

Expiry: 13/7

Development Management - Delegated Officer Report

Application Number: AWD/0566/26

Recommendation – Refuse

Site: Mill Warbler, Mill Lane, Shoreham

Proposal: Application to remove condition 7 (no additional windows) of application SU/204/83/TP.

Date of site visit: 5/6

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

Mill Warbler is a detached bungalow with, until recently, an integral garage built in the mid 1980's in part of the rear gardens of 22-26 (evens) Southdown Road. It is accessed via a lane off Mill Lane which is also used by homeowners in Ravens Road and Southdown Road who have rear garden outbuildings off it.

The site itself is not in the conservation area but its north, south and west boundaries abut the Shoreham conservation area. It is not a listed building and there are no TPO's on the site. There is no known flood risk associated with this site.

Late last year planning permission was granted for conversion of the garage for use as an annex with ground floor extensions. These works are well under way. The approval also included rooflights to the main bungalow roof to create an ensuite bedroom and dressing room within the roofslope. This part of the approval had not commenced at the time of the site visit for this application.

The original approval for the bungalow back in 1983 included the following condition:

7.

Notwithstanding the provisions of the Town and Country Planning General Development Order 1977-1981 the building hereby permitted shall not be extended or altered externally by the insertion of additional windows, unless permission is granted by the Local Planning Authority in an application in that behalf.

Reason: To safeguard the amenities of neighbouring properties.

This application seeks to remove this condition.

With the applicant's permission the description of development has been altered to refer to the correct implemented 1983 permission. The same condition 7 was applied.

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Relevant Planning History

AWDM/1142/25 - Single storey extension to rear of garage (west side). Conversion of extended garage to self contained annexe. Insertion of rooflights to create en-suite bedroom and dressing room at first floor. Granted

SU/204/83/TP - Bungalow and garage with widening of access road and surfacing (amendment to include double garage). Granted

Consultations

None

Representations

Three objections summarised as follows:

- There are already eight rooflights that have been granted permission and it is concerning that there may be more, or they may become larger without due planning process.
- The applicant's photos are taken from ground level so do not accurately reflect the potential impacts. The building is as close as 1 metre to the boundary.
- Overlooking/loss of privacy
- The reason for the condition's imposition originally remains relevant today – the protection of neighbour amenity.
- This is a backland development as acknowledged by the applicant yet they are seeking the same privilege as a traditional street side development . This is not possible and the applicant should respect their location and the amenity and privacy of neighbouring properties.

Relevant Planning Policies

Adur Local Plan 2017 Policies 1, 2, 15 and 17

'Supplementary Planning Guidance' comprising: Development Management Standard No.1 'Space Around New Dwellings and Flats'

Development Management Standard No.2 'Extensions and Alterations to Dwellings'

National Planning Policy Framework (December 2024)

Planning Assessment

Principle

The proposal involves removing a condition of the original 1983 permission which would allow any number, size or position of windows to be added to any wall or roofslope of this bungalow.

The relevant issues are whether the reason for the original condition still applies, the protection of neighbour amenity.

Planning Assessment

Conditions are generally imposed to either enhance the quality of development and/or to enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.

Conditions should only be used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Paragraph 55 of the NPPF states:

'planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.'

The original reason for the condition 'to *safeguard the amenities of neighbouring properties*' is assumed to refer largely to the installation of windows above ground floor as this bungalow was built in a backland position in the gardens of existing houses and abutting the rear garden boundaries of others.

The applicant argues that the condition is no longer necessary after 43 years: *'The generous separation distances, intervening rear gardens on three sides (with the private access road and more intervening rear gardens on the fourth side), and backland location mean that any future modest window insertions would not result in material harm to privacy, outlook or light. The original reason for the condition has ceased to apply.'*

The extended bungalow is within 1 metre of the north and west boundaries and 9 metres of the south boundary of neighbours' gardens, with the conservatory closer. Removal of the condition would allow for the installation of windows of any shape, size or position with no control in terms of the 'modest window insertions' the applicant refers to. The original condition remains necessary.

