The Planning Inspectorate

# Appeal Decision

Site visit made on 8 November 2010

**by P W Clark MA MRTPI MCMI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 December 2010**

**Appeal Ref: APP/Y3805/A/10/2128518**
**Overstrand, Shopsdam Road, Lancing, West Sussex BN15 8ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Aidan Beckford against the decision of Adur District Council.
- The application Ref ADC/0098/10, dated 25 March 2010, was refused by notice dated 28 April 2010.
- The development proposed is to demolish the existing house and build 4№ new houses.

## Decision

1. I allow the appeal, and grant planning permission to demolish the existing house and build 4№ new houses at Overstrand, Shopsdam Road, Lancing, West Sussex BN15 8ES in accordance with the terms of the application, Ref ADC/0098/10, dated 25 March 2010, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1117-P-202B, 203B, 204B, 205B and 206B.

   3) The development hereby permitted shall not be occupied unless the finished floor levels AOD are constructed in accordance with details shown on submitted plan No 1117-P-203B. The area of the lower ground floor shall not be used for habitable purposes at any time.

   4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No 1117-P-203B for eight cars to be parked, for cycles to be stored and for vehicles to turn so that they may enter and leave the site in forward gear. These facilities shall be kept available thereafter for their intended purpose.

   5) No development shall take place until details of surface and foul water drainage have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the drainage facilities have been installed, tested and certified as fit for purpose.

   6) Notwithstanding the indications shown on the approved drawings, no development shall take place until details of the arrangements to secure at least 10% of the energy requirements of the development from decentralised and renewable or low carbon energy sources (as described

in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The arrangements shall be retained as operational thereafter as approved.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, sheds or outbuildings other than those expressly authorised by this permission shall be constructed, nor shall any additional or modified window or door openings be constructed.

8) The sedum roof area of the house Nº1 hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

9) Before the first occupation of the buildings hereby permitted the windows in the side elevations of houses Nºs 1, 2 and 3 shall be fitted with obscured glass and shall be permanently retained in that condition.

10) Notwithstanding the indications shown on the approved drawings, no development shall take place until details of the privacy screens to be fitted to the first floor balconies have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The privacy screens shall be retained thereafter as approved.

11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

i) the parking of vehicles of site operatives and visitors
ii) loading and unloading of plant and materials
iii) storage of plant and materials used in constructing the development
iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
v) wheel washing facilities
vi) measures to control the emission of dust and dirt during construction
vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

**Procedural matter**

2. An undated but signed draft of a unilateral undertaking is submitted. It would provide for a payment of money towards sustainable transport improvements in the area. Although the figure has been calculated by reference to West Sussex County Council's supplementary planning guidance and so would be proportionate to the development proposed, the site is well located in relation to both public transport and cycle routes. There is no evidence to indicate that the development would give rise to harm requiring mitigation by the payment, nor any evidence to demonstrate that the County Council has a specific proposal to spend the contribution on a project which would mitigate any such

harm. I cannot be satisfied that the undertaking would meet the requirements of the Community Infrastructure Levy Regulations, even if it were dated, and so I take no account of it.

**Main Issues**

3. There are four. They are the effect of the proposal, firstly on the character and appearance of the area, secondly on highway safety, thirdly on the living conditions of neighbours and fourthly, on the living conditions of potential future occupants.

**Reasons**

*Character and appearance*

4. Shopsdam Road occupies a narrow spit of land, higher than the coastal floodplain on either side, projecting towards the sea. It is developed mostly on one side of the road with buildings up to the back edge of the highway, forming an almost continuous terrace. They appear as single storey buildings with a variety of roof forms fronting the road but most have lower floors on the elevations away from the road. On the other side of the road, where there is less developable land, platforms on which to park cars have been created. At the end of the road, opposite the site, is a sailing club building. It is a modern building, partly two, partly three storeys high, rendered and painted white, with a roof comprising two monopitches, forming a striking but isolated landmark.

