

Recommendation Report

Application No.

FP/134/CLE

Committee

☐

:

Date

Delegated

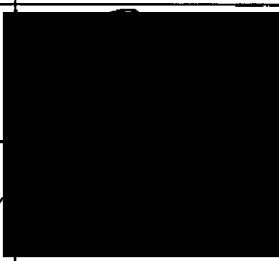
☒

Recommend Permission

☒

Recommend Refusal

☐

	Date	Signature
Prepared by Case Officer	23/4	
Agreed by Team Leader	10.5.12	
Agreed by H.O.P.S / P.C.M. (if required)		
Committee Plans		

Comments:

seems to show on 2007
aerial photo.

returned after 10.5

✓ added to
file 15/5

FP/134/11/CLE

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: FP/134/11/CLE

location Sea Breeze
Sea Road
Felpham

PROPOSAL: Application for a lawful development certificate for an existing use for a rear balcony

DESCRIPTION OF APPLICATION

As above. The balcony is a timber structure positioned to the rear of the dwelling.

DESCRIPTION OF SITE AND SURROUNDINGS

The site is occupied by a timber framed dwelling.

RELEVANT SITE HISTORY

FP/133/11/	Balcony to front elevation	Refused 06-10-2011
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REPRESENTATIONS

Representations received:

Felpham Parish Council

No objection.

2 letters contesting evidence supplied: The applicant has failed to produce reliable evidence and is unable to show continuous use. This application is a mixture of misrepresentation, deceit and fraud. This is a new structure built last year.

Comments on Representations received:

Noted. The applicant has produced sworn letters that the balcony has been present for over 4 years. Over that time parts of the balcony have been removed and replaced but the Council is satisfied, on the balance of probability, that the balcony has been present for a sufficient amount of time to qualify as lawful development.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

FIRST CONSULTATION:

cleoffrep

The evidence satisfies the test in that there are 2 letters saying that the balcony has been in situ for at least 4 years, counting back from the date of the application. I have at this date seen no contradictory evidence of this position. The evidence, judged on the balance of probability and the above criteria is sufficient and is precise and unambiguous.

It is a criminal offence to supply false or misleading information. The applicants own uncorroborated evidence and unsworn evidence via letters is sufficient for this purpose.

SECOND CONSULTATION:

Evidence supplied suggesting the balcony has been added to and extended, or even replaced circa 2009-2010. If you conclude the whole of the balcony is new then a CLEUD should be refused.

Comments on Consultation responses:

Noted. The applicant has supplied evidence that maintenance works have been carried out on the balcony recently and this would explain why parts of the structure have not been in place at times. A further letter and photographs from a former neighbour purportedly showing the whole balcony (including roof) in place in 2000 have been supplied.

LEGISLATIVE BACKGROUND

Section 191 to 195 Town & country Planning Act 1990 and DOE Circular 10/97 Annex 8 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

- (i) What is judged on a balance of probability.
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence.
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

The relevant time limit for the material change of use of the land to a balcony serving a residential dwelling is 4 years.

The evidence consists of sworn letters stating that the balcony has been in position for more than 4 years and supporting photographic evidence.

CONCLUSIONS

Section 191 (2)(a) of the Town & Country Planning Act 1990 states that a Certificate of Lawfulness for an existing development can be granted if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason). The works do constitute development and would require planning permission.

Section 171B(1) states that the time limit for enforcement action to be taken against a building, such as the balcony, is 4 years. Sworn letters and photographs supplied by the applicant and a neighbour satisfy the Council that the balcony has been in place for a period of more than 4 years and, as such, is immune to enforcement action. It is noted that claims have been made that the balcony has been added more recently than 4 years ago. Parts of the balcony have been removed and replaced over that time for maintenance and this would explain why parts of the

cleoffrep

balcony have not always been present. However, the Council is satisfied, on the balance of probability, that a balcony has been present in this position for a period of over 4 years. It should also be noted that the Council's own aerial photography records from 2007 show a structure in the position of the current balcony.

It is therefore considered that a Certificate of Lawful Development should be issued.

RECOMMENDATION

APPROVE

CLE HEADER

The Arun District Council hereby certify that on the 22nd July 2011 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason.

The applicant has provided evidence that the balcony has been in position for over 4 years and, as such, the period of time in which enforcement action can be taken, as set out in Section 171B(1) of the Town & Country Planning Act, has expired.

This means that the development has achieved lawful status as per Section 191(2)(a) of the Town & Country Planning Act 1990.

FIRST SCHEDULE

The balcony measures approximately 4.25 metres in width by 3.9 metres in depth. Its floor area is 1.6 metres above ground level, with additional balustrading around the edges and a overhanging roof area projecting approximately 1.6 metres from the rear of the main dwelling and measuring approximately 2.7 metres in width. The balcony is associated with the use of 'Sea Breeze' as a dwelling.

