

Parish: West Wittering	Ward: West Wittering
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WW/17/03295/FUL

Proposal Change of use from public highway pavement to residential garden use.

Site Izora 1 Watersedge Gardens West Wittering PO20 8RA

Map Ref (E) 479424 (N) 96978

Applicant Mr Paul Collard

RECOMMENDATION TO PERMIT



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1.0 Reason for Committee Referral

1.1 Parish Council Objection - Officer recommends Permit

1.2 This application was deferred at the meeting on 16 May 2018 for a Members site visit and for officers to seek further advice from WSCC Highways.

2.0 The Site and Surroundings

2.1 The application site is located within the settlement boundary of East Wittering, on the western side of Shore Road. 1 Waterside Gardens is one of four dwellings that form Watersedge Gardens and is located to the south of Watersedge Gardens. The application dwelling is a chalet bungalow with hipped gables and three dormers facing Shore Road. Permission was granted in 2017 under application 17/00644/DOM for a loft conversion and extension and conversion of the existing garage, which have largely been completed.

2.2 There is a footpath on the western side of Shore Road, which links the public pay and display car park to the north west to the beach to the south. The footpath outside of the application site is currently 4.5 metres wide, reducing to 2 metres wide to the south of the application site. The footpath is 4.5m to the north of the junction with Watersedge Gardens with Shore Road.

3.0 The Proposal

3.1 The application seeks full planning permission for the change of use of part of a footpath to form part of the residential use of Izora 1 Watersedge Gardens. The application also proposes to demolish the existing boundary wall and erect a new wall along the new residential boundary. The new boundary wall would be 1 metre in height and constructed from brick and flint to match the existing. The existing rear garden has a depth of 4.5 metres, which the proposals would increase to 7 metres in depth.

4.0 History

90/00062/WW	WDN	Outline - demolition of existing hotel and erection of 8 no. courtyard town houses.
91/00032/WW	PER	Outline - demolition of existing hotel and erection of 2 no. detached houses together with 4 no. semi-detached houses.
95/01346/OUT	PER	Demolition of existing hotel and erection of 2 no. detached houses with 4 no. semi-detached houses - all with integral garages.
96/02035/FUL	PER	Demolish existing derelict building. Construct 4 No. new bungalows and garages.
17/00644/DOM	PER	Loft conversion with new hipped roof, extension and conversion of existing garage, weatherboarding, dormers, roof lights and proposed cross over for new parking space.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	NO
AONB	NO
Strategic Gap	NO
Tree Preservation Order	NO
EA Flood Zone	NO
- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 Parish Council

Objection - The widening of this footway at this location plays an integral part as a refuge for all users. Shore Road is the main access to the beach at East Wittering and does not have the benefit of a continuous footway throughout its length. In particular when busy, with locals and tourists, there is a necessity to walk in the roadway and this particular area, where a footway does exist, becomes vital as a much needed area of safety for pedestrians, especially those who are less manoeuvrable with pushchairs and wheelchairs. With this in mind the Parish Council requests that a disability assessment be carried out. There are mains services running under the site, which could be compromised by being under private land. The Parish Council notes that generous offer has been made to the County Council to acquire this area of footway, but the Parish Council was unaware that this area of land was available to purchase and, if so, where had it been advertised.

6.2 WSCC Highways (summarised)

No objection – WSCC highways commented on the previous application in December 2017 in which they did not raise any concerns to proposal, subject to purchasing of land and formal stopping up of land to extinguish the public's right of way over this. The proposed vehicle visibility splays of 2.4 metres by 43 metres have been demonstrated to show that visibility upon a car exiting the private road would not be detrimentally impacted. Sufficient footway width will remain as per guidance in Manual for Streets and Inclusive Mobility.

Further consultation with WSCC Highways (comments in full)

No objection: The Local Highway Authority (LHA) wish to provide further detailed comments in respect to the proposal to change a section of public highway to residential garden use. A site visit was carried out on 18th December 2017 as part of assessment of this planning application from a highway safety point of view.

A technical drawing has now been provided by the applicant. This demonstrates that a minimum of 2 metres between the proposed brick wall and the footway edge will be retained throughout this section of footway. This also demonstrates that between the street lighting pole and wall will retain at least 2.5 metres width. The LHA acknowledge that the reduced width between telegraph pole and neighbouring wall is an existing situation not exacerbated by the proposals.

Figure 6.8 of Manual for Streets (MfS) demonstrates the minimum footway width of 2 metres and refers to Department for Transport (DfT) Inclusive Mobility. Paragraph 3.1 of Inclusive Mobility states that a “clear width of 2000mm allows two wheelchairs to pass one another comfortably and that where this is not possible due to physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another”. The resultant footway width meets with these parameters and will be no less than that provided south of the site.

