Lewis&Co
Planning

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY: MR WALTER BUSH

SITE AT: MARINER, 114 OLD FORT ROAD, SHOREHAM BY SEA
WEST SUSSEX BN43 5HB

HOUSEHOLDER APPEAL STATEMENT

Town and Country Planning Act 1990
Appeal by Mr Walter Bush
Site at Mariner 114 Old Fort Road, Shoreham-by-Sea BN43 5HB .

1.0 INTRODUCTION

1.01 This statement is submitted in support of the householder appeal by Mr Walter Bush against the refusal of planning permission for the removal of Condition 1 of SU/95/03 to allow the permanent removal of a balcony screen at the east side of the rear balcony at 114 Old Fort Road in Shoreham-by-Sea, West Sussex.

1.02 The application for planning permission was refused by Adur District Council 21 September 2009.

1.03 The application was refused for the single reason set out in the decision notice dated 21 September 2009. A copy of this decision notice is sent to the Inspector with the appeal forms (online). The reason as stated on the decision notice is:

"01. The permanent removal of the requirement for an obscure-glazed screen on the east side of the balcony would be detrimental to the residential amenities of the adjoining property (No.116), resulting in overlooking and loss of privacy that would be contrary to policy AH7 of the Adur District Local Plan."

1.04 This statement provides an overview of the issues referred to by the above reason for refusal – and shows that the permanent removal of the balcony screen will not give rise to any loss of amenity to the neighbouring dwelling that would be of sufficient impact to warrant a refusal of a planning permission.

2.00 SITE AND SURROUNDING AREA

2.01 The site comprises of a detached dwelling on the foreshore of Shoreham Beach. As is typical with properties on the south side of Old Fort Road, the house is a large detached dwelling that is set back from the road with a deep front garden providing parking and amenity space . The rear garden is relatively short and has a low boundary with the beach which is located immediately to the south of the curtilage of the dwelling.