SECOND SCHEDULE

Sea Breeze, Sea Road, Felpham, PO22 7AN

EXTENT OF USE/PROPOSAL

The development referred to is a timber balcony area to the rear of the site, attached to the western elevation of 'Sea Breeze.'

cleoffrep

James Smith

From: [REDACTED]
Sent: 13 March 2012 16:52
To: James Smith
Subject: Seabreeze - railway carriage balcony
Attachments: neighbours photo's.pdf

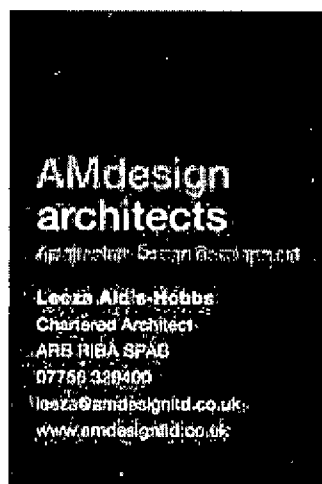
James

I attach some photographs taken by a former neighbour of Sharon Holloway taken in 2000 from Flat 1A Channel Court, Outram Road, Felpham, clearly showing the rear balcony in its current position. Mr Richard Skinner the former neighbour is still a local and would be prepared to write confirming the originality of the images.

We have had no news concerning either balcony and would appreciate an update.

Kind regards

Leeza



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THE PHOTO'S YOU HAVE WERE
TAKEN FROM THE FIRST FLOOR
LOUNGE WINDOW OF THE BUILDING
WHICH I HAVE BEEN IN
IN CONTACT WITH THE
BUILDING SINCE THE
EXISTING BUILDING WAS
ALWAYS BEEN THERE, SO
FROM 2000 TO 2002 THAT
MAKES 12 YEARS AS I'M
AWARE AND ALSO YEARS
BEFORE THAT THE PHOTO'S
YOU HAVE WERE TAKEN BY
BMC FROM THE FIRST
FLOOR LOUNGE WINDOW.

KIND REGARDS

Felpham Parish Council
Mr R Wickens (Clerk)
St Mary's Centre
Grassmere Close
Felpham
PO22 7NU

Your Ref:
Our Ref: FP/134/11/CLE
Please ask for:
Mr J Smith

10th August 2011

Dear Sir/Madam

(as amended)

Town and Country Planning Development Management Procedure Order 2010

Application for a lawful development certificate for an existing use for a rear balcony
Sea Breeze Sea Road Felpham

Thank you for your internet representation made on 10th August 2011 which has been recorded as **no objection** with the comments as follows:

No objection

Your views will be considered before the application is determined and I shall write to inform you of any decision made.

Please be aware that if the application is to be determined by the Council's Development Control committee and your letter has been received at a late stage after the Agenda has been published you will not receive a separate letter notifying you of the date of the meeting and procedures for public speaking. In such circumstances it is recommended that you track the progress of the application on the Council's website or telephone the Council for further information. Please be advised that any comments you make that are not included within the Committee Agenda will be reported to the Members of the Development Control committee. Please also be aware that only a small number of all planning applications received go to the Development Control Committee. Most are determined under delegated powers by Officers in which case your comments will again be considered before the application is determined.

Please be aware that Planning Services operate an 'open file' policy and may publish details of your comments on the internet on the Arun District Council Planning section. Please ensure that you only provide information that you are happy will be made available in this way. If you supply information belonging to a third party, please ensure you have their permission to do so. If you do not wish your comments to appear on the 'open file' please confirm this in writing and I will arrange for it to be destroyed although this means that its contents will then be disregarded.

In the event of a subsequent written representations appeal, against a refusal of planning permission on a householder application, any representations made on the application will be automatically forwarded to the Secretary of State. Unlike all other types of appeal, there will be no further opportunity to comment at the appeal stage.

Yours faithfully

Karl Roberts
Assistant Director Planning Services & Housing Strategy

AM Design Architects
1 The Grove
Felpham
Bognor Regis
West Sussex
PO22 7EY

Your Ref:
Our Ref : FP/134/11/CLE
Please ask for:
Mr J Smith
Direct Dial 01903 737761

26th July 2011

Dear Mrs Aldis-Hobbs

The Town and Country Planning Act 1990 (as amended)
Town and Country Planning Development Management Procedure Order 2010

Application for a lawful development certificate for an existing use for a rear balcony
Sea Breeze Sea Road Felpham PO22 7AN

Receipt No P87593 Amount: £ 150.00

VAT Number 193 5586 24

TOTAL PAID: £ 150.00

Thank you for your recent planning application, which was accepted as a valid application on 22nd July 2011. It is being dealt with by Mr J Smith who will be able to help you by telephone, should you have any questions. However, I would point out that it will not be possible for you to meet with the case officer unless a prior appointment has been arranged.

