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

REF NO: **FP/87/13/**

LOCATION: 25 Admiralty Road
Bognor Regis

PROPOSAL: Creation of a small roof garden above annexe, with access to it leading from the upstairs bedroom. Change the present double window into french window / doors, and place decking and a balustrade around the outside of the existing flat roof.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is to use the existing flat roof of the rear single storey kitchen extension as a balcony in connection with the bedroom/study room that currently looks out over this roof. The application proposes to apply decking to this roof and then erect an approx. 1.2m high wooden balustrade (0.75m gaps between each upright) around the edge of the roof. The existing window that looks out onto this roof would then be replaced with UPVc French style doors.
TOPOGRAPHY	The site is flat.
TREES	No trees are affected.
BOUNDARY TREATMENT	The rear boundary to 6 Blakes Road has a 2.5m to 3.5m high hedge (approx. heights) and is interspersed with some small trees that protrude above the hedge. As a result, there are no views of 4 Blakes Road from the flat roof and only partial views of 6 Blakes Road. The boundary with 23 Admiralty Road has a 2m high wall with vegetation covered trellis atop. The other side boundary (onto Bakes Road) has a 1.8m high timber fence with the addition of landscaping alongside the house.
SITE CHARACTERISTICS	25 Admiralty Road is an existing medium to large two storey detached dwelling set in a corner plot formed by the junction of Admiralty Road and Blakes Road. The property fronts onto Admiralty Road but has its vehicle (and pedestrian) access of Blakes Road care of two large gates and an intercom/key pad access system. The dwelling is sited so as to be roughly equidistant between the front and rear boundaries and occupies a very similar building line to other dwellings on this side of Admiralty Road. At the very rear of the property, there is a

large flat roofed garage with attached store room. The applicants keep dogs and so there are also outside kennels in the rear of the property.

The neighbouring Admiralty Road property (23) is a mix of 1.5 and 2 storeys. As a result, its rear first floor windows on the side adjacent to 25 are set into a sloping roof and only face to the rear. To the rear, nos. 6 and 4 Blakes Road are set on different building lines, however due to the existing landscaped boundary between 25 and 6, it is not possible to see the side elevation of 4 Blakes Road and only an existing first floor spare bedroom window can be seen on no. 6 and an angled view of the first floor front windows on the opposite side of 6's front.

CHARACTER OF LOCALITY

This is a residential area of Felpham located only a short distance from the sea. The area is quiet in nature with a pleasant vibe to it. The majority of nearby dwellings are detached and of a similar size to no. 25. There are also several trees in the local area which provide amenity value.

Notwithstanding, on the opposite side of Blakes Road from no. 25, there is a 2.5 storey apartment building. This is an exception to the established character of the area. There is a balcony on the top of this building (located on the rear southern elevation) which faces south over the adjacent houses.

RELEVANT SITE HISTORY

FP/228/87	Two storey lounge and bedroom extension, cloakroom extension and store extension to existing detached garage	Approve Conditionaly 19-10-1987

The existing single storey rear extension on which the balcony would be formed was constructed using permitted development rights. A 1980 Building Regulations application refers to this extension.

REPRESENTATIONS

Representations received:

Felpham Parish Council

Felpham Parish Council - no objection.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site: Within built up area boundary.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN7	The Form of New Development
	DEV19	Extensions to existing residential buildings

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.

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.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

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 it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

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

Whilst no 'built' development is proposed (other than the wooden balustrade which does not fall within permitted development rights), the use of the proposed balcony does have potential to injure the amenities of neighbouring properties by reason of overlooking.

Neither policy DEV19 nor GEN7 make any specific reference to balconies or roof top gardens. However, DEV19 requires that extensions do not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties. Furthermore, GEN7 only allows development provided that it "does not have an unacceptable adverse impact on adjoining occupiers, land, uses or property and, where relevant, facilitates the development of adjoining sites;" The use of this flat roof has therefore been assessed with regard to overlooking.

With regard to 23 Admiralty Road, it is considered that there is no impact on this dwelling given the slope of their roof at the rear and existing trees along the boundary which serve to screen the rear garden and principal rear windows from view.

With regard to the neighbouring dwellings on Blakes Road, there is considered to be a potential impact. However, this impact is reduced by virtue of the significant existing landscaping located along the boundary with no. 6 which screens out all views of no. 4 and restricts views of no. 6. Nonetheless, there is direct overlooking of a first floor window on the side/front of no. 6. It is understood that this is not a principal window and that the neighbour has no objections provided that the boundary hedge is maintained.

In order to assist with protecting the amenity of no. 6, it is proposed to add a landscaping condition requiring low level shrub (likely potted plants) around the edge of the balcony. These will further obscure views from persons sitting on the balcony. Given the distances involved, it is not considered that there would be any harm from overlooking to properties on the other side of Blakes Road (in a NE direction from the balcony). There is no overlooking to the apartment block due east of 25 on the basis of the existing screening along the boundary and large tree on the pavement outside.

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

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 development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby approved shall be carried out in accordance with the following approved plans: "Streetwise Block Plan" 30/05/13; "Proposed Changes (2) - hand drawn; "Existing" - hand drawn; "Existing Side View (Right Side)" - hand drawn; "Existing Side View (Left Side)" - hand drawn; "Proposed Changes to flat roof (front view)" - computer drawn; "RH Side view of proposed changes to flat roof of annexe" - computer drawn; "LH Side view of proposed changes to flat roof of annexe" - computer drawn; and "Proposed Balustrade Fence Detail" (photo).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7 and DEV19 of the Arun District Local Plan.

3 Shrub planting, details of which shall be agreed with the Local Planning Authority before the balcony is brought into use, shall be applied alongside each edge of the balcony. In the event that any shrubs, planted in accordance with this condition, die or become seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the locality and to protect the amenities and privacy of neighbouring properties in accordance with policies GEN7 and DEV19 of the Arun District Local Plan.

4 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 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.