

From: Kevin Pain 
Sent: 08 April 2019 18:47
To: Planning
Cc: ICE1
Subject: FAO: Mrs A Gardner re AB/23/19/PL - 67/69 Tarrant Street, Arundel

Dear Mrs Gardner

Re: AB/23/19/PL
Planning application in respect of 67/69 Tarrant Street and 2A Arun Street, Arundel
Applicant: Mr Peter Stockley

Further to our telephone conversation of 2 April 2019, I enclose our objection to the above planning application. Please acknowledge receipt.

I should note that I was able to speak to the Applicant's agent on 8 April 2019. He was able to confirm orally, that the Application did not include and was not intended to affect the Flat Roof. But he was not in a position to provide written confirmation of the same, or that the Applicant would agree to the inclusion of a condition upon any grant in the terms we have requested.

In the circumstances, I would hope that we will, in due course, be able to deal with our objection by way of an appropriately worded condition on any grant of permission. In the meantime, our objection to the application remains in place.

Please let me know if there is any further information you require, or you would like to visit our property as proposed in our letter.

Yours sincerely

Kevin Pain
Samantha Stowell

71 Tarrant Street
Arundel
West Sussex
BN18 9DN

8 April 2019

Mrs A Gardner
Principal Planning Officer
Arun District Council

Dear Mrs Gardner

Re: AB/23/19/PL

Planning application in respect of 67/69 Tarrant Street and 2A Arun Street, Arundel

Applicant: Mr Peter Stockley

I am writing in respect of the above planning application, and further to our telephone conversation of 2 April 2019.

As I stated during our telephone call, I hoped that you would be able to clarify the scope of the above application ("the Application") and thereby determine whether it was necessary for us to raise an objection to it.

As you were not able to provide that clarification, you suggested that I would need to set out the basis for my request for clarification and describe both the circumstances in which we would raise an objection and the grounds for that objection.

Summary of our position

In the event that the Application **WOULD NOT** change the existing planning use or status of the flat roof of the single storey extension that is situated directly behind our property, 71 Tarrant Street ("the Flat Roof"), we request that any permission granted **SHOULD INCLUDE A CONDITION** that the Flat Roof is not included or affected by the grant of permission in order to make the position clear. Alternatively, we request a note to the same effect is attached to any such grant.

In the event that the Application **WOULD** change the existing planning use or status of the Flat Roof we **OBJECT** to the grant of permission.

The **GROUND OF OBJECTION** are that the use of the Flat Roof as a roof terrace would cause an unacceptable detrimental impact on the residential amenity of our property by reason of loss of privacy and the potential for noise disturbance.

We consider that the grant by Arun District Council of any permission to use the Flat Roof as a roof terrace would be incompatible with our right to respect for our private and family life (as enshrined in Article 8 of the European Convention on Human Rights) and thereby unlawful by virtue of section 6 of the Human Rights Act 1998.

Background

Reference in this section is made to the 'plan as existing' filed with the Application ("the Plan") and to a series of photographs numbered 1 to 5. Copies of an enlarged extract from the Plan and of the photographs are attached to this letter.

We are the owners and occupiers of the freehold property known as 71 Tarrant Street ("No. 71"), having moved into the property in March 2004.

No. 71 is a four-storey town house situated between 67/69 Tarrant Street ("Nos. 67/69") and 73 Tarrant Street. The front entrance to No. 71 is situated on the southern side of Tarrant Street next to the entrance to the long leasehold flats situated on the first and second floors of Nos. 67/69.

The front entrance to No. 71 is at ground floor level. The ground floor level contains the main living accommodation. Staircases from the ground floor level give access to the first and second floors containing bedrooms and bathrooms, and to a semi-basement level that contains a kitchen/dining area and utility area.

At the rear of No. 71 is a single storey, flat-roofed extension that forms part of Nos. 67/69 ("the Extension"). The Extension has hitherto contained kitchen and toilet facilities that have been used by the occupiers of the shop premises ("the Shop") located within the ground and basement levels of Nos. 67/69. The Extension is shown cross-hatched on the attached copy of an enlarged extract from the Plan.

The Extension is on the same level as the rear of the semi-basement level of No. 71; but the flat roof of the Extension is approximately 18 inches above the floor of the rear of the ground level to No. 71 ("the Flat Roof"). The Flat Roof has been covered in roofing felt with lead flashings keyed into the rear wall of No. 71.