This Council is legally obliged to publicise all planning applications received. I would be grateful if you would display the enclosed notice on or near the site for 21 days from the date you receive this letter in a position where it can easily be seen by the general public. A decision cannot be made until 25th August 2011 which is the end of the advertising period.

If you have not received a decision by 16th September 2011 and have not agreed in writing to extend this time limit, or been advised that your application is invalid, you are entitled to appeal to the Secretary of State in accordance with the Town and Country Planning Act within 6 months from the date by which the decision should have been made (unless the application has been referred to the Secretary of State by this Council for decision). Appeals must be made on a form which is obtainable from the Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

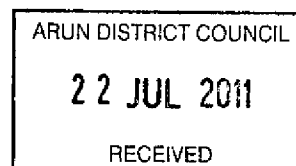
Please be aware that some of our correspondence including the Decision Notification will be sent by email if you have provided an email address on your forms. It is therefore important to inform us if your email address changes throughout the course of the application.

This acknowledgement only relates to planning and does not relate to any other legislation which may or may not apply such as Building Regulations. You will need to carry out your own checks to determine whether any other consents or permissions are required. For advice on whether Building Regulations are required please visit the government's website www.planningportal.gov.uk or seek your own professional advice. If you are in any doubt you will need to submit a formal Building Regulations submission.

AMdesign Architects

1 The Grove
Felpham
West Sussex
PO22 7EY

**Planning Department
Arun District Council
Maltravers Street
Littlehampton
West Sussex
BN17 5LF**



14th July 2011
Ref: 52/planning letter 02
ADC Ref: FP/134/11/CLE

Dear Mrs S Honney-Bayes

Sea Breeze, Sea Road, Felpham, West Sussex, PO22 7AN – Rear Balcony
Application for Lawful Development Certificate for an Existing use.

Further to your letter dated 11th July 2011 please find enclosed the following documentation submitted as a revised drawing for an Application for Lawful Development Certificate for an Existing use to the aforementioned property.

3 x planning drawings - **52/02A. Property Plan 1:100.**
As requested the floor plan shows windows and doors as detailed on the elevations.

I trust that this information is satisfactory, should you have any comments or queries please do not hesitate to contact me.

Yours faithfully

Leeza Aldis-Hobbs
Chartered Architect ARB, RIBA, SPAB.
AMdesign Ltd
07756 300400





AM Design Architects
1 The Grove
Felpham
Bognor Regis
West Sussex
PO22 7EY

Dear Mrs Aldis-Hobbs

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF
Planning & Building Control General
Enquiries
Tel: (01903) 737756 Fax: (01903) 730442
Dx: 57406 Littlehampton
Minicom: 01903 732765
e-mail: planning@arun.gov.uk
website: www.arun.gov.uk/planning

Our Ref: FP/134/11/CLE

Your Ref:

Please ask for:

Mrs S Honney-Bayes

01903 737500 Ext 37445

11th July 2011

The Town and Country Planning Act 1990 (as amended)

Town and Country Planning Development Management Procedure Order 2010 (as amended)

**Application for a lawful development certificate for an existing use for a rear balcony
Sea Breeze Sea Road Felpham**

Thank you for your recent application which I received on 8th July 2011. It is being dealt with by Mrs S Honney-Bayes who will be able to help you should you have any questions.

I regret that I am unable to accept your documents as a formal application until the following matters have been resolved :-

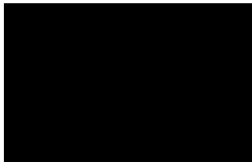
Please provide 1 electronic or 3 paper copies of revised floor plans to show all the windows/doors detailed on the elevations in accordance with the guidance notes available on our website detailed below (click on National List).

For further guidance or to obtain the documents as required above please refer to our website:
<http://www.arun.gov.uk/main.cfm?type=SUBMITAPAPERAPPLIC>

If you are unable to download the required guidance documents from the web site please contact the above officer who will arrange to post a paper copy to you.

Please provide the above by 25th July 2011. If this information is not received by this date, the application will be returned to you as incomplete and you will have to submit a fresh application.

