-2014).**

Restrictive Covenants Agreed by All Purchasers of the Properties in the Development

On completing the purchase of the properties in the development, all purchasers agreed:

- ***Not to cause permit or suffer to be done in or upon the Property anything which may be or become a nuisance annoyance danger or detriment to the Retained Land or any part thereof***

We believe that an excessively-large decked area and dog kennel on the storage area are a nuisance, annoyance and danger and contravene the above Covenant as they are a cause of nuisance, annoyance and detriment as well as being a proven danger to other occupiers of the Retained Land.

We trust that you will take all of our comments into consideration before making a decision and also request that accurate drawings and comments are submitted for further consideration by the Agent acting on behalf of Ms Killick before a final decision is taken on this matter, whilst still giving us adequate time for our right to respond.

In conclusion, we can confirm **that we would have no objection whatsoever to a revised scheme with decked areas that respect the natural lay-of-the-land along the Widewater Lagoon and those that exist in the rear gardens of the other properties in the development (184, 184A, 184B, 186 and 186A) as they were originally planned and constructed**; i.e. terraced decked areas, like every other terraced rear garden of every other property which has gardens backing onto the 1500 metre-long Widewater Lagoon, **but not the revised Application that has been submitted** and for the following reasons:

- **Lancing Parish Council has also objected to the development**
- **The development also contravenes Condition 13 of the Planning Permission granted in March 2009 (Letter: 10/3/2009 James Appleton/Beecham Moore Partnership)**
- **The Plans on which the decision will be based are inaccurate and give a false impression of an original situation which never existed.**
- **Loss of privacy and Overlooking our property**
- **Overshadowing and loss of light**
- **Adverse impact on the Widewater Lagoon Nature Reserve**
- **Contravention of Previously-Agreed Restrictive Covenants**

Finally, we believe that our above comments, in addition to those which have already been submitted, are relevant to the decision-taking process and that, if asked, the vast majority of the residents whose rear gardens back onto the Widewater Lagoon would object also to what could be deemed to be and described as a 'vanity project' with no concern for the local environment.

Yours faithfully,

David & Eve Baldwin.