The Flat Roof was renewed in or around 2004, and again as part of the Applicant's works in early 2019. While the standard of work carried out by the applicant is not known, it is believed that the Flat Roof was not suitable for use as a roof terrace prior to that point. At no point during the last 15 years has the Flat Roof been used for any purpose other than allowing access to carry out repairs to No. 71 or Nos. 67/69.

Prior to the works carried out in early 2019 by the applicant and his agents, a concrete staircase situated behind the Extension led from the rear door of the Shop at basement level up to the Flat Roof. The staircase has now been removed to create a courtyard area at basement level that is shown hatched on the enlarged copy of the Plan ("the Courtyard"). The Courtyard is enclosed by buildings or walls on all sides. It is presently not possible to access the Flat Roof from the Courtyard without the use of a ladder.

There is also a narrow door in the wall of the office premises that are located at the rear of the ground floor of Nos. 67/69 ("the Office"). If opened, the door would give access onto the Flat Roof.

A copy of a photograph of the Flat Roof from above, showing the Flat Roof, Courtyard and door from the Office is attached and labelled [1].

It is not known whether the Flat Roof is included within the commercial lease of the Office or has previously been part of any commercial lease of the Shop. It is also not known whether the Flat Roof has any existing permission to be used as a roof terrace (even though it has not been so used).

What is clear, however, is that any permitted use of the Flat Roof that has existed can only have been commercial rather than residential.

The Scope of the Application

The Application seeks permission for a change of use of the ground and basement levels of Nos 67/69 (insofar as the same do not form part of the Office) from commercial to residential. The applicant has already started to sub-divide the Shop pursuant to building control consent for the same given in late 2018, and intends to create two separate residential units: one on the ground and basement levels of No. 67 and the other on the ground and basement levels of No. 69 (save insofar as the same form part of the Office). The Extension is to form a bathroom to the residential unit within No. 69; No. 69 will also have access to the Courtyard.

The Application makes no reference to the Flat Roof or its intended use. The Plan shows the Extension but does not include the Flat Roof. On its face, therefore, the Flat Roof does not form part of the Application, and the Flat Roof would be unaffected by any grant of permission sought.

Our Response to the Application

First, we seek clarification from the Applicant and the local planning authority as to whether the Flat Roof is included within the Application.

Secondly, we seek clarification from the Applicant and the local planning authority as to whether the effect of the Application, if granted, would be to allow the Flat Roof to be used as a roof terrace, whether at all, or for residential purposes.

If it is confirmed that the Flat Roof IS NOT INCLUDED within the Application and WOULD NOT BE AFFECTED by any grant of permission sought within that Application, we would ask for a CONDITION to be applied to any grant making that position clear for the future. We would also ask that the draft wording of any such condition is referred to us before any such grant is made. Alternatively, we request that a note to the same effect is attached to any such grant.

If it is confirmed that the Flat Roof IS INCLUDED within the Application or WOULD BE AFFECTED by any grant of permission sought within that Application we OBJECT to any such grant. The grounds of objection are set out below.

Grounds of Objection

The grounds of objection are that the use of the Flat Roof as a roof terrace would cause an unacceptable detrimental impact on the residential amenity of our property by reason of loss of privacy and the potential for noise disturbance.

We consider that the grant by Arun District Council of any permission to use the Flat Roof as a roof terrace would be incompatible with our right to respect for our private and family life (as enshrined in Article 8 of the European Convention on Human Rights) and thereby unlawful by virtue of section 6 of the Human Rights Act 1998.

As noted above, the Flat Roof is situated directly to the rear of No. 71 and is some eighteen or so inches above the rear of the ground floor to No. 71. Within the rear wall of the ground floor to No. 71 is a rectangular window that looks out over the Flat Roof ("the Window"). The Window provides a substantial portion of the light entering the rear of the ground floor of No. 71.

Copies of photographs of the Window from inside the ground floor of No. 71 are attached and labelled [2] and [3]. Copies of photographs of the Flat Roof taken through the Window are attached and labelled [4] and [5].

Anyone using the Flat Roof can be seen through the Window. More significantly, anyone using the Flat Roof would be able to see directly into the rear of the ground floor of No. 71. As a result of the higher level of the Flat Roof, this would occur not only if anyone was standing or walking on the Flat Roof, but also if anyone was seated at a chair positioned on the Flat Roof.

