

FROM:

Delwyn Jones
Planning Solicitor
Ext: 37737
Ref: AB/84/12
Dated :30 August 2012

TO: Deeds Store ClerkFor circulation to :-

Hazel Aldington
Service Delivery and Monitoring Officer

FOR CIRCULATION TO :-

Planning Case Officer
Local Land Charges Officer
Planning Admin
Accountancy
Affordable Housing

SITE NAME: Forschinis Nursery Hangleton Lane Ferring

PARTY NAME: GL Forschini

PLANNING OBLIGATION COMPLETION

The above is now completed.

DEEDS STORE CLERK:

The original planning obligation is attached.

Please place the original planning Obligation attached in the Deeds Store. .

Before you do so please make one copy and attach to this memo and forward it to the Service Delivery and Monitoring Officer . The SD&MO will then copy the deed scan into the Ocella records and circulate it to the other addressees of this memo.

SERVICE DELIVERY & MONITORING OFFICER

Please on receipt of this memo and enclosure scan it and make hard copies of it and then circulate to all the above addressees and update Ocella.

PLANNING OFFICER:

Please issue planning permission. A copy of the planning obligation is on the file.

LOCAL LAND CHARGES OFFICER:

Please register this planning obligation as a Local Land Charge. A copy of it is attached.

ALL OF YOU

A summary of the provisions of the obligation is:

Obligation	Time Limit
ADC	
Affordable housing Sum £12171	On start of development

PLANNING ADMIN:

A copy is enclosed for your files. Please enter this on the Planning Register as a PE format.

The legal fees received for the preparation of this agreement were £200.00

Delwyn Jones
Planning Solicitor

084

A/94/09/CLE

CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT REPORT

REF NO: A/94/09/CLE

LOCATION: Foschini Nursery
Hangleton Lane
Angmering

PROPOSAL: Application for Certificate of Lawfulness for an existing use - Siting of a residential mobile home

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Application is for a Certificate of Lawfulness of the existing use of part of Foschini nursery for the stationing of a residential mobile home. The agent asserts that the home has been occupied by Mr. Hampshire since the Appeal decision was issued on 18/6/08 and therefore the use has continued until present date. The mobile home is 10.2m x 2.7m with a bathroom measuring 1.5m x 2.25m added to the east elevation. The accommodation comprises a living room, kitchen, bathroom and bedroom.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Hedging to Hangleton Lane.
SITE CHARACTERISTICS	The site lies at the entrance to the Foschini nursery adjacent to the boundary with Carol Anne House. Nursery site consists of a number of glasshouses and a brick built building in the middle of the site.
CHARACTER OF LOCALITY	The area is rural in nature. Other nurseries and equestrian premises are located on Hangleton Lane.

RELEVANT SITE HISTORY

A/149/90	Proposed increase in height of roof 1.4m (4' 7") above permitted garage	Withdrawn 05-11-1990
A/15/95	One house	Approve Cond 28-06-1995

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A/18/51	Outline - camping site	Refused 30-07-1951
A/10/53	Outline application for agricultural dwelling	Approve 21-04-1953
A/31/53	Outline application for house	Refused 07-07-1953
A/27/56	Agricultural cottage	Refused 08-06-1956
A/34/57	Siting of caravan for owners occupation pending erection of bungalow	Approve Cond 02-07-1957
A/30/58	Renewal of consent for caravan	Approve Cond 28-05-1958
A/38/63	Outline application foremans cottage in connection with nursery	Refused 19-07-1963
A/60/63	House to be used in connection with the nursery	Approve Cond 27-08-1963
A/105/67	Sanitary block for use by Nursery	Approve Cond 05-07-1967
A/149/68	Glasshouse	Approve Cond 23-01-1969
A/13/69	Extension of existing boiler house to accommodate additional boiler and the erection of a new flue	Approve 06-02-1969
A/208/77	Erection of 2 glasshouses for horticultural use	Approve Cond 01-02-1978

REPRESENTATIONS**Representations received:**

Angmering Parish Council

No objection.

Comments on Representations received:

None

CONSULTATIONS

Planning Solicitor

Consultations responses received:

Planning Solicitor - It is recommended the certificate is granted subject to no contradictory evidence being found.

Comments on Consultation responses:

Comments noted

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

PRINCIPLE

Section 191 to 195 Town & country Planning Act 1990 and DOE Circular 10/97 Annex 8 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

(i)What is judged on a balance of probability.

(ii)The onus of proof is on the applicant (and not the LPA) to adduce the evidence.

