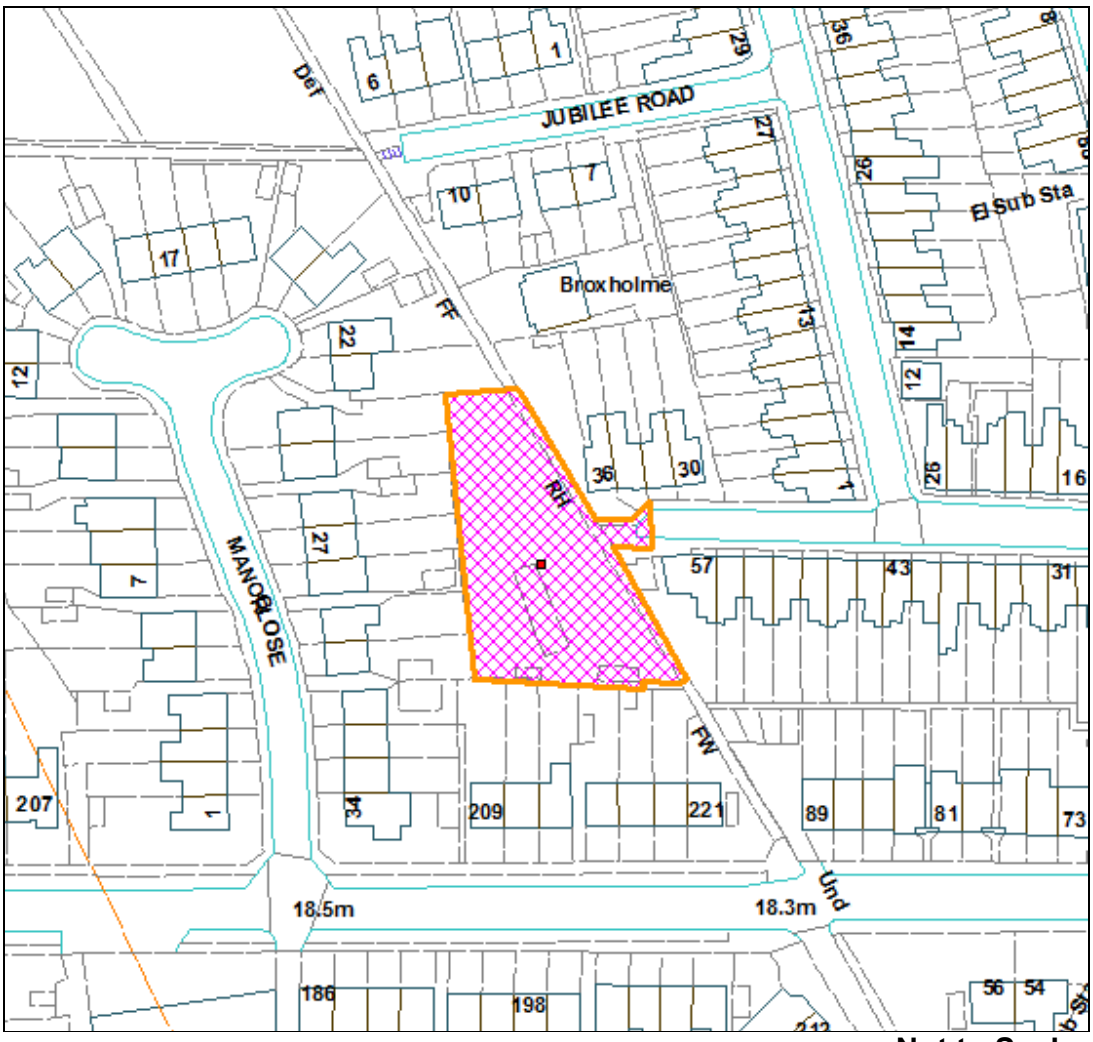
Application Number: AWDM/0756/18 **Recommendation – APPROVE**

Site: **Land East Of 24 To 30 Manor Close, Gardener Street, Portslade**

Proposal: **Proposed 4no. three bedroom two storey detached dwellings including new access from Gardener Street and alterations to public footpath (Former Manor Hall Nursery).**

Applicant: Mr Andrew Maxwell Ward: Eastbrook
Case Officer: Peter Barnett



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This application was deferred at the last meeting to allow members to visit the site prior to this meeting and seek comments from the East Sussex Fire and Rescue Service to clarify whether emergency access can be adequately achieved. At the time of writing, no response had been received from the Fire and Rescue Service and therefore any comments will be reported verbally at the meeting.

The agent acting on behalf of the applicant has written a letter to all Members clarifying some of the points raised by them at the last meeting. The letter is summarised below:

"*Highways*
As noted by Members of the Planning Committee a previous application for residential development on the site was refused. One of the grounds for refusal related to the provision of substandard vehicular access to the site. This situation is completely transformed since the current applicant is in the unique position of owning 57 Gardener Street, and associated land adjacent to the application site.

