

[REDACTED]

From: Colm McKee [REDACTED]
Sent: 09 February 2022 13:49
To: Neil Crowther <Neil.Crowther@arun.gov.uk>
Cc: Holly Ross [REDACTED] Ali Salvage [REDACTED]
Subject: Re: Planning Decision on FG/196/21/HH : 9 Telgarth Road

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Dear Neil

Thank you for your e mail.

Without a doubt, we have reached an impasse and as such I shall proceed with an appeal.

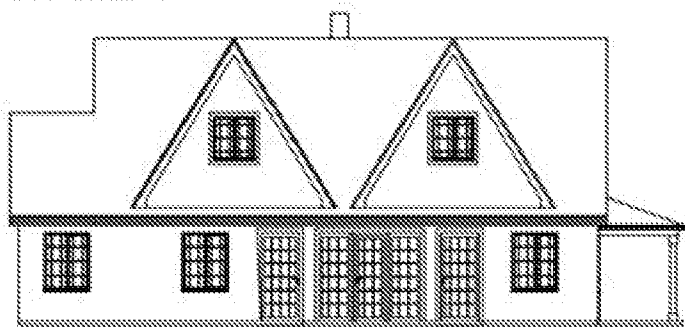
I am surprised at your comments regarding 'perceived overlooking' - notwithstanding this has never been raised before and was not an issue raised by The Inspector, the fallback position results in 2.2 X **more** glazing, therefore 110% **more** on the west elevation as compared to the refused scheme. See below.

It is as a matter of fact therefore physically impossible that the refused scheme could result in more 'perceived overlooking' when compared to the refused scheme. (The design too, speaks for itself).



2 windows @ 1.7m sq each = 3.4 sq m of window on west elevation.

Refused scheme



Two windows at 0.77m sq each = 1.54 sq m of window on west elevation.

It is reasonable to conclude that no matter how much we rebut each statement made by the LPA, the position on the matter has been cemented.

Formal response attached, and accepted we cannot continue indefinitely, we have no option but to challenge the LPA's decision.

Notwithstanding that the outcome has been entirely disappointing, thank you for looking into the matter.

Kind regards

Colm

COLM MCKEE
PLANNING CONSULTANT
[REDACTED]

I'm generally busy so please email me if you would like to arrange a call

On Wed, Feb 9, 2022 at 10:53 AM Neil Crowther <Neil.Crowther@arun.gov.uk> wrote:

Mr McKee,

We have now reviewed the decision taken on FG/196/21/HH based on your submitted statement and the fallback position set out in FG/151/21/CLP. As I have said already, I apologise that this did not happen at the time of determination and that it has taken nearly a month of frustrating correspondence for this to happen.

What was proposed under FG/196 was very different to what was granted CLP under FG/151.

The changes to the roof profile on the front elevation could not be carried out as permitted development. Therefore the large dormer window on the right on the western elevation would not be permitted development. The Council does not have a fallback position for this element of the proposals. The rearmost dormer window was comparable to what was approved under FG/151. However, as they are contained within an overall proposal that requires planning permission it is not the case that this element can be considered in isolation. Further, the side facing dormers are of a significantly greater scale than those within FG/151.

The Inspectors comments on the quality of the living environment as a result of such windows is also material. The decision would still have been to refuse due to unacceptable overlooking. Merely because a window is obscure glazed may not mean that such a window would not result in the significant perception of overlooking if there is activity/lighting etc. behind such windows.

I would suggest that your best course of action if you disagree with these conclusions is to appeal against the decision.

Regards, Neil

Neil Crowther

Group Head of Planning



T: 01903 737839

E: neil.crowther@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk

To register to receive notification of planning applications in your area please go to

<https://www1.arun.gov.uk/planning-application-finder>

From: Neil Crowther

Sent: 04 February 2022 08:39

To: Colm McKee [REDACTED] Juan Baeza <Juan.Baeza@arun.gov.uk>

Subject: RE: Planning Decision on FG/196/21/HH : 9 Telgarth Road

Mr Kckee,

I apologise for the quality of responses you are getting. They are contradictory and confusing and not the level of customer service that we should be providing.

