Expiry Date - 21/08/2025
Extension of Time - 26/09/2025

Development Management – Delegated Officer Report

Application Number: AWDM/0831/25 **Recommendation: – APPROVE**

Site: 39 Rugby Road Worthing West Sussex BN11 5LS

Proposal: Extension to west side with ridged and pitched roof in connection with proposed loft conversion and associated fenestration alterations including proposed rooflights to east side.

Date of Site Visit: 24/07/2025

Neighbours Checked: Y

Additional Neighbours Notified: No.37 re-consulted on amended plans

Site and Surroundings:

The site is located to the south side of Rugby Road within a residential area of Worthing. The property comprises a detached bungalow with brick elevations, rough render and timber detail to the gables (front and rear) and a tiled pitched roof. There is a small orangery to the west side of the building that is set back towards the rear of the property. There are existing windows to the front and rear gables serving the existing loft space. The building is set back approximately 18.5m from the road behind a brick wall, 5-bar gate and garden with extensive tree and shrub planting. There is a mature garden to the rear of the building.

Parking is via the driveway to the front with parking for several cars.

The property is not within a conservation area, is not a listed building and there are no protected trees on site.

Proposal

Planning permission is sought for a side extension to the west in connection with the proposed loft conversion, changes to fenestration and the installation of roof lights to the east side.

The proposed side extension to the west side would be positioned in front of the existing side extension and set back around 8m from the front of the bungalow and would measure approximately 4m deep x 2.15m wide. The extension would have a false pitch roof to the front matching the eaves height of the existing building and a higher eaves to the side of approximately 3.5m high and two storey eaves to the rear of about 5.3m high, resulting in an asymmetrical hipped roof form finishing just below the main ridge. The extension would have steps up to a new entrance door to the front and a first floor window to the rear, serving the landing. The extension would be finished in materials to match the existing building.

The loft space would be converted to form a bedroom, shower room and day room with stairs up from the side extension forming the hallway at ground floor.

Three rooflights are proposed to the east roof slope, one serving the shower room and two serving the day room. These rooflights have been amended and are now to be positioned a minimum of 1.7m above finished floor level and obscure glazed and therefore meet the criteria for permitted development. The shower room roof light has also been reduced in size.

The existing window to the front gable would be enlarged and the rear gable window replaced with a Juliet balcony, both of which could be carried out under permitted development.

Relevant Planning History:

None relevant

Consultations

None required

Neighbour Representations

An objection received from the neighbour at No.37 in response to the original plans and a further objection received in relation to the amended plans.

Comments received in relation to the original plans:

08/07/25 - The applicant's property is a Bungalow with a roof that faces east/west and of high elevation as opposed to our property, a semi-detached Edwardian house that faces North/South. Looking from above, our rear garden runs the full length of their property and is divided by a flint wall. The wall of the applicant's property is no more than 1 metre from our flint boundary wall, very close indeed. So close that when they use their shower room situated on the ground floor east side, they can be seen and heard within through the open window of frosted glass. The applicants presently have a kitchen and shower room on the ground floor east side of their property, the windows to both overlook our garden but not our ground or first floor windows of the main living area at the rear of our house. Their application shows details of proposed windows in the roof east side, two for the lounge area and one for the shower room. We wish to register our objection to the aforesaid window openings on the east side, as they will seriously infringe our privacy, they will afford the occupants therein the ability to look directly into our first floor bedroom window, ground floor lounge window and garden and that is not acceptable.

The applicants did not inform us of their plans for a loft conversion, if they had done so from the outset then we could have highlighted our concerns to them as follows:
1) The shower room window is fitted with frosted/opaque glass, thereby offering a degree of privacy to the occupants when in use and maintaining our privacy too. If not, then the occupants can view our bedroom window and garden. Furthermore, when the shower window is open we will be able to see inside their shower, once more, not acceptable.

