

Recommendation Report for Planning Permission

REF NO: BN/74/20/PL

LOCATION: 3 Woodside
Barnham
PO22 0HZ

PROPOSAL: Change of use of some land from public amenity land to private garden, and erect new 1.8m wooden fence with concrete posts.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to change the use of the grass verge to the side of property by incorporating it within the private garden space with the addition of a fence.
BOUNDARY TREATMENT	The property is open to the front and has a brick wall that runs along the southern elevation.
SITE CHARACTERISTICS	The site is occupied by a semi detached two storey property situated to a corner.
CHARACTER OF LOCALITY	The area is predominately residential and has an open plan condition.
None.	

REPRESENTATIONS

Barnham and Eastergate provided an objection

- No evidence the applicant owns the land and as such it should be kept as public amenity space.
- A fence would impact a visibility splay on the junction.
- The estate was designed as open plan
- To approve this application would set a precedent.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

The applicant has stated within the application form that they own the land in question.

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Built up area boundary

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1 D DM1 Aspects of form and design quality

DSP1 D SP1 Design

[Barnham & Eastergate Neighbourhood Plan 2014](#) Contribution to local character

[POLICY ES6](#)

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 it would have a materially adverse effect upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS**PRINCIPLE**

The key policies considered are D DM1 of the Arun Local Plan. Barnham and Eastergate have a made Neighbourhood Plan with policy ES6 of relevance to the proposal.

DESIGN AND VISUAL AMENITY

The dwelling is located to a corner with a brick wall running along the boundary to the south with an grass verge alongside.

There is existing planting to the front of the existing wall and therefore it is mostly restricted from view.

A fence would be constructed to a height of 1.8m to replace the existing brick wall although it would be re-sited around 1.75m further to the south which would incorporate the grass verge within the private amenity space and meet in line with the highway frontage. This will run around 11.5m along the boundary.

The property falls within an area with an open plan condition and as such there are limited examples of boundary treatment. The boundary treatment that does exist is set back from the street scene, such as that visible at No.22 which maintains the open character of the area.

Due to the prominent position of the boundary treatment, to a corner, it would result in the fence appearing as an intrusive feature, with it clearly visible and dominant to the side elevation of the property.

The proposal is considered to conflict with policy ES6 of the Barnham and Eastergate Neighbourhood Plan in that it does not respond positively to the character of the village.

The proposal is also considered to conflict with the character of the area in such that it removes existing vegetation and a grass verge which in turn reduces the open nature appearance of the area and is considered to appear detrimental to the established character of the street scene in conflict with policy D DM1 (1) of the Arun Local Plan.

RESIDENTIAL AMENITY

The development is not considered to result in any harmful overbearing or overshadowing impact upon the occupiers of neighbouring dwellings. This is due to the scale and siting of the proposed fencing.

The development is considered to be in accordance with D DM1(3) of the Arun Local Plan.

SUMMARY

The proposed development is deemed to conflict with relevant development plan policies and as such is recommended for refusal.

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 proposal results in the loss of green space which forms an important part of the open character of the area at this junction which provides visual and amenity value it for nearby residents in the street scene and the enclosure with a 1.8m high fence would cause harm to the character of the area contrary to policy D DM1 and D SP1 of the Arun Local Plan.
- 2 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. 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.