5. Because this site does not include much of the lower lying floodplain land to the west, a formal calculation of the resulting density would produce a high figure. Except for the site of this appeal, all higher land is intensively developed, so the intensity of development proposed, which would extend the continuous line of development on the western side of the road to its end, would not be out of character.

6. In contrast to its more landward neighbours but in order to keep living accommodation above any flood level, the development would have a first floor of accommodation above street level, rather than below it. However, this, and the style of architecture chosen, would relate well to the height and style of the sailing club building.

7. I conclude that the proposal would cause no harm to the character and appearance of the area. It would respect the natural features of the site and would be in keeping with the existing local environment in the way sought by policy AH2 of the Adur District Local Plan April 1996 and the similar objectives of the South East Plan policies CC6 and BE1. It would be within the built-up area boundary shown on the proposals map and so would also comply with Local Plan policy AG1.

*Highway safety*

8. Shopsdam Road is unmade and lacks footways. In modern parlance, it is a shared surface street. Although narrow in parts, cars can pass for much of its length. It is straight, so there is visibility through its more restricted areas. Paragraph 7.2.14 of the government's *Manual for Streets* (MfS) advises that shared surface streets are likely to work well in short lengths or where they form cul-de-sacs, where the volume of motor traffic is below 100 vehicles per hour at peak times and where parking is controlled or takes place in designated

areas. It also advises, in paragraph 7.2.15, that surface construction can help reduce traffic speeds in shared surface streets, which the unmade character of Shopsdam Road would do.

9. The street is a cul-de-sac. I have no information to suggest that, even with the movements to and from the Sailing Club's dinghy park, traffic would exceed 100 vehicles per hour at peak times. Parking is uncontrolled but the development would provide enough off-street parking to serve its own needs, which can be required by conditions 4 and 11, so there would be no need for the residents of this development, any more than any other resident of the road, to park on street. In comparison with the volume of traffic created by the Sailing Club, the additional traffic which would result from this development would be small.

10. The access to the parking area would, in effect, provide a useful turning head at the end of the street, which it presently lacks. The opportunity could also be taken, as shown on the application drawing, to lower the height of the boundary wall adjacent to the coastal bicycle path and so improve safety sightlines. Condition (2) requires compliance with the approved drawings and so would ensure provision of this feature. I conclude that the overall effect of the proposal would cause no unacceptable harm to highway safety. The Council does not refer me to any Local Plan policy relevant to this issue but I am provided with a copy of South East Plan policy T1(vi) which seeks measures to reduce the overall number of road casualties, which these two elements of the proposal would assist.

*Living conditions of neighbours*

11. Proposed house number 1 would have a deeper plan at street level than the Old Lifeboat House which would be its neighbour. At this level it would be one storey higher. For half of its width, it would project a single storey deeper still but on the side away from Old Lifeboat House. The space separating the two properties, combined with the depth of the projections, would mean that the "45 degree rule of thumb" test described in paragraph 2.12 of the Council's Development Control Standard №2 *Space around new dwellings and flats* would be met. This test is intended to measure effects on both light and outlook. It is measured from the edge of the window nearest the proposed development and so is a more demanding test than the more commonly used Building Research Establishment test for daylight which uses a 45 degree line taken from the centre of the window nearest the proposed development.

12. Houses 2 and 3 would have terraces to their rear, on the roof of the basement level car park. So as to avoid the necessity of boundary screening which would interrupt the outlook from the Old Lifeboat House, it is intended that the equivalent to number 1 would not be used as a terrace but would be planted with sedum and provided with no access from the house. As the neighbour's agent suggests, this could be secured by conditions (7 & 8). The further rear projection of house number 1 would be used as a balcony. As noted above, its effect on the daylight and outlook of the Old Lifeboat House would be acceptable. From the balcony, the angle of view would be so acute that I doubt it would be possible to see much of the interior of Old Lifeboat House but it could lead to a loss of privacy to that property's upper floor terrace unless a privacy screen is provided, which can be secured by condition (10).

