

Recommendation Report for Planning Permission

REF NO: M/97/21/PL

LOCATION: 76-78 Flat Above
Elmer Road
Middleton-On-Sea
PO22 6EX

PROPOSAL: Retrospective application for first floor balcony. Proposed creation of 2 bedrooms within newly created roofspace, a resubmission of M/7/21/PL

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Retrospective application for first floor balcony above ground floor single storey extension. Proposed creation of 2 bedrooms within newly created roof space, resubmission following refusal of M/7/21/PL.
TOPOGRAPHY	Predominantly flat.
BOUNDARY TREATMENT	Open hardstanding to front. To the rear and sides 1.8m wall and fences.
SITE CHARACTERISTICS	Ground floor commercial premises with residential accommodation above.
CHARACTER OF LOCALITY	Mixed commercial and residential.

RELEVANT SITE HISTORY

M/7/21/PL	Change the roof & build 1 No. flat above existing flat. This application may affect the setting of a listed building and is in CIL Zone 4 (Zero Rated) as flat.	Refused 26-04-21
M/14/90	Rear extension and alterations	ApproveConditionally 02-04-90

Application M/7/21/PL was similar in nature to this current application, however it also proposed two pitched roof dormer windows to the front elevation creating a new residential unit to the second storey. It was refused on two grounds, one being the lack of parking provision and the other was because it was out of character with the existing area overly dominating the neighbouring property.

REPRESENTATIONS

Parish Council - Objection:
- Out of character with the street scene.

- Overall mass, height and scale is out of keeping with surrounding properties.
- Proposed development will impinge on the privacy of adjoining premises.
- The proposed development is overbearing.
- Approval of this application will set an undesirable precedent of future planning applications.
- The adjoining building is a block of 4 houses which are still under construction and therefore when these houses are sold/occupied the owners are unable to consider this application.

8 Letters of objection:

- Out of character with other properties in the area including those of the new development, Rose Avenue and Tuscan Avenue.
- No yellow notices.
- First floor balcony intrusive to properties in Shaw Close.
- Will set a precedent.
- Will invade privacy by overlooking into the rear of 74a Elmer Road.
- Already started work without permission.
- Property will be far taller.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. All planning related comments will be assessed in the conclusion section.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/a.

POLICY CONTEXT

Designation applicable to site:
Lidsey Treatment Catchment Area
Built Up Area Boundary

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)
TSP1	T SP1 Transport and Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD7	Middleton on Sea Village Design Statement
SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 conflict with relevant Development Plan policies in that the proposed roof extension upon the existing building appears out of character with the existing area overly dominating the neighbouring property at 74 Elmer Road.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

Policy D DM1 sets out 13 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 host dwelling, its neighbours and the locality.

Policy T SP1 seeks to ensure that development: provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network.

Arun recently adopted a Design Guide (ADG) which provides detailed guidance that will help raise design standards across the District. Developments should respond to the distinctiveness and characteristics of their surroundings in terms of scale massing and materials, protect the amenities of

occupants and neighbours and seek to minimise energy consumption and improve environmental performance. In this instance, roof extensions should not be visually intrusive or block light into surrounding properties and dormers should be positioned in discreet locations, on the rear of the property wherever possible. In general roof extensions should not detract from the character and appearance of the building and local area.

Middleton has a village design statement which states proposals should have a high quality design, relate well to the existing site and its surroundings and seek to minimise overshadowing.

DESIGN AND VISUAL AMENITY

The proposal seeks to provide a new pitched/ flat roof structure to allow for an additional storey to be added onto a two-storey flat roof building. The proposal also includes a flat roof dormer with Juliet balcony to the rear (south) elevation. This proposal will provide a net increase of 1 bedroom to the existing flat.

This application is a resubmission following a previous refusal for a similar proposal. The first application was for the creation of 1no. residential unit within a newly created roof space and included a box dormer to the rear and two pitched roof dormers to the front and a balcony at 2nd floor level. It was refused on two grounds; namely the lack of parking provision for the new dwelling and for being out of character with the existing area overly dominating the neighbouring property at No.74 Elmer Road.

The site currently fronts both the Elmer Road and the head of Shaw Close, and is visible from both street scenes. There are currently concerns from residents stating that the proposal will be out of character with the area and that the height of the proposal is overbearing. It was noted that the previous application was refused as it was deemed out of character for the area. The current design has eliminated two pitched roof dormers from the front elevation of the building leaving just a pitched roof plane running upwards towards the centre of site, with a flat roof section to the centre. Although it is noted that there are various roof configurations in the area, none are like the proposed specially on the east side of Elmer Road. From the front the mansard styled roof would not be noticeable, however views of this roof configuration would be visible from the west especially as the roof of the chalet bungalow of no.74 would be significantly lower. The mansard style roof would be incongruent within the street scene.

Additionally, its height is comparable with the new development of two storey properties immediately to the east. However the application site sits adjacent to a chalet bungalow to its western side, even in its existing state the existing property is higher than the property to the west. With the proposed increase in height it will be significantly taller and as such will appear out of character with its immediate neighbour at no. 74 Elmer Road.

The materials utilised in the creation of the additional storey are commonplace in the area and accord with the Middleton Design Guide as they reflect the local vernacular.

The site is currently without much private exterior amenity space, especially to the rear and the utilisation of the flat roof space above the ground floor, to provide much needed external area is seen in a positive light. This provision of external space meets the requirements set out within the ADG.

Having regard to the design and visual amenity, the proposal conflicts with D DM1 and D DM4(a), (b) & (e) of the Arun Local Plan and Part M Arun Design Guide.

RESIDENTIAL AMENITY

The introduction of a pitched roof and a tile hung dormer to the rear is not considered to be overbearing on the building itself. No development will take place outside of the property's external footprint and from the primary elevation the bulk of the roof disappears towards the centre of site. From the rear the dormer

is set well back from the external ground floor footprint.

In terms of overlooking, the first-floor balcony incorporating 1.7m high obscure glazing on the 2 sides and rear, mitigating any overlooking is acceptable. However, in reality what has been erected on site is 1.7 m high obscure glazing on the 2 sides of the balcony (which is acceptable) and a much lower rear obscure glazing which has an unacceptable impact on residential amenities to the rear properties by overlooking. This arrangement is not part of the application and the issue of the height of the rear obscure glazing will be referred to enforcement to pursue formal action.

The high level Juliet balcony to the proposed second storey, due to its height and position will only provide oblique downward views, and therefore will not create unacceptable overlooking into the residential properties to the rear. This arrangement is therefore acceptable.

PARKING

As this application is not for an additional residential unit like its predecessor, the parking requirements are no longer required as part of this application. However it is noted that the parking requirements for a two-bed flat are for two spaces, as they are for a three bed flat.

The under provision of parking is no longer considered to be a reason to refuse this application as the proposal is now compliant with Policy T SP1 of the Arun Local Plan and the provision off street car parking.

CONCLUSION

This application remains unacceptable for the reasons set out above and refusal is recommended for the following reason.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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.

CIL DETAILS

This application is CIL Liabe therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION**REFUSE**

- 1 The proposed extension to the roof would be out of character with the existing area overly dominating the neighbouring property at no. 74 Elmer Road contrary to Policy D DM1 (1) and D DM4 (a), (b) & (e) of the Arun Local Plan and part M of the Arun Design Guide.
- 2 **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 identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.