I have asked Mr Baeza to assess the proposals against the CLP and confirm whether the Council has taken the correct or incorrect decision. This should have happened as a response to your very first email and it is not acceptable that this hasn't happened. You will have a response on this matter by 9 February.

If our view is that we have made the incorrect decision then I will confirm that we will accept a re-submission as a free submission. If we are comfortable that the correct decision has been made then I think there is little point in re-submitting and I would suggest your best course of action is to appeal.

Once again, I apologise for the quality of service you have received, we will come back to you one way or another shortly.

Regards, Neil

Neil Crowther

Group Head of Planning



T: 01903 737839

E: neil.crowther@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk

To register to receive notification of planning applications in your area please go to

<https://www1.arun.gov.uk/planning-application-finder>

From: Colm McKee [REDACTED]
Sent: 03 February 2022 18:58
To: Juan Baeza <Juan.Baeza@arun.gov.uk>
Cc: Holly Ross [REDACTED]; Neil Crowther <Neil.Crowther@arun.gov.uk>; Kathryn Welch <Kathryn.Welch@arun.gov.uk>; Ali Salvage [REDACTED]
Subject: Re: Planning Decision on FG/196/21/HH : 9 Telgarth Road

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Dear Juan

This is getting farcical.

Mr Crowthers - In the strongest possible terms, I request you directly intervene.

Response attached.

Kind regards

COLM MCKEE
PLANNING CONSULTANT
[REDACTED]

I'm generally busy so please email me if you would like to arrange a call

On Thu, Feb 3, 2022 at 3:49 PM Juan Baeza <Juan.Baeza@arun.gov.uk> wrote:

Dear Mr McKee

I acknowledge that this application failed to respond to the granting of FG/151/21/CLP and the implications that this might have had on its eventual decision. However, that is not to say that in doing so it would have been approved. At this point I am unable to say what the determination would have been as this would need to be formally assessed as a different application.

This application was determined following no changes to the proposal that PINS dismissed at appeal. The report raised and assessed those issues and proceeded to refuse it for the same reasons given by the Inspector i.e. that to obscure glaze and fix shut those windows as a way to address the unacceptable overlooking of the neighbouring property to the west would not result in a high standard of amenity of future users of that room.

On that basis I don't see any reason why a resubmission should carry no fee.

If you want to proceed with a formal complaint can you please look at the Council's web site for advice on making a corporate complaint. The relevant link is

<https://www.arun.gov.uk/compliments-and-complaints/>

Regards

Juan Baeza

Team Leader,

Planning Department



T: 01903 737765

E: juan.baeza@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk



Sign up to our newsletter [here](#)

To register to receive notification of planning applications in your area please go to
www.arun.gov.uk/planning

From: Colm McKee [REDACTED]

Sent: 01 February 2022 20:40

To: Juan Baeza <Juan.Baeza@arun.gov.uk>; Holly Ross [REDACTED]

Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>; Kathryn Welch <Kathryn.Welch@arun.gov.uk>

Subject: Re: Planning Decision on FG/196/21/HH : 9 Telgarth Road

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Hi Juan

Thank you for your e mail.

In response to the following comment

'You emailed Kathryn a comprehensive planning statement in support of your application on the 10th January – in my opinion very late in the day given that the application was due to be determined by the 11th.'

It is important that the readers of this e mail understand the timeline.

TIMELINE

We submitted the LDC to establish the fallback position. This was required to be established in direct response to the appeal (and avoid a refusal of the subsequent planning application - ironically). The LDC was submitted on 18.08.21, and validated the following day.

The aim was to wait until this was approved (expected to be around 8 weeks due to the non-complexity / simplicity) and then submit the planning application with the planning statement, which fully justified the fallback position – hence avoiding a refusal (ironically).

After 3 months had passed it became clear the LDC was not going to be issued in a timely manner and so the decision was made to submit the planning application (27.10.21), in the hope the LDC decision would be issued soon after the planning application was submitted – it was not.

(It did take a while to get validated - due to insistence on the validation officer to meticulously detail each and every single element of the proposal – however, that is an issue for another time and I do not wish to detract further from the issue at hand.)