Having control of this land allows, through the use of part of the frontage of 57 Gardner Street, for the creation of a suitably designed vehicular access to the site. The accompanying Transport Report submitted in support of the application, and subsequent proviso of additional details confirms that the proposed access is acceptable in design terms and ensures that pedestrian safety is not compromised.

Given the location of the site, crossing three administerial boundaries, the application has been independently assessed by each of the separate Highways Authorities. Following the provision of further details no objection has been raised by any of the Authorities' to the proposed access and footpath reconfiguration. The Highways Authorities have retained control over the final detailed design requiring the provision of full details for their approval as secured by proposed Condition 8 within the officer's report.

The current scheme proposes the provision of two parking spaces per residential unit, along with cycle parking facilities. This is a higher provision than any other home in the area, and seeks to ensure that there are no impacts upon existing on-street parking conditions.

Further concern was raised relating to the potential for existing on-street parking conditions to restrict access to the site by both refuse and emergency vehicles. The proposed layout including turning head has been subject to swept path analysis confirming that Refuse vehicles, which have a larger kerb to kerb turning radius than fire engines, can access and egress the site in a forward gear. This is a significant improvement upon existing highway conditions and safety as this would not currently be possible.

In the event that any further concerns are raised regarding access to the site by the fire service, in such circumstances current Buildings Regulations requires each residential property to be fitted with an appropriate fire suppression system.

We think that it is important to highlight that the re-profiling of land required to provide a compliant vehicular access, along with the proposed new footpath across the frontage

of 57 Gardener Street has the additional benefit of improving pedestrian links and access to the existing public right of way. At present residents of Gardener Street and the surrounding area are only able to access the public right of way by the use of the existing steps. The provision of a ramped access in lieu of the steps allows improved access for members of the public with restricted mobility, parents with infants, and elderly residents.

Neighbouring amenity
The site layout has been designed cognisant of the requirements detailed within supplementary planning guidance 'Space around new dwellings and flats'. The officer's report confirms that the required garden depths and subsequent separation distances between buildings are in accordance with the guidance.

There is a single separation distance which is marginally below the required distance of 28m, between facing elevations of a 3-storey building and a 2-storey building. The scheme has been designed with the proposed elevations set at an oblique angle to existing properties. This ensures that none of the proposed windows are positioned directly in line with existing windows of the properties fronting onto Manor Hall Road. The oblique angle of the facing elevations further reduces any potential opportunity for inter-looking to occur between respective occupiers.

Some Members of the Committee were concerned about the potential impact on neighbouring amenity resulting from the future use of householder Permitted Development rights. Condition 15 as proposed will remove general permitted rights which residential dwellings ordinarily benefit from. Condition 16 also seeks to protect neighbouring amenity by ensuring that no additional windows are inserted into the West elevation of plot 4. The removal of these PD rights therefore requires a planning application to be submitted for any future alterations and extensions to the properties. These applications would then be subject to standard procedure whereby the impact on neighbouring amenity will be assessed accordingly.

Ecology
The Application is supported by a Preliminary Ecological Appraisal and a Phase 2 Reptiles Survey. The report confirms the presence of slow worms at the site. Mitigation for which is also detailed within the Survey, the final details which have been secured through the proposed imposition of Conditions 3 & 4. The proposed conditions also require the submission of a scheme to enhance biodiversity at the site.

We trust that this note has provided a greater understanding and further clarity to the proposal, and the unique opportunity which exists to open up this previously landlocked site providing 4no additional family dwellings within Adur & Worthing."

The remainder of the report is as appeared on the December agenda

Proposal, Site and Surroundings

The site is a triangular shaped parcel of land which is a former nursery (now overgrown and disused) to the rear of houses located at Manor Hall Road to the south, Manor

Close to the west and north and adjacent to a public footpath which runs along the boundary with Brighton and Hove to the east. The surrounding area is predominantly residential and there is currently no vehicular access to the site.

The application proposes to erect 4no. detached two storey houses, each with three bedrooms. Three of the houses will be at the southern end of the site, which is wider than the northern end, and they will be in a staggered line. The fourth dwelling will be located at the northern end of the site. Each house will have two parking spaces.

Vehicular access is proposed to be created from Gardener Street to the east of the site, within Brighton and Hove. Gardener Street is at a significantly lower level than the site and is currently a cul de sac. There are steps leading up to the footpath and the proposal will involve re-grading the existing footpath and extending the road up and across the footpath into the site.

Relevant Planning History

SW/85/05/TP - 6 flats & one house with 9 parking spaces & turning area accessed off Gardener Street (Outline with Siting & Access Details) – refused for the following reasons:

1. The proposed access is inadequate to serve the proposed development by reason of its inadequate width and lack of suitable provision for pedestrians using the existing public right of way, and would lead to detriment to highway safety contrary to policies AT12 of the Adur District Local Plan and DEV4 of the West Sussex Structure Plan

2. The proposed block of flats, by reason of its size combined with the difference in ground levels, would be overbearing and detrimental to the residential amenities of the adjoining property to the east, thereby conflicting with policies AH2 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.

