

Recommendation Report for Planning Permission

REF NO: BR/219/17/PL

LOCATION: Land adjacent to 1 Highcroft Close
Bognor Regis

PROPOSAL: Change of use of vacant land to use as garden land incorporating enclosure of that land.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

Enclosure and change of use of strip of land to the west side of 1 Highcroft Close, from laid to lawn open land, (presumably to allow access to the rear gardens of 87, 89, 91 and 93 Highcroft Avenue and a pedestrian 'cut through' between Highcroft Close and Brooks Lane) to provide residential garden land.

SITE AREA

0.01 hectares approximately (90m² approx).

TOPOGRAPHY

Predominantly flat.

TREES

None of any significance affected by the proposed development.

BOUNDARY TREATMENT

1.2m close boarded fence to front, 1.8m close boarded fence to rear, 1.8m fences to west side, none to east.

SITE CHARACTERISTICS

Lawned area to side of residential property, appearance of a former footpath.

CHARACTER OF LOCALITY

Suburban residential area formed of semi-detached bungalows, set back from the road with parking to front and gardens to front and rear.

RELEVANT SITE HISTORY

None relevant.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

No objection.

Three letters (four if counting one duplicate) of representation received objecting on the grounds of:-

- Loss of a de facto footpath, detrimental impact on walkers
- The land may not be owned by applicant
- Loss of public amenity land

Comments on Representations received:

Comments noted.

The land is not identified as a public footpath or right of way.

The applicant has proven to the Council that he owns the land.

The land is not public amenity land. Its enclosure and change of use to garden is not considered to have a detrimental impact on the visual amenity or public amenity of the area for reasons which will be explored in the Conclusions section of the report.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

N/A.

POLICY CONTEXT

Designation applicable to site:
Within the built up area boundary.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>GEN2</u>	Built-up Area Boundary
	<u>GEN7</u>	The Form of New Development
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality
		QE SP1 Quality of the Environment
		SD SP2 Built-Up Area Boundary

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification.

The examination was completed in September 2017.

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old
- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

No Bognor Regis NDP policies are relevant to the development.

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 comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon 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

PRINCIPLE

The site is located within the built up area boundary and is located adjacent to residential dwellings. The land does not form a footpath and is not a right of way. As such, the change of use of the land to private residential garden is considered to be acceptable in compliance with saved policy GEN2.

DESIGN & VISUAL AMENITY

The physical changes involve the retention of a 1.8m fence to rear (north) and a smaller 1.2m fence to front (south). These reflect the character of fences and enclosures of the area and are considered to be in character with the visual amenity of the environment. The development is considered to be acceptable in terms of design and visual amenity in compliance with saved policy GEN7.

RESIDENTIAL AMENITY

The enclosure of the land will have little impact on residential amenity in terms of physical changes. The fences to be retained are not overly large or unusual for a residential environment.

The use of the land as private residential garden would not give significant rise to noise and disturbance to the rear gardens (of properties 87-93 Highcroft Crescent) over and above what is considered acceptable for residential gardens bounded by a fence.

The development is considered to be acceptable in terms of impact on residential amenity in compliance with GEN7.

The application is recommended for conditional permission.

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 private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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

APPROVE CONDITIONALLY

- 1 The change of use to C3 "garden" land hereby approved shall be retained in accordance with the following approved plans:
WSX384769
Block Plan

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 2 INFORMATIVE: The land approved as C3 "garden land" is not considered to be 'residential curtilage' for the purposes of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- 3 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.