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REBUTTAL APPEAL STATEMENT

Land to the South of 17-19 Victoria Road
Shoreham-by-Sea
West Sussex

For Mr & Mrs Abbott

LPA PLANNING REFERENCE: AWDM/0989/20

DECEMBER 28, 2020

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1. Introduction

1.1 This Rebuttal Statement is submitted on behalf of the Appellants, Mr and Mrs Abbott. It is in response to the Adur & Worthing Councils (the LPA;s) Appeal Statement concerning out client's proposal for a two-storey detached family dwelling (with landscaping) to land south of 17 to 19 Victoria Road, Shoreham-by-Sea, West Sussex (Application Number AWDM/0989/20, Appeal Reference APP/Y3805/W/20/3266076). We also comment on Third Party Representations.

2. Comments on the Local Planning Authority Appeal Statement

Appeal Site

2.1 The LPA fail to state that the site falls within built up area for Shoreham-by-sea. Appendix A to the Appellants Statement includes the Pre-App response provided by the LPA PREAPP/0437/19 dated 5 July 2019 clearly states *'The site lies within the built up area where development is generally allowed subject to compliance with other policies in the Local Plan.'*

2.2 For the purposes of clarity, the Pre-App response, Appendix A, also states that *'the land is unused and overgrown, but with some informal parking taking place.'* This is not the same as *'other than for the parking of cars.'* It is not a car park or designated parking area.

2.4 Under the heading 'Planning Assessment', sub heading 'Principle' of the Committee Report, the LPA confirm that the site is '*located within the built up area and can be supported in principle.'*

2.5 It is therefore common ground that the site is within the built up area of Shoreham-by-Sea.

Planning History

2.6 The LPA set out the planning history to the site stating it was the '*subject of several applications.* Several implies many but it is clear from the content of the Planning Committee report that there were 3 application planning applications that relates to this site – not several. The Design & Access Statement that accompanied the pre-apps and the application to which this appeal relates included a copy of the site plan and the decision notice for outline planning application SU/63/94 which was refused. It should be noted that this was an outline planning application and contained no detail, merely referring to a detached dwelling as the proposal. For clarity for the full Decision Notice and Site Plan are attached as Appendix 1 to this Rebuttal Statement. The LPA's Appeal Statement does not expand on this past case in its statement.

2.7 It should not go un-noted that the planning policy framework (NPPF) in place today seeks to significantly boost the supply of housing and supporting sustainable development. The policies applied in 1994 would not be applicable today and would be deemed out of date. In any event, the LPA's Appeal Statement indicates under 'Principle' that *'The proposal will increase the existing housing stock located within the built up area and can be supported in principle.'* This approach accords with s38(6) of the Planning and Compulsory Purchase Act 2004 and in accordance with the NPPF.

Relevant Planning Policy

2.8 We have provided a full appraisal of Development Plan Policies and the NPPF (2019) in Section 2 of our appeal statement so is not repeated here, other than to highlight that planning guidance in the NPPF is very clear that '*housing application should be considered in the context of the presumption on favour of sustainable development'* (Paragraph 49).

The Council's Case

2.9 It is noted that the report to Planning Committee carrying a recommendation to 'Approve'. As pointed out in our appeal statement, Members did not object to the principle of the development of the site for residential purposes, Throughout the entire process, including the two pre-applications, the Case Officer for the LPA supported the development of the site with a new dwelling. In respect of PREAPP/0437/19 (Appendix A) it is stated:

'I consider that a well designed house could be considered here in principle, but this is subject to being able to comfortably accommodate such a dwelling, in full compliance with internal and external space standards requirements.'

2.10 In PREAPP/0927/19 (Appendix A) that

'*The design is still contemporary and overtly different from the traditional, existing street scene of Victoria Road but it is considered to be an acceptable design which could work in this location in its reduced form.'*

2.11 With this support for a contemporary, overtly different design to the traditional dwellings in Victoria Road, the Appellants agent progressed revised plans for a contemporary dwelling which was welcomed by Officers. The officer's Committee report is very clear in its support for the contemporary dwelling indicating that:

'The proposed building will be very different in form and character to those opposite. Its position on the south side of the private road will also be unique. However, it is not considered that these are reasons in themselves to warrant a refusal of the application in principle. There are examples throughout the District of contemporary design sitting alongside more traditional forms of housing and such design can add visual interest and enhance an area.'