The LHA acknowledge the increased level of pedestrian traffic in the vicinity during the warmer months due to the proximity of the beach. The nearby footway provision is also taken into account whereby some sections north of the site have no pedestrian facilities and the carriageway is used as a “shared space” environment without any known personal injury incidents in the past 5 years on this section of Shore Road. MfS paragraph 7.2.8 states that shared surface streets work best in ‘relatively calm traffic environments’. Paragraph 7.2.14 goes on to state that shared surface streets work well where they form cul-de-sacs, where volume of motor traffic is below 100 vehicles per hour and where parking is controlled or takes place in designated areas. Shore Road is a no-through road with no waiting between 1 April – 30 September (8am-8pm). The LHA therefore consider vehicle movements would be low with no public car park reached from the southern end of Shore Road and on-street parking restricted. We would also anticipate that vehicle speeds would be low and take account of pedestrians considering the existing non-continuous footway in the vicinity and local context of the site.

In summary the LHA are satisfied that the applicant has demonstrated sufficient footway width will remain in line with national guidance documents MfS and Inclusive Mobility. Existing sub-standard footway provision in the vicinity should not prejudice the proposals where these have been demonstrated to meet with nationally recognised guidance.

The LHA could therefore not cite a highway safety ground to resist the proposals.

6.3 Third party representations

30 letters of objection have been received, summarised as follows:

- Proposals would compromise safety and convenience of all users, especially pedestrians, wheelchair users, pushchairs and mobility scooters.
- The pavement is well used especially in the summer by tourists. There is no pavement on the opposite side and this pavement serves as a passing point for multiple users.
- Development would impede visibility of vehicles and pedestrians when exiting Watersedge Gardens
- The visibility splays are not achievable due to the presence of a refuse bin, telegraph poles and lampposts.
- Turning circles for a wheelchair, mobility scooter and pushchair would not be achievable on the reduced pavement.
- Development sets a precedent for other households
- A rendered brick painted wall with a fence would not be appropriate for the site and would be a poor substitute and would be inappropriate for the area.
- Development would encroach onto public space for private uses
- The existing small garden of the house is self-inflicted as an extension has been built.
- Soft landscaping was approved for this boundary under application 96/02035/FUL
- No details of the stopping up of the highway or the purchase of the land from WSCC has been made public.
- The purchase of the land should be open to public tender
- WSCC own the land and have raised no objection to the application. This is a conflict of interest.
- Other residents within Watersedge Gardens and nearby properties have not received a letter of notification regarding the planning application.
- **Swept path analysis should be provided for all users of the footpath**
- **A Risk assessment, Disabled Impact assessment, Environmental Impact Statement, Method Statement of carrying out the works, Access Statements for pedestrians and a Traffic Regulation Order should be provided prior to the determination of the application.**

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for West Wittering at this time.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 8: Transport and Accessibility

Policy 39: Transport, Accessibility and Parking

Policy 40: Sustainable Design and Construction

National Policy and Guidance

7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 14 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking:

- *For decision-taking this means unless material considerations indicate otherwise:*
- *Approving development proposals that accord with the development plan without delay;*
- *and*
- *Where the development plan is absent, silent or relevant policies are out-of-date,*
- *granting planning permission unless any adverse impacts of doing so would significantly*
- *or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in (the) Framework indicate development*
- *should be restricted.*

7.4 Consideration should also be given to paragraph 17 (Core Planning Principles), and section 4 relating to transport and section 7 in general relating to the requirement for good design.

7.5 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i) Principle of the development
- ii) Character of the Area
- iii) Highway Safety
- iv) Impact on the amenities of neighbouring properties

i) Principle of the development

8.2 The application site is located within the settlement boundary of East Wittering. The proposals relate to a change of use of the land from a public footpath to form part of the residential curtilage of the existing property. The land that forms part of this application is finished with tarmac and contributes to the character and appearance of the area in terms of providing a function. It is considered the reduction in width of the footpath in principle is acceptable subject to the impact of the proposal on the character of the area and the highway impacts of the proposal.

ii) Character of the Area

8.3 The application site is located within an East Wittering at the junctions with Watersedge Gardens and Shore Road. There is a footpath on the western side of Shore Road, which links the public pay and display car park to the north west to the beach to the south. The footpath outside of the application site is currently 4.5 metres wide and reduces to 2 metres wide to the south of the application site. The boundary walls along Shore Road are mainly brick and flint construction no higher than 1 metre.

8.4 The land that forms this change of use application is currently part of the public footpath that runs along the western side of Store Road north to south. The footpath is particularly wide at this point (4.5m); the gardens of properties to the south narrow the footpath to a width of (2m). The proposed reduction of the footpath to the front of 1 Watersedge Gardens would result in a footpath of 2m in width at its narrowest point. The application also proposes a new boundary wall which would be in line with the boundary of the property to the south and taper to the north, where the wall approaches the junction with Shore Road. The proposed boundary wall would be 1 metre in height and be constructed in flint and brick.

