

Recommendation Report for Planning Permission for Works or Extension to a Dwelling

REF NO: AB/24/18/HH

LOCATION: 41 Fitzalan Road
Arundel
BN18 9JP

PROPOSAL: Retention of playhouse climbing frame in rear garden.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The play equipment the subject of this application is already existing and comprises 2 swings, a slide, a climbing slope, a tree house and climbing frame. The equipment has a total width of 6.7m, a depth of 8.7m and a maximum height to the apex of the 'skybox' of 3.8m
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Fencing to side boundaries and rear
SITE CHARACTERISTICS	Semi detached 2 storey dwelling with long rear garden
CHARACTER OF LOCALITY	Predominantly residential characterised by 2 storey semi detached dwellings of similar design in relatively large plots with long rear gardens.

RELEVANT SITE HISTORY

AB/14/95	Form new front and rear dormer extension to bungalow roof to increase existing one bed by adding two extra bedrooms and new bathroom, with ground floor alteration to kitchen.	ApproveConditionally 05-05-95
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REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Arundel Town Council

Objection - The scale and size of the development is excessively large and unduly prominent for this rear garden location and would result in a loss of privacy to adjoining occupiers and diminish the standard of their residential amenity to an unacceptable extent.

3 Objections - mounted telescope on playhouse platform is pointing towards backs of all the houses.

- this climbing frame is an invasion of privacy. Over looks whole garden
- when the children are playing on it they are standing higher than garden fences and can see not only into my garden but also into my home .
- my garden fence is 6ft high and this climbing frame is at least 5ft if not more above that fence also when the children stand on top of that they are even higher .
- Also the swing frame to the side of it is right up next to my fence which the children are standing on and lean over to my garden it also has binoculars on top of the frame which the children can use to look around
- I do not feel safe nor comfortable with this frame giving view to my property and garden in the way it does it has left me feeling completely vulnerable and stressed out.
- other properties along this road have children play area frames, trampolines, slides etc all of which come well below fence height and do not interfere with other neighbours privacy.

COMMENTS ON REPRESENTATIONS RECEIVED:

It is not considered that the scale and size of the playhouse is excessively large, given the size of the garden and given its domestic setting and the presence of other timber structures in the rear gardens of dwellings on this side of Fitzalan Road it is not considered to be unduly prominent. It is accepted that overlooking does result to adjoining gardens from the play equipment. However, given the length of the garden and that the equipment is sited at one end and only used by children it is not considered that its would cause demonstrable harm to the residential amenities of adjoining dwellings.

The application refers to additional planting and this is conditioned to ensure it is provided which in the long term would help to screen the equipment from neighbouring gardens.

The use of binoculars is outside of planning control.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary

DEVELOPMENT PLAN POLICES

[Arun District Local Plan \(2003\):](#)

GEN7 The Form of New Development

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design Quality

[Arundel Neighbourhood Plan 2014 POLICY1:](#)

The Presumption in Favour of Sustainable Development

PLANNING POLICY GUIDANCE:

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification. The examination was completed in September 2017.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Policy 1 of Arundel Neighbourhood Plan is relevant to consideration of this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the

surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE

The application site falls within the built area boundary where the principle of development is acceptable subject to accordance with relevant development plan policies. The key policy considerations in the determination of this application are considered to be GEN7 of the Arun District Local Plan and the National Planning Policy Framework.

DESIGN AND VISUAL AMENITY

The children's play equipment the subject of this application is not readily visible in the street scene. The top of the equipment would be visible from the adjoining gardens but given the open nature of the elevations and its limited dimensions it is not considered to have an adverse impact upon the character or spatial pattern of the locality. It is visible from the fields to the rear, but there are some mature trees close to the rear boundary and the the equipment is readily assimilated into the range of sheds and other domestic outbuildings in the rear gardens of this row of residential properties.

It is considered that the playground equipment is in keeping with the domestic use of the rear garden area and it would not be harmful to visual amenity.

RESIDENTIAL AMENITY

The play equipment the subject of this application is already existing and comprises 2 swings, a slide, shute, a climbing slope, a tree house and climbing frame. It is located at the end of the rear garden adjacent to the north, south and east boundaries. The equipment has a total width of 6.7m, a depth of 8.7m and a maximum height to the apex of the 'skybox' of 3.8m. At its closest point it is 30m from the rear elevation of neighbouring dwellings and the climbing frame element which is the highest part of the equipment would be 1m from the southern boundary and 4m from the northern boundary which are shared with residential properties. The slide faces down the garden and is largely screened by fencing. The main parts of the equipment which impact on residential amenity are the covered platform areas which have slated sides and afford overlooking between the roof and the sides and through the sides.

The children's play equipment does give rise to overlooking of neighbouring gardens and dwellings. The distance of 30m to the equipment is acceptable to preclude any materially adverse overlooking into neighbouring dwellings. The equipment is located at the end of a 46m long garden which is the same length as the neighbouring gardens to the north and south. These garden lengths are significant and therefore although the play equipment does result in direct overlooking of the garden areas this is deemed to be acceptable given the limited use of the equipment and the opportunity to sit outside in the adjoining garden areas away from the play equipment. The areas of gardens most heavily used are those immediately adjacent to the rear elevations of the neighbouring dwelling houses and these are located an adequate distance from the equipment to prevent any material loss of privacy resulting. The proposed development is now considered to accord with policy GEN7(iv) of the Arun District Local Plan.

Proposed hedgerow planting is indicated on the block plan which will enclose the play equipment on all sides. A condition has been imposed to ensure this is provided and retained for 5 years since this would assist in ameliorating the impact of the equipment in terms of both visual and residential amenity.

SUMMARY

The proposal is considered to have an acceptable impact upon the residential amenity of neighbours and therefore is recommended for approval subject to the following

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION**APPROVE CONDITIONALLY**

- 1 The development hereby approved shall be carried out in accordance with the following approved plans:
Proposed Roof Plan, Location & Block 17234/01 and photographs

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.
- 2 Within 2 months of the date of this permission details of the proposed hedge indicated on the Block Plan shall be submitted to, and approved by, the Local Planning Authority. The approved details of the landscaping shall be carried out in the first planting and seeding season, following approval of the details, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with policy GEN7 of the Arun District Local Plan.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning

(Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.