2.12 Based on the debate at the Committee meeting it was abundantly clear that members based their decision on *'design'* and as a *'reason to object to development'* contrary to the policy intent of the NPPF. The reference to innovative designs fitting and this is expanded in the next paragraph which asserts that siting, design, dorm and massing of the proposed building would not fit it with the overall form and layout of its surroundings and would not comply with the NPPF. This stance is in direct contradiction with the content of the Committee report that:

'It is acknowledged that it will introduce a form of building and use of materials not seen elsewhere in the street, but the development is not trying to replicate the style of the existing houses and it is not an extension or infill within an established line of houses. Instead it is a stand-alone development which, while opposite existing development, is able to be of a different design and form without harming the established character of the street overall.'

2.13 We share the views of the case officer as set out in the committee report and consider that both that assessment and position accept that new development does not need to replicate existing built form to 'fit in' (paragraph 131 of the NPPF). As explained in the officer's committee report, it is a stand-alone development that would not harm the established character of the street overall.

2.14 It is asserted in the LPA's appeal statement that the development '*would be seen as visually intrusive and anomalous in the street scene.*' The word '*anomalous*' is a strong word and effectively indicates that anything that is different from the norm as in that which currently exists would be resisted and in order to gain permission, must replicate the existing to *'fit in'*. As explained in our appeal statement, the Pre-App advice nor the Committee Report sought to

direct development toward replicating the existing dwellings opposite and along Victoria Road. A contemporary approach such as that to which this appeal relates was welcomed. It was also The fact that it is stand-alone site, it is clear that it could accommodate a complimentary, yet contemporary dwelling – an approach supported by officers. To *'fit in'* and as referred to the LPA's Appeal Statement, an amended application was lodged under reference AWDM/0989/20' which was also refused but provide no additional explanation that the dwelling was of a more traditional form and was presented to members with a recommendation for approval. We have not included the details of that application so as to avoid introducing new material or matters not previously raised. In fact the decision came after this appeal was lodged.

2.15 The views expressed in the LPA's Appeal Statement directly contradicts the advice provided at the pre-app stage and the content of the Committee Report. On the one hand it is made clear that the site is stand-alone and can accommodate a contemporary dwelling.

2.16 Contrary to the position adopted in the LPA's Appeal Statement, whilst opposite a small number of dwellings, it would not read as being intrusive or anomalous in this part of Victoria Road. It sits a sufficient distance away from the ground floor front bay of the house opposite at 8.7m and 9.7m from the main elevation. Also as the site is stand-alone, there is no prescription that it should follow the grain of development of the properties to the north, opposite and those fronting the main Victoria Road. The sense of a cramped feel in the street is refuted given that the appeal dwelling would only *'be glimpsed in views from the entrance to the cul-de-sac but will not have a significant street presence in the wider area.'* And opposed to being intrusive and anomalous, it would create visual interest when seen and a positive contrast to the semi-detached pairs of dwellings opposite. It should not therefore be rejected on the subjective approach by the Committee to contemporary design which is clearly acceptable.

2.17 Therefore, we concur with the content of the Committee Report that states:

'This is the equivalent of houses in West Street, for example where they face each other at a closer distance across the street. While introducing new development opposite the existing houses where there was previously none, it is not considered that the new dwelling would have a harmful visual impact.'

2.18 As explained in the Design & Access Statement, the dwelling has been designed to minimise and softened its presence in this part of Shoreham-by-Sea. It would be experienced and only seen in limited glimpses from the main entrance. The fact that a few dwellings would see the appeal dwelling, with a streetscene of between 8.7m and 9.7m, similar to the arrangement to those fronting the main Victoria Road, makes this development unacceptable.

Conclusion

2.19 The LPA's Appeal Statement states that the appeal dwelling would have a '*forward position, close to the road*' which is clearly does not. It would be set well back from the main Victoria Road and cannot be said to be in a forward position. It sits aside the access leading off the main Victoria Road and is not prominent in the streetscene. It is not a match the architectural style of the existing dwellings but complementary and meets the requirements of the NPPF in that it raises the design bar, making a positive contribution to this part of Shoreham-by-Sea and a bespoke response to an usual site with a stand-alone building. The content of the Committee Report, the DAS that accompanied the planning application and our Appeal Statement sets out a clear design justification for the appeal scheme.