The rear of the ground floor is one of the main living areas within No. 71. Granting permission to anyone other than occupants of No. 71 to use the Flat Roof would have an unacceptable detrimental impact on the residential amenity of No. 71 as a result of a substantial loss of privacy. As our property is shared by us and our 3 children (currently aged 13, 11 and 10) we consider that any such interference with that right would be particularly serious.

Accordingly, we consider that if the local planning authority were to grant permission to use of the Flat Roof as a roof terrace, and/or permitted the use of the Flat Roof to be changed from commercial to residential use, it would not be acting compatibly with Article 8 of the European Convention on Human Rights, and would thereby be acting unlawfully by virtue of section 6 of the Human Rights Act 1998.

We are also concerned that use of the Flat Roof as a roof terrace would create a potential noise disturbance to occupiers of No. 71. Although the windows at the rear of No. 71 are double glazed, sound from outside can penetrate into the property even when windows are closed.

We also note that sound would likely reverberate around the brick and stone walls surrounding the Courtyard and the Flat Roof, leading to noise affecting higher floors of No. 71, including the children's bedrooms situated on the first and second floors. Of course, the problem would be worse in summer months when sitting outside is more common and windows are quite reasonably left open.

We therefore request the local planning authority to **REFUSE** any such permission.

We should make clear, however, that as our objection to the Application is based on any inclusion of the Flat Roof, and on any effect that any grant may have upon the use of the Flat Roof, we would not seek to object to the application if the Flat Roof were excluded, and the grant were to have no such effect on the use of the Flat Roof.

We would not, therefore, oppose the Application if suitable conditions were imposed that had the effect of excluding the Flat Roof from the Application, and ensuring that the use of the Flat Roof was not otherwise affected by any grant. We would, however, ask that the draft wording of any such condition is referred to us before any such grant is made.

Invitation to visit No. 71

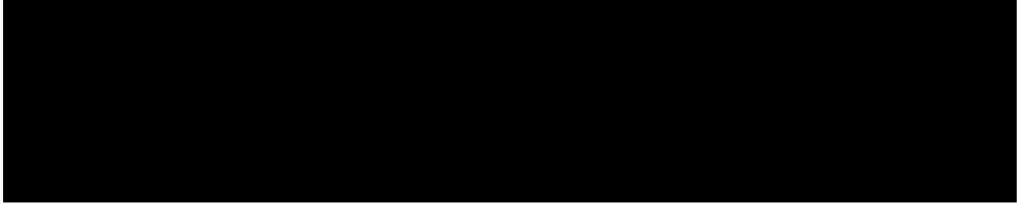
During our telephone conversation, I suggested that you visit No. 71 before the Application is determined in order to form a better understanding of our objection.

In the event that the Flat Roof is included within the Application or would be affected by any grant of permission sought, and our objection therefore needs to be considered, I renew that invitation.



We look forward to hearing from you.

Yours sincerely



Kevin Pain
Samantha Stowell

cc. Photographs (x5) and enlarged extract from the Plan.



Photograph [1]: showing the Flat Roof, Courtyard and doorway to the Office. The rear wall of No. 71 is to the right-hand side of the photograph.

The picture was taken from a window in the rear of the second floor of No. 71 and shows the position following works carried out by the applicant in early 2019. [April 2019].



Photograph [2]: the Window. Taken from inside the rear of the ground floor to No. 71. Showing the wall at rear of Courtyard and window within Office premises. [April 2019].



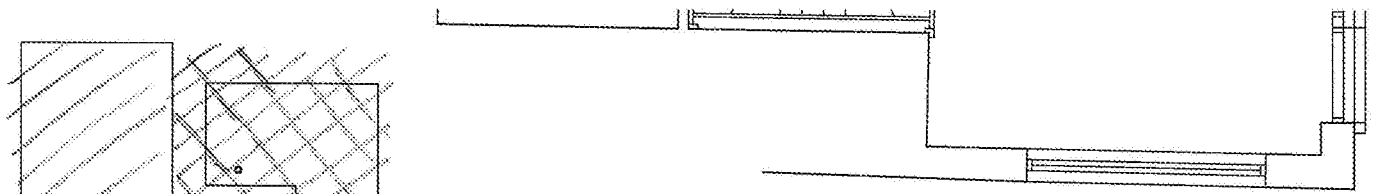
Photograph [3]: the Window. Taken from within the rear of the ground floor to No. 71. [April 2019].