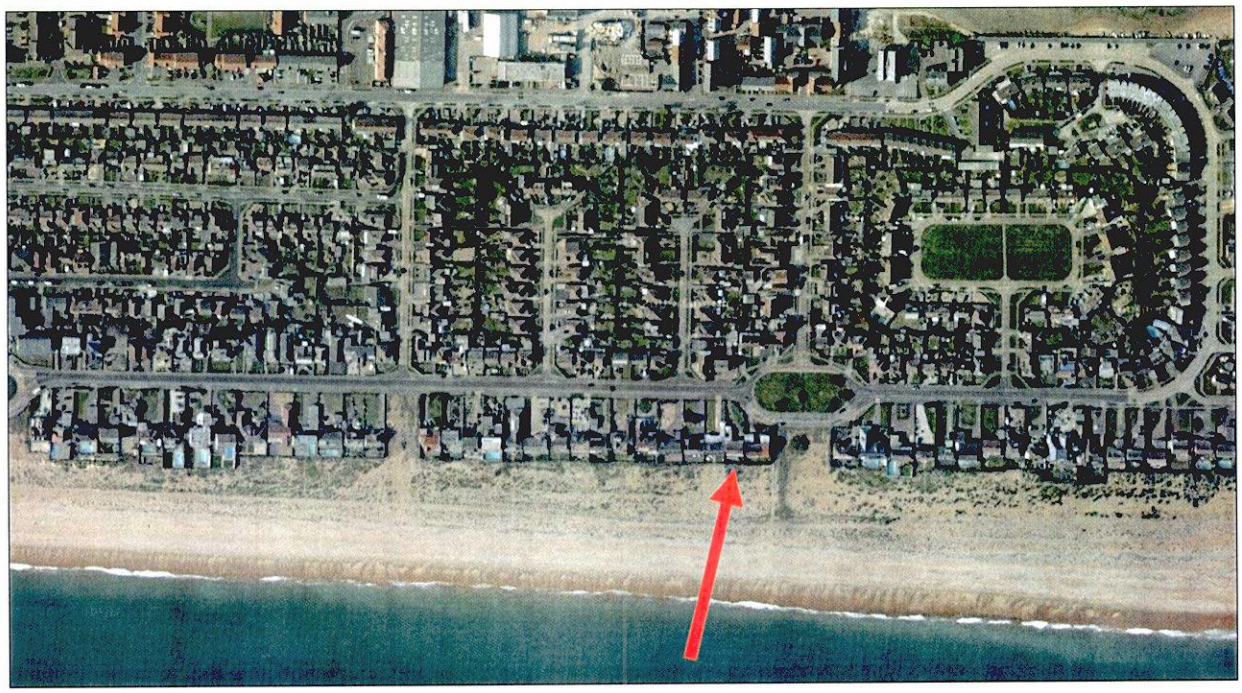

Photo 1 - Aerial photograph of Old Fort Road and Shoreham Beach (appeal site is arrowed)

2.02 The rear of the house has uninterrupted views over the beach and along the coast to the east and west. The rear elevation of the house is mainly glazed to the ground and first floor in order to take advantage of the available views. There is a rear balcony at first floor level which is located to the west and central parts of the rear elevation.



Photo 2 Rear elevations of appeal site and neighbouring dwellings (appeal site is arrowed)

2.03 Rear balconies and terraces are a common feature of the houses which back onto the foreshore. The photograph below shows the rear of the appeal site and the houses to the west. Of the five houses immediately west of the site, 4 have rear balconies or terraces at first floor level. The house immediately to the east of the appeal site also has a rear balcony which extends almost to the common boundary with the appeal site, (see photos 4, 7, 8 and 9 below).

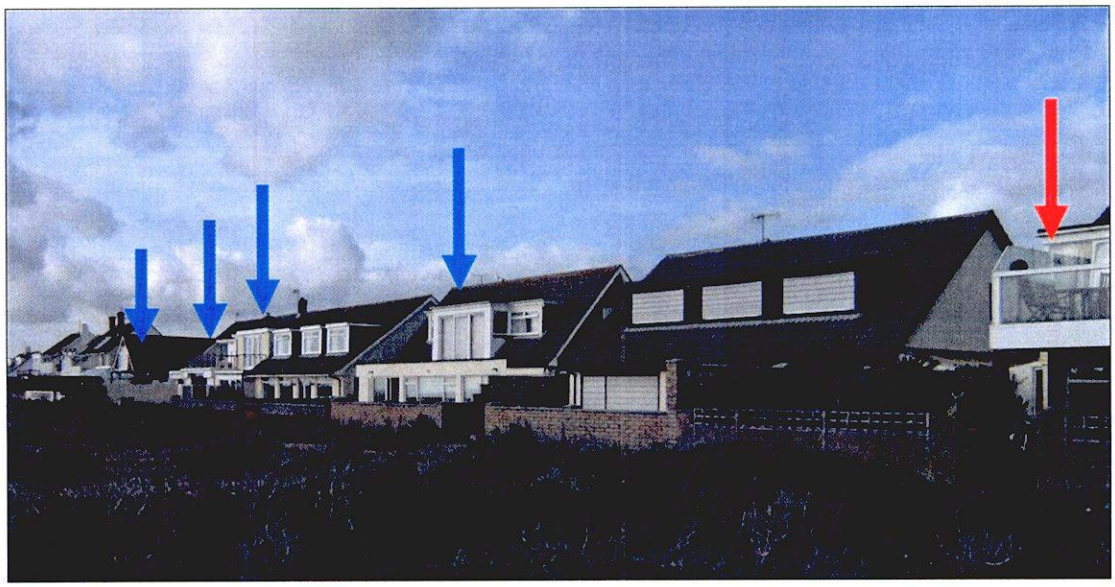

Photo 3 Appeal site (arrowed red) and neighbouring balconies (blue arrows)

2.04 The entire beach is open access land. The general public has a "right to roam" over the beach up to the boundaries of the dwellings. There are several access points to the beach, the closest of which is located immediately to the east of 116 Old Fort Road. This access comprises a concrete footpath of approximately 1.5m wide which provides pedestrian and wheelchair access from the highway to the top of the sloping part of the beach leading down to the sea.