2) The two windows proposed on the east side of the roof for the lounge area be withdrawn or repositioned to the west side of the roof, as the outlook from there is of neighbouring large trees that will offer privacy to the neighbours on the west side. If such is rejected, then the two aforesaid windows be non-opening and fitted with frosted/opaque glass, affording our family at least some privacy. If not, then these two windows will give the applicants direct access, view, of our ground floor lounge window, first floor bedroom window and garden.

Therefore, we wish to reiterate our objection to this application on the aforementioned grounds. Should this application go to and be determined by the planning committee, we would appreciate notification of same and be afforded representation by attendance.

Comments received in relation to notification that amendments had been requested and that the rooflights were intended to be altered to comply with permitted development (prior to amendments being received and formal re-consultation):

26/08/25 - Thank you for your update regarding the rooflight situation at 39 Rugby Road. Upon reading your communication carefully it would now appear from your admission the owners of and their agent have free reign to do what they wish under permitted development regulations and totally disregard our personal privacy. On the 24th July 2025 you attended our property in your capacity as Senior Planning Officer to view the proposed roof light situation at 39 Rugby Road, taking into account the close proximity of such to our home and the inescapable fact that any such windows on the east side of their roof when opened would afford those within to look straight into our bedroom window situated on our first floor. At the time, upon seeing for yourself just how close the windows would be from their roof to ours and the fact that our privacy would be breached if the windows were not fixed, you stated that you would advise the agents of 39 Rugby Road to have the windows obscure and fixed. Furthermore, we suggested and you appeared to agree that the aforesaid windows (2) for the day room would be better placed on the West side of the roof as they would be partially obscured by trees in the properties in West Avenue and not cause any nuisance. Therefore affording the owners of 39 Rugby Road to have clear glass in their windows and be opened whenever they wished. That suggestion at the time sounded rather good.

We were rather surprised to read from your communication that you have not addressed our personal privacy, yet simply stated that there is nothing more you can do as the alterations to the roof of 39 Rugby Road are proposed to be carried out under the permitted development legislation rules. It would have been welcomed at the time if such was explained in more detail to us when you visited our home.

There are a number of rules we are sure you are fully aware of such as the 45 degree rule is a planning tool used to assess potential overlooking issues particularly in relation to new extension or alteration. Privacy is something a Council's policy's aim to protect. The owners of 39 Rugby Road have a responsibility to ensure that their loft conversion doesn't negatively impact their neighbour's privacy. There is also the 21m rule in UK Planning, a guideline for maintaining a privacy distance of approximately 21m between facing habitable room windows to prevent overlooking and loss of privacy.

Needless to say we have done a lot of research via the internet regarding this matter. Are you familiar with The Supreme Court's Ruling on overlooking as Private Nuisance. As an example In the case of Fern v Tate (2023) UKSC 4, the UK Supreme Court ruled that overlooking can be a private nuisance if it is "Abnormal or Unexpected" and causes "Substantial Visual Interference". Lord Leggett gave the leading judgement and applying the principles applicable to private nuisance. Our lounge window and bedroom window will be clearly visible from the proposed windows on the left side of the roof due to the closeness involved. We as the inhabitants do not want our privacy invaded.

In your closing statement of you stated that you cannot do anything more than this and we find that remark deeply disappointing, this matter is not over and we will strongly object to any loss of our privacy.

Comments received in relation to re-consultation on the amended plans:

01/09/25 - Thank you for your email this date. We note that there is a total lack of concern for our privacy within and that Permitted Development has overridden all our concerns. You stated within that during your visit to our home you reminded us that when windows are placed at 1.7m high there was no requirement for them to be fixed. You were asked twice about the windows being fixed and twice you stated they should be fixed, yet now you have stated otherwise. In response to a comment you made within regarding our bedroom window being at a higher level than the roof of Number 39 that is incorrect. You obviously mistook my garage roof for the roof of Number 39. Our bedroom window is in line with the front north face window on the roof space of Number 39. If anything, Number 39 is sitting on foundations some 50cm above ground level, that's why their kitchen and bathroom windows are so much higher than our boundary flint wall on the east side, which has been an invasion of our privacy since they moved in. We never imagined having to formerly record our objections to your offices regarding improvements to their home, but now it affects us so personally and we are disappointed you cannot assist and protect our privacy. So, Permitted Development in the end overrides someone else's privacy, why? I have enclosed attached photos for your attention.

