

**PLANNING COMMITTEE – 15 AUGUST 2019****PART 2**

Report of the Head of Planning

**PART 2**Applications for which **PERMISSION** is recommended

<b>2.1 REFERENCE NO - 19/502608/FULL</b>		
<b>APPLICATION PROPOSAL</b> Proposed first floor rear terrace.		
<b>ADDRESS</b> 45 Lynmouth Drive Minster-on-sea Sheerness Kent ME12 2HT		
<b>RECOMMENDATION</b> Approve		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The development will not cause unacceptable impacts to visual or residential amenities.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Parish Council objection		
<b>WARD</b> Minster Cliffs	<b>PARISH/TOWN COUNCIL</b> Minster-On-Sea	<b>APPLICANT</b> Mrs C Randall <b>AGENT</b> Oakwell Design Ltd.
<b>DECISION DUE DATE</b> 19/08/19	<b>PUBLICITY EXPIRY DATE</b> 18/06/19	

**Planning History**

18/501862/FULL

Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/505728/FULL).

Approved Decision Date: 27.06.2018

17/505728/FULL

Erection of a rear single storey extension and rear first floor extension. (Resubmission of 17/503602/FULL)

Approved Decision Date: 10.01.2018

17/503602/FULL

Rear single storey extension and rear first floor extension

Withdrawn Decision Date: 12.10.2017

SW/86/1390

Proposed first floor extension

Approved Decision Date: 17.02.1987

## **1. DESCRIPTION OF SITE**

- 1.1 45 Lynmouth Drive is a two storey detached dwelling located within the built up area boundary of Minster-on-Sea.
- 1.2 The dwelling is set within quite large grounds, with hardstanding to the front of the property and private amenity space to the rear. The surrounding street scene is primarily residential in nature, although the dwellings are of varying scales and designs. The property was originally a private dwelling but has recently been converted to a House in Multiple Occupation (HMO).
- 1.3 The extensions approved at Planning Committee on 21st June 2018 under application 18/501862/FULL have been carried out at the site and are now complete.

## **2. PROPOSAL**

- 2.1 This application seeks planning permission for the use of the existing single storey flat roof at the property as a terrace. The flat roof area measures 3.8m x 1.8m and was approved under application 18/501862/FULL, along with various other extensions which have since been carried out at the property. Access to the terrace would be provided from the existing windows in the bedroom on the first floor. The only physical change to the property will be the erection of 1.1m high guarding around the perimeter of the roof terrace. A new application for planning permission is required for the terrace as the following condition was placed upon 18/501862/FULL:

*“Condition (5) The flat roof area identified on approved drawing PL 04 shall not be used at any time as a terrace or balcony.*

*Reason: To safeguard the privacy of neighbouring occupiers.”*

- 2.2 During consideration of the application, the agent was advised to include a 1.8m privacy screen on the northern side of the terrace, and subsequently amended drawings were submitted showing this screen.

## **3. PLANNING CONSTRAINTS**

- 3.0 None

## **4. POLICY AND CONSIDERATIONS**

- 4.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG)
- 4.2 Policies CP4, DM14 and DM16 of Bearing Fruits 2031: The Swale Borough Local Plan 2017
- 4.3 The Council’s adopted Supplementary Planning Guidance (SPG) entitled ‘Designing an Extension: A Guide for Householders’

## 5. LOCAL REPRESENTATIONS

5.1 Five objections have been received from four neighbouring properties. Their contents are summarised below:

- Majority of rear garden and part of decking at No. 45a is clearly visible from the proposed terrace and affects privacy. Terrace is also visible from kitchen window at No. 45a, although it is partially obscured by foliage, in the winter the view into the kitchen will be less restricted.
- Confused about why we are being asked to comment on the same issue – condition 5 states that the flat roof area shall not be used at any time as a terrace or balcony.
- Terrace will overlook house and garden at Westcliffe – we would have no privacy.
- The doors erected at first floor level that provide access to the flat roof are illegal and were not shown on the approved plans.
- A bedroom and en-suite were approved, however an additional room has also been created at first floor level – this is at the detriment of neighbouring homes who have lost the rightful claim of privacy.
- 45 Lynmouth Drive is a HMO and is therefore a commercial business.
- The flat roof area is larger in width than the approved plans.
- The extra window under the apex should be high level glazing and non opening – 2 opening windows covered with a coloured film have been installed.
- The roof lights should be obscure glazed and non-opening unless 1.7m above floor level. The roof pitch has been increased to ensure the windows are above 1.7m and therefore are opening and clear glass. This severely compromises the privacy of 156 and 158 Scarborough Drive.

5.2 Amended drawings were submitted showing a 1.8m high privacy screen to the northern side of the terrace. No. 45a to the north of the site was reconsulted in light of this addition. Three additional neighbour comments have been received; two from objectors who have already commented on the scheme and one comment in support. Their contents are summarised below:

### Objections

- With the privacy screen proposed, it still allows for unobstructed views into my rear garden from the front of the proposed terrace/balcony.
- The amended drawings do not show what has been built on site in breach of the approved plans (as mentioned in the last five bullet points at paragraph 5.1).

