

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

REF NO: EP/15/13/

LOCATION: Flat 1 and Flat 6
The Ramblers
South Strand East Preston

PROPOSAL: First Floor Balcony and new external stair to Flat 6 and alterations to ground floor roof of Flat 1 to accommodate balcony above

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposed balcony will project approximately 1.5 metres from the rear elevation of the building and will run along a length of some 9.5 metres. The floor level will be at approximately 2.6 metres above ground level. The replacement staircase will be in the same location as the existing.
SITE AREA	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The boundaries around the rear parking area at 'The Ramblers' are marked by a mixture of timber fencing, brick walling and landscaping, generally reaching between 1.5 to 2 metres in height.
SITE CHARACTERISTICS	The site is occupied by a detached two-storey building which has white painted pebbledash walls and has been subdivided into a number of flats, access to those at first floor level is derived by an external staircase on the western elevation. A number of single and two-storey additions have been made to the building. There are rooftop terraces/balconies above single-storey and two-storey elements on the eastern side of the building.
CHARACTER OF LOCALITY	The site is set back from a residential road that is lined by a mixture of residential development with residential buildings also occupying the area behind a number of these properties. Buildings are generally fairly large and a number have been converted into flats.

RELEVANT SITE HISTORY

EP/130/09/	Single storey extension to flat no. 3 at ground floor level, conservatory extension to flat no. 7 over existing roof terrace at first floor level & extension enclosing staircase between flats 3 & 7 (Resubmission of EP/70/09)	Approve Conditionally 24-11-2009
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REPRESENTATIONS

Representations received:

East Preston Parish Council

No objection.

Comments on Representations received:

Noted.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

None.

POLICY CONTEXT

Designation applicable to site:

Within Built-Up Area

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN2](#)
[GEN7](#)
[DEV19](#)

Built-up Area Boundary
The Form of New Development
Extensions to existing residential buildings

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

EPDS

East Preston Village Design Statement by E P Parish Council

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to potential impact upon the character and appearance of the surrounding area and the amenities of neighbouring residents.

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 constitute an unneighbourly, overbearing and overshadowing presence that would detract from the amenities of residents of Flat 1 of The Ramblers.

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 current application has been submitted following the receipt of pre-application advice from the Council (ref: PAA/131/12). The advice indicated that the proposed balcony may be acceptable. However, the proposal has been subject to the formal planning process and, for the reasons stated below, the Council has formally determined the proposal to be unacceptable.

The positioning of the balcony, directly over the main windows serving the ground floor flat (Flat 1) would result in the balcony having an unacceptable oppressive overbearing and overshadowing impact upon the occupants of that property. There would also be an unacceptable level of overlooking towards the communal amenity area at the rear of the site.

It is noted that there are existing balconies and roof terraces installed on other parts of 'The Ramblers' serving other flats which means that this proposal would not be out of keeping with its immediate locality.

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

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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, it has been deemed that its refusal would not have a negative impact 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 proposed balcony would, by reason of its siting directly above the windows of the ground floor flat (Flat 1) have an unacceptable overbearing and overshadowing impact together with an unacceptable level of overlooking that would be detrimental to the amenities of the occupiers of that property in conflict with policies GEN7 and DEV19 of the Arun District Local Plan and the NPPF.
- 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(s) for the refusal, approval has not been possible.