Recommendation Report for Planning Permission

REF NO: **BR/312/12/**

LOCATION: Flat 2
66 Essex Road
Bognor Regis

PROPOSAL: Retrospective application for a new external timber staircase allowing rear access to garden from 1st floor flat.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The external timber staircase measures approximately 1.1m (maximum) in width, depth of 4.5m and a height of 4m.
SITE AREA	Approximately 164 square metres.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Side boundaries wall + close boarded fencing approximately 1.8m in height, rear elevation flank wall of outbuilding to builders yard.
SITE CHARACTERISTICS	Two storey terraced property that is currently divided into two units of accommodation, one on the ground floor and one at first floor level each with its own enclosed garden. The property has smooth rendered walls painted in a buttermilk colour, tiled roof with white window frames.
CHARACTER OF LOCALITY	Residential area comprising terraced two storey properties of similar style and design.

RELEVANT SITE HISTORY

BR/540/86	Conversion of house into two self-contained flats	ApproveConditionally 16-02-1987

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection

Comments on Representations received:

None

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	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 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

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.

The emerging local plan has recently been approved by the Council and is therefore a material consideration in the determination of this planning application. Whilst it has not been formally adopted due weight has been given to its policies in terms of the decision making process at this stage.¿

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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of the adjoining properties.

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 terraced property is currently divided into two units of accommodation, one on the ground floor and one on the first floor. The retrospective application seeks to retain the wooden external staircase with doorway that has been erected on the rear of the dwelling at first floor level.

The rear garden area of the property has been divided into two areas which provides the occupiers of the flats with their own enclosed garden. As there is no rear access to the site the external staircase provides access to the garden area from the first floor flat.

The external staircase is of a wooden construction with landing area. The neighbouring property No 64 is also divided into two units of accommodation and in view of its siting and close proximity to this property it would result in overlooking into the ground and first floor windows of No 64, the ground floor flat of No 66 and neighbouring gardens. It is also considered that the staircase and landing area would also give rise to noise emanating from its use.

Whilst it is noted that the staircase provides the only means of access to the garden area from the first floor unit this does not outweigh the long term harm which would result by way of unacceptable loss of residential amenity and privacy in respect of direct overlooking and noise to the ground floor flat and neighbouring property to the east No 64.

It is therefore recommended that the application be refused for the following reason.

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 refusal 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

REFUSE

1 The staircase and landing area in view of its construction and height is considered to result in direct overlooking of neighbouring gardens to the east and west together with direct views into the windows of the adjoining neighbouring properties, particularly numbers 64 and ground floor flat of 66 Essex Road. The proposal therefore results in unacceptable loss of residential amenity to these properties and is an unneighbourly form of development thereby conflicting with policies GEN7 and DEV19 of the Arun District Local Plan.

2 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 with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.