

PLANNING STATEMENT - ADDENDUM

JANUARY 2020

SITE: 77 ALDWICK ROAD, BOGNOR REGIS, WEST SUSSEX, PO21 2NW

PROJECT: PART CHANGE OF USE OF GROUND FLOOR & FORMATION OF A FIRST FLOOR REAR EXTENSION TO CREATE 2 NO SELF-CONTAINED STUDIO FLATS WITH ASSOCIATED REFUSE / RECYCLING & CYCLE STORE (RE-SUBMISSION FOLLOWING BR/233/19/PL)

CLIENT: MR SIMON ROYALL

LPA: ARUN DISTRICT COUNCIL

1.0 INTRODUCTION

- 1.1.1 This is an addendum to the planning statement that we prepared and submitted under the previous application (ref: BR/233/19/PL), which was refused planning permission on 19 December 2019. This application seeks planning approval for the same quantum and form of development, however it makes slight adjustments to compensate for the Local Planning Authority's perceived concerns as stated in their refusal reasons under the previous scheme.
- 1.1.2 As the adjustments to the refused scheme do not change the nature of the proposed development for which permission is sought, we have not provided a new planning statement but have updated the previous one through this addendum note. Officers will find our full planning statement from the previous application appended in **Appendix A**. This addendum report addresses the material changes in housing land supply and the amendments to the previous scheme determined under BR/233/19/PL.
- 1.1.3 Officers will be aware that the applicant has submitted a section 78 planning appeal against the decision of the Local Planning Authority to refuse application ref BR/233/19/PL. This appeal was received by the Planning Inspectorate on 28 January 2020, and has been assigned the case reference APP/C3810/W/20/3245777. For the reasons set out within the next section of this addendum, the grounds of appeal are highly material to this application. We have therefore included our full appeal statement in **Appendix B**.
- 1.1.4 We trust that the adjustments that have been made to the proposed development, together with the more than compelling case that we believe to have been made in our appeal submissions, provides the Local Planning Authority with a firm basis to now support the current proposal for the creation of 2no further apartments at 77 Aldwick Road.

2.0 THE REASONS FOR REFUSAL UNDER BR/233/19/PL

2.1.1 We have expended a considerable amount of time analysing the grounds for refusal under the previous application that was refused permission on BR/233/19/PL. Our appeal statement provides a table (Figure 1 of section 3.0) that sets out the exact wording of the reasons for refusal in both applications ref BR/63/18/PL and BR/233/19/PL. The same table also provides a column in which a differentiation is made between the two sets of refusal reasons. This essentially demonstrates that the grounds for refusal were unreasonably widened and made more numerous in the latter refusal of BR/233/19/PL.

2.1.2 In the same section of our appeal statement we have provided details of how there have been no material changes in planning policy to warrant such additional refusal reasons, and how the proposed scheme has only been reduced in height, size and scale and so as to be less harmful than the previously refused scheme (BR/63/18/PL). We have also included relevant case law by reference to the notable judgement of *Mann LJ in North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137*, and in the same we specifically refer officers to the following statement at paragraph 145 of the judgement:

“One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency [...]. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.”

2.1.3 The case for our client at appeal is essentially one of where the Local Planning Authority has issued a decision that is *ultra vires* by having not taken a consistent approach to the manner in which it determined two consecutive applications. Under the current submission, we would ask that the Local Planning Authority give careful thought to their case at appeal, and consider whether they may have acted unreasonably in broadening and extending the refusal reasons in the latter application (BR/233/19/PL). If so, and officers are minded to rescind part of their reasons for refusal at appeal, then this leaves the remaining issues at contention and for resolution under this application. These issues are as follows:

- Overbearing and loss of outlook to the rear windows of nos. 75 and 77 Aldwick Road;
- Loss of privacy to the rear garden of 10 Stocker Road.

2.1.4 In the event that officers are still of the view that, notwithstanding the clear judgement in the aforementioned high court case, and notwithstanding the scheme being reduced in size under BR/233/19/PL, they can maintain the entirety of their previous reasons for refusal under the last application, then we would respectfully differ in our professional view. In doing so, we would ask that the case made in this section and in the appeal, hereby forms our basis for contesting all other matters raised in reasons for refusal 01 and 02 of BR/233/19/PL.

