

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

REF NO: **AW/285/12/**

LOCATION: 33 Churchill Avenue
 Bognor Regis

PROPOSAL: Installation of new fence

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposed fence approximately 1.8m in height will be sited on the southern side boundary adjacent to the walkway approximately 20m in length.
SITE AREA	Approximately 478 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Front is open to the highway, side boundary facing Windsor Close close boarded fencing approximately 1.5m in height.
SITE CHARACTERISTICS	Semi-detached bungalow with porch, light beige brickwork with white window frames with a concrete tiled roof.
CHARACTER OF LOCALITY	Open plan estate comprising a mixture of bungalows and two storey dwellings.

RELEVANT SITE HISTORY

P/138/68	Front porch	Approve 30-10-1968
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REPRESENTATIONS

Representations received:

Aldwick Parish Council

Objection

Members strongly object to the application on the following grounds: that the planned fence detracts from the open plan aspect of the estate. Therefore, Members agreed that this application is in direct conflict with Policy DEV19 of the Arun District Local Plan.

Comments on Representations received:

Comments noted. However, DEV19 of the Arun District Local Plan relates to extensions to existing residential buildings and is not considered to be relevant in this instance as the application is for the erection of a fence.

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

PDR - Open Plan Condition on BE/17/64/R

Tree Preservation Order

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

[GEN2](#)

[GEN7](#)

Built-up Area Boundary

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 amenity.

The Development Plan consists of the Arun District Local Plan 2003 and the South East Plan adopted in 2009.

It should be noted that the Arun District Local Plan was adopted in 2003 and the South East Plan in 2009.

In accordance with paragraphs 214 of the NPPF, the South East Plan is afforded full weight as part of the development plan. Footnote 41 (page 49) states the Governments clear policy intention to revoke regional strategies.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight but, because it predates 2004, a reduced 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.

The emerging local plan has recently been approved by the Council and is therefore a material consideration in the determination of this planning application. Whilst it has not been formally adopted due weight has been given to its policies in terms of the decision making process at this stage.

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 considered to conflict with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and an adverse impact upon the established character of the open plan estate.

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 property occupies a very prominent corner position on an open plan residential estate with housing generally set back behind areas of grass.

The southern side boundary fronting Windsor Close has an area of open plan land which is grassed and planted with shrubs. The fence which is approximately 1.5m in height encloses the rear garden and this is set back from the public footway by approximately 4m and extends along the southern side boundary in an easterly direction to the detached garage. The application seeks to remove the existing fence and construct a new fence that will be sited along the southern side boundary to the public walkway.

The proposed fence would be approximately 1.8m in height larch lap in appearance with concrete posts supported on a concrete plinth. It is considered that the proposed fence sited along the back edge of the footway would appear as a tall solid form of enclosure which would be at odds with the generally open plan layout of the estate and character of the area.

The introduction of a fence adjacent to the public walkway would appear as a dominant element in the street scene, so harming the visual and residential qualities of the area.

It is therefore recommended to refuse the application for the following reason.

HUMAN RIGHTS ACT

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 for 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 a neutral impact has 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).

RECOMMENDATION

REFUSE

- 1 The introduction of the fence forward of the dwelling would result in an intrusive form of development which would detract from the open green appearance of the locality, character and appearance of the open plan estate in conflict with policies GEN7 of the Arun District Local Plan.