n.j.a town planning Ltd

Applications & Appeals Services

APPEAL UNDER S.78 OF THE TOWN & COUNTRY PLANNING ACT 1990

Grounds Of Appeal

in respect of

59 DOWNSWAY, SOUTHWICK, BRIGHTON, WEST SUSSEX. BN42 4WE



Appellant: Mrs A. Clarke

LPA Ref: AWDM/0038/21

March 2021

Nikolas J. Antoniou BSc (Hons) DipTP MRTPI

CONTENTS **PAGE(S)**

1.0	**INTRODUCTION**	**3**
2.0	**APPEAL SITE AND SURROUNDINGS**	**4**
3.0	**RELEVANT PLANNING HISTORY & BACKGROUND**	**7**
4.0	**PROPOSED DEVELOPMENT**	**8**
5.0	**ANALYSIS OF THE COUNCIL'S COMMITTEE REPORT**	**10**
6.0	**PLANNING POLICY COMPLIANCE**	**14**
7.0	**CONCLUSIONS**	**20**

APPENDICES

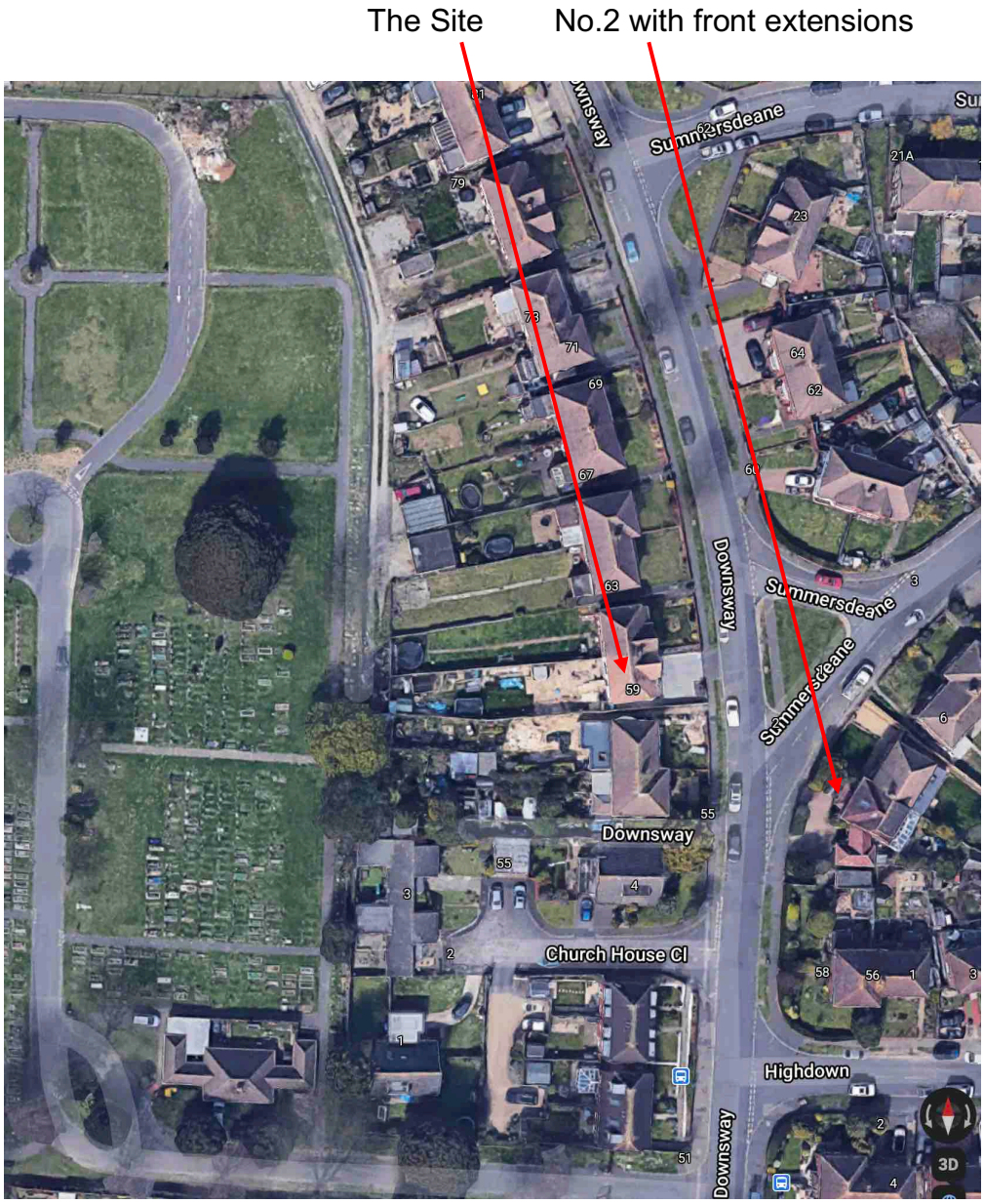
NJA/1 – Development Management Standard No. 2 Extensions andAlterations to Dwellings – Adur District Council

