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

REF NO: **BR/130/13/**

LOCATION: 5 Seafield Terrace
Stocker Road
Bognor Regis West Sussex

PROPOSAL: First floor balcony to south elevation.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposed balcony measures approximately 3.2m in width, depth of 450mm with screening to a height of 1m.
SITE AREA	Approximately 60 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Front boundary is open to the highway, rear boundary has close boarded fencing approximately 1.8m in height, east side boundary has wall approximately 1.8m in height, west side boundary has elevation of neighbouring extension then wall 1.8m in height.
SITE CHARACTERISTICS	Mid terrace three storey town house with integral garage. The property has light brown brickwork with brown tile hanging and white window frames.
CHARACTER OF LOCALITY	Residential comprising terraced, semi-detached and detached properties, many of which are nursing/rest homes.

RELEVANT SITE HISTORY

BR/53/10/	First floor balcony to south elevation.	Refused 13-05-2010 **Appeal: Dismissed** **12 10 2011**
BR/160/11/	First floor balcony to south elevation.	Refused 12-09-2011

BR/55/12/	First floor balcony to south elevation (re-submission following BR/160/11).	Refused 19-04-2012 **Appeal: Dismissed 21 08 2012**

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection

2 Letters of Objection
Proposed balcony in close proximity to our ground floor flat and garden.
Property adjacent has railings not a balcony that allows air flow when the door is open.
Would be overlooked by the balcony.
No 6 has an application for a new dwelling in the garden so we are concerned regarding the sale ability value of our flat which would be compromised.
The construction of galvanised steel frame with aluminimum sections and toughened glass infil panels is out of character with the balconies on the adjoining properties at 2,3,4 & 6. It would compromise the symmetry of the balcony railings and spoil the existing line of balconies at this section of the terrace.

Comments on Representations received:

Objection comments noted
The proposed balcony would be sited approximately 14m away from neighbouring property No 3 Stocker Road. Due to this distance it may create some oblique overlooking but this is not considered to be of an unacceptable level to recommend refusal.
The proposed dwelling at No 6 is the subject of a separate planning application BR/127/13.
Effect on the value of property is not a material planning consideration.
It is considered that the proposed design and materials of the balcony, whilst different from those adjacent would not cause material harm to the character or appearance of the host dwelling or the terrace.

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary
No Public Sewer

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	DEV19	Extensions to existing residential buildings
	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003 which was adopted in 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process

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

The mid terrace two house property is sited within a residential area and to the south the foreshore. The property is within a terrace of sixe properties constructed in the late 60's with a similar property being constructed adjacent to No 1 in 2007 known as 1A.

The application seeks to construct a first floor balcony accessed from the lounge on the rear of the property. The initial construction had a wooden box window at first floor level which has now been replaced by PVCu patio doors that are flush with the rear elevation of the dwelling. Previous applications for a balcony BR/53/10, BR/160/11 and BR/55/12 have all been refused on the basis that the balcony in view of its width and depth would result in unacceptable overlooking to

neighbouring properties. The previous application BR/55/12 for the rear balcony was the full width of the property and 1m in depth. This was dismissed on appeal and the Inspector stated that the provision of the balcony with its limited depth would offer some limited opportunities to look into the living room of the neighbouring property No 4 and would significantly increase the ability of users to look directly into the immedaite garden area of No 4. In relation to the neighbouring property No 6 with its rear extension it was stated that with the projected walling and depth of the balcony any overlooking to the living room would be of a limited nature that may cause some loss of privacy but would not materially harm the living conditions of occupiers. It was also stated that in view of its proposed design and materials, whilst different from those adjacent, would not, due to their lightweight form, cause material harm to the character and appearance of the host dwelling or terrace.

The proposed balcony has now been positioned away from the neighbouring property No 4 by approximately 2.1m and neighbouring property No 6 by approximately 1.3m. Both properties have the original design of box windows at first floor level that project out in line with the walling with attached juliette balconies. The proposal has now reduced the width of the balcony from 4.5m to 3.2m, depth from 1m to 450mm and it is now positioned in line with the projecting walling that separates the properties on either side although the balcony screening projects slightly forward. With its limited depth, screening by the existing walling and the oblique angle of view it is considered that there may be some limited opportunities to look into the living room windows of No 4 and 6. However, in terms of limited overlooking it would not materially harm the living conditions of the occupiers to recommend refusal.

It is accepted that the balcony may cause some loss of privacy to the rear garden areas of neighbouring properties but with its limited use it is not considered that this would be of an unacceptable level to recommend refusal.

Nos 1, 1A, 2 & 3 Seafield Terrace have rear balconies of differing sizes and materials and No 4 & 6 have juliette balconies. In view of its design and lightweight form it is not considered that this would cause material harm to the character and appearance of the host dwelling or the terrace.

Taking this into account it is recommended that the application be approved, subject to conditions.

HUMAN RIGHTS ACT

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 for 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 a neutral impact has 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).

RECOMMENDATION

APPROVE CONDITIONALLY

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 approved shall be carried out in accordance with the following approved plans: Site 1:1250 Drg No 18/03, Block 1:500 Drg No 18/04, Proposed Floor/Elevation/Section Drg No 18/02 PL13, Proposed East/West Elevations Drg No 18/05 PL13 received on 31st May 2013.

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.

3 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.