(iii)The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

The relevant time limit for the material change of use of the land from 17th August 1999 to 17th August 2009 is 10 years.

DETAILS AND TESTS UNDER SS191 TCPA 1990 AND CIRCULAR 10/97 ANNEX 8

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application is for a material change of use so the time limit is 10 years under the above.

The time period is 17th August 1999 to 17th August 2009 10 years to date of the application.

The evidence does satisfy this test.

To date no contradictory evidence has been seen of this position; explained why below:

(2) Sufficiency of Evidence: para 8.12-22

The evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous

ASSESSMENT

Paragraph 8.15 and the case of Gabbittass v SSE and Newham LBC 1985 JPL 630 referred to there establishes that corroboration is not needed unless to resolve any ambiguity. S194 TCPA 1990 states that it is a criminal offence to supply false or misleading information. So the applicants own uncorroborated evidence and unsworn evidence via letters is sufficient for these purposes.

ANALYSIS OF EVIDENCE

Appeal decision dated 2/7/08 relating to enforcement notice CON/A/3/06 established that the

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mobile home/caravan had been used as a sole or main residence for 10 years from 3/9/97 to 3/9/07.

The declaration from Mark Hampshire dated 10/8/09 confirms that he has resided in the Portacabin from 1997 to the present date.

The statutory declaration of Mark Hampshire dated 5/12/06 confirms that he moved into the Portacabin in October 1997 and prior to this Gian Luca Foschini resided in the Portacabin. The statutory declaration of Gian Luca Foschini confirms that between February 1995 and December 1995 he resided in the Portacabin with his father Filomeno Foschini. From December 1995 to October 1997 he resided in the cabin alone. From October 1997 his friend Mark Hampshire moved into the cabin.

The statutory declaration of Filomeno Foschini dated 5/12/06 confirms he moved into the Portacabin in February 1995. In December 1995 he moved into Carol Anne House and his son continued to reside in the Portacabin until October 1997.

SUGGESTED TERMS OF GRANT

It is suggested (subject to comprehensive review of the evidence) that the application be granted in these terms:-

1. Grant
2. The mobile home is situated on the land edged black on the plan attached to this CLEUD and the plan ref 1030A in the application and edged red.

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

Use of the site for siting of a residential mobile home has been judged on a balance of probability and is considered that the evidence is precise and unambiguous and therefore meets the requirements of Circular 10/97 Annex 8 para. 8.12 - 8.22. It is therefore considered that the application for a Certificate of Lawfulness for an existing use should be granted.

RECOMMENDATION

APPROVE

- 1 The Arun District Council hereby certify that on the 17 August 2009 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:
The siting of a residential mobile home has taken place on the land for more than 10 years.

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- 2 Use of the site at Foschini Nursery, Hangleton Lane, Angmering, West Sussex for the siting of a residential mobile home.
- 3 The extent of the use is that defined by the red edge on the application site plan and includes the mobile home which measures 10.2m x 2.7m, with a bathroom on the east side measuring 1.5m x 2.25m and comprises a living room, kitchen, bedroom and bathroom.
- 4 Foschini Nursery, Hangleton Lane, Angmering which is shown on the plan to this certificate, within the area edged boldly in black.

Karen Garner

From: peter wilson [REDACTED]
Sent: 07 August 2012 17:31
To: Karen Garner
Subject: A/84/12
Attachments: 675 D A S 2.docx

Dear Karen Garner

I attach Design Access Statement 2 .

I trust this just leaves the Affordable Housing Agreement and cheque outstanding

Regards

Peter Wilson

Peter Wilson Consultants
Hilary Mount Way Lancing BN15 0QD
[REDACTED]

Karen Garner

From: peter wilson [REDACTED]
Sent: 07 August 2012 17:06
To: Karen Garner
Attachments: AdvisoryCommentsfz1_v3.1.pdf

Dear Karen Garner

Flood notes attached

Regards

Peter Wilson

Peter Wilson Consultants
Hilary Mount Way Lancing BN15 0QD
[REDACTED]

09/08/2012

Karen Garner

From: Nicola Spencer on behalf of Planning
Sent: 07 August 2012 16:25
To: Karen Garner
Subject: FW: A/84/12
Attachments: flood map747901.pdf

From: peter wilson [REDACTED]
Sent: 07 August 2012 15:28
To: Planning
Subject: FW: A/84/12

From: peter wilson [REDACTED]
Sent: 07 August 2012 15:25
To: 'e-mail:planning@arun.gov.uk'
Subject: A/84/12

Miss K Garner

Dear Miss Garner

Thank you for your help finding the flood information. I attach The flood zone map showing the site is in Zone 1 and you already have the Flood Notes for Zone 1.