2.20 The Agent who submitted the pre-apps clearly undertook detailed early engagement with the LPA having regard to the front-loading negotiations advocated by the NPPF. The scheme that made its way to formal submission was clearly a reduction of the scheme presented at the second pre-app. The Case Officer was clearly in support of the contemporary approach and a key driver in the direction of travel of the formal application to which this appeal relates.

2.21 During the assessment process where amendments or clarifications were required, the appropriate information/address was provided including up to the production of the committee report and presentations to Committee. Despite the various stages of detailed assessment and the advice/recommendations of officers, the Council members took the decision to refuse planning permission and as stated above, based on a subjective and myopic approach to design and the intent of the NPPF as well as their own adopted policies.

2.22 In terms of the planning balance the appellants take a different approach to conclusions set out in the LPA's Statement. We consider that a proposal to deliver this additional dwelling in a sustainable location, within the built up area, is a supportable small scale development accord with the national intent to deliver additional housing. This is particularly relevant given that Adur-Worthing, two conjoined Councils are restricted and constrained in their ability to provide additional housing in an area where they are needed and on a site which is capable of accommodating a stand-alone dwelling is supported by planning policy. This outweighs the benefits of keeping the area of land vacant

List of Conditions should Appeal be Allowed (Without Prejudice)

2.22 Should the appeal be allowed the appellant agrees the conditions suggested by the LPA.

3. Comments on the Third Party Representations

3.1 We have had regard to the letters received from residents. In the main they raise similar points to those already presented to the LPA and considered in the Committee Report and responded to by the Appellant in the presentation to Committee. we do not repeat the comments already made.

3.2 Two further comments have been submitted in direct response to this appeal. One letter represents 5 households (Nos. 19a, 17, 17a, 15 and 13) with one of those households submitting its own representation (No.19a).

Victoria Road is a narrow private turning and will make turning and manoeuvring vehicles in this narrow road difficult and dangerous: The Highways Authority raised no objection. One objector in the same letter of objection actual states that this is a private road (M & B Sweatman)

Parking issues: The Highways Authority raised no objection

Issues arising during construction of the building and damage to the private road: The Highways Authority raised no objection. A Construction Management Plan can be secured by condition. The road is private and whilst a civil matter, it would be for the appointed Inspector to ascertain if a suitably worded condition could be attached should this appeal be allowed.

Proposed structure is large and imposing: This is a two storey dwelling and as indicated in the LPA's Committee Report, the height of the dwelling is 7m at its highest point at the end of the

chamfered roof, dropping to 6.2m at the centre of the butterfly roof. Covered in previous comments and in the officer's committee report and addressed in the Appellants Appeal Statement as well in this rebuttal.

Loss of privacy and overlooking: The distance between the front of the existing dwellings at ground floor level being 8.7m and 9.7m to first floor level directly opposite is an acceptable street cross-section. This is an acceptable distance between dwellings in a built up area. It is also noted that this is not a front to front relationship so direct overlooking will not be an issue. Where concerns were raised, the scheme was revised to reduce the sense/perception of overlooking and a loss of privacy, which we contend is not unusual in an urban setting. Front gardens are not considered to be 'private' residential amenity space being on public display. Therefore dwellings with front gardens are not expected to have the same level of privacy. This position applies to Nos. 13 -19a.

Directly up against our side boundary line: Incorrect, it does not share a boundary with any dwelling. It is stand-alone.

It is a tall building: Incorrect. It is of two storeys and does not fall within the definition of a tall building.

Will be very close the opposite houses: Addressed above and referred to in the Committee Report noting that such distances can be found elsewhere.

Loss of natural light: Disagree. The existing dwellings are south facing. The sectional information, corrected to take account of the ground floor bays, would not result in the loss of natural light as the LPA Committee Report refers.

Impact on No.19 in terms of outlook and openness: The tenants of No.19 have written to the LPA indicating that they raise no objection. In any event, the drawings demonstrate that the distance between the existing and proposed dwelling would not be harmful and would not be an usual in this urban environment. These issues have been addressed in the LPA's Committee Report and our Appeal Statement.

The style being starkly contemporary, orientation is not at all in keeping with the other houses being visually prominent: This point has been addressed in the LPA's Committee Report and our Appeal Statement. The site can accommodate a stand-alone dwelling of a different design. The approach was supporting from the pre-app stages through to the Officer's Committee Report which and along with our appeal statement explains that good design and fitting in does not imply mimickery.