### Comments in support

- The previous complaint towards the bedroom window that is screened and size compliant is being made by people opposite who have a window in the exact same position. Their window enjoys the view of their garden – it is not screened and can be opened at any time. I do not understand why there should be any issue with Mrs Randall also having a window of the same function.

- The second observation I feel relevant to be raised is regarding the dissatisfaction from 45a who feel their garden is either potentially going to be overlooked or is at risk of being fundamentally overlooked by a small balcony that is roughly 25 yards behind their garden.

## 6. CONSULTATIONS

6.1 Minster-on-Sea Parish Council objects to the application, stating the following:

*"Under the previous application for this House of Multiple Occupation [18/501862/FULL]*

*for the erection of a rear single storey extension and rear first floor extension [Resubmission of 17/505728/FULL] in granting permission for that proposal I, Condition 5 makes it abundantly clear that the flat roof area identified on approved drawing PL 04 should not be used at any time as a terrace or balcony to safeguard the privacy of neighbouring occupiers. Minster-on-Sea Parish Council would like this condition upheld for the very same reason."*

## 7. BACKGROUND PAPERS AND PLANS

7.1 All plans and documents relating to 18/501862/FULL and 19/502608/FULL.

## 8. APPRAISAL

### Principle of Development

8.1 The site is located within the built up area boundary of Minster-on-Sea where the principle of development is accepted. This application only seeks planning permission for the use of the flat roof at the rear of the property as a terrace. The main considerations in this case involve the impact of the terrace on visual and residential amenities.

### Visual Impact

8.2 The terrace would be located at the rear of the property and will not be visible in the streetscene. The addition of safety guarding and a privacy screen will be the only changes to the property, and I do not consider these screens will cause unacceptable impacts to the character and appearance of the property.

### Residential Amenity

8.3 I consider the main impact from the use of the flat roof as a terrace would be the potential for overlooking of the surrounding properties and their gardens. Firstly considering the impact to No. 45a to the north of the site, I note that this neighbouring dwelling projects approximately 6m rearwards of the flat roof. However, due to the changing land levels, (No. 45a is situated on lower ground than the host property). There is potential for the balcony to overlook the amenity space at the rear of No. 45a. As such, I recommended that the agent include a 1.8m privacy screen along the northern side of the terrace, to mitigate against any potentially harmful overlooking. Amended drawings were submitted showing this, and I now consider the application is acceptable in this respect.

- 8.4 To the rear of the site is Woodstock, Westcliff Drive. The terrace would be located roughly 33m from the rear elevation of this property. The Council expects a distance of 21m between the rear elevations of neighbouring dwellings. The distance here is comfortably in excess of this amount, and therefore I consider any impact will be acceptable.
- 8.5 To the south of the site lie Nos. 156 and 158 Scarborough Drive. The first floor extension permitted under 18/501862/FULL is situated between these neighbouring dwellings and the flat roof, and the flat roof does not project rearwards of this extension. As such, views of No. 156 and 158 from the terrace would be restricted by the extension, and therefore I consider the impact upon these properties will be acceptable.

#### Other Matters

- 8.6 I note the Parish Council's and neighbours' comments with regards to the previous condition placed upon 18/501862/FULL which restricts the use of the flat roof as a terrace or balcony. Under the previous application, the flat roof was not intended to be used as a terrace, and the condition was imposed to ensure the Council would be able to assess the impact the use of this flat roof as a terrace would have upon residential and visual amenity, should such a proposal ever come forward.
- 8.7 I can confirm for Members that the reason for imposing conditions restricting permitted development rights, uses of land or, in this case, the use of a flat roof, is not necessarily to prevent them ever being used for such a purpose. It is to give the Council control over what could be potentially harmful development that might not otherwise require planning permission. The fact that it was felt necessary to impose the condition in the first instance will never amount to a reason for refusing permission for the development it controls. Members must assess the development on its own merits, and reach a decision accordingly. The fact that it is restricted by condition should play no part in the deliberations of this Planning Committee.
- 8.8 A neighbour has raised several other issues with regards to other aspects of the completed extension. There have been several enforcement complaints made in relation to this property. My enforcement team have visited the site on numerous occasions and are satisfied that the build has been carried out in accordance with the approved drawings and the conditions imposed on that permission. The only matter this application seeks permission for is the use of the flat roof as a terrace, and therefore no other element of the extensions built at the property is relevant to this application.

## 9. CONCLUSION

- 9.1 To conclude, I do not consider that the use of the flat roof as a terrace with the erection of a privacy screen will not cause adverse harm to either visual or residential amenities. Therefore I recommend planning permission be granted.

## 10. RECOMMENDATION - GRANT subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of The Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved drawings no: PL01, PL04 A and PL05 A.

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) The privacy screen shown on approved drawings PL04 A and PL05 A shall be fabricated in obscured glazing. The screen shall be installed prior to first use of the terrace and shall be maintained at all times that the terrace remains in place.

Reason: In the interests of residential amenity and privacy of the adjacent dwelling.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