I confirm the proposed house is for use by the owner. I have sent the Unilateral Undertaking form to the client for him to complete.

Bins and Collection The two waste bins on wheels will be positioned by the access to the rear door on a hard standing and be wheeled to the front of the house for collection.

Yours sincerely

Peter Wilson

Peter Wilson Consultants
Hilary Mount Way Lancing BN15 0QD
[REDACTED]



Mr P Wilson
Hilary
Mount Way
Lancing
West Sussex
BN15 0QD

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF
Planning & Building Control General Enquiries
Tel: (01903) 737756 Fax: (01903) 730442
Dx: 57406 Littlehampton
Minicom: 01903 732765
e-mail: planning@arun.gov.uk
website: www.arun.gov.uk/planning

Our Ref: **A/84/12/**
Your Ref:

Please ask for:
Miss K Garner
01903 737500 x 37467

Dear Mr Wilson

6th August 2012

Town & Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)
Application for Planning Permission

Development New house replacing mobile home. (Resubmission following A/129/11). Departure from the Development Plan.
Location Foschini's Nursery Hangleton Lane Ferring

Thank you for your recent application which I received on 31st July 2012. It is being dealt with by Miss K Garner who will be able to help you should you have any questions.

I regret that I am unable to accept your documents as a formal application until the following matters have been resolved :-

Please submit a Flood Risk Standing Advice form, which can be found on the Environment Agency Website.

Please submit 1 electronic or 3 paper copies of an Affordable Housing Statement in accordance with the guidance notes available on our website detailed below (click on Local List)

As your proposal is for the creation of between 1-6 housing units, you are required to provide a signed unilateral undertaking legal agreement as part of your planning application submission. The purpose of this agreement is to secure the required affordable housing financial contribution. If the signed legal agreement is not submitted, your planning application will be held for a period of two calendar months from the date of this letter after which your incomplete documents will be returned to you.

Full details of the affordable housing policy and in particular the requirements relating to schemes of 1-6 housing units can be found on the Council's website at the following link:
<http://www.arun.gov.uk/main.cfm?type=AFFORDABLEHOUSINGP>

Please submit 1 electronic or 3 paper copies of a 'Bin and Collection Statement' in accordance with the guidance notes available on our website detailed below (click on Local List).

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For further guidance or to obtain the documents as required above please refer to our website:
<http://www.arun.gov.uk/main.cfm?type=SUBMITAPAPERAPPLIC>

If you are unable to download the required guidance documents from the web site please contact the above officer who will arrange to post a paper copy to you.

Please provide the above by **20th August 2012**. If this information is not received by this date, the application will be returned to you as incomplete and you will have to submit a fresh application.