2.05 This public access to the beach is very well used all year round. In the summer months the beach is used mainly for informal leisure uses such as walking, sunbathing and swimming and for the remainder of the year the beach is very well used for watersports, dog walkers and other beach based informal recreational activities.

2.06 The boundary walls and fences surrounding the curtilages of properties in Old Fort Road are generally low and provide open views of the front and rear gardens and elevations of the properties on the south side of the street.

2.07 The site is not in a conservation area and there are no listed buildings on or adjacent to the site.

Planning History

- **SU95/03/TP – First Floor Rear Balcony – Granted planning permission on 03 June 2003.** Subject to a condition that obscure glazed screens be erected to the sides of the balcony within 2 months of the date of the decision.

- **ADC/0296/07 – Removal of screen at east end of first floor balcony (relaxation of condition 1 of SU/95/03) – Granted planning permission on 10 July 2007.** Subject to a condition that the screen be re-instated no later than 31 July 2009.

- **ADC/0300/09 – Removal of condition 1 of SU/95/03 (permanent removal of screen at east side of rear balcony) (renewal of ADC/0296/07)** – Refused planning permission on 21 September 2009. This refusal is the subject of the appeal.

3.00 THE APPEAL PROPOSAL

3.01 The application seeks to remove condition 1 of planning permission SU/95/03. The condition requires obscured glazed panels to be maintained at the east and west ends of the balcony.

3.02 The appeal, if allowed, would enable the appellant to retain the balcony without the screen on the eastern side.

3.03 The appellant has no need or aspiration to remove the balcony screen to the west end of the balcony as this serves as a windbreak from the prevailing south westerly winds.

4.00 PLANNING POLICY

The Development Plan

4.01 The Adur District Local Plan was adopted in 1996. It is a district wide local plan and covers the period from 1996 to 2006. In accordance with the provisions of the Planning and Compulsory Purchase Act 2004, some policies of the local Plan have been saved until the adoption of the Local Development Framework and the policies of the Development Plan Documents. All of the policies referred to in this appeal statement have been saved.

4.02 Policy AH7 of the Adur District Local Plan states that:

POLICY AH7
Extensions and alterations to existing houses and bungalows will be expected to be designed so that:-
(a) proposals would not result in an unacceptable degree of overlooking, loss of natural light or overbearing effect on neighbouring dwellings;
(b) design and materials are sympathetic to both the original dwelling and the area in general;
(c) the proportion of the garden area taken by the proposal would not be excessive having regard to the character of the area;
(d) access and car parking provision is acceptable under Policy AT12, and
(e) it accords with the standards adopted by the District Planning Authority.

4.03 AH7 is the only policy referred to in the Council's decision notice. From the reason for refusal given, it is clear that Criterion A (overlooking, loss of light or overbearing effect on neighbouring dwellings) is relevant to the determination of this appeal.

5.00 COMPLIANCE WITH PLANNING POLICY

5.01 This section demonstrates the scheme's compliance with the policy AH7 (a) of the Adur District Local Plan

Impact on neighbouring properties

5.02 The LPA's sole reason for refusal states that the balcony without the east balcony screen would result in unacceptable overlooking and loss of privacy to he neighbouring dwelling at 116 Old Fort Road. In order to properly asses the impact of the proposed development on the neighbouring property consideration has been given to the following factors:

- Level of privacy currently enjoyed by the rear garden of 116 Old Fort Road
- Mutual overlooking between properties
- Location of existing windows to the rear of 114 Old Fort Road

– Impact on privacy that would occur as a result of the permanent removal of the east balcony screen.

5.03 These considerations are addressed individually.

Level of privacy currently enjoyed by the rear garden of 116 Old Fort Road

5.04 The rear garden of the neighbouring property at 116 Old Fort Road is in a prominent location and is easily viewed from public areas to the east and to the south. The most readily available viewpoints into the rear garden of number 116 are from the concrete path to the east of the dwelling and from the beach to the south of the rear boundary.