1.0 INTRODUCTION

1.1 This appeal is against the refusal of planning permission by Adur District Council, as Local Planning Authority, for "Single Storey Extension to Front." at 59 Downsway, Southwick, Brighton, West Sussex. BN42 4WE. NJA Town Planning Ltd has been instructed by Mrs A Clarke to appeal against this refusal of planning permission by the Council.

2.0 APPEAL SITE AND SURROUNDINGS

2.1 The property subject to this appeal is 59 Downsway, Southwick, Brighton, BN42 4WE. The aerial photographs below show the relationship of the appeal site to its immediate surroundings. The area is not subject to any policy designations which are relevant to the determination of this appeal. The extract from google maps below shows the appeal site together with No.2 which is a property which has had a front extension.



2.2 The following images are intended to provide a context for the Inspector in reading the rest of this appeal statement.




The appellant has invested in the property, upgrading the property as can be seen from these images above.




The first image shows the properties to the north which have a different form , whilst the second image shows the relationship between the appeal site and the property to the south which also has a different form with a projecting hiip




These images are taken northwards and southwards towards the property. Note the variation in building line of the street.




The images above show No.2 Summersdeane which is opposite the appeal site. The Inspector will note that this property has a front extension onto what is a projecting hip. The second image shows the property in context.




These final two images show No.2 in context with the wider street scene.

3.0 RELEVANT PLANNING HISTORY & BACKGROUND

3.1 There has been one relevant planning application relating to the property.

AWDM/1674/18 - Householder application for permitted development for prior approval for single storey extension to rear of property measuring 5.5m from rear wall of the original house, maximum height 3.1m (to top of lantern) and height of eaves of the extension 2.92m. Prior Approval Not Required.

3.2 The application subject of this appeal (ref AWDM/0038/2021) was determined by the Council on the 5th March 2021. The application was refused for the following reason:

1. **The proposed form, design, siting and context of this flat roofed front extension is out of character with the design and appearance of this house and its attached neighbour. It would be an unsightly incongruous addition, contrary to policy 15 of the Adur Local Plan and adopted Development Management Standard No.2 "Extensions and Alterations to Dwellings" and the National Planning Policy Framework**

4.0 PROPOSED DEVELOPMENT

4.1 To assist the Inspector in considering the proposal the following figures show the existing arrangements alongside the proposal.

