

Recommendation Report for Planning Permission for Works or Extension to a Dwelling

REF NO: **AW/204/13/**

LOCATION: 44 Aldwick Fields
 Bognor Regis

PROPOSAL: Replacement front boundary wall.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is for the demolition/removal of an existing 1.65m high single brick wall with horizontal fence panels and to then erect a new 1.85m high wall but in a new position along part of the site's currently open frontage. The new wall will finish at a point adjacent to the rear of the house (noting that 44 sits side on to Aldwick Fields).
TOPOGRAPHY	The site is predominantly flat.
TREES	The proposed wall will enclose an area of front garden on which sits an immature Mountain Ash tree and other small shrubs.
BOUNDARY TREATMENT	As noted above, the existing boundary wall/fence is 1.65m high and leaves an area of approx. 37m ² open to the side of the property (the side being the road frontage). There is a 1.9m high fence to the immediate neighbour (46).
SITE CHARACTERISTICS	The application concerns a small area of land located between an existing fence/wall and the edge of the highway (pavement). This area of land is garden but is open to the street. It is grassed and includes some small bushes and an immature Mountain Ash Tree. There is a short (2.5m) paved pathway from the pavement to a pedestrian gate in the wall close to the rear of the house. The dwelling itself is predominantly 2 storey in height but with some single storey pitched elements. The neighbour to the rear (46) has one very small rectangular side facing ground floor window. On the front side affected by the new wall there is a small forward projecting porch containing the front entrance door and a small WC window.
CHARACTER OF LOCALITY	This is a residential area comprising a mixture of two storey dwellings and bungalows. The immediate streetscene does have an open plan feel to it and whilst it is noted that there are other boundary walls over a metre in the locality, including some that border directly with the

highway (pavement), these are either the rear boundaries of properties on different roads or the side gardens of houses located on a junction (such as 1 and 9-11 Kenleigh located just to the south of the site and to the east, the side boundary of 2 Curlescroft).

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

Aldwick Parish Council

Aldwick Parish Council - no objection.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Council's Arboricultural Officer - If the applicant intends to retain the Mountain Ash/Rowan then there should be root protection measures to discourage the mixing of cement or passing of vehicles within 2m of its main stem. The ornamental tree is a good example and its loss would be unfortunate. The applicant may wish to protect the ground with plywood sheets placed around the tree base to bear the weight of builder's activities providing a minimum solution.

Comments on Consultation responses:

It is noted from the application form that there are no plans to remove the tree. If the application were to be recommended for approval, conditions would be attached to ensure its protection.

POLICY CONTEXT

Designation applicable to site:

Within Built Up Area Boundary; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan: [GEN7](#) The Form of New Development

PLANNING POLICY GUIDANCE

NPPF National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

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

The proposal is not considered to comply with relevant Development Plan policies in that whilst it it would not have a materially significant impact on the residential amenities of adjoining properties, it would have a materially adverse effect on the visual amenities of the locality and the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposal is twofold - firstly the erection of a new boundary wall and secondly the enclosure of existing open garden. With regard to the enclosure of the garden, whilst this is currently open to the street and therefore provides amenity value, at the end of the day, it is private garden and the property owner should be allowed to use it as such if they so wish. The proposal would retain the Mountain Ash tree and this would still be visible above the height of any boundary treatment and would therefore still provide amenity value to the streetscene.

As noted above, whilst there are other examples of boundary treatment above 1m on the highway boundary, these are either to rear gardens of properties that back on to Aldwick Felds or to side gardens that are located on junctions. It is acknowledged that 44 Aldwick Felds does front onto a spur of Aldwick Felds and therefore this is side garden, however, the application site situation does not compare to those other examples in the streetscene as on this side of Aldwick Felds, the fronts of properties are all open and unlike the side garden of 2 Curlescroft, no. 44 backs onto an open front garden/parking area and not the forward projection of part of a house. It is therefore considered that the new boundary wall will be out of character with the open plan appearance of this side of Aldwick Felds and that this will be to the detriment of the streetscene.

With regard to the neighbouring property, the replacement wall will not result in any significant loss of light to the front of the house - there may be some loss of light to the front and side ground floor windows early in the morning but as discussed these are not principal windows. However, the wall will be 20cm higher than the existing boundary and will extend further forward along the shared boundary. Its presence will therefore certainly be apparent to the neighbouring property and will alter their existing outlook.

The addition of a wall here may also result in applications from properties elsewhere in the street and the local authority would find it difficult to resist these if this application were to go ahead.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 The introduction of a brick wall in this location would result in an incongruous feature in the streetscene, would be detrimental to the existing amenity enjoyed by the neighbouring property and would detract from the pleasant open character and appearance of this estate in conflict with policy GEN7 of the Arun District Local Plan.
- 2 If this proposal were permitted the Local Planning Authority would find it difficult to resist similar proposals in the vicinity, the cumulative effect of which would be to alter the character of the locality to the serious detriment of the amenities of the area in conflict with policy GEN7 of the Arun District Local Plan.

- 3 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.