The application was validated on 16.11.2021 - at this stage, the LDC was now 3 months in with no sign of approval.

Essentially we had to wait until the fallback position was established before submitting the planning statement – otherwise, officers would have claimed the fallback did not exist.

The LDC was eventually approved and sent to me Fri, Jan 7 2022, 5:49 PM. This was after numerous chase ups to the case officer.

Please note that although it was on Friday, Jan 7th 2022 it was at 5.49PM, clearly outside of office hours.

I did however send the planning statement on the Monday 10th, 1.21pm.

The application was refused on the 11th.

Therefore where this may appear *'late in the day'* the reasoning behind the submission was quite simply due to the delays caused by the LPA – and so I agree, the delay with the LDC is entirely *unacceptable*.

I note you continue to claim that the points were picked up on and were rebutted, and I find this regretful – claims continue to be made in the absence of any evidence or substantive argument - but claims continually repeated.

'Whilst I apologise for this omission I have looked at your statement and consider that the officer report largely covered the points made within it and rebutted your conclusions on why you felt the proposal was acceptable.'

Can you, therefore, identify where the issues are rebutted?

- Please indicate where there is an acknowledgment of and a rebuttal to the fall-back position?
- How could the fallback be rebutted / on what grounds?
- Where is there an acknowledgment of the upper floor living accommodation and how could the improvements be rebutted, and then the application be refused due to impact on internal amenity
- Where there is an acknowledgment that the proposal only improves the living accommodation and again how could this be rebutted to result in a refusal.

One could be forgiven for thinking my conclusions have not actually been rebutted. However, should you wish to evidence this, I invite you to do so.

This is not a slight at the case officer, who I found very helpful and mannerly on the phone. On occasion, however, for various reasons the LPA does not always get it right, be it the case officer or senior.

Accepting these things can happen, the frustrations lie (and what is antagonising an already difficult situation) is that the situation continues - now approaching 4 weeks, with the continued claims that the material issues in the statement have been rebutted - they have not.

It is a simple extension, allowing my client only to improve her family home, with no detriment to the neighbours. My view is we resubmit the application, perhaps with some rendering. As discussed previously I will include the relevant case law examples, which I produced when it became clear there was not a full understanding of the LPA as to the fall back position.

Level of service

'With regards to FG/196/21/HH I do not think you received poor service in terms of the length of time it took to determine your application.'

The application may have been determined within 8 weeks. This meets a government stat. In my view, this situation could in no way be described as 'good service'. A simple EOT and a call to discuss could have avoided this entire situation.

You mention pre application discussions – what confidence can we have in pre-application discussions if the LPA takes 5 months to determine a LDC?

Further, what confidence can we have in pre-application discussions, when, despite all of the previous correspondence the LPA is still claiming the planning statement was rebutted, despite the information in front of them?

Accepting it might appear just another 'householder application', such a simple application does make a dramatic difference to the applicant and her family.

I would be grateful if the LPA could by the end of this week finalise their position on the matter and provide us with a clear, committal and unambiguous opinion and allow us to proceed accordingly. For the avoidance of doubt, I am trying to work with the LPA to establish a path of least resistance.

Kind regards

COLM MCKEE
PLANNING CONSULTANT

On Tue, Feb 1, 2022 at 3:37 PM Juan Baeza <Juan.Baeza@arun.gov.uk> wrote:

Dear Mr McKee,

You make comments about the handling of FG/151/21/CLP and FG/196/21/HH.

Can I first unreservedly apologise for the unacceptable delay experienced in determining with application reference FG/151/21/CLP. I hope you will accept that some of the delay could be attributed to the Christmas/New Year break.

With regards to FG/196/21/HH I do not think you received poor service in terms of the length of time it took to determine your application. So as to improve throughput of applications and adhere to determination dates officers are under instruction not to negotiate on applications made unless they were the subject of a pre app. Submission. This will explain why you did not hear from Kathryn Welch until she informed you by telephone conversation on the morning of the 11th January that your application would be refused. The application was duly determined on the 11th January within the required timeframe. The refusal report was authorised by myself and the then interim DC manager.