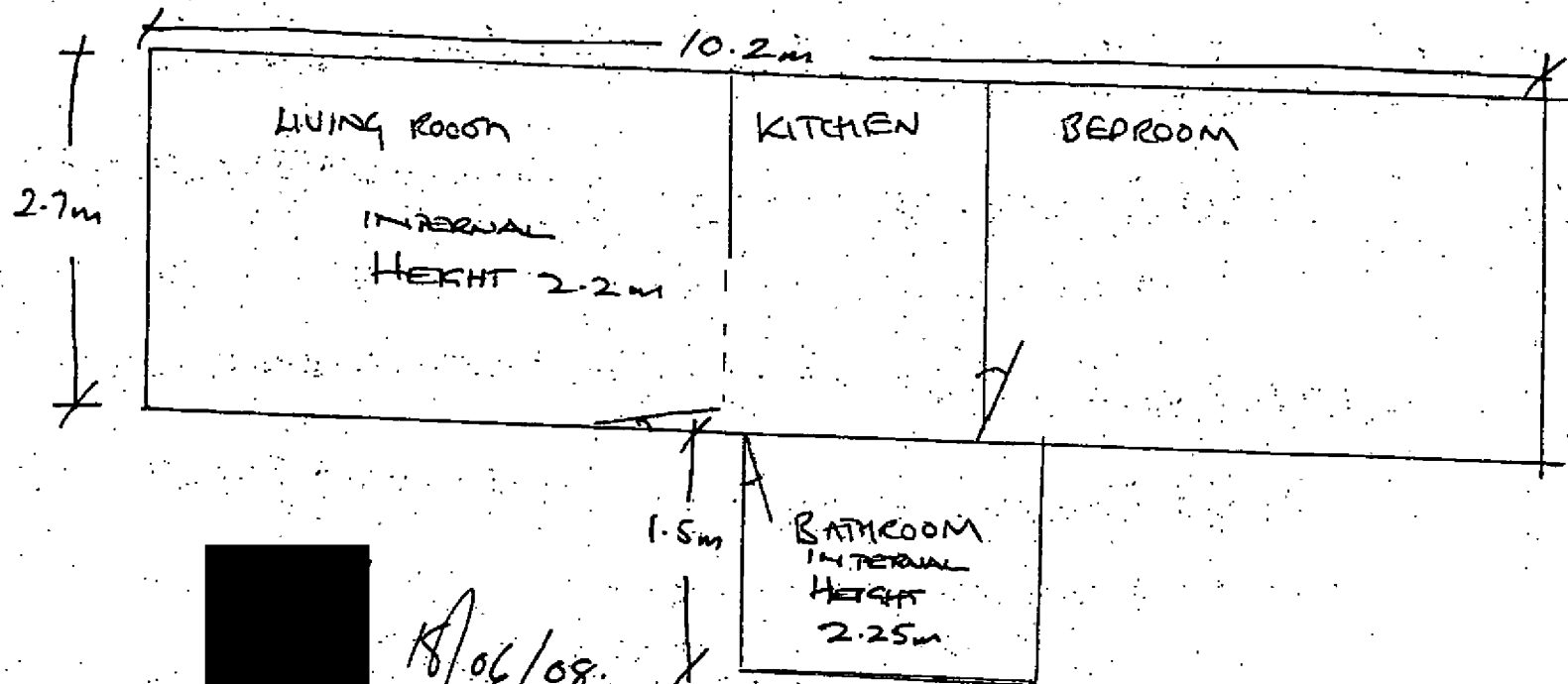
Yours sincerely



Karl Roberts
Assistant Director Planning & Economic Regeneration

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PORTACABIN SCALE 1:50 APPROX