The artistic impressions by the architect do not show the rest of the houses on the road or just how close and how large this new build would be and walls on the north side of the road: The submitted drawings, including the corrected plan, provided sufficient details for the application to be validated and assessed. In addition to the drawings, a Design & Access Statement was submitted which provided more information than would ordinarily be provided for a single dwelling. The visiting Case Officer from the LPA would have noted the characteristics of the private road, the existing dwellings including the position of any walling. The appointed Inspector will be able to view the physicality's on site.

Fails to meet the provisions of Policy 15: Incorrect. Along with the content of the Office's Committee Report and our appeal statement, we have set out the reasons why this proposal is fully complaint with Policy 15. We contend that this stand-alone dwelling, of a contemporary

design would make a positive contribution to the character of this area, adding visual interest when glimpsed along the private lane.

The site has been described as a brownfield site: The site meets the definition of brownfield and this has not been disputed by the LPA.

Overdevelopment of such a small piece of land: This point has been addressed in the Committee Report and our appeal statement.

Second Application: Not the subject matter of this appeal.

A number of personal and other matters have been raised which are not deemed to be material considerations.

4. Conclusion

4.1 As set out, we consider that the principle of this development within the settlement boundary of Shoreham-by-Sea and in a sustainable location is appropriate in terms of its siting, scale, mass, form, external appearance and relationship with existing dwellings. It fully accords with the objectives of the development plan and government guidance which provides a presumption in favour of sustainable development and making the most efficient use of land. Further, that detailed matters pertinent to the proposals including those contained within the reasons for refusal together with technical matters previously agreed with the LPA and the Highways Authority including parking, transport and movement; trees and flood risk have all been appropriately considered and addressed.

4.2 The NPPF is very clear about the delivery of good design, early engagement and the fact that poor design should be refused without delay. The scheme does not represent poor design. It represents high quality design that is innovative, promotes sustainability and raises the standard of design to a site such as this and in an area where a positive contribution can be added to the character and appearance of the area. Therefore, we contend that as the design of this development accords with clear expectations in plan policies, design has erroneously been used in a subjective manner as a reason to resist this development.

4.3 Having regard to this and the previous statement we respectfully request that the appeal is allowed and that planning permission is granted.

Appendix A
SU/63/94 Decision Notice and Site Location Plan

ADUR DISTRICT COUNCIL

CIVIC CENTRE, HAM ROAD
SHOREHAM-BY-SEA
WEST SUSSEX BN43 6PR

TEL: (0273)455566

PLANNING REFUSAL

TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING GENERAL
DEVELOPMENT ORDER 1988 (AS AMENDED)

APPLICATION NUMBER **SU/63/94/TP**

Details of development

DETACHED DWELLING (OUTLINE)

Location of development to which application relates

OPPOSITE 17-19 VICTORIA ROAD
SHOREHAM BY SEA

REFUSAL

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they REFUSE to permit the application for the above development for the reasons specified on the attached Schedule.

Your copy of the application, determined as above, is returned herewith for your records

[redacted]

Director of Development Services

23/05/94

MRS D I BRIDGER
19 VICTORIA ROAD
SHOREHAM BY SEA
WEST SUSSEX

TP11

ADUR DISTRICT COUNCIL

CIVIC CENTRE, HAM ROAD
SHOREHAM-BY-SEA
WEST SUSSEX BN43 6PR

TEL: (0273)455566

PLANNING REFUSAL

TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING GENERAL
DEVELOPMENT ORDER 1988 (AS AMENDED)

APPLICATION NUMBER **SU/63/94/TP**

Schedule of Reasons

1 Having regard to the limited area of the site and its relationship to existing dwellings, the proposal constitutes overdevelopment of the site resulting in a deficient standard of residential amenity for the occupiers of the proposed dwelling, detriment to the amenities of nearby dwellings, and potential exacerbation of existing parking problems in the locality.