Figure 1: Existing & Proposed Front elevation



Figure 2: Existing & Proposed South Elevation

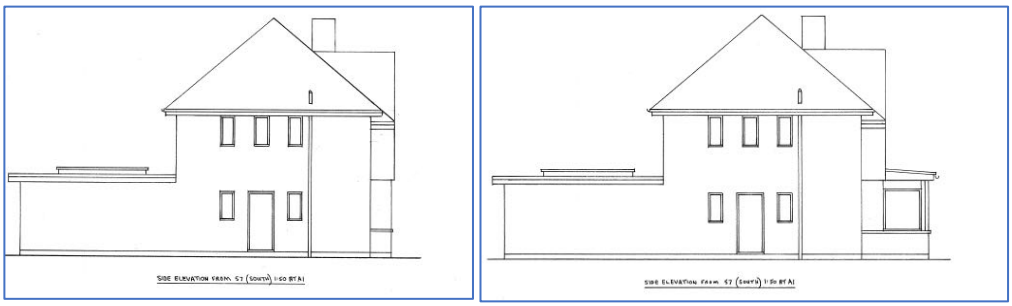


Figure 3: Existing & Proposed North Elevation

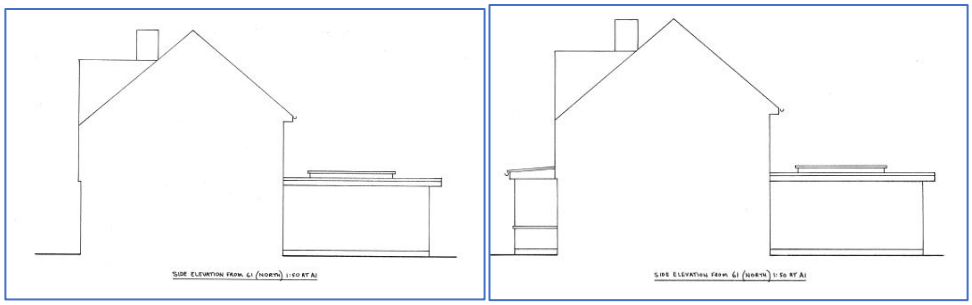
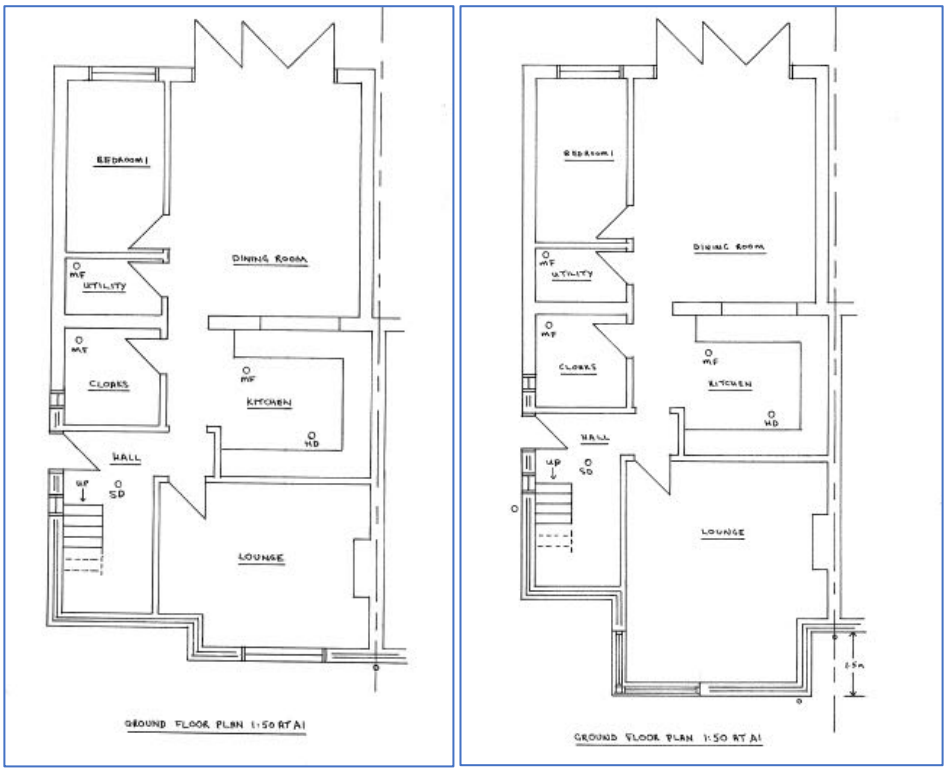


Figure 4: Existing & Proposed Ground Floor Plan



4.2 Permission is sought to add a flat roofed 1.5 metre deep front extension to the gable that also extends 800mm wider than the front gable at ground floor level.