13. With those conditions in place, I conclude that the effect of the proposal on the light to and outlook from the Old Lifeboat House would be acceptable. The

proposal would comply with Adur District Local Plan 1996 policy AH2(c) which requires respect for privacy, daylight, sunlight and outlook and therefore also with policy AG1 which would allow development subject to other policies in the plan.

*Living conditions of potential future occupants*

14. Although house number 4 would be provided with sufficient outdoor amenity space (largely in the form of a roof garden) to meet the quantity suggested in the Council's Development Control Standard Nº2, that would not be true of the other three houses proposed. House number 1 would have a small but usable garden at lower ground level. Houses 2 and 3 would have only their terraces and balconies, amounting in total to a little less than half the quantity sought by the Council.

15. Compensating for the lack of quantity would be the quality of the space provided, in an elevated position with a fine view of the coastline to the west, together with the location of the development in which the public open space of the beach itself would be only a few yards away. I conclude that, in the particular circumstances of this case, little harm would result from a failure to comply with the part of Local Plan policy AH2(d) which requires an adequate standard of open amenity space.

*Conditions and other matters*

16. As the Council notes in its officer's report on this application, the site lies partly within flood risk zone 3A in which there is a high probability of flooding from the sea. It would fail the sequential test required by the government's Planning Policy Statement 25 *Development and Flood Risk* (PPS25) for the allocation of sites for development but, for the most part it is not a new site for development; most of the footprint of the four houses proposed would lie within the footprint of the existing house on site. It would therefore pass the exception test set in PPS25 in that it would mostly be on developable previously-developed land. Both the Council and the Environment Agency have been provided with a Flood Risk Assessment. They both accept that there is no objection to the development on flood risk grounds provided that a condition (3) requires the finished floor level of any habitable room to be set 6.1m AOD.

17. Part of the footprint of the four houses proposed would lie on garden land outside the footprint of the existing dwelling on site and so, following a change in government policy set out in Planning Policy Statement 3 *Housing* in June 2010, is defined as previously undeveloped land. This means that it is not in the highest priority of land to be chosen for development. The Council considers that this adds a great deal of weight to its reasons for refusal. However, a subsequent decision taken by the Council demonstrates that its concern is not that the land should remain undeveloped but with the intensity of its development. Having given full consideration to the Council's concerns, I find that little or no harm would result from any of them and that, in three instances out of four, its concerns are not supported by its policies. Because the proposal largely accords with the development plan, I allow the appeal.

18. Council officers recommended approval with 19 conditions. I have considered these in the light of government advice contained in Circular 11/95, *the Use of Conditions in Planning Permissions,* preferring its model conditions where appropriate. I have not required details of materials, walls or fences; these are specified on the approved drawings. Condition (2) requires the development to

be carried out in accordance with the drawings. Nor have I required a landscaping scheme for what would, in essence, be individual private gardens in which there would be little public interest. Nor would it be necessary to require the demolition of the existing house prior to development, since the car parking (provision of which would be essential and required by condition 4) could not be provided without its demolition. Although a condition to require a soil contamination investigation and remediation strategy has been requested, there is no evidence to suggest that the previous use of the site, which was residential, warrants such a condition.

19. Because the site would be intensively developed, with a precisely calculated relationship with its neighbour, I remove permitted development rights for extensions, sheds and outbuildings, in addition to any door providing access to the sedum roof of house number 1, and have required obscured glazing in side elevations and details of the privacy screens proposed (conditions 7 & 9). I have not required details of waste storage since the drawings show each house to be provided with an outdoor store and/or a shed which would be adequate for the purpose. Details of drainage are not shown and would need to be provided (condition 5). Details of energy saving and renewables, including any noise characteristics of any turbines are sketchy and need to be provided (condition 6).

*P. W. Clark*

Inspector