Photo 4 : rear view of 116 and 114 Old Fort Road as viewed from the beach.

5.05 The side elevation windows of number 116 are particularly prominent when viewed from the footpath to the side of the house (see photo 5 below).



Photo 5: Side elevation of 116 Old Fort Road as viewed from public land

5.06 The path running alongside the house at 116 provides easy views of the entire rear garden as the boundary wall is low with a top course of screen-walling blocks which provide little privacy. Photo 6 below shows the view of the garden available from the public path.



Photo 6: Rear Garden of 116 Old Fort Road as viewed from public land to the east.



Photo 7: Rear Garden of 116 Old Fort Road as viewed from public land to the south.

5.07 The photographs above demonstrate that there is a significant level of overlooking to the rear garden and side windows of 116 Old Fort Road from public vantage points.

5.8 The rear garden of 116 Old Fort Road enjoys very limited privacy and this is clearly relevant to the determination of this appeal. The appeal proposal would not give rise to loss of privacy to the rear of 116 Old Fort Road as there is no privacy available at present.

Mutual overlooking between properties

5.9 Mutual overlooking between the rear gardens of properties is a common feature of properties on the foreshore.

5.10 Photograph 8 below shows the level of overlooking that is currently suffered by the rear garden of 114 Old Fort Road from the patio doors and balcony at first floor level at the rear of 116 Old Fort Road.



Photo 8: Rear Garden of 114 showing the direct views available from the rear balcony and patio doors of 116 Old Fort Road.

5.11 From the photograph above it is evident that the occupiers of the house at 116 enjoy uninterrupted views of the rear garden of 114 Old Fort Road from both the patio doors and rear balcony at first floor level.

5.12 It is relevant to this appeal that the rear patio doors and balcony of 116 Old Fort Road are located immediately adjacent to the boundary with the appeal site. In contrast, the balcony that is the subject of this appeal is 5.1m from the boundary with 116 Old Fort Road at its closest point.

5.13 For this reason, the overlooking suffered by occupiers 114 from the balcony at number 116 is far more significant and overbearing than the overlooking to the rear garden of

116 from the balcony of number 114. This is primarily by reason of the respective distances from the balconies to the neighbouring rear gardens.

Location of existing windows to the rear of 114 Old Fort Road

5.14 Any assement of the potential for overlooking from the rear balcony of 114 Old Fort Road must consider the existing level of overlooking that is a feature of the site.

5.15 The easternmost rear bedroom of 114 Old Fort Road has full height glazing on its south elevation and this glazing returns around the flank elevation to give uninterrupted views of the rear garden of 116 from this bedroom's window. The position and size of these windows is evident in photograph 8 above.