Consultations

West Sussex County Council: The ***Highways*** Officer has made the following comments:

The site straddles the West Sussex/Brighton and Hove boundary. As a result, the internal arrangement (the dwellings, with associated parking and turning) and the public right of way 14So are entirely within West Sussex. Vehicular access is via Gardener Street which is within B&H. The vehicular access and proposed raised table is partly within both authorities. The majority of the access would though appear to be in B&H. It's suggested that the views of B&H should take precedence in respects of the design.

For the purposes of this response, WSCC Highways can comment only on those aspects within the County boundary. The Local Planning Authority should consult separately Brighton and Hove (for highway matters) and the WSCC Rights of Way team (regarding the changes to the public right of way).

The application is supported by way of a transport report. This considers the anticipated highways and transport issues associated with the development.

With regards to the vehicular access, notwithstanding the above comments, the proposed speed hump would seemingly serve little purpose (it would also potential constitute a traffic calming feature and require advertising under the Road Hump Regulations) given the likely flow and speed of traffic. It's considered that this feature would be altered so as to create more of a ramp onto the shared surface rather than simply an isolated, singular feature. Inter-visibility between vehicles exiting the site and pedestrians using the public right of way would also need to be considered. This could simply involve the remove of the close board fence on the immediate approaches to the access.

In terms of the internal layout, the number of parking spaces has been designed to accord with the WSCC Parking Demand Calculator. No outputs from the PDC appear to be included in the application. It's recommended that these are forwarded and included as part of the application.

The layout incorporates a turning head. Gardener Road presently does not have such a facility. No indication is however given as to whether the turning head would be offered for adoption or retained privately. If the layout is kept private (which is assumed to be the case based upon the design of the proposed scheme), then turning head would have limited public benefit. Nevertheless, the swept path provided is for a 8.75 metre long refuse vehicle. Confirmation should be sought from B&H that this reflects the vehicle actually used. There is also the concern that the turning head may attract parking. Measures would be required to ensure this safeguarded for its intended purpose.

The ***Public Rights of Way*** Officer has made the following comments:

The existence of a Public Right of Way (PROW) is a material consideration. Should planning consent be granted, the impact of development upon the public use, enjoyment and amenity of the PROW must be considered by the planning authority.

Public Footpath 14So is recorded in West Sussex immediately adjacent to the boundary with Brighton & Hove City Council. This path runs within the applicant's site and, according to drawing 1216/02, is allowed for on its legally recorded alignment. Subject to the applicant not reducing the width from that currently available, it will not, therefore, be necessary to divert the footpath.

It is not clear exactly what works are intended to the footpath surface. The design and Access Statement refers to gradients being changed; this is detailed in the Transport Report, Appendix 5, which indicates gradients of 3% and 5% either side of the site access road. Appendix 5 also indicates tactile paving to be introduced to the path surface. The applicant must submit, to West Sussex County Council (WSCC) as the highway authority, a drawing of all works intended to be undertaken on the footpath, including a specification of materials. No works to the footpath are permitted until consent is granted by WSCC, which is in addition to any consent by the planning authority.

Additionally, drawing 1216/02 suggests a handrail is to be installed immediately adjacent to the western side of the footpath (one of the labels incorrectly, I believe, suggests a handrail to be within the path width). A drawing/ specification of this handrail should be submitted also to WSCC.

Should the planning authority grant its consent for the proposal, the applicant should note the following in addition to the above:

1. Safe and convenient public access is to be available at all times across the full width of the PROW. Where it is necessary to undertake works within the legal width of a PROW, e.g. install utilities, the applicant must apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved and that a minimum of 8 weeks' is needed to consider an application.
2. Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.
3. Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.

The ***Ecologist*** comments that a Preliminary Ecological Appraisal (PEA) has been undertaken and a phase 2 reptile survey has been completed as recommended and a low population of slow worms has been recorded. The mitigation proposed includes translocation of the reptiles to a currently unknown location. Both the PEA and Reptile survey have undertaken following best practice guidelines. The PEA makes a number of recommendations for ecological enhancement.

There is no record of how the recommendations made in the ecological report will be taken forward and, as it stands, the development would result in loss of wildlife value at the site level. The lack of a reptile receptor site is an issue but not insurmountable. Accordingly, I recommend that minor pre-commencement conditions are sought seeking biodiversity improvements and a secured reptile receptor site.