You emailed Kathryn a comprehensive planning statement in support of your application on the 10th January – in my opinion very late in the day given that the application was due to be determined by the 11th. Unfortunately the contents of your statement were not picked up and summarised in the officer report. Whilst I apologise for this omission I have looked at your

statement and consider that the officer report largely covered the points made within it and rebutted your conclusions on why you felt the proposal was acceptable.

In your letter of the 17th you now go on to cover new ground with regards to the fallback position and, essentially, that it supports the granting of permission of your proposal. You suggest that an appeal (option 2) would be successful and attract costs against the Council as there are new material considerations for an Inspector to now consider. I will be consulting my manager to ascertain whether there are grounds for pursuing your preferred option 3.

I will get back to you in due course.

Regards

Juan Baeza

Team Leader,

Planning Department



T: 01903 737765

E: juan.baeza@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF

www.arun.gov.uk



Sign up to our newsletter [here](#)

To register to receive notification of planning applications in your area please go to
www.arun.gov.uk/planning

From: Juan Baeza
Sent: 31 January 2022 17:31
To: Colm McKee [REDACTED]
Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>
Subject: RE: Planning Decision on FG/196/21/HH : 9 Telgarth Road

Dear Mr McKee

A response will be going out to you tomorrow. Apologies for the delay.

Regards

Juan Baeza

Team Leader,

Planning Department



T: 01903 737765

E: juan.baeza@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk



Sign up to our newsletter [here](#)

To register to receive notification of planning applications in your area please go to
www.arun.gov.uk/planning

From: Juan Baeza
Sent: 26 January 2022 10:26
To: Colm McKee [REDACTED]
Cc: Neil Crowther <Neil.Crowther@arun.gov.uk>
Subject: RE: Planning Decision on FG/196/21/HH : 9 Telgarth Road

Dear Mr McKee

I will be providing you with a fuller response to your points raised by Monday next week.

Regards

Juan Baeza

Team Leader,

Planning Department



T: 01903 737765

E: juan.baeza@arun.gov.uk

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF
www.arun.gov.uk



Sign up to our newsletter [here](#)

To register to receive notification of planning applications in your area please go to
www.arun.gov.uk/planning

<http://www.arun.gov.uk>

DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

<http://www.arun.gov.uk>

DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

<http://www.arun.gov.uk>

DX 57406 Littlehampton

You can view Arun District Council's Privacy Policy from <https://www.arun.gov.uk/privacy-policy>

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.

09.02.2022

Dear Neil,

This is entirely regretful, not least considering the efforts we have continuously made to get to this stage – despite a long chain of conflicting, contradictory and I must admit, questionable e-mails from officers.

It is entirely frustrating the LPA still hold the same view. It is evident there is nothing we can do or say, no matter how logical our argument, to gain the LPA support and I am bemused as to why this is.

It is clear to me now that the LPA for whatever reason will not support this application in any shape or form, and that is only the Inspector who might provide an untainted and impartial assessment.

It is only my client, the applicant, and the customer of the LPA, who is now being disadvantaged and one could be forgiven for suggesting the LPA approach appears punitive.

We are now in a position where an entirely new element is being introduced i.e. ‘perceived overlooking’, never mentioned on any previous correspondence, however, if I have missed this then I stand corrected. As this has not been raised before, I will demonstrate herein, that this simply cannot be a reasonable material consideration for refusal.

Notwithstanding this is a new issue, there are two reasons the argument does not stand.

1. If ‘perceived’ overlooking was a concern, it stands to reason the Inspector would have raised this when dismissing the appeal, as they were very specific about why the appeal was dismissed. They did not raise this issue.
2. Please also note that the windows as a result of the fall back are **2.2 times larger** than those proposed by the fall back. The fall back would have over **100% more** window area on the west elevation. This fact rebuts entirely the ‘perceived overlooking’ argument.

It cannot therefore be logical or reasonable to now give weight to ‘perceived overlooking’.

Final comments in response to your e mail of 09 February 2022

Scale

'What was proposed under FG/196 was very different to what was granted CLP under FG/151.'

And

'Further, the side facing dormers are of a significantly greater scale than those within FG/151.'