5.0 ASSESSMENT OF THE COUNCIL'S REPORT

5.1 Before considering the compliance of the appeal scheme with the relevant planning policy it is necessary to examine the Council's planning report to understand the key planning issues. The following extracts in bold type are from the Officer's report and the Appellant will respond accordingly.

5.2 In considering the issue of the principle of the proposed development it is perhaps helpful to firstly consider the legal framework within which planning decisions are made. Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

5.3 Specifically, section 70 (2) of the Town and Country Planning Act 1990 states:

"In dealing with such an application the authority shall have regard to:

a) The provisions of the development plan, so far as material to application,

b) And local finance considerations, so far as material to the application, and

c) Any other material considerations."

5.4 More recently, section 38(6) Planning and Compulsory Purchase Act 2004 provides:

"If regard is to be had to the development plan for the purposes 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."

5.5 When considering whether or not a proposed development accords with a development plan, it is not necessary to say that it must accord with every policy within the development plan. The question is whether it accords overall with the development plan (Stratford on Avon v SSCLG [2014] JPL 104). Even if a proposal cannot be described as being in accordance with the development plan, the statutory test requires that a balance be struck against other material considerations. The courts have emphasised that a planning authority is not obliged to slavishly adhere to the development

plan and should apply inherent flexibility: Cala Homes (South) Limited v SSCLG [2011] JPL 1458 and Tesco Stores Ltd v Dundee City Council [2012] 2 P.&C.R. 9.

Planning Assessment

Principle

The principle of development can be supported as it upgrades a dwelling within the built-up area boundary. For consideration is the impact of the proposals on the character and appearance of the area and the impacts of the development on neighbour amenity.

5.6 The appellant welcomes the support in principle for the proposal.

Design/Character

'Policy 15: Quality of the Built Environment and Public Realm

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:

- ***Enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping and layout of the development;***

- ***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.'

5.7 The appellant notes the Council's reference to policy 15 of the Local Plan. The proposed addition of the front extension is very modest in its depth and is comparable with the depth of the various front protections of properties in the neighbourhood. Following the modernisation of the property it is a deliberate design proposal to slightly wrap the extension around the projecting hip at ground floor level. The inspector will note the principal window is offset so that it too wraps around SE corner.

5.8 The appellant believes that the proposal will enhance the appearance of the updated property and thereby enhance the appearance and character of the locality as a whole. As a result the appellant believes the proposal accords with the aims and objectives of policy 15.

Development Management Standard No.2 "Extensions and Alterations to Dwellings" reiterates the design advice in adopted policy 15 and the NPPF. Specifically in relation to front extensions it states:

3.16 Front extensions are particularly difficult to incorporate successfully with the existing house and streetscene. They should not usually extend significantly beyond the "building line", or abut side boundaries. For this reason, front extensions on terraced properties (other than small porches) will not usually be allowed. In the case of semi-detached or detached dwellings, front extensions will only be allowed where the extension can be successfully assimilated into the streetscene and not unduly affect neighbours. Windows in side elevations of front extensions, which are close to and overlook neighbouring properties, will not usually be allowed.

5.9 The appellant notes this guidance (a copy is appended as NJA/1), but it is important that such guidance is not applied blindly and without giving careful considerations of the circumstances prevailing. The guidance notes the challenges but does not indicate that there is an outright prohibition. In this case it has already been noted that the building line is interrupted by the front gable projections of some properties, including the appeal site plus the front hipped projections of others. The overall result is a varied street scene which in the appellants opinion opens up the opportunity for some modest additions. This addition is only 1.5m in depth and not deeper than a number of the front projections on other properties referred to above.