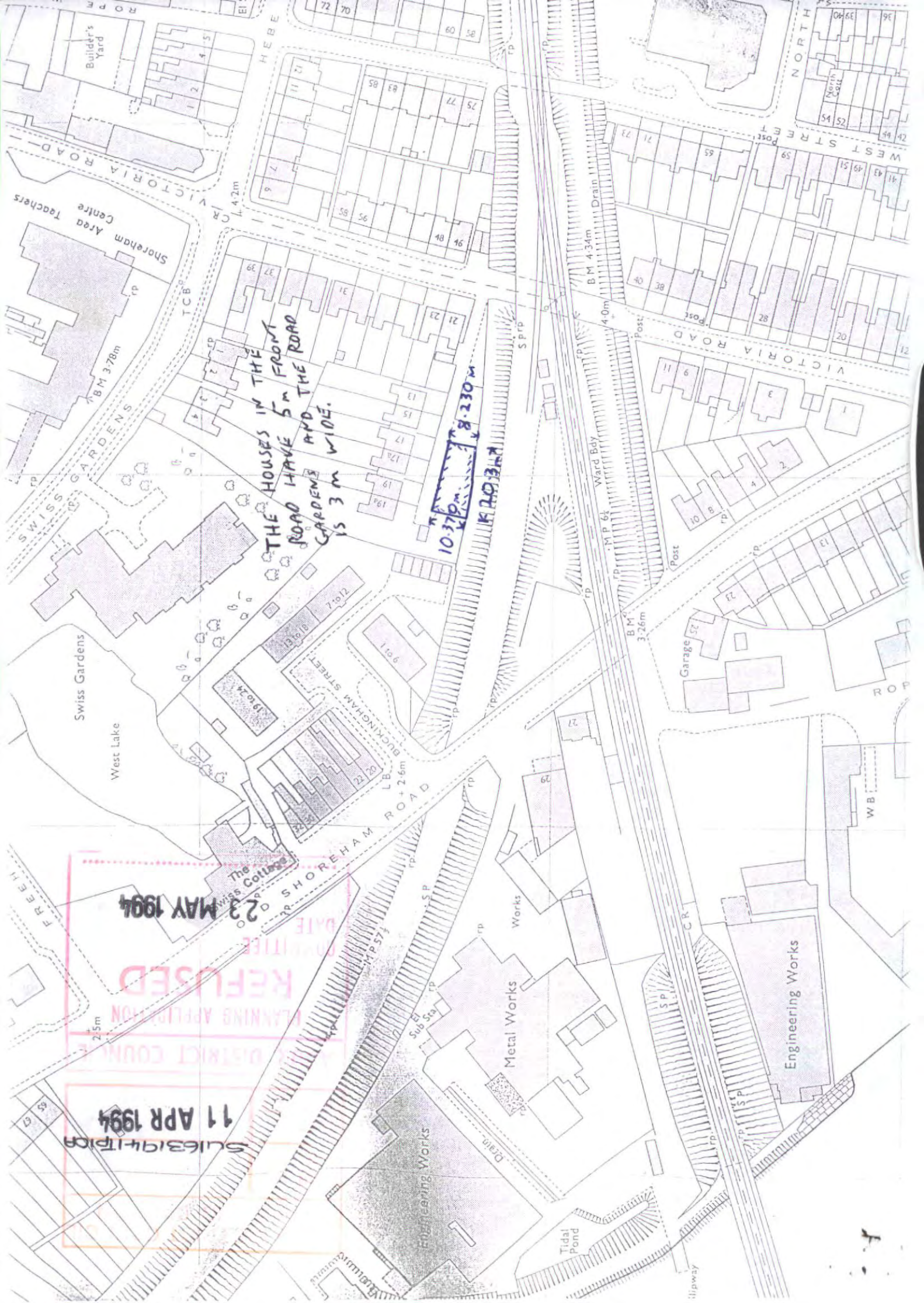
2 The increased use of the existing access to the public highway would add to the hazards of highway users to an unacceptable degree.

3 The access is inadequate to serve the proposed development by reason of its deficient width, poor construction, and limited visibility.

[redacted]

Director of Development Services

TP11S


THE HOUSES IN THE ROAD HAVE 5m FRONT GARDENS AND THE ROAD IS 3m WIDE.
10.370m
8.230m
K 20.3m
Builder's Yard
Shoreham Area Teachers Centre
VICTORIA ROAD
WEST STREET
SWISS GARDENS
Swiss Gardens
West Lake
BUCKINGHAM STREET
SHOREHAM ROAD
The Swiss Cottage
Metal Works
Engineering Works
Tidal Pond
Garage
Drain
Post
Works
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Sulé3194-1Tpica
11 APR 1994
23 MAY 1994
REFUSED
COMMITTEE DATE
PLANNING APPLICATION
DISTRICT COUNCIL