Recommended conditions:

<u>Ecological enhancement</u>
Prior to the commencement of development or any preparatory works, an ecological enhancement scheme shall be submitted to the LPA for approval and will be based on the recommendations within the supporting Preliminary Ecological Appraisal. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

<u>Reptiles</u>
Prior to the commencement of works on-site a suitable receptor site for slow worms will be secured and prepared. Evidence of its existence and state of readiness will be

provided to the LPA and in accordance with the recommendations arising out of the Reptile Survey 2018. Following best practice guidelines, reptiles will be trapped and translocated from the development site under the supervision of a suitably experienced consultant ecologist. Receptor site treatment and all timings of works pertaining to the reptile mitigation shall be undertaken only in strict accordance with Reptile Mitigation Method Statement. A completion report shall be submitted to the LPA for approval.

Adur & Worthing Councils: The ***Environmental Health*** Officer advises that, given the size of the build and the proximity to the other property a construction management plan is required. This should cover, among other things, dust control, noise, deliveries, material storage, waste removal etc; during the construction phase of the development.

The ***Waste Services*** Officer comments that the developer is proposing that Brighton and Hove City Council make the collections from this address. Do we have confirmation that this is the case? I would like to know if there is a contractual obligation on their part and whether we would need to make some kind of recompense payment? It does seem to be a sensible approach so that we are not required to make a journey out of district just to service the bins, but I think it would need to be properly and legally binding so that our duty to collect waste is satisfied.

The ***Engineer*** advises that the site lies in flood zone 1 is unaffected by predicted surface water flooding and has no history of flooding.

The application states that the estate roads and parking areas will be block paved. This should be permeable, with a suitable drainage mattress beneath. The roof drainage is to be directed to soakaways.

Therefore the applicant needs to assess if the use of soakaways is viable on this site. The proposed location for the soakaways for the roofs and the roads / hardstanding's will need to be more than 5m from existing or new structures, and there will need to be a soakage test undertaken at that location to ascertain if a soakaway will adequately empty. There appears from the drawings to be sufficient area to adequately site soakaways.

Therefore in this instance the only comments we wish to make at this time relates to the disposal of the surface water.

In the absence of any ground investigation details or detailed drainage details in support of the application although the applicant appears to have indicated his intention to utilize soakaways we request that should approval for this new build be granted it be conditional such that 'no development approved by this permission shall commence until full details for the disposal of surface water has been approved by the Planning Authority'

Soakage tests in accordance with DG 365 (2016) would be required to be undertaken on the proposed site to provide the data to ascertain the size of the soakaway required for the impermeable areas.

Full design calculations should be provided for the soakaway soakage test result, and the ensuing soakaway and permeable paving designs, along with the rainfall calculations with the additional rainfall quantities appropriate for climate changes, as required under planning policy.

The ***Planning Policy*** Officer advises that the site lies within the defined Built Up Area Boundary where there is a presumption in favour of development.

The Adur Local Plan 2017 Policy 12: Southwick and Fishersgate requires proposed development to accord with the "Former Eastbrook Allotments Development Brief."

The Development Brief includes three sites and identifies potential alternative uses/development opportunities for each. For the Manor Hall Nursery site, it acknowledges that appropriate uses are limited as there is no vehicular access and proposes open space or a small scale community use. It did not preclude the suitability of the site for residential use.

The Adur Strategic Housing Land Availability Assessment has assessed the suitability of this site for residential development and concluded:

"it is considered that the site is suitable for residential development providing that a satisfactory access can be agreed with Brighton & Hove City Council and the conflict with users of the public footpath is overcome to the satisfaction of West Sussex County Council."

Although the proposed development is not strictly in accordance with the Development Brief, subject to the provision of a satisfactory vehicular access, the site is considered suitable for residential development and there is no policy objection to this application.

Brighton and Hove City Council (Highway Authority): Comments as follows:

<u>Pedestrian and Vehicle Access</u>
Access to the site is proposed via Gardener Street within Brighton & Hove. This would be extended into the site to serve proposed parking bays and create a turning head.

This would cross a Public Right of Way (PRoW) which runs north-south along the Brighton & Hove and Adur & Worthing boundary. However, it is within West Sussex and West Sussex County Council's (WSCC) PRoW team have provided a response to the application.

The applicant is proposing to lower the PRoW and create a crossing with tactile paving. Speed humps are also proposed to assist in lowering vehicle speeds on the approach to the footpath. There does however appear to be inconsistency between the submitted plans with Appendix 5 showing this as a single raised table level with the footway.
The design of any changes to the PRoW would need to be agreed with WSCC's PRoW team who it is noted have requested further details. However, the following observations are made by BHCC:

- As WSCC have pointed out, the proposal shown to locate speed humps on the public highway would require separate advertisement and permission. These are not considered necessary if the PRoW crossing is treated in such a way as to lower vehicle speeds.

- The footpath would have revised gradients of 1:30 (3%) on the southern side and 1:20 (5%) on the northern side whereas the footway from Gardener Street would have a gradient of 1:14 (7%). The applicant has clarified that this would be over a length of 13.5m which is greater than recommended in the Department for Transport's Inclusive Mobility. However, in this case it is recognised that the PRoW can currently only be accessed by a flight of steps and the creation of a ramp should therefore result in an overall improvement to accessibility.

