

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

REF NO: LY/19/21/HH

LOCATION: Churchfield  
Church Lane  
Lyminster  
BN17 7QJ

PROPOSAL: Conversion of existing oak pergola to balcony (This application may affect the setting of a Conservation Area)

**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION      This application seeks the conversion of an existing Oak pergola, into a balcony. The proposal results in a complete conversion and results in no net increase of footprint.

**REPRESENTATIONS**

1 No. Objection from nearby occupier:  
- The waterbody opposite the pergola is an important wetland supporting ducks (Wigeon and Teal) associated with the nearby Arun Valley Special Protected Area. This waterbody may be considered as functionally linked habitat and any change in baseline disturbance should be correctly assessed. Currently the pergola does not cause undue disturbance as there is a ground level barrier between Churchfield and the waterbody, however if converted to a balcony and utilised during September - March (based on current barrier height) disturbance will be increased at the waterbody. To mitigate this risk there needs to be an increase in screening between waterbody and balcony.

1 No. Response to Objection from nearby occupier:  
- Addressing some of the points given by the above objection.

**CONSULTATIONS****CONSULTATION RESPONSES RECEIVED:**

Environmental Management - Ecology Advisor:

We can proceed with the following precaution for nesting birds (and wildfowl):

- Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).
- A check should also be undertaken for birds' nests on and around the pergola prior to work commencing. If nesting birds are found, works in the area will need to be avoided and the nest protected until after the young have fledged.
- We would like a bird box to be installed on the dwelling and/or tree within the garden of the property.

## POLICY CONTEXT

Designation applicable to site:

Outside Built-up Area Boundary, Countryside.

## 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) |
| CSP1   | C SP1 Countryside                                       |
| HERDM3 | HER DM3 Conservation Areas                              |
| ENVDM5 | ENV DM5 Development and biodiversity                    |

## PLANNING POLICY GUIDANCE:

|      |                                     |
|------|-------------------------------------|
| NPPF | National Planning Policy Framework  |
| NPPG | National Planning Practice Guidance |

## SUPPLEMENTARY POLICY GUIDANCE:

|       |                                               |
|-------|-----------------------------------------------|
| SPD13 | Arun District Design Guide (SPD) January 2021 |
|-------|-----------------------------------------------|

## CONCLUSIONS

### PRINCIPLE

The key policies considered are D DM1, D DM4 and HER DM3 of the Arun Local Plan.

Policy D DM1 sets out design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Trees, Public realm, Layout, Public Art, Density and Scale.

Policy D DM4 sets out criteria for which applications relating to extensions and alterations of existing buildings must be assessed against. They generally seek to minimise the impact of the proposal on the character of the existing host dwelling, its neighbours and the character of area.

Policy C SP1 of the Arun Local Plan states that land outside of the Built-up boundaries will be defined as countryside, and recognised for its intrinsic character of beauty. There are then six caveats which allow development to be permitted. Development can be in accordance with C SP1 if it refers to a specific use or type of development that is covered by another policy. In this instance the proposal is deemed to accord with C SP1 as it is in compliance with policies D DM1 and D DM4 of the Arun Local Plan.

Policy HER DM3 relates to Conservation Areas. It states that alterations or additions to existing buildings are sensitively designed, constructed of appropriate materials and are sympathetic in scale, form and detailing and retain or emphasise the features and qualities of the existing buildings, townscape or streetscape in the area.

Chapter 16 of the NPPF paragraphs 194, 195, 197 and 199 relates to identification and assessment of the significance of the heritage asset, the weight given to the conservation of the asset and the its weight against public benefits of the proposal.

## DESIGN AND VISUAL AMENITY

The proposal seeks to convert the existing Oak pergola on the Eastern elevation to a first floor balcony making effective use of the existing footprint of the dwelling. The first floor balcony is approx. 3.6m in height with a finished floor level at approx. 2.7m in height. The proposal extends approx. 2.9m from the eastern elevation and wraps around to the rear of the property projecting approx. 1.5m from the northern (rear) elevation. The balcony is bordered an approx. 0.9m Wrought Iron Victorian style balustrade that wraps around the outside of the balcony and compliments the existing materials found on the host dwelling. The proposal is appropriate in scale, visually subservient and well integrated with the host dwelling.

The proposal is compliant with relevant development policies D DM1, D DM4 & HER DM3 of the Arun Local Plan.

## NEIGHBOURING RESIDENTIAL AMENITY

There are no neighbour dwellings to the north or east of the dwelling. The proposal is on the eastern/northern elevation of the host dwelling and is not visible to any neighbour dwellings. There are no adverse impacts by way of overbearing, overshadowing or overlooking on neighbouring properties.

The proposal is in compliance with relevant development policies D DM1(3) & D DM4(c) of the Arun Local Plan.

## ECOLOGY

The proposal neighbours a wetland site to the North-East that is owed by the applicant and is a part of the Arun Valley SPA. This area is home to nesting birds and wildfowl. Following comments from the Ecology Advisor, multiple conditions have been applied to this application to minimise impacts on the site in accordance with policy ENV DM5 of the Arun Local Plan.

## HERITAGE ASSET

The viewpoints provided by the balcony are able to overlook parts of the wetland area. The viewpoints provided by the balcony are partially obscured by trees present at the boundary of the wetland area and do not provide significant adverse impacts on the wetland site. Furthermore, the viewpoint out of the wetland site toward the proposal, does not change significantly due to the small scale and profile of the proposal. The disturbance of the wetland site is not significantly adverse and as such, the proposal is compliant with policy HER DM3 of the Arun Local Plan.

Paragraph 195 of the NPPF requires the council to consider the significance of the impact on the asset. The proposed conversion of the Oak Pergola to a balcony has minimal effect on the views into and out of the Conservation Area and therefore will not give rise to significant adverse impacts on the Conservation Area.

## SUMMARY

The proposal is compliant with relevant development policies D DM1, D DM4 & HER DM3 of the Arun Local Plan and Paragraph 195 of the NPPF.

|                         |
|-------------------------|
| <b>HUMAN RIGHTS ACT</b> |
|-------------------------|

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:

- Block Plan WM/705/500
- Proposed Plans WM/705/02

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policies D DM1 and D DM4 of the Arun Local Plan and Part M of the Arun Design Guide.

- 3 Prior to the first use of the balcony, details of a bird box shall be submitted to and approved of by the Local Authority. The bird box so approved shall be installed within 3 months of the first use of the balcony and retained in perpetuity.

Reason: In order to contribute to biodiversity net gain in accordance with policy ENV DM5.

- 4 Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reason: To ensure appropriate consideration of ecology in accordance with policy ENV DM5.

- 5      INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 6      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.