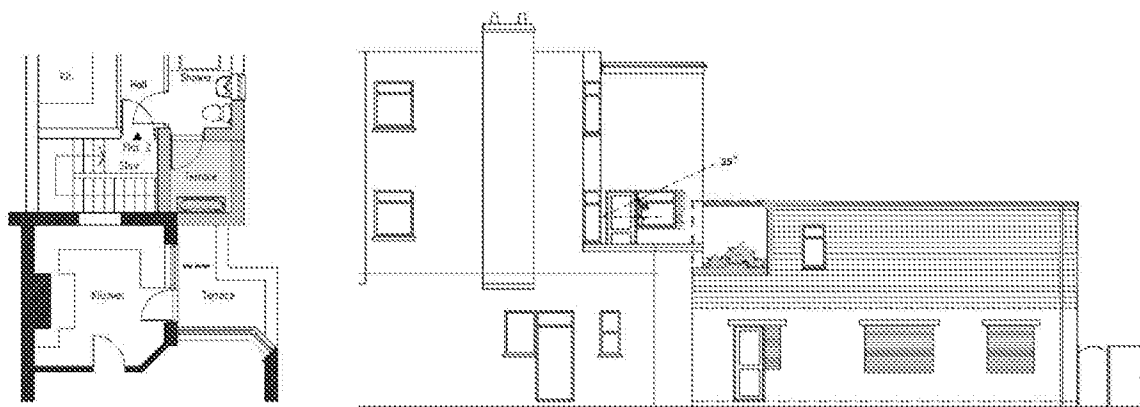
3.0 HOUSING LAND SUPPLY AND PLANNING BALANCE

- 3.1.1 We note from the officer's report under application ref BR/233/19/PL that they are in agreement that the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. We appended a copy of the latest Annual Monitoring Report (2018-19) to our appeal statement, and trust that this will be familiar to the Local Planning Authority as it is their own publication. The AMR shows a 3.7 year supply.
- 3.1.2 We note from the previous officer's report for application ref: BR/233/19/PL that the Local Planning Authority is willing to agree as common ground the fact that paragraph 11(d)(ii) of the NPPF is engaged in the consideration of this application. This means that the adverse impacts of the proposal must significantly and demonstrably outweigh the benefits in order for a refusal of planning permission to be sustained.
- 3.1.3 The applicant contests that the Local Planning Authority could not have undertaken the tilted planning balance under paragraph 11(d)(ii) correctly in the previous refusal, simply for the reason it should not have used some of the adverse impacts that it identified to offset the benefits of the proposed scheme. Those having not been included in the refusal reasons under the earlier application BR/63/18/PL.
- 3.1.4 We have identified the limited refusal reasons that could still have been used in a consistent decision on BR/233/19/PL under paragraph 2.1.3 above. All other alleged harmful impacts cited by officers in their previous report (such as the overlooking of no.14/16 Stocker Road, and the loss of daylight and sunlight to no.77 Aldwick Road *et al*) should not have been taken into account in the application of the tilted planning balance in the conclusions of the Local Planning Authority's case for BR/233/19/PL.
- 3.1.5 The Local Planning Authority did not refuse planning permission in 2019 on the basis that the adverse impacts stated under our paragraph 2.1.3 above significantly and demonstrably outweighing the public benefits. Rather, officers identified a whole range of other concerns not mentioned in the decision of BR/63/18/PL, in order to outweigh the planning benefits being proposed in the last application. The decision was quite clearly flawed in that respect.
- 3.1.6 Under this application, we would request that officers give careful consideration to limiting the extent of any perceived adverse impacts to, at the most, only those stated in paragraph 2.1.3 above. This would at least provide for some consistency in decision making. The same concerns, if officers are minded that they still persist with this proposal, should then be applied to the tilted planning balance as adverse impacts, and then weighed against the public benefits accordingly. It is the applicant's strong contention that there is substantially insufficient weight in any outstanding concerns that the Local Planning Authority may have to outweigh the benefits created by this proposal for 2no new residential dwellings.

4.0 PROPOSED AMENDMENTS IN THIS APPLICATION

- 4.1.1 The amendments made to application ref BR/233/19/PL are essentially twofold: firstly, the proposed northern wall of the first floor extension would be positioned further to the south thereby opening up a greater gap to the host building; and secondly, the first floor window on the rear elevation will be re-sited further to the west and a new secondary window shall be opened up in the southern part of the eastern flank wall.
- 4.1.2 These amendments to the refused scheme seek to address the two issues upon which the applicant contends that the Local Planning Authority can sustain their case without being found to have acted unreasonably and inconsistently with previous planning decisions. The two outstanding matters are listed under paragraph 2.1.3 above, and for ease of reference we have copied the same below:
- Overbearing and loss of outlook to the rear windows of nos. 75 and 77 Aldwick Road;
 - Loss of privacy to the rear garden of 10 Stocker Road.
- 4.1.3 The applicant seeks to overcome the Local Planning Authority's objection to the proposed development by making the following justified amendments.