5.10 Reference has already been made to the front extension at No.2 which the Council approved in 1997 (ref: SW/39/97/TP/16944). This shows that modest additions to the front of properties in this locality can work visually.

Other than the materials used in their finish this pair of semi-detached houses are identical and there are others of the same design in the street. Their projecting front gables are a strong feature of their character.

5.11 The appellant acknowledges this but believes the projecting gable visually creates the opportunity to add modest additions such as that proposed

because the overall appearance of the property remains in character with others.

The proposed form, design, siting and context of this flat roofed front extension is out of character with the design and appearance of this house and its neighbouring pair. It would be an unsightly incongruous addition. The proposal does not represent good design and will not enhance the character of this house or the wider area. It will not make a positive contribution to the area.

5.12 For the reasons expressed above the appellant holds a different opinion. The overall scale is very modest and does not result in the front projecting gable to be lost to view. It remains the dominant feature of the property. The proposed addition is very much a subsidiary element of the overall design.

Neighbour amenity

The extension is due south of No. 61 and in close proximity to the shared boundary. It is taller than the front living room window at No. 61 and may result in some loss of sunlight and outlook to No.61. However, at only 1.5m deep, such harm is not considered to be such as to warrant refusal on these grounds.

5.13 The proposed extension has been inset from the common boundary with No.61 to lessen any potential impact. It is noted that the occupants of No.61 did not make any representations against this proposal.

6.0 PLANNING POLICY COMPLIANCE

6.1 National planning policy is set out in the National Planning Policy Framework. Local planning policy is set out in Adur Local Plan 2017.

National Planning Policy Framework (NPPF) 2018

6.2 Importantly, the new NPPF sets out the status of the document at paragraph 2 when it states;

"The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions."

6.3 In Chapter 2 the new NPPF restates at paragraph 7 that *'the purpose of the planning system is to contribute to the achievement of sustainable development.'*

6.4 Paragraph 8 of the NPPF sets out the following three dimensions to sustainable development:

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently,

minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.5 This proposal makes a positive economic contribution through the benefit that would arise during the construction process. From a social perspective the proposal provides for the improvement of the part of the existing housing stock. Finally, from an environmental perspective, the proposal is continuing to make the best possible use of previously developed land and provides a visual enhancement of the existing premises. Overall, the proposal is considered to represent a very sustainable form of development.

6.6 Paragraph 10 goes on to highlight that there is a presumption in favour of sustainable development.

6.7 Paragraph 11 applies this in as form of a test when it states;

11. Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.8 Chapter 4 addresses decision making. The appellant welcomes the opening remarks of paragraph 38 that ***'Local planning authorities should approach decisions on proposed development in a positive and creative way.'***

6.9 Paragraph 47 restates that ***'planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.'***

6.10 Chapter 12 provides guidance on ensuring quality design. The appellant believes the proposals meet all the tests set out in paragraph 127 where it states;

"Planning policies and decisions should ensure that developments:
a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

6.16 The appellant would contend that the proposed development satisfies these tests. Firstly, the proposal is an enhancement of the existing property and gives the property a refreshed appearance which in turn may prove to be a stimulus for other residents to make similar investments in their own properties. Secondly, and perhaps most importantly, the appellant contends that the proposal represents appropriate change to refresh the appearance of the building for the 21st century. Overall, no substantive

conflict with paragraph 127 of the NPPF has been identified and therefore there is no reason to reject this proposal.

Adur Local Plan

Policy 15: Quality of the Built Environment and Public Realm

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.