Photograph [4]: the Flat Roof and doorway and window within Office premises. Area covered by tarpaulin is the Flat Roof; the Courtyard is situated beyond and below the edge of the Flat Roof. Taken from rear of the ground floor of No. 71 through the Window. [April 2019].

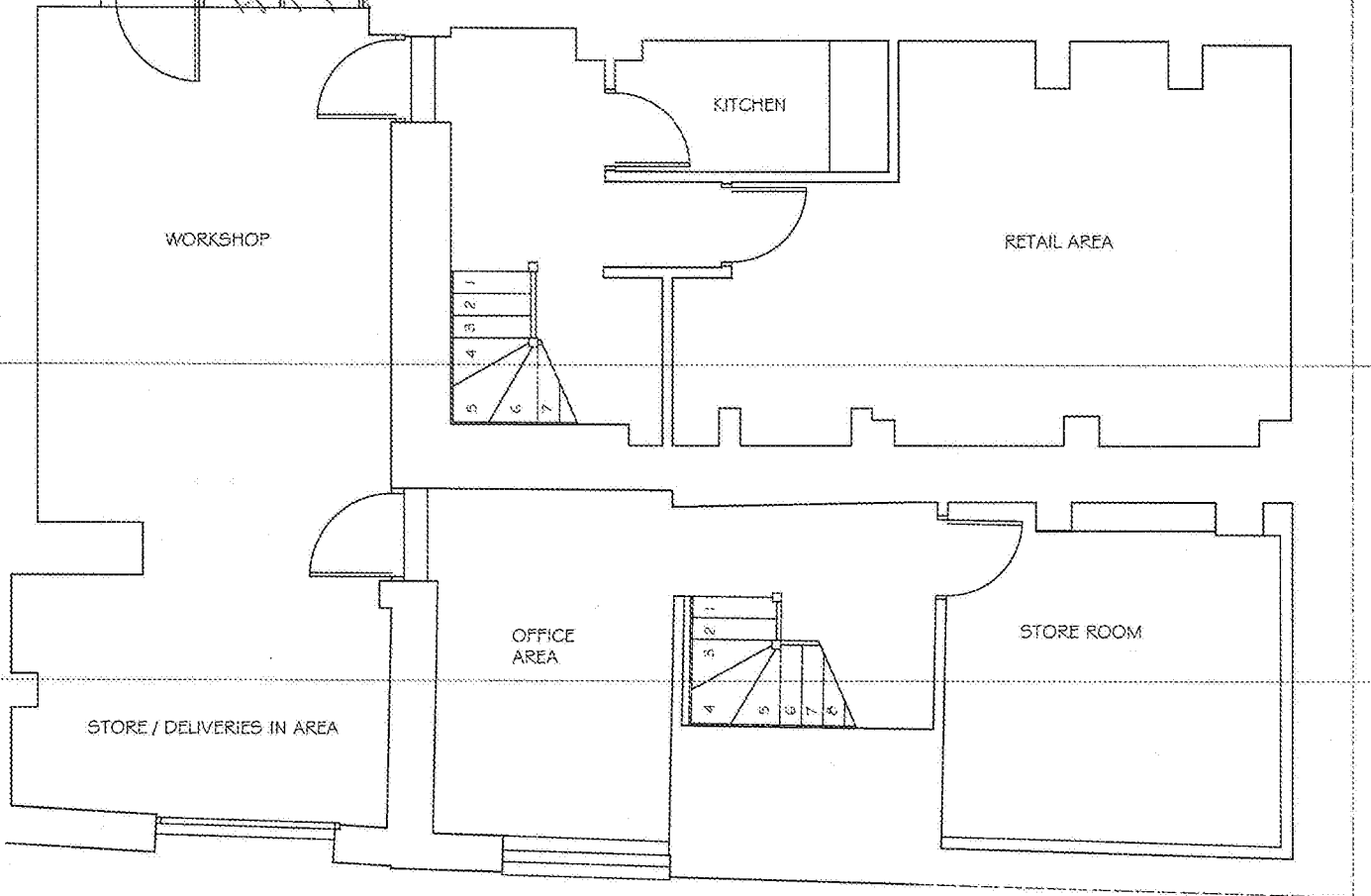


Photograph [5]: the Flat Roof. Ladder from Courtyard below. Taken from rear of ground floor of No. 71 through the Window. [April 2019].



EXISTING GROUND FLOOR LEVEL

No. 71



EXISTING BASEMENT FLOOR LEVEL