Re-Positioning of North Wall

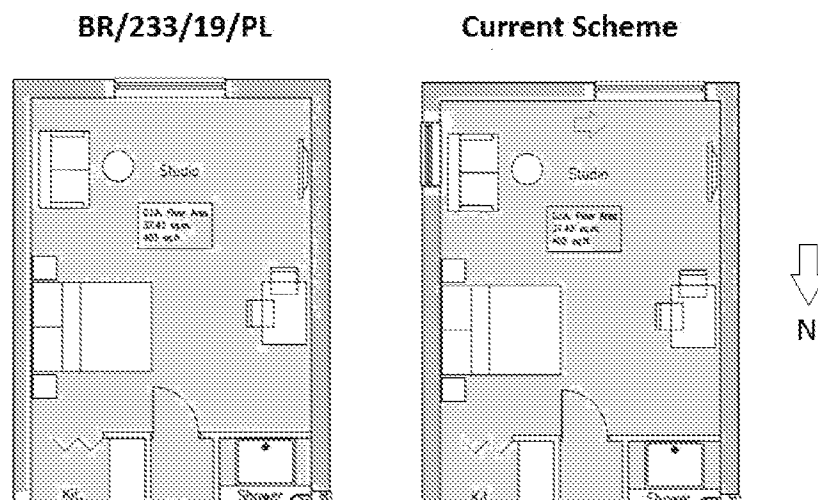


- 4.1.4 The re-positioning of the northern wall at first floor level to a position further southwards has had the effect of opening up a greater visual gap between the proposed extension and the host building. The change has been facilitated by the reversing of the configuration of the staircase in the 'link' between the proposed dwellings and the host building. The area that has been opened up between the existing terrace of no.77 and the new north wall of the proposed first floor dwelling will be occupied by a raised planted area accessed from the shower-room.
- 4.1.5 The height of the proposed first floor extension relative to the internal finished floor level of no.77 in the host building is 1.8m (the same as BR/233/19/PL), however now the northern wall of the proposed extension will now be positioned 4.6m from the window of no.77. Having in mind the fact that it was actually the windows of no.75 and 79 that were listed in the reason for refusal as suffering from an overbearing impact, the window to the latter is now over 6.0m away from the proposed extension. In view of the fact that this wall is only 1.8m high, it is

simply incomprehensible that there could be any reasonable case now made for an overbearing impact or loss of outlook to the window of no.79.

- 4.1.6 Neither of the previous applications were refused permission on the grounds of an absence of private outdoor amenity space for the occupants of the new dwellings. Some communal amenity space was provided to the rear of the development, and this remains in the current scheme. There was previously no requirement to provide outdoor amenity space directly accessible to the first floor dwelling, and the same applies in this application. Consequently, the provision of a small planted area atop of the new flat roof section of the proposal, cannot be objected to on the grounds of being inadequate to function as a proper outdoor amenity space or for the fact that it is accessed through the shower-room. To be quite clear, the planted area atop of the flat roof section is for soft landscaping and aesthetic / screening purposes, and not for amenity purposes. It can be conditioned as such and is unlikely to be used for alternative purposes by reason of its impractical means of access.
- 4.1.7 Whilst the proposed amendment does not affect the previously alleged impact on the amenity of no.75 Aldwick Road, as this is on the eastern side of the proposed extension where the flank wall will remain in the same position as shown in BR/233/19/PL, the alleged harmful impact in reason 01 of the previous application was attributed to both nos. 75 and 79. In the absence of any harm now being caused to no.79 as a result of these amendments, the applicant contends that the residual harmful impact on no.75 (being negligible in the mind of the applicant in any case), is simply insufficient to justify a refusal of planning permission.

Change in First Floor Fenestration



- 4.1.8 The Local Planning Authority has formerly refused planning permission for the proposed development on the grounds of a loss of privacy to the rear garden of 10 Stocker Road. This neighbour is positioned to the south-east of the application site with the rear elevation of this property being sited 30m distant from the rear elevation of the proposed first floor extension. We have not made mention of 14/16 Stocker Road within this application, at least for the purposes of overcoming reason 02 of the previous refusal, as the area to the rear of this neighbouring building is in fact a car park serving the flats and not an amenity space.

- 4.1.9 The proposed amendment has re-sited the window opening in the rear elevation to the far western side of the extension, thereby creating an even more oblique and more difficult view into the rear garden of 10 Stocker Road than would otherwise have existed under the previously refused scheme. In order to provide more daylight into the rear of the flat, and to provide additional scope for obscurely glazing the rear window in full or in part, a new secondary opening has been proposed at the southern end of the east facing flank elevation. This window opening would provide additional daylight and outlook for the proposed first floor dwelling and owing to the orientation of the window it would not overlook any neighbouring residential properties.

Landscaping



- 4.1.10 The appeal scheme included a proposal to enhance the existing tree screening along the southern boundary of the application site, most notably in the south-eastern corner. This is considered to be entirely achievable within the context of the applicant's ownership, and will provide an effective level of screening to the remaining north-western corner of the garden of 10 Stocker Road into which there is already a limited view. We propose the landscaping on the basis that it would assist in reducing any residual instances of overlooking after the above amendments to the fenestration are taken into account, and would be capable of being dealt with in a *prior to occupation* condition on any forthcoming permission.

Report Prepared by:

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