Officer response: The neighbour was informed in several phone calls prior to the site visit and again during the site visit to their property that rooflights above 1.7m from finished floor level could be installed under permitted development providing that these rooflights were obscure glazed. It was also correctly stated that the requirement to be fixed shut only applied to windows below 1.7m from finished floor level. At the time of the site visit none of the roof lights complied with the requirements for permitted development, as they were either clear glazed or below 1.7m. The correct roof was identified and discussed in detail. Whilst it was stated that we could *request* amendments to address issues of intervisibility, it was clearly stated that this was not mandatory and that we are unable to force applicant's to amend an application. Amendments were made to the application which included reducing the size of the roof light to the shower room, positioning this further up the roof slope (a minimum of 1.7m from FFL) and adding obscure glazing to all three rooflights. While other amendments were discussed with the applicants they were not willing to move the rooflights to the west roof slope or to fix shut these windows. Neither of these

requested changes would have prevented the ability for the applicants to install rooflights under permitted development (aside from this application) and therefore it was not possible to pursue this further. In summary, amendments were sought within the limits of our remit in an effort to mitigate the neighbours' concerns however the amendments requested over and above the criteria for permitted development could not be secured in this case.

Relevant Planning Policies:

Worthing Local Plan policies (WBC 2023): SP1, DM5
National Planning Policy Framework (MHCLG 2024)
National Planning Practice Guidance
SPG 'Extending or Altering Your Home' (WBC)

Planning Assessment:

There is no objection in principle to extensions and alterations to residential dwellings within the built-up area. The key considerations are the effects on the visual and residential amenities of the locality.

Visual Amenity

The street scene is varied in character with detached and semi-detached houses and bungalows in a mixture of styles, form and scale. Alignment to the front is generally consistent other than in relation to the application bungalow which is positioned much further back in its plot than the neighbouring properties. Views of the front gable and side of the roof are possible from the road however these views are, in part, obscured by trees and shrubs within the front garden and along the front boundary.

The front and side elevation of the proposed extension to the west side would be visible from the road to the north-west of the site however the extension is set back approximately 29m from the road, limiting the impact of this relatively modest extension. The eaves height to the front would be the same height as the existing building but with a higher eaves to the side to accommodate the required space for the stairs up to loft level. This staggered eaves design would not appear substantially out of keeping or detract from the character of the property or its surroundings. The higher eaves level to the rear would not be visible from the road as this would be screened by the proposed hipped roof. The proposed extension is subsidiary in scale and form to the existing building and would not appear as a dominant or intrusive feature in the street scene.

The rooflights to the east side and changes to fenestration to the gables would not diminish the character of the property or adversely affect the surrounding street scene.

There would be no adverse impact on the visual amenities of the locality as a result of this application.

Residential Amenity

The most affected neighbours are those to the side and rear of the site at No.37 Rugby Road and No.44, 42, 40, 38 and 36 West Avenue.

The proposed extension to the west side would be adjacent to the end of the rear garden of No.40 West Avenue. The neighbour's rear garden is approximately 20m deep. The height of the eaves adjacent to this boundary is about 3.5m with the roof above hipped away from the boundary. An extension of the scale proposed, adjacent to the rear boundary of the neighbour's garden, is not considered to appear overbearing or oppressive to the neighbour and would not diminish light to their property. No openings are proposed to the side elevation and no overlooking would occur.

