

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

REF NO: M/82/12/

LOCATION: 50 The Byway
Middleton-on-Sea

PROPOSAL: Single storey conservatory erected to the rear elevation of property

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above, to measure 7.2 metres in depth x 4 metres in width x 3.39 metres in height.
SITE AREA	Approx. 869 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Site raised up Middleton Road.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	3-4 metre high hedging along western side boundary. Rear and east side kept by various hedging and fencing.
SITE CHARACTERISTICS	Semi-detached 1 1/2 storey dwelling. Rendered elevations and gable red tiled roof. Lean-to on rear elevation. Corner plot fronting The Byway and Middleton Road.
CHARACTER OF LOCALITY	Residential, mix of types and styles of residential dwellings. Shopping parade opposite site and to the east.

RELEVANT SITE HISTORY

M/82/70	Sun lounge wc and enclosure to first floor bedroom	Approve 13-01-1971
M/80/73	New garage	Approve 24-10-1973

REPRESENTATIONS

Representations received:

Middleton 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 the Built-up area boundary
Area of special character

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN7	The Form of New Development
	AREA1	Areas of Special Character
	DEV19	Extensions to existing residential buildings

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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SUPPLEMENTARY POLICY GUIDANCE

MDS	Middleton-on-Sea Village Design Statement by Middleton PC
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POLICY COMMENTARY

PLANNING

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 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

PLANNING

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

The proposal is for a conservatory to the rear of the property. This Council has adopted the 45 degree rule for the determining of Planning Applications to the rear of properties to ensure that extensions do not seriously affect a neighbour's outlook or daylight.

In this case, the proposal fails the 45 degree rule. However, because of:

- (1) the conservatory being single storey
- (2) having a glazed roof
- (3) the roof being hipped and ridged away from the boundary
- (4) hedging existing to the shared boundary

it is considered that there will be no undue adverse effect on the next door neighbour by reason of overshadowing or overlooking. It is considered therefore that this proposal is acceptable from the neighbouring amenity point of view.

From a visual consideration of the extension, the proposal will not be readily visible from any public view point, and therefore there will be no adverse effect on the visual amenities of the locality.

It is therefore recommended that the application be approved subject to the following conditions.

HUMAN RIGHTS ACT

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) 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 a neutral impact has 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).

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:

Drawing No. 26672 - 02 Revision A and WW26672-01 Revision A.

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

- 3 The materials and finishes of the external walls of the extension hereby permitted shall match in colour and texture those of the existing dwelling.

Reason: In the interests of amenity in accordance with policies DEV19 and GEN7 of the Arun District Local Plan.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no windows or other openings shall be formed in the south-west (side) wall of the extension without the prior permission of the Local Planning Authority on an application in that behalf.

Reason: To protect the amenities of adjoining residential properties in accordance with policies GEN7, DEV19 of the Arun District Local Plan.

- 5 **INFORMATIVE:** Summary of Reasons for Grant Article 31 Development Management Procedure Order 2010

SUMMARY

This planning permission is granted because it complies with the policies listed below in that the development would not cause any material adverse effect on visual or residential amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN7, DEV19, AREA1

NATIONAL POLICIES: NPPF

This is only a summary of reasons for granting to comply with Article 31 and full reasons appear in the Officer report.