This is duly noted. Visually it is different yes - but visually it is similar to FG/70/HH - which, I quote your officers directly;

'Furthermore, these elements of the proposed development are considered to appear subservient to the host dwelling, and well integrated with its built form' (FG/70/HH) .

I now quote the Inspector;

' The matter of the character and appearance of the proposals are not in dispute between the main parties'. Finally, I quote your officers again in the latest refusal

' During the first application it was determined that by reason of limited views of the ground-floor extensions, they would appear subservient to the host dwelling and well integrated with its built form; REPORT__1011(ODB) FG/196/21/HH furthermore, the alterations to the roof although large, due to the varied styles and other additions to the roofscape of surrounding properties and their location back from the primary elevation, the proposal would not have significantly harmful impact upon the character of the area or the host dwelling itself. As the proposal remains the same this reasoning remains unchanged.'

Therefore, the design and scale are not and has never been a point of concern.

It is the quality of the internal rooms which is the issue – and the 'privacy of neighbours' – which is firmly addressed through the obscure glazing. I will return to your comment regarding perceived overlooking later.

I note the comments re the front elevation - but there has never been an issue with this. Regarding the suggestion there is no fall back for the dormer to the right of the west elevation – both the 'fall back' and the recently refused scheme would serve two individual habitable rooms – both with windows on the west elevation.

Both schemes = 2 obscure windows, both on the west elevation, (except the fall back has over 100% more glazed area).

Neither scheme would result in any different impact on neighbouring amenity (unless considering perceived overlooking, in which case the fall back would result in more perceived overlooking) – yet the refused scheme would result on improved living accommodation. Neither could possibly result in any actual overlooking.

In terms of amenity, FG/151 results in 2 cramped more oppressive rooms than FG/196. The point is entirely ironic when considering both existing situation and the reason for refusal.

The LPA approach and claim there is no fall back position for the right hand dormer on the west elevation can be considered one of semantics and the LPA stance (as is fact) will force a lesser quality internal amenity - yet both schemes would result in no detrimental amenity impact - unless the LPA are now introducing 'perceived overlooking' and genuinely considering it a reason for refusal.

Perceived overlooking

One would expect that had this been a concern, the Inspector would have raised this in their thorough and detailed decision – they did not.

If this was a genuine concern, however, again I refer you to the fallback position, which allows the two windows on the west side serving two rooms. There are still two windows, serving two habitable rooms.

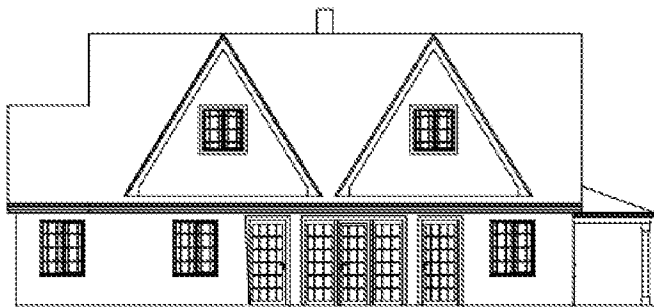
Now I will consider the fall-back vs the refused windows.

Fall-back position



2 windows @ 1.7m sq each = 3.4 sq m of window on west elevation.

Refused scheme



Two windows at 0.77m sq each = 1.54 sq m of window on west elevation.

Fall back windows are 2.2 times larger than the refused windows. Therefore, any 'perceived' overlooking is significantly less as a result of the refused scheme – not the fall back.

Summary

Following the Inspectors decision, the only issue is the quality of the internal rooms on the west.

Perceived overlooking was not an issue and this is now new material being raised.

It is reasonable to conclude PINS would have raised this whilst discussion the internal quality of the rooms.

The fall-back position results in over twice as much glazing on the western elevation.

The front has never been an issue, nor has the rear

The design has never been an issue – it has been supported throughout, as demonstrated herein.

The existing rooms have little or no outlook.

The fallback rooms have improved internal living accommodation but are nowhere near as good as what is proposed - which, demonstrates the irony of the entire situation.

Regretfully, it appears we are firmly at the end of the road in attempting to resolve this issue.

Kind regards,

Colm McKee MRTPI
Director, CMK Planning