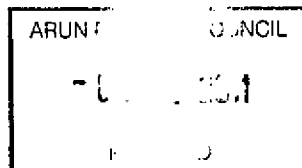
Yours sincerely



Assistant Director Planning Services &
Housing Strategy

pmac42

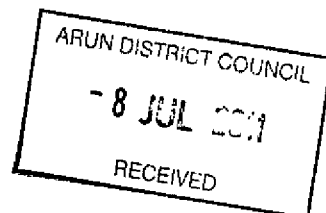
WSSC Local Development Division (Includes ROW/Archaeology/ Ecology/ Highways/Reg3/4/Strategic)	WSE	
WSSC Design Section (Listed Building Consultations only)	WSD	
Agriculture Appraisal	WAA	
West Sussex Waste Disposal	WWD	
Trading Standards	WTS	
Commission for Social Care Inspection	RHU	
Playschool Registration Unit	PRU	
Highways Agency and Consultants Interoute	HA & MO	
English Heritage (Parks/Gardens Special Interest only)	EH2	
West Sussex Health Authority (Eastern Area)	WHA	
West Sussex Health Authority (Western Area)	CHA	
Southern Water	SWW	
Environment Agency (Zone 2, 3 or 2/3)	EA	
Portsmouth Water Co.	PW	
South Downs Joint Committee	SCB	
Railway consultee	RP	
English Nature	EN	
Sussex Police	POL	
English Heritage (for apps affecting grade 1 or 2* LB's)	EH	
Garden History Society	GHS	
Health & Safety Executive	HSE	
National Planning Casework Unit	MFF	
Sport England South East	SPO	
West Sussex Fire and Rescue(Water And Access Management)	WFW	
Department for Environment, Food & Rural Affairs	DEF	
The Countryside Agency	COA	
South East England Regional Assembly	SEE	
Commission for Architecture & the Built Environment	CAB	
Western Sussex Primary Care Trust	PCT	
South East Economic Development Agency	ECD	
Ofcom Wind Farm Enquiries	OFC	
The Theatres Trust	TTT	
Estates Property	PS	
Adjoining Council (Worthing/ Chichester/Horsham/ North Mundham Parish Council)	WOR/CHI/HOR/ NMP	
Landscapes	LDS	
Arboriculturist	HOR	
Environmental Health	FS	
Leisure Services	TL	
Concessions Officer	CON	
Engineers – All to go to Brian Holland + Fluvial flooding (Simon Power) END or Coastal Protection (Roger Spencer) ENC or Structural (Bruce Taunton) ENS	ENG	
Council Tax	CTR	
Building Control	BC	
Economic Regeneration	ER	
Housing Policy	HOU	
Housing Management	CHO	
Local Plans	FP	
Conservation Officer	CO	
Planning Solicitor	LEG	
Elections	EL	
Bognor Regis Task Force	BTf	
Car Parks	CAR	
Environmental Amenities and Community Safety	EAC	
Parish Council		
TSU WILL ALWAYS DO:		
CAAC - any app falling within a Conservation Area (enter group code CAA)		
Six Societies - any demolition to a listed building (AMS, CBA, GG, SPA, VS + EH for principle demolition + LOCAL GROUPS AB		
FVS, AS, EPK, FCG, FNV)		
Mark Everson - any tree applications (HOR)		
Environment Agency – if development in a flood plain		
Southern Water - development over a public sewer or If in Barnham Drainage Area		
Adjoining Parish/Town Council if Dual Parish application		
Anything with a wind turbine consult NATS (use code WFC)		



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1 The Grove
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PO22 7EY

Planning Department
Arun District Council
Maltravers Street
Littlehampton
West Sussex
BN17 5LF



30th June 2011
Ref: 52/planning letter 01
ADC Ref: ENF/513/10/

Dear Mr D Sullivan

Sea Breeze, Sea Road, Felpham, West Sussex, PO22 7AN – Rear Balcony
Application for Lawful Development Certificate for an Existing use.

Further to your letter dated 10th June 2011 and our subsequent telephone conversation on 24th June 2011, please find enclosed the following documentation submitted as an Application for Lawful Development Certificate for an Existing use to the aforementioned property.

3 x planning application forms.

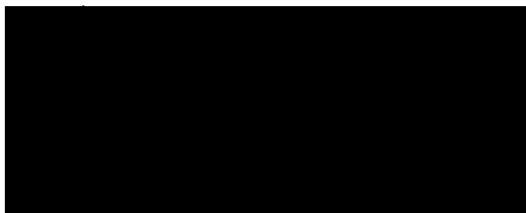
3 x planning drawings -
52/01. Location Plan 1:1250 & Site Plan 1: 500
52/02. Property Plan 1:100.
52/04. Rear Balcony Elevations 1:100.
52/05. Roof Plan 1:100.

3 x Planning Statement -
Appendix A – aerial plan
Appendix B – Neighbours letter
Appendix C – Builders letter

Cheque for £150 made payable to Arun District Council.

I trust that this information is satisfactory, should you have any comments or queries please do not hesitate to contact me.

Yours faithfully



Leeza Aldis-Hobbs
Chartered Architect ARB, RIBA, SPAB.
AMdesign Ltd

