

Recommendation Report for Planning Permission**REF NO:** **FP/10/13/****LOCATION:** Land adjacent to
 3 Shirleys Garden
 Felpham**PROPOSAL:** Change of use of redundant land to private garden in connection with No 3 Shirleys Garden with new fencing on south and east side of garden.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Change of use of land to garden in connection with No 3 Shirleys Garden and enclosed by 1.8m high fencing on the southern and eastern side.
SITE AREA	Approximately 50 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	North and West side boundaries has close boarded fencing approximately 1.8m in height, newly constructed fencing approximately 1.8m in height to south and east side boundaries.
SITE CHARACTERISTICS	Detached two storey dwelling with rear dormers. The property has light yellow brickwork, brown tiled roof with white window frames.
CHARACTER OF LOCALITY	Residential cul-de-sac comprising 3 no. detached properties of similar style and design. A mixture of semi-detached and detached properties within the surrounding area.

RELEVANT SITE HISTORY

FP/55/89	Demolish existing Garage and Builders storage and erect 2 double garages	Refused 30-05-1989
FP/114/89	Demolish existing Garage and erect Double Garage.	Refused 24-07-1989
FP/171/89	Demolish existing garage and erect double garage	Refused 16-10-1989

FP/217/89	Demolish existing garage and erect single brick and tile garage	Refused 09-05-1990
FP/187/96	Renewal of unimplemented planning permission FP/134/91 to demolish existing garage and erect single brick and tile garage.	Approve Conditionally 20-02-1997
FP/115/12/	Demolish existing garage & build new garage.	Withdrawn 15-08-2012

REPRESENTATIONS**Representations received:**

Felpham Parish Council

No objection.

1 Letter of Support & 1 Letter of Rep

Parcel of land has never been a builders yard. When the development of 5 houses in Shirleys Garden was completed in the 1960's a temporary site hut on wheels and scaffold boards, roof tiles were left on the site after the development was finished. The hut and materials had not been used for many years and the site had become discused. I would be more happier if the three fencing panels nearest my property were moved back about 1.8m. In view of its close proximity to No 4 Shirleys Garden we would welcome that a condition be imposed preventing the future use of the land for any reason other than as a garden.

Comments on Representations received:

Comments noted.

The application is to consider the drawings as submitted. If approved, a condition will be imposed that the area of land be used as private garden in connection with No 3 Shirleys Garden and also that no buildings or structures be erected within the land without the prior approval of the Local Planning Authority.

CONSULTATIONS**Consultations responses received:**

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary
No Public Sewer
Tree Preservation Order 5/63

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 residential and 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 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

The land the subject of this application is sited to the rear of No 3 Shirleys Garden in a residential cul-de-sac and was formally used for the storage of building materials in connection with the development of Shirleys Garden and there was a timber building on the site. The site has an extensive planning history and the last consent FP/187/96 granted on the 20.2.97 was for a single storey flat roof detached garage with wall enclosing an area to the side. This permission was never implemented and the land and outbuilding had deteriorated over the years.

The owner of No 3 Shirleys Garden has recently purchased this parcel of land and the application seeks to change the use to garden land. At the time of the officer's visit the area of land had been cleared and enclosed within the garden area of No 3 with new close boarded fencing erected on the southern and eastern side. The new fencing on the southern side fronting No 5 Shirleys Garden does not extend to the boundary and a 1.5m area laid to concrete has been left. This area has been left so that the fencing which is set back into the site would not be unneighbourly to the occupiers of this property.

The use of the land and fencing which is of a standard size and height is considered to be a great improvement on the previous untidy site. It is not considered to be of an obtrusive nature nor does it harm the character and appearance of the cul-de-sac and surrounding residential area.

It is therefore recommended that the application is approved, subject to conditions.

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) 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 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

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans: Site 1:1250, Block 1:500, Site plan and elevations of fencing received on 1st February 2013.

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.

- 3 The land hereby permitted shall be used as private garden in connection with No 3 Shirleys Garden.

Reason: In the interests of the character and amenities of the locality in accordance with policy GEN7 of the Arun District Local Plan.

- 4 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) no buildings shall be erected within the garden area the subject of this application unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers in accordance with policy GEN7 of the Arun District Local Plan.

- 5 INFORMATIVE: Summary of Reasons for Grant Article 31 Development Management Procedure Order 2010

SUMMARY

This planning permission is granted because it complies with the policies listed below in that the development would not cause any material adverse effect on visual or residential amenity on the surrounding area and its character and there are no material considerations to indicate otherwise.

RELEVANT POLICIES

LOCAL PLAN: GEN2, GEN7

NATIONAL POLICIES: National Planning Policy Framework

This is only a summary of reasons for granting to comply with Article 31 and full reasons appear in the Officer report.

- 6 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 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.