- The PRoW is obscured from Gardener Street by vegetation and fencing on the northern and southern sides of Gardener Street. That to the south is within the applicant's ownership and could therefore be removed to address this issue. However, the fencing to the north is not and it is unclear how the applicant could provide adequate visibility for and of pedestrians using the PRoW. It is recommended that details of these works and their implementation be secured by condition.

The applicant has clarified that a segregated footway will be provided alongside the carriageway to connect with the PRoW. The proposed width of 1.5m is less than what the Highway Authority would typically seek; however, in this case it is recognised that it continues the existing footway on Gardener Street. Therefore, refusal on these grounds is not considered appropriate in this instance.

In order to provide inclusive access to the development, BHCC would prefer to see this footway extend into the site which there appears to be scope to do. However, this is not within the highway boundary or indeed within BHCC's boundary. Therefore, the design of this section should be subject to comments provided by WSCC.

The Transport Report indicates that the extended footway adjacent to number 57 would be offered for adoption by BHCC. This would be subject to further discussion should a satisfactory detailed design be achieved. However, the remainder of the site is not within Brighton & Hove and would not be adopted by BHCC.

Were the Local Planning Authority minded to approve the application, the Highway Authority would recommend that appropriate conditions are added to secure full details of the proposed highway design. It will also be necessary for this to include a scheme for the introduction of double yellow lines to ensure access to the site, including for refuse vehicles, is not obstructed (see servicing comments below). The double yellow lines would cover the western end of Gardener Street only where the site access is proposed.

<u>Car Parking</u>

Two car parking bays are provided for each of the proposed properties. It is noted that this is above the SPD14 maximum standard; however, it is not considered that it would result in a severe impact or warrant refusal under the NPPF in this instance. It is also noted that the site is within WSCC who have raised no objection on these grounds in their comments.

Any overspill parking demand would be on to streets for which BHCC is the Highway Authority. This area currently experiences high demand; however, it is considered that provision within the site will cater for expected additional demand and again not warrant refusal on these grounds. However, as noted in the delivery and servicing comments below, parking restrictions will be necessary to maintain access into the site.

Cycle Parking
The applicant is proposing sheds for each dwelling which would provide adequate cycle storage and meet the minimum required by SPD14. In the event that consent is granted, it is recommended that this be secured by condition.

Deliveries and Servicing
The applicant has submitted a vehicle swept path showing a refuse vehicle turning within the site. This appears to be constrained and would not be suitable were larger vehicles than 8.75m used. However, the applicant has stated that they have received confirmation that refuse will be collected by BHCC rather than Adur & Worthing and that this is the largest vehicle that would be used. It is recommended that this be clarified prior to determination.

Should this be acceptable, it is recommended that the proposed highway works include parking restrictions in the immediate vicinity of the proposed access. This could be secured through a highway works condition in the event that approval is granted; however, as noted above, the Highway Authority would recommend that a plan be provided prior to determination.

Trip Generation
It is not considered that the development would lead to a significant uplift in trip generation over the permitted use or be of a level which could be deemed to amount to a severe impact in this instance. Therefore, refusal on these grounds would not be considered to be warranted under the NPPF.

The proposed development would provide the benefit of level access to the PRoW from Gardener Street and no further contribution would be requested in this instance.

Recommendation:
The Highway Authority recommends that a revised highway works plan showing double yellow lines in the immediate vicinity of the site access be submitted prior to determination.

It is recommended that, should consent be granted, the following conditions be attached:

Boundary Works

Prior to commencement of the development hereby permitted, a scheme to lower the fence and planting to the north east of the site and bounding number 36/36A Gardener Street shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include layout plans, elevations, visibility splays and evidence of the agreement with landowners. The agreed scheme shall be implemented in full prior to commencement of development.

Reason: To ensure that safe and unobstructed access is provided to and from the development and for passing pedestrians, and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One. The pre-commencement condition is requested as the measures are essential to providing safe access to the site and the works will need to be agreed and implemented before construction can take place.

Off-site Highway Works
Prior to first occupation of the development hereby permitted, the proposed highway works to provide access to the site shall have been implemented. In addition, double yellow line restrictions at the end of the existing cul-de-sac on Gardener Street, to allow refuse vehicles to access the site unimpeded, shall have been installed.

Reason: To ensure that safe and unobstructed access is provided to and from the development, including for refuse vehicles, and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

Off-site Highway Works Informative
The applicant is advised to contact the Council's Streetworks team (permit.admin@brightonhove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition XX. The applicant will be responsible for all costs including the cost of preparing and advertising the Traffic Regulation Order for the double yellow lines.

Cycle Parking Implementation
The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy CP9 of the City Plan Part One.

