

Recommendation Report for Planning Permission

REF NO: EP/110/19/PL

LOCATION: 9 Nursery Close
East Preston
BN16 1QD

PROPOSAL: Variation of condition 5 imposed under EP/145/17/HH relating to window on NW dormer elevation to be obscured glazed, top hung with restricted opening.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to amend an earlier approval, EP/145/17/HH, relating to the North Western dormer window which was conditioned to be glazed with obscured glass and only have a high level opening 1.7m above floor level.
SITE AREA	N/A.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The site is bordered to the front by a low brick wall, to the rear, there is mature planting, approximately 2m high.
SITE CHARACTERISTICS	The site is populated by a detached chalet bungalow.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

EP/93/18/PL	Variation of condition 2 imposed under EP/145/17/HH to change drawing number of plan drawing to reflect rebuilding of section of wall rather than retention.	ApproveConditionally 10-08-18
EP/75/18/DOC	Approval of details reserved by condition imposed under EP/145/17/HH relating to condition 4-details of cladding.	DOC Approved 20-06-18
EP/145/17/HH	Extend garage & form pitched roof over. Single storey infill extension between enlarged garage & house. Formation of enlargement to existing dormer on SE elevation & addition of pitched roof to existing dormer on NW elevation. Removal of tile hanging from gables & dormers & fitting fibre cement weather board.	ApproveConditionally 11-01-18

Noted. EP/145/17/HH granted permission for various alterations and extensions to the host dwelling. The permission is valid for 3 years and expires on 11-01-2021.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

East Preston Parish Council

Parish Council - No comment.

1 letter of objection:

- There is no evidence as to why there should be a retrospective application in this instance.
- The window will allow for the patio of the neighbouring dwelling to be overlooked.
- The windows will allow the occupiers of the neighbouring dwelling to look into the bathroom of the host dwelling.

1 letter of support from the applicant:

- The application is requested in order to maintain the visual integration of the window with the rest of the proposed extensions.
- There were originally two opening windows in the dormer. One was side hung, allowing full views. The application is an improvement in visibility for the occupiers of the neighbouring dwelling.
- The 'patio' area is sited outside of the neighbouring dwellings front door and is visible from the front garden of the host dwelling.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/A.

POLICY CONTEXT

Designation applicable to site:

Within built up area boundary

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
SDSP2	SD SP2 Built-up Area Boundary

[East Preston Neighbourhood Plan 2014 Policy 1](#)

Housing - General Principles

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

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

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).

The relevant policies in the East Preston Neighbourhood Plan have been considered in the determination 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 the window would not result in any loss of privacy to occupiers of neighbouring dwellings.

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 proposal seeks to amend a condition relating to the window on the North Western elevation of the host dwelling. The extensions to the building have already been approved. Consideration of this application is therefore limited to any potential impact on neighbouring residential amenity as a result of the proposed window.

NEIGHBOURING RESIDENTIAL AMENITY

The condition has been breached in that the window is able to open below 1.7m from ground floor level. However, due to the restricted opening, and the obscure glazing of the proposed window, there is no significant loss of privacy resulting from the amendment. This is because the restricted opening only allows very limited views out from the window below 1.7m and these do not result in unacceptable overlooking affecting the privacy of neighbouring property occupiers. This has been confirmed by the Council's enforcement officer who has visited the site. The window restrictors, and obscure glazing will be conditioned to remain in perpetuity.

SUMMARY

The proposed development is deemed to accord with relevant development plan policies and as such is

recommended for approval subject to the following conditions.

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

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 window, sited on the dormer on the North West of the building shall at all times be glazed with obscured glass, and have opening restrictors, allowing for a maximum opening angle of 9°, and an opening distance of 110mm.

Reason: To protect the amenities and privacy of the adjacent property in accordance with policies D DM1, and D DM4 of the Arun Local Plan.
- 2 INFORMATIVE: This permission relates to the variation of Condition 5 of planning permission EP/145/17/HH, in that it has been superseded by Condition 1 of this application. The applicant is advised and reminded that the planning conditions attached to the original planning permission, EP/145/17/HH remain in force and must be complied with. This decision only relates to the variation of Condition 5 of that planning permission.
- 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.