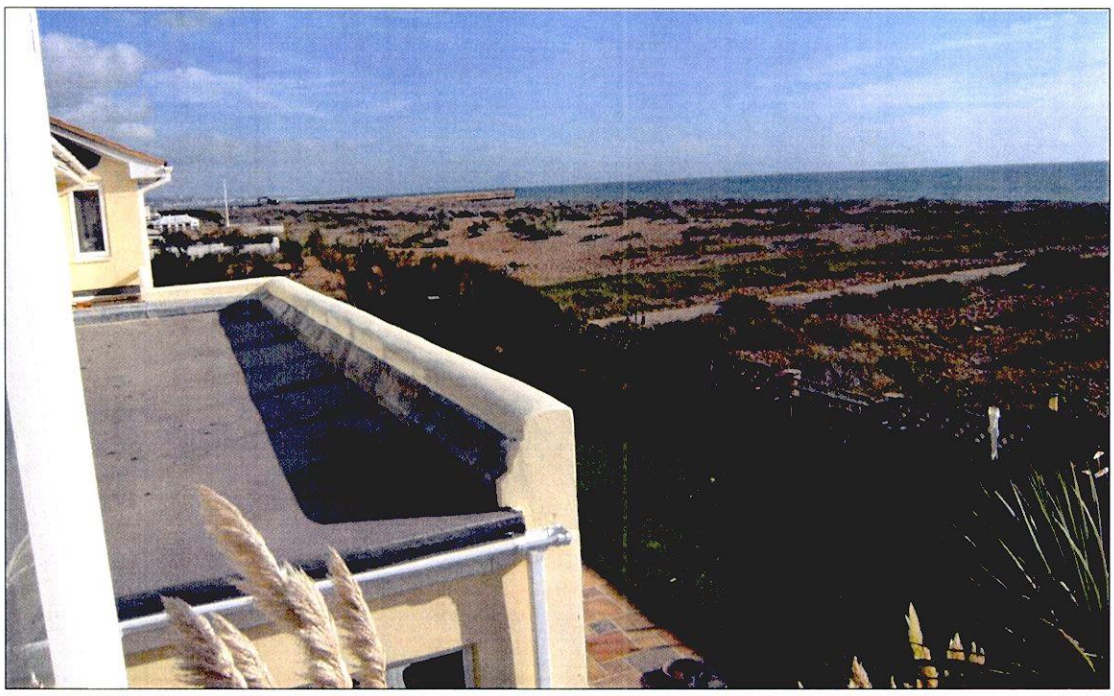

Photo 9: Rear Garden of 116 as viewed from the existing east bedroom window at 114 Old Fort Road.

5.16 This situation also exists on the western side of the property and photograph 10 below shows how ineffective the western balcony screen is in preventing overlooking to the garden of the dwelling to the west of the appeal site at 112 Old Fort Road.

5.17 The Inspector is respectfully requested to note that this appeal does not seek the removal of the western balcony screen as this creates a useful windbreak from the prevailing south westerly wind.



Photo 10: Rear Garden of 112 as viewed from the existing west bedroom window at 114 Old Fort Road. This photograph demonstrates the overlooking of the rear garden that occurs despite the presence of the balcony screen.

5.18 The existing first floor rear window on the east part of the house at 114 Old Fort Road looks directly into the rear garden, rear balcony and rear side windows of number 116.

5.19 For this reason it is not considered that the re-instatement of the east balcony screen would improve the level of privacy to the rear garden of number 116.

6.00 CONCLUSIONS

6.01 The application proposes the permanent removal of the balcony screen to the east side of the existing balcony at the rear of 114 Old Fort Road.

6.02 The rear garden of 116 Old Fort Road is not an area that has any privacy or seclusion. While overlooking between properties is common in the locality, the privacy of 116 Old Fort Road is greatly reduced, even in comparison to surrounding dwellings, by the adjacent footpath, insubstantial boundary walling and the public open space of the beach to the south.

6.03 The rear garden of 116 is also overlooked by the existing first floor windows of 114 and there is a mutual overlooking from the rear balconies of both properties.

6.04 The balcony at the rear of 116 is closer to the boundary than the balcony of 114 and as such the overlooking suffered by 114 from the balcony at 116 is considerably more intrusive than any overlooking into 116 that would occur from the balcony at 114.

6.05 It is therefore considered that the increase in overlooking from the rear balcony of 114 to the rear garden of 116 that would occur as a result of the removal of the balcony screen is negligible.

6.06 The re-instatement of the balcony screen to the east side of the balcony would have no discernable increase in the levels of privacy to the rear garden of 116 Old Fort Road.

6.07 It is therefore concluded that, notwithstanding the Council's stated reason for refusal, the permanent removal of the balcony screen would not be contrary to the provisions of Policy AH7 as it would not result in a significant degree of overlooking.

6.08 When considered in the context of the existing overlooking to the rear garden of 116 Old Fort Road that occurs from the rear windows of 114, the garden of 114 and the public spaces to the south and east of 116; it is clear that the presence of the balcony screen would make such little difference to the privacy of the rear garden of 116 that its removal is not contrary to the requirements of Policy AH7.

6.09 The Council's stated reason for refusal is not reasonable in the light of the above considerations and the Inspector is respectfully requested to allow this appeal.

Lewis and Co Planning South East Ltd

October 2009