Southern Water: Requests informatives relating to sewer connections

Representations

Original Plans:

24 objections received from the occupiers of 215, 221 Manor Hall Road, 23, 25 Manor Close 11, 16, 18, 21, 23, 27, 32, 36, 41, 51 (2 letters), 55 Gardener Street, 17, 21, 25, 31 Wolseley Road plus 3 unspecified addresses:

- Increased traffic and parking demand from overspill parking
- Gardener Street is heavily parked on both sides, unsuitable for construction or emergency vehicles
- Could cause subsidence
- Highway safety risk
- Risk to children who currently play in the street as it is a cul-de-sac
- Increased pollution, dust and noise
- Adverse impact on existing residents, community and local environment
- Footpath is a safe route from Old Shoreham Road to Manor Hall Road
- Construction work introduces a risk to pedestrians using footpath
- Loss of open space/land that could be used as allotments/playground/community use
- Contrary to Former Eastbrook Allotments Development Brief
- Loss of trees
- Loss of biodiversity – need for assessment
- Overdevelopment
- Overlooking of existing houses
- Overbearing, too close to rear boundary with Manor Close
- Loss of light to garden
- Unfair to prioritise rights of proposed residents of Adur over existing ones in Brighton & Hove.

Letter of objection received from Councillor Les Hamilton (Councillor South Portslade)

- Gardener Street houses have no garages or opportunities for off-street parking
- Parking in the area is very difficult
- Increased parking problems
- Access will introduce highway crossing over footpath
- Pedestrian safety concerns
- Considerable change in levels
- Gardener Street is subject to a weight limit and cannot accommodate large vehicles
- How will building material be transported into the site?
- Similar application refused previously. What has changed?

Petition of objection received from residents of Barnes Road, Gardener Street and Wolseley Road (56 signatures):

- Footpath is used by school children and as a route to train station. Allowing cars to cross the footpath will be a danger.
- Closure of footpath during construction works would be a major inconvenience
- Additional cars will worsen congestion in Gardener Street and surrounding area
- Previous applications have been rejected
- Adverse impact on wildlife

Letter of objection from residents of 24, 25, 26, 27, 28, 29 Manor Close

- Landlocked site and open space should remain as is
- Adur Waste vehicles would have to access Brighton and Hove roads to service the site
- Slow worms on site
- Need for solid brick wall as new boundary feature
- Unsuitable access road

Amended Plans:

7 further letters of objection received from the occupiers of 27, 32 Gardener Street (2 letters), 215 Manor Hall Road, 25 Manor Close and one unspecified address:

- Reiterating original objections
- Overdevelopment
- Loss of wildlife
- Loss of privacy
- Increased noise and disruption
- Increased traffic and congestion
- Overbearing

Letter of objection from residents of 24, 25, 26, 27, 28, 29, 30 Manor Close expressing concern about boundary security and wish to have high wall

Relevant Planning Policies and Guidance

Adur Local Plan 2017 policies 2, 3, 12, 15, 18, 20, 22, 28, 34, 34, 36
'Supplementary Planning Guidance' comprising: Development Management Standard No.1 'Space Around New Dwellings and Flats'
Eastbrook Allotments Development Brief (Oct 2015)
West Sussex Parking Standards and Transport Contributions Methodology (WSCC 2003)
West Sussex 'Guidance for Parking in New Residential Developments' and 'Residential Parking Demand Calculator' (WSCC 2010)
Brighton & Hove City Plan Part One (2016) Policy CP9 (sustainable transport)
Brighton and Hove Local Plan (2005) Policy TR7 (safe development)
National Planning Policy Framework (July 2018)
Technical Housing Standards – nationally described space standard (DCLG 2015)

Relevant Legislation

The Committee should consider the planning application in accordance with:
Section 70 of the Town and Country Planning Act 1990 (as amended) that provides the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

Principle

The application is proposing new housing within the built up area boundary and can be supported in principle. The main considerations are the impact on visual and residential amenities, vehicular access and the impact on the Public Right of Way.

The site is identified within the Eastbrook Allotments Development Brief for open space or small-scale community use. The Brief states:

"It is a former nursery (now overgrown and disused) to the rear of houses located at Manor Close and adjacent to a public footpath. The surrounding area is predominantly residential. There are structural remains of a greenhouse on site and there is evidence of fly tipping on the site, which has had a detrimental impact on the aesthetics of the surrounding area. There is no vehicular access to the site and its size will limit appropriate uses. However, there is an opportunity here to provide a small-scale community use which could serve development at both Site 1 and Site 2 and has therefore been included as part of the development brief. The site is privately owned and has been actively promoted by the owner.

A planning application was submitted in 2005 for six flats and one house (seven dwellings in total), but was refused at planning committee (reference: SW/85/05/TP/). Furthermore, the site has been considered as part of the Adur Strategic Housing Land Availability Assessment (SHLAA), however, it was rejected because the gross potential yield of the site was assessed to be below the study threshold of six dwellings (Reference ADC/071/13 – Manor Hall Nursery, Gardener Street, Portslade)."