8.5 It is considered that the design and construction of the proposed wall would be in keeping with the neighbouring dwelling to the north and similar to the existing wall to be replaced. The height of the wall would match existing examples within the street and retain the open street frontage seen along Shore Road. On this basis it is considered that the proposals would not have a harmful impact on the host dwelling or the street scene and is considered acceptable.

iii) Highway Safety

- 8.6 The application would result in the change of use from a public footpath and adopted highway to form part of the residential garden of 1 Watersedge Gardens. The proposal would narrow the existing footpath from 4.5 to 2 metres for a length of 10 metres. Objections have been received from third parties stating that the width of the remaining footpath would be insufficient for users of wheelchairs, pushchair and pedestrians.
- 8.7 With regard to the safety of vehicles using the junction, the Local Highway Authority (WSCC) have raised no objection. The application has demonstrated vehicle visibility splays of 2.4 metres by 43 metres which ensures sufficient visibility for a car exiting the Watersedge Gardens. WSCC have also stated that visibility from this junction would not be impacted upon by the proposals.
- 8.8 WSCC originally commented on the application stating they had no objection to the proposal. The Planning Committee deferred the application at the 16May Planning Committee and requested further clarification regarding the potential impact the proposed development could have on all users of footpath. WSCC's further comments can be found in full in paragraph 6.2 of this report, which refers to a site visit being carried out in December 2017.
- 8.9 The proposals would result in the narrowing of the footpath with a minimum width of 2 metres being retained. This is the same width as the footpath to the south heading towards the beach. The footpath would be wider towards the junction with Shore Road where there is also street furniture. WSCC Highways refer to figure 6.8 of Manual for Streets which outlines a minimum footway width of 2 metres, which is also referred to in the Department for Transport Inclusive Mobility document. Paragraph 3.1 of Inclusive Mobility states that a 'clear width of 2000mm allows two wheelchairs to pass one another comfortable and that where this is no possible due to physical constraints 1500mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another.'
- 8.10 The additional comments provided by WSCC Highways acknowledge the increased level of pedestrian traffic in the vicinity during the warmer months due to the proximity of the beach. They have also taken account of the nearby footway provision whereby some sections north of the site have no pedestrian facilities and the carriageway is used as a "shared space" environment. WSCC has noted no known personal injury incidents in the past 5 years on this section of Shore Road and advise that paragraph 7.2.8 of Manual for Street states that shared surface streets work best in 'relatively calm traffic environments'. Paragraph 7.2.14 of the same document states that shared surface streets work well where they form cul-de-sacs, where volume of motor traffic is below 100 vehicles per hour and where parking is controlled or takes place in designated areas. Shore Road is a no-through road with no waiting between 1 April – 30 September (8am-8pm).

8.11 WSCC state that they consider vehicle movements would be low with no public car park reached from the southern end of Shore Road and on-street parking restricted. Furthermore they would also anticipate that vehicle speeds would be low and take account of pedestrians considering the existing non-continuous footway in the vicinity and local context of the site.

8.12 The further detailed comments from WSCC Officers explain that the view of the local highway authority is that the application would provide sufficient footway width which would accord with the advice contained within Manual for Streets and the Inclusive Mobility document. The proposal would also provide sufficient visibility for vehicles exiting Watersedge Gardens. The proposal is therefore considered to comply with the relevant local and national planning policy with regard to highway safety, and Officers consider that there would be no justifiable grounds for refusal in terms of the proposals demonstrating severe harm to highway safety.

iv) Impact on the amenities of neighbouring properties

8.13 The land would form part of the rear garden area for the dwelling, which would be adjacent to 52 Shore Road's front parking area to the south. Given the area to the front of the neighbouring property is for parking and the distance to other properties, it is considered the proposal would not have a detrimental impact to the amenity of neighbouring properties.

Conclusion

8.14 It is considered that the proposed change of use would not have a harmful impact on the character and appearance of the existing dwelling or the street scene. Furthermore the proposal would provide sufficient visible splays for vehicles exiting Watersedge Gardens and would not impact upon highway safety. The proposal would also provide a sufficient width of footpath for the safety of pedestrian movements. The application is therefore considered to accord with Local Plan policies and the NPPF and is recommended for approval subject to conditions.

Human Rights

8.15 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2) The development hereby permitted shall not be carried out other than in accordance with the approved plans: 001B, 002A, 005A, 08/048-002, 08/048-003

Reason: To ensure the development complies with the planning permission.

3) Notwithstanding any details submitted **no development/works shall commence** until a full schedule of all materials and finishes and samples of such materials and finishes to be used for the boundary wall has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

INFORMATIVE

The applicant is advised to contact the Department for Transport in order to commence the "Stopping Up" process under Section 247 of the Town and Country Planning Act.

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

For further information on this application please contact Daniel Power on 01243 534734