

Recommendation Report for Planning Permission

REF NO: R/15/15/PL

LOCATION: 1 Merton Avenue
Rustington

PROPOSAL: Proposed installation of 2 no. velux style windows to east and west roof elevations

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The application seeks permission for the installation of 2 No. velux style roof lights - one in the eastern elevation and one in the western elevation of the property.

SITE AREA

Approximately 650 square metres.

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Low brick wall, trellis fencing and hedging to front. Fencing and hedging to rear typically over 2m in height.

SITE CHARACTERISTICS

A detached bungalow with brown brick elevations with a hipped roof and brown plain tiles.

CHARACTER OF LOCALITY

Predominantly residential in character, bungalows are the main development form in the road.

RELEVANT SITE HISTORY

R/2/14/	Alteration of existing rear roof to form gable end and attic room with front velux type window	ApproveConditionally 09-04-2014
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Planning application R/2/14/ sought planning permission for the alteration of the existing roof to form a gable end and the addition of a velux on the primary elevation. This application included a number of conditions including removal of permitted development rights for the installation of additional windows.

REPRESENTATIONS

Representations received:

Rustington Parish Council

My Council has considered this application and wishes to object to it on the following

report

grounds:-

(i) The proposal, in respect of the east facing Velux style window, would result in a severe loss of privacy for the occupiers of Nos. 5 and 7 Amberley Road and No. 3 Merton Avenue, by reason of overlooking to an unacceptable degree. This would most certainly adversely affect the peaceful enjoyment and amenities of the occupiers of the aforementioned properties, and would be out of keeping with the street scene and surrounding area overall.

The Council would also like to remind you of your Authority's decision in respect of the previous application, R/2/14 for the same property, and Condition 4 attached to that particular permission as follows:-

No windows (other than those shown on the plans hereby approved) shall be constructed in the east and west elevations of the roof extension hereby permitted without the prior permission of the Local Planning Authority on an application in that behalf.

This was in response to the Planning Officers comments on the representations received in respect of R/2/14, which stated:-

There are also no windows being proposed in the west elevation or east of the roof extension to prevent overlooking onto the properties and gardens in Amberley Road and No. 3 Merton Avenue.

2 x Letters of Objections:-

- The proposed western roof light will over look the rear garden, patio area, bedroom, kitchen and sun room of 7 Amberley Road.
- Loss of Privacy at 3 Merton Avenue.
- Design not in keeping with surrounding area.

Comments on Representations received:

Comments noted. In response to the Parish Council and the two letters of objection, the proposed roof lights are considered to be acceptable in design terms and are not deemed to be detrimental to the character of the area. It is agreed by the Council that the proposed roof lights will give rise to overlooking of neighbouring properties.

The condition was imposed on planning permission R/2/14/ to allow the Council the opportunity to evaluate any such proposal prior to their installation - rather than to prevent any such development taking place at the site.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

N/A

POLICY CONTEXT

Designation applicable to site:
Adopted Local Plan

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: [GEN2](#)

Built-up Area Boundary

[GEN7](#)

[Publication Version of the Local Plan \(October 2014\):](#)

The Form of New Development
D DM1 Aspects of Form and Design Quality
D DM4 Extensions and Alterations to Existing Buildings (residential and non-residential)
SD SP2 Built-Up Area Boundary
Housing Design

[Rustington Neighbourhood Plan 2014 Policy 2](#)

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

RDS

Rustington Design statement by Rustington Parish Council

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry 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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Arundel; Barnham & Eastergate; Bersted; Felpham; Littlehampton; Yapton. The Rustington Neighbourhood Plan is now 'made' and as such Policy 2 has been taken into consideration in the determination of this application.

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 not considered to comply with relevant Development Plan policies in that it will give rise to unacceptable harm to the residential amenities of neighbouring properties.

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

PRINCIPLE

The site is located within the built-up area where the principle of development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed is contained within Arun District Local Plan Policy GEN7 which seeks to prevent development that would have an adverse impact upon visual and residential amenities.

DESIGN AND VISUAL AMENITY

This application seeks permission for the installation of 2 No. Velux style roof lights. The proposed roof lights are to be installed on the eastern and western elevation of the property.

Due to the position of the proposed roof lights they will be visible within the street scene. However, it is considered that due to the position of the proposed roof lights on the side elevations of the property they will not be overly prominent or cause unacceptable harm to the character of the area or the property.

The proposal is therefore considered to be in accordance with policies GEN7(ii) of the Arun District Local Plan.

RESIDENTIAL AMENITY

The proposed roof lights will be located upon the side elevation of the property and as such will have the potential to create overlooking of the adjoining properties. The proposed window upon the eastern elevation which faces no. 3 Merton Avenue will look out on the blank roof slope of this neighbouring property. The roof light will give rise to oblique views into the private rear garden of no. 3 and as such it has been determined to give rise to harmful overlooking contrary to policy GEN7(iv) of the Arun Local Plan.

The roof light on the western elevation will face towards 5 and 7 Amberley Road and is not deemed to cause any adverse overlooking of 7 Amberley Road due to the presence of a garage and tree screening along the western boundary. However, the proposed window has the potentially to cause unacceptable overlooking of the private rear garden of 5 Amberley Road and as such this window is deemed to be in conflict with policy GEN7(iv) of the Arun District Local Plan and Policy 2 of the Rustington Neighbourhood Plan.

It is therefore considered that this proposal is in conflict with Policy GEN7 (iv) of the Arun District Local Plan 2003 and Policy 2 of the Rustington Neighbourhood Plan.

CONCLUSION

It is recommended that this application is refused for the below reasons.

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 and 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, 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

REFUSE

- 1 The proposed roof lights by reason of their size and location will give rise to unacceptable overlooking of neighbouring properties in conflict with policy GEN7 of the Arun District Local Plan.
- 2 **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 identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing

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the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.