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

REF NO: **FP/119/17/HH**

LOCATION: 31 Sea Drive
Felpham

PROPOSAL: First floor balcony screening

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above The proposed balcony screening comprises artificial hedging measuring 0.25m wide, 1.8m long and 1.8m high. The proposed scheme comprises an artificial deluxe boxwood hedge in timber trough. The scheme has been amended to provide a height of 1.8m for the proposed artificial hedging for full length of both ends of balcony.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Rear boundary has timber fencing approximately 1.8m high there is also mature hedging. To the rear there is a fence and planting with a gate leading to the beach.
SITE CHARACTERISTICS	Detached two storey extended property with attached garage. The property has been clad in light grey weatherboarding. The property has a full width balcony on the rear elevation.
CHARACTER OF LOCALITY	Residential with predominantly two storey properties of various styles and designs, foreshore to rear.

RELEVANT SITE HISTORY

FP/114/15/HH	Extension & alterations to existing dwelling	ApproveConditionally

29-07-2015

Planning permission was granted for extension & alterations to existing dwelling on 29 July 2015, reference FP/114/15/HH. This permission incorporated a first floor rear balcony and was subject to the following condition, "The balconies hereby permitted shall not be occupied until the obscure glazed screening on the side elevations as shown on the approved plans has been installed. The screening as approved shall remain unaltered and retained in perpetuity."

The obscure glazed screen were not implemented and clear screens were put in place around the balcony the current application seeks to position the artificial hedging adjacent these screens to provide screening to protect the amenity of the adjoining occupiers.

REPRESENTATIONS

Representations received:

Felpham Parish Council

Felpham Parish Council object for following reason
Out of keeping with the street scene, ADC on original application - obscure glass 1.8 metres - now changed to this artificial screening that will not withstand the weather and will encroach on neighbours privacy

4 letter of objection have been received, the objections are summarised as follows:
1.A condition cannot be changed by another application
2.Failure to comply with previous condition.
3.Need for privacy and original approval should not be amended
4.Sea winds would mean the proposed screening will not work in practice
5.Proposed screening unsuitable and normal glazed screens should be provided
6.Out of character with the area
7.Set an undesirable precedent
8.All other developments have been required to have obscure glazed privacy screens
9.Applicant's have breached planning permission with clear glass 1.1m high balcony screen
10.Agent has said current arrangement is temporary but the screen can be attached to this screen therefore it is permanent and not temporary
11.Given existing balcony fixings would not be strong enough
12.Fixings could be removed in future and screen removed
13.Artificial hedge could be a fire hazard which could spread in wind
14.The previously approved screens could be installed with the artificial hedging inside
15.Plans have elevations incorrectly labelled
16.Photographs are misleading
17.Application form incorrect as there are trees on site and also development can be seen form road.
18.Householder form should not have been used due to previous condition.
19.Enforcement of condition has not taken place
20. Reference is made to other correspondence submitted previously regarding compliance with the condition.
21. Proposed screen does not cover all balcony sides.

An email received from the applicant provides details of the proposed artificial hedging and also state that it is a bespoke hedge made to suit the height requirement. The stability aspect has been discussed with the manufacturer and the design would be to suit the location. Also support is provided by the existing 1.1M glass balustrade

Comments on Representations received:

Points 3, 5, & 6 are considered in the conclusions below with regard to character and amenity of the area.
With regard to the other points the following comments are made
1.A planning condition can be varied or removed by an appropriate application after permission is granted.
2.With regard to points 2, 10, 18, 19 & 20 in relation to potential enforcement and non compliance of previous condition. This i9s considered a separate matter. The current application has to be considered on its own merits. The application is householder application for the erection of the artificial hedge and I considered as such.
3.Points 4, 10,11, 13, 14 relate primarily to structural and other issues which are not controlled by the planning system. If screening is removed then appropriate action can be made to ensure it is replaced.
4.Points 7 & 8 relates to precedent, planning permissions do not set a precedent and each application must be considered on its own merits
5.Points 15, 16 & 17 relate to the application form it is not considered these points invalidate the application the development has been viewed on site and surrounding area and the proposed development and its impact is clearly understood. The elevational treatment is satisfactory.

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

None

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development
	DEV19	Extensions to existing residential buildings
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality D DM4 Extensions and Alterations to Existing Buildings (residential and non-residential) D SP1 Design SD SP2 Built-Up Area Boundary
Felpham Neighbourhood Plan 2014 POLICY ESD1		Design of new development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

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 may be 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. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

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 is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. 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 may also be material consideration to take into account.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry 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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. 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; 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).

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING
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 detached property is sited within a substantial plot and backs onto the foreshore and the surrounding properties are a mixture of styles and designs. The previous planning permission showed 1.8m high obscure glazed privacy screens that were also controlled by a planning condition. To date the balcony has been developed with 1m high clear glazed screens. The purpose of the 1.8m high obscure glazed screens would to be safeguard the privacy of the neighbouring properties.

Therefore, to first consider the amenity of adjoining occupiers. The principle of the balcony subject to privacy measures was considered acceptable in the previous planning permission. It is considered that the current proposal due to the composition and design of the artificial hedging inside the existing 1m glazed screen would provide a screen that would ensure that there is no overlooking of the adjoining properties Sea Breezes and Sea Verge.

Furthermore, given the depth and height of the proposed artificial hedging and its relationship to the adjacent properties it is not considered that the proposed development would lead to a loss of outlook or daylight/sunlight to the adjoining occupiers in Sea Breezes and Sea Verge.

A comment has been raised that the proposed artificial hedge does not cover all balcony sides. The screen is positioned on the ends nearest to the adjoining properties, it is noted that the balcony is staggered however