The recent permission which included rooflights to allow rooms in the roof demonstrates why the condition was imposed originally. It was carefully considered with the approved rooflights sensitively positioned to minimise impacts for neighbours and the application included several revisions before the final design was considered suitable for approval. Even still this approval includes the following condition:

On installation the south side rooflights hereby approved shall have a cill level 1.7 metres off finished floor level and the bathroom rooflight shall be fitted with obscure glazing to minimum level 3. These rooflights shall be retained as such thereafter.

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Reason: In the interest of privacy having regard to policy 15 of the Adur Local Plan.

The same sensitives apply today and the 1983 condition continues to comply with the 6 tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects

Policy 15 of the Adur Local Plan states:

Development should be of a high architectural quality and respect and enhance the character of the site, and the prevailing character of the area, in terms of proportion, form, context, massing, siting, layout, density, height, size, scale, materials, detailed design features and landscaping. Development should:

Make a positive contribution to the sense of place, local character and distinctiveness of an area; and not have an unacceptable impact on adjacent properties, particularly residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook or open amenity space;

When considering applications for extensions or alterations to dwellings, proposals will be expected to comply with the criteria contained in the Council's adopted Development Management Standard No.2 "Extensions and Alterations to Dwellings" (as amended or superseded by other Council guidance in force at the time an application is considered) or any other appropriate national standard.

Development Management Standard No.2 "Extensions and Alterations to Dwellings" expands on this point:

The effect on neighbouring properties

2.2 Proposals will not be granted planning permission if they have an unacceptably adverse effect on neighbouring properties. The main detrimental effects could be related to:

- *Privacy - the proposal should not result in direct overlooking of rooms in neighbouring properties, nor excessive amounts of overlooking of garden areas.*

Adopted Development Management Standard 1 relates to new development but is also relevant to cases such as this.

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DM 1 Para 2.1

The space around and between dwellings/flats is an important factor in the creation of a new pleasant residential environment, contributing to the individual character, identity and appearance of an area. It is also important to ensure that provision of adequate privacy and daylight to individual dwellings/flats. In infill and redevelopment schemes new buildings should respect the existing character and appearance of an area and ensure the retention of adequate privacy for and daylight to existing dwellings/flats.

Para 2.15

Houses and bungalows should usually be designed so that it would be possible for extensions to be added without detriment to adjoining properties. Where this is not possible "permitted development" rights will be removed by condition. The Council's Development Management Standard No 2 "Extensions and Alterations to Dwellings" gives information on the type of extension that would normally be acceptable.

The bungalow was built on garden land in a backland position. It was clearly of concern at the time that uncontrolled window installation could be harmful to neighbours privacy. Current policies seek to provide the same level of protection.

The removal of the condition could result in development which unacceptably reduces privacy for neighbours in their homes and gardens. Its removal would be contrary to policy 15 of the Local Plan and adopted Development Management Standard No.2 "Extensions and Alterations to Dwellings".

The neighbours make a good point when they identify that the applicant's supporting photographs show views from ground floor level. The elevated views that unfettered window installation in the roof would enable are not demonstrated.

The applicant was invited to revise the application to seek a variation of the condition which would allow for the installation of additional windows at ground floor only. This was declined.

Recommendation

REFUSE for the following reason:

The removal of condition 7, and the subsequent installation of windows within the roof without planning control, has the potential to lead to an unacceptable loss of privacy to neighbouring residential properties contrary to policy 15 of the Adur Local Plan and adopted Development Management Standard No.1 'Space Around New Dwellings and Flats' and Development Management Standard No.2 "Extensions and Alterations to Dwellings"

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

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1. 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 for the refusal, approval has not been possible.

Case Officer:

MOK

Date: 26/6

Authorised by:

Peter Barnett

Date: 26 June 2026

Appendices

1. Approved Plans relating to AWDM/1142/25
2. Officer's Report relating to AWDM/1142/25
3. AWDM/1142/25 Decision