18/06/08

18/08/08

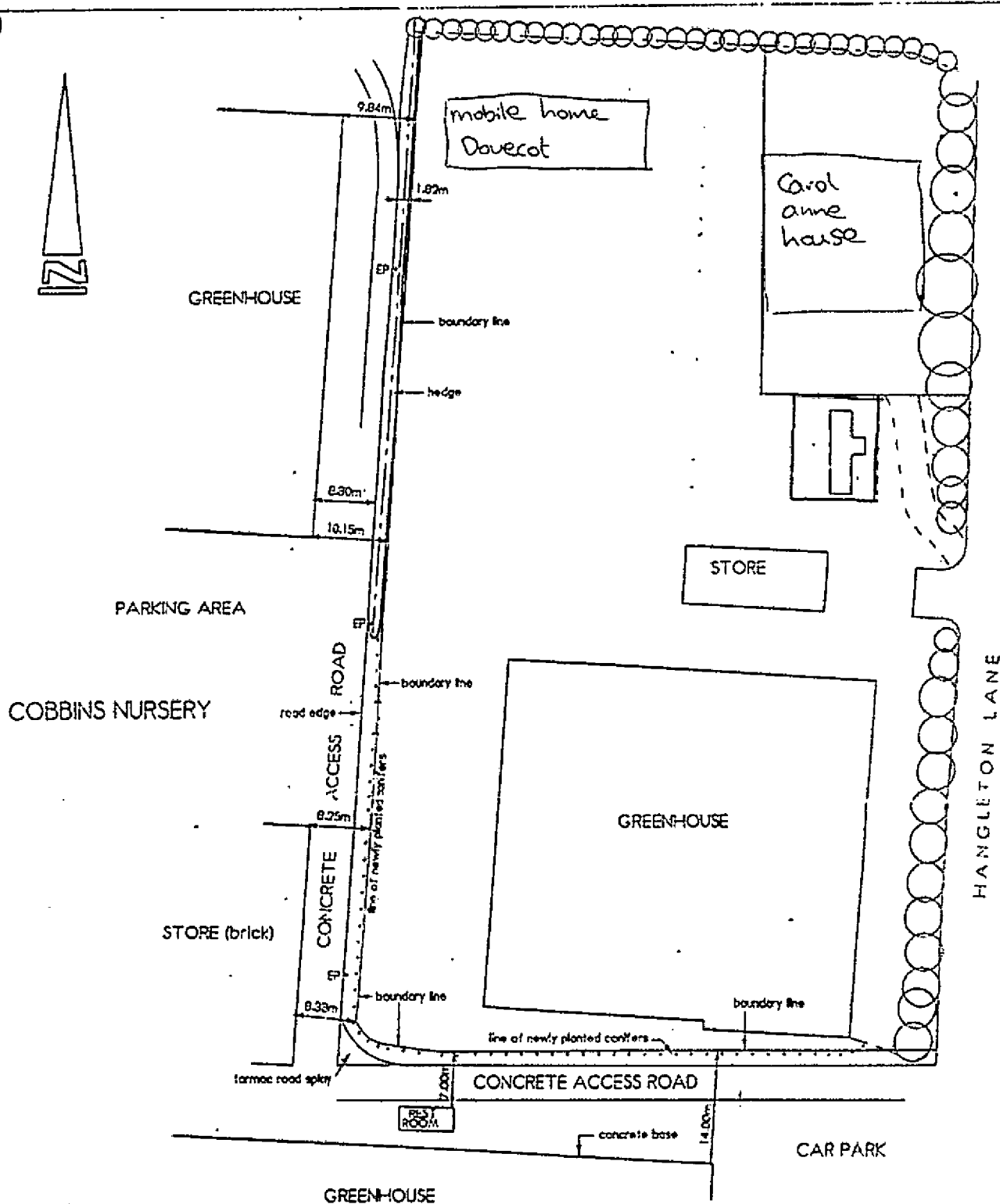
ARUN DISTRICT COUNCIL

No.	A	94	09	CE
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WP7

8/24/09/CL2



ARUN DISTRICT COUNCIL			
No.	A	94	09/06
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RECEIVED	No.

S.E. LAND SURVEYS Incorporated Land Surveyors	
29 Offington Drive Worthing West Sussex BN14 9PW	Telephone: 0903 - 772957 0903 - 267614
Foschini's Nursery HANGLETON LANE FERRING	
Scale 1:500	Date June 1992 May 1993
Drawn PT	Checked RP
Drawing No. S 1030A 92	Site Plan

Ferring Conservation Group
17 West Drive
Ferring
WORTHING
BN12 5QZ

Your Ref: 000013835

Our Ref: A/84/12/

31-07-2012

Please ask for:

Mrs A Gardner

4th October 2012

Dear Sir/Madam

Town & Country Planning Act 1990 (as amended)

Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)

New house replacing mobile home. (Resubmission following A/129/11). Departure from the Development Plan.

Foschini's Nursery Hangleton Lane Ferring

Thank you for your internet representation made on 3rd October 2012 which has been recorded as **an objection** with the comments as follows:

Ferring Conservation Group objects to this application because of its implications for Hangleton Lane, the east side of which lies in Ferring. □

The lane is outside the built up area of Ferring and is of a semi-rural character. Over the years a number of non-conforming uses have established themselves there, for lack of enforcement action have obtained retrospective planning permission. The lane is extremely susceptible to development - commercial and industrial as well as residential. □ The current application is contrary to the Development Plan. A similar application was refused in 2011. It is essential that Arun District Council maintain its current restrictions on building outside the built-up area of Ferring. An approval here would immediately lead to other applications, from the Ferring side of the lane as well as from the Angmering side. A precedent would have been set- what ever the principle of each application being determined on its own merits. □

Ferring Conservation Group asks the Council to adhere to its policy and refuse this application - Ed Miller (Secretary) Ferring Conservation Group

Your views will be considered before the application is determined and I shall write to inform you of any decision made.

Please be aware that if the application is to be determined by the Council's Development Control committee and your letter has been received at a late stage after the Agenda has been published you will not receive a separate letter notifying you of the date of the meeting and procedures for public speaking. In such circumstances it is recommended that you track the progress of the application on the Council's website or telephone the Council for further information. Please be advised that any comments you make that are not included within the Committee Agenda will be reported to the Members of the Development Control committee. Please also be aware that only a small number of all planning applications received go the Development Control Committee. Most are determined under delegated powers by Officers in which case your comments will again be considered before the application is determined.

Please be aware that Planning Services operate an 'open file' policy and may publish details of your comments on the internet on the Arun District Council Planning section. Please ensure that you only provide information that you are happy will be made available in this way. If you supply information belonging to a third party, please ensure you have their permission to do so. If you do not wish your comments to appear on the 'open file' please confirm this in writing and I will arrange for it to be destroyed although this means that its contents will then be disregarded.

inettle

In the event of a subsequent written representations appeal, against a refusal of planning permission on a householder application, any representations made on the application will be automatically forwarded to the Secretary of State. Unlike all other types of appeal, there will be no further opportunity to comment at the appeal stage.

Yours faithfully

Karl Roberts
Assistant Director Planning & Economic Regeneration