6.17 As indicated above the Council doesn't appear to object to the proposals in their own right. Instead the concern appears to be whether this proposal is an appropriate addition. From the appellant's perspective the addition is modest in size, and constructed of materials which are considered complementary to the host dwelling, particularly as the external appearance of the host dwelling has been upgraded with modern material which are considered to be a complementary contrast to the rest of the block. Importantly, the policy requires that development 'respect' and 'enhance', it doesn't require that developments be a facsimile of what already exists. This would limit the innovation and change which is facilitated in the NPPF.

Development should:
- ***Enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping and layout of the development;***

6.18 The appellant maintains that the changes are an enhancement and provide a helpful guide for other residents who might want to invest in their own properties.

- ***Include a layout and design which take account of the potential users of the site;***
- ***Incorporate the principles of securing safety and reducing crime through design in order to create a safe and secure environment;***

6.19 The appellant has not identified any conflict with this part of the policy.

- ***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;***

6.20 The proposed investment has helped improve the appearance of what was a 'tired' looking property. Neither the appellant nor the Council have identified any harm to residential amenity.

• Respect the existing natural features of the site, including land form, trees and biodiversity and contribute positively to biodiversity;
• Have safe access to the highway network, and not result in harm to highway safety;

6.21 The appellant has not identified any conflict with this part of the policy.

• Have acceptable parking arrangements (in terms of amount and layout);
• Take into account the need for waste reduction and recycling, both during the construction phase and over the lifetime of the development;

6.22 The appellant has not identified any conflict with this part of the policy.

• Incorporate public art in major developments* where appropriate.

6.23 This part of the policy is not considered relevant to this proposal.

Opportunities will be taken to improve the public realm through new development, transport schemes or regeneration schemes. These will aim to improve the quality, accessibility and legibility of public streets and spaces.

6.24 This part of the policy is not considered relevant to this proposal.

Best practice guidance published by the Government, the Council and other bodies will be used when assessing applications. Design codes, planning briefs and masterplans will be developed for key sites where appropriate.

6.25 The appellant has not identified any conflict with this part of the policy.

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.

6.26 As indicated in section 5 above, guidance cannot cover every type of scenario and in the appellants opinion there are good reasons having regard to the designs of the property in the street as to why this modest addition would not cause the harm this guidance note seeks to avoid.

Lighting incorporated into developments should provide the minimum for public safety, be energy efficient, designed to illuminate the target only and avoid light pollution.

6.27 The appellant has not identified any conflict with this part of the policy.

Express consent will only be granted for advertisements which respect the character and appearance of the surrounding area, and do not create a danger or hazard to public safety. Where an illuminated advertisement is acceptable in principle, such advertisements should be either externally illuminated or have internally illuminated individual lettering with a solid or opaque background.

6.28 This part of the policy is not considered relevant to this proposal.

New shopfronts will be permitted where the design and materials respect the character of the area and of the building of which they form part. Planning permission to replace shopfronts of inappropriate design or materials, or in poor condition in Conservation Areas, will be granted providing the replacement is of appropriate design and materials, respecting the character of both the building and the Conservation Area.

6.29 This part of the policy is not considered relevant to this proposal.

(*Major development is defined in the Town & Country Planning (Development Management Procedure) (England) Order 2010 as 10 or more dwellinghouses, or sites of 0.5 hectares or more where it is not known if the development will have 10 or more dwellinghouses; the provision of a building or buildings where the floorspace to be created is 1,000 sqm or more, or development on sites of 1 hectare or more).

6.30 Overall, the appellant doesn't believe that the proposal is in conflict with policy 15 of the Adur Local Plan for the reasons set out above.

7.0 CONCLUSIONS

7.1 This very modest extension to the front of the property is in the appellant's opinion another welcome enhancement to this property and does not harm the overall character and appearance of the property or the street scene. The appellant notes that a front extension was permitted at No.2 Summersdeane, opposite which does not cause any harm. The appellant believes the same applies to this proposal. The Inspector is therefore invited to allow this appeal.