The proposed first floor window to the rear of the extension could provide some opportunities for overlooking to the rear gardens of No.38 and 36, however this window serves a landing, a non-habitable space and therefore is not considered to result in any significant impact on neighbours privacy.

The existing window to the rear gable would be replaced with a Juliet balcony which could provide some opportunities for overlooking to the rear garden of No.36 however this change could be implemented under permitted development and therefore has not been considered further. It is also noted that there are mature trees to the rear and side boundaries of the application site, significantly limiting any views.

The existing window to the front gable would be replaced with a larger window. This could again be implemented under permitted development and has not been considered further.

The three roof lights proposed to the east roof slope could (as now amended) be installed under permitted development. They are however shown on the submitted plans and are included for consideration. All three rooflights would be positioned above 1.7m from finished floor level and obscure glazed. The original proposal included clear glazing to the day room rooflights and a lower sill for the shower room (1.5m). The neighbour to the east at No.37 raised an objection to these rooflights on the grounds of overlooking and loss of privacy and following a site visit to the neighbour's property it was concluded that there would be an impact due to the unusual position of the application property in relation to No.37. No.39 is set back entirely behind the rear elevation of No.37 therefore allowing views of the entire east roofslope from the neighbour's property and in particular their main bedroom window which would be approximately 12.5m from the proposed bathroom roof light.

Typically, overlooking from a roof light serving a bathroom, would not be considered to have a significant impact on amenity due to its non-habitable use, however in this specific case and due to the position of the roof extending entirely to the rear of the neighbour's house it was noted that views to and from the shower room and the bedroom to No.37 would be possible with the sill height at 1.5m as originally proposed. Intervisibility between a shower room and bedroom is not ideal and would impact the privacy of both the applicants and neighbours. Amended plans were requested; included fixing the rooflight shut, however the applicant was resistant to this suggestion and instead chose to amend the plans so that the roof lights were in accordance with permitted development (above 1.7m from FFL and obscure glazed).

The agent confirmed that as all rooflights, as amended would comply with permitted development they would not be making any further changes.

The bottom of the rooflight (as amended) would be above the required minimum height of 1.7m and therefore would be above eye level for the occupants, preventing overlooking to the neighbour's property. There is no requirement under permitted development to fix shut rooflights that are above the minimum height and therefore if these elements were removed from the current planning application they could simply be installed without any further consent, in accordance with permitted development.

The rooflights to the day room were already positioned above 1.7m from FFL but were amended to be obscure glazed, thereby complying with the criteria for permitted development. These rooflights are positioned much further back on the roofslope and are not considered to result in any significant impact on amenity, subject to obscure glazing.

In summary, the three roof lights as amended, are the same and therefore no worse than could be installed under permitted development, without further consent. The amendments made to these rooflights would prevent overlooking from these windows to the neighbour's property and therefore would not result in a significant detrimental impact on their privacy.

It is noted that views from the neighbour's bedroom into the rooflights when open could potentially be an issue however this is most likely to be mitigated by the small size of the rooflights, the high level position above eye level and the oblique angle at which they would be viewed from.

For the reasons above, there is not considered to be a significant detrimental impact on residential amenity resulting from those aspects of the proposal requiring planning permission and those aspects that could be carried out under permitted development would comply fully with the requirements designed to protect amenity. While every effort has been made to address the neighbours' concerns and seek relevant amendments, the Council are limited in their powers, specifically where the same development (rooflights) could be achieved under permitted development.

Recommendation:

APPROVE subject to the condition:-

1. Drawing Numbers
2. Standard time limit
3. Matching materials
4. Obscure glazed level 3 and above 1.7m from FFL
5. No additional or enlarged openings to east or west side elevations of roof slope of building

Informative

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally

submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Is recommendation contrary to letter(s) of representation? Y

Case Officer: Amanda Haslett Date 25/09/25

Authorised by: Jo Morin Date 25.09.2025