The Brief did not consider that the site was suitable for housing primarily because it was not envisaged that vehicular access could be achieved. However, the site has come forward now because the applicant owns 57 Gardner Street and is therefore able to provide the land necessary to enable vehicular access.

The Planning Policy Officer has confirmed that, subject to the provision of a suitable vehicular access, the site is considered suitable for residential development and there is no objection to this application in principle.

Relevant Planning History

SW/85/05 - 6 Flats & One House with 9 Parking Spaces & Turning Area Accessed off Gardener Street (Outline with Siting & Access Details) – refused for the following reasons:

1. The proposed access is inadequate to serve the proposed development by reason of its inadequate width and lack of suitable provision for pedestrians, including for pedestrians using the existing public right of way, and would lead to

detriment to highway safety contrary to policies AT12 of the Adur District Local Plan and DEV4 of the West Sussex Structure Plan.

2. The proposed block of flats, by reason of its size combined with the difference in ground levels, would be overbearing and detrimental to the residential amenities of the adjoining property to the east, thereby conflicting with policies AH2 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan.

Density, character and appearance

The site is irregularly shaped and the proposed layout would differ from that in the surrounding area, which predominantly consists of semi-detached or terraced houses. The site has an area of 1.1ha and the construction of 4 houses would be a low density development which arguably does not represent the most efficient use of land. However, because of the constrained nature of the site, narrowing in width at its northern end and being surrounded by existing housing, a higher density is not considered to be appropriate here.

The proposed houses have a simple design with pitched tiled roofs, gable ends and porch canopies. Plots 2 and 4 have two storey gable projections at the front while Plots 1 and 3 have Juliet balconies at the front. They are to be rendered with brickwork elements, such as on the front projections and above windows.

The existing housing in Manor Close and Manor Hall Road has hipped roofs and the roof form will differ therefore. However, it is considered that the houses could be viewed as a stand-alone development or more associated as an extension to Gardener Street, and will not necessarily be seen in context with those houses behind.

Residential amenity – for proposed dwellings

The houses have a floor area of 98sqm which meets the national minimum standard for a 3 bed 5 person 2 storey house. Externally, Plots 1-3 have rear garden depths in excess of 11m (between 11.2m and 12.6m) and areas of between 77 and 91sqm. Plot 4 has a shorter rear garden of 7.4m but an overall area of over 100sqm. The Council's Standard for 3 bedroom dwellings is 85sqm and it is considered that the slight shortfall for Plots 1 and 2 is not sufficiently serious to warrant refusal.

The dwellings will enjoy reasonable garden areas and a good standard of internal accommodation. However, in view of the garden depths and areas it is considered reasonable to remove permitted development rights for future extensions as a large ground floor extension or outbuilding would significantly reduce the size of the gardens and bring the development closer to neighbours.

Residential amenity – effect on existing dwellings

The proposed dwellings have been laid out to minimise the impact on neighbouring occupiers. Plots 1-3 run along the southern end of the site and have a staggered layout reflecting the angle of the boundary with the rear of houses in Manor Hall Road. Distances from the rear of the proposed houses to the southern boundary vary from

11.26m to 12.62m with the distances to the rear of the houses in Manor Hall Road exceeding 22m, which is the usual minimum back-to-back distance sought between two storey houses. One of the dwellings in Manor Hall Road (213) has a rear dormer and separation distances will fall slightly short of the 28m specified in the Council's DM Standard for separation between 2 and 3 storey dwellings. However, the proposed houses will not directly face the rear of the houses in Manor Hall Road and the oblique angle of view will help to further mitigate any potential for overlooking.

To the west, dwellings in Manor Close will face onto the side of the development, specifically Plots 3 and 4. Plot 4 will be a distance of 23m from the rear of 25 Manor Close and 20m from the rear of No.26. These distances comfortably exceed the 14m rear to side measurement required by the DM Standard. The front of Plot 3 is angled to face across the rear gardens of the Manor Close properties but will not directly face towards the rear of those dwellings. There are no first floor windows in the west side elevation of Plot 3 and Plot 4 has two obscure glazed windows only.

The rear of Plot 4 will face across the rear garden of 23 Manor Close and will be only 7.4m from the boundary. There was some concern that this had the potential to be rather intrusive and the plans have subsequently been amended to remove all first floor windows from the rear elevation with the exception of an obscure glazed bathroom window.

The site is on higher ground than the houses in Gardener Street to the east but the site is separated by a public footpath and approximately 6m will separate Plot 1 from the side of the new dwelling under construction at the side of 57 Gardener Street. Plot 1 will not affect light or outlook from the new dwelling to the east, which will enjoy a southern aspect, and there are no side windows proposed for Plot 1.

Overall, the layout and design of the houses is considered to be acceptable in terms of the impact on existing residential occupiers.

Accessibility and parking

The application is supported by a Transport Report which sets out the access proposals. It states that the site is located at the end of Gardener Street, a Victorian terraced street which ends in a cul de sac. Gardener Street is at a lower level than the site (1.6m lower) and there is a public right of way (PROW) between the road and the site which forms the boundary between Brighton & Hove and Adur & Worthing Councils.

It is proposed to form a vehicular access by excavating material from the site and connecting it to the existing level of Gardener Street. The access will cut across the PROW which will itself be re-profiled. A new footway will be formed across the front of 57 Gardener Street (which is within the applicant's ownership) to connect with the PROW and which will replace the existing steps currently used to access the PROW. The access will have a gradient of 7% while the PROW will have gradients of 3% and 5% dropping down to the new crossover.

The new access has a deliberate pinch point and rumble strips to emphasise that the road serving the new housing is a shared space. There will be a turning space at the

side of Plot 4 to enable refuse vehicles and emergency services vehicles to enter and turn within the site without having to reverse along Gardener Street.

Two parking spaces are to be provided for each dwelling which is considered to be acceptable. The site is in a sustainable location, being close to Fishersgate Railway Station. A secure bicycle store is proposed for each dwelling.

Following comments received from Brighton & Hove Council, a Supplementary Technical Note was submitted to address their concerns regarding highway safety. The Note explains that construction traffic can be regulated by a Construction Management Plan which will be secured by condition. On street parking in Gardener Street and other streets in the locality is not anticipated to increase as a result of this development because sufficient parking will be available on site. The turning head within the development will improve safety and amenity by enabling large vehicles to turn rather than reverse along the street. Accessibility will be improved by replacing the steep steps with a ramped access. There is sufficient width available to accommodate a segregated footway.

For users of the footpath, a condition is to be imposed requiring full design details for the proposed lowering of the fence and hedge adjoining the lowered PROW to provide sufficient visibility. This will require the agreement of the adjoining landowner (36/36A Gardener Street).

Brighton & Hove Council has considered the application and is satisfied that there concerns have been addressed. They have recommended conditions to secure full details of the highway design.

West Sussex Rights of Way team also has no objection to the footpath works subject to details.

Ecology and biodiversity

The site consists of unmaintained grassland and a Preliminary Ecological Appraisal and Reptile Report have been submitted which confirm that slow worms are present. They will need to be translocated but a site has not been identified as yet. WSCC Ecologist has recommended that this be secured by condition.

Recommendation

APPROVE

Subject to Conditions:-

1. Approved Plans
2. Standard 3 year time limit
3. Prior to the commencement of development or any preparatory works, an ecological enhancement scheme shall be submitted to the LPA for approval and

will be based on the recommendations within the supporting Preliminary Ecological Appraisal. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

4. Prior to the commencement of works on-site a suitable receptor site for slow worms will be secured and prepared. Evidence of its existence and state of readiness will be provided to the LPA and in accordance with the recommendations arising out of the Reptile Survey 2018. Following best practice guidelines, reptiles will be trapped and translocated from the development site under the supervision of a suitably experienced consultant ecologist. Receptor site treatment and all timings of works pertaining to the reptile mitigation shall be undertaken only in strict accordance with Reptile Mitigation Method Statement. A completion report shall be submitted to the LPA for approval.
5. Prior to commencement of the development hereby permitted, a scheme to lower the fence and planting to the north east of the site and bounding number 36/36A Gardener Street shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include layout plans, elevations, visibility splays and evidence of the agreement with landowners. The agreed scheme shall be implemented in full prior to commencement of development.
6. Prior to first occupation of the development hereby permitted, the proposed highway works to provide access to the site shall have been implemented. In addition, double yellow line restrictions at the end of the existing cul-de-sac on Gardener Street, to allow refuse vehicles to access the site unimpeded, shall have been installed.
7. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
8. Prior to commencement of the development hereby permitted, details of all works intended to be undertaken on the footpath, including a specification of materials, shall be submitted and approved in writing by West Sussex County Council (WSCC) as the highway authority. The development shall be carried out in accordance with the approved details.
9. Surface water drainage details to be submitted and approved, including details of drainage to prevent flooding of public right of way
10. Construction Management Plan
11. Hours of construction
12. Materials
13. Hard and soft landscaping
14. Boundary treatment
15. Removal of PD
16. No additional windows in west elevation of Plot 4
17. Refuse storage to be provided in accordance with approved plans
18. Each dwelling shall be constructed and fitted out so that the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day.

Informatives:

1. The applicant is advised to contact the Council's Streetworks team (permit.admin@brightonhove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition XX. The applicant will be responsible for all costs including the cost of preparing and advertising the Traffic Regulation Order for the double yellow lines.

2. Safe and convenient public access shall be made available at all times across the full width of the PROW. Where it is necessary to undertake works within the legal width of the PROW, e.g. install utilities, the applicant must apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved and that a minimum of 8 weeks' is needed to consider an application.

3. Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.

4. Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.

5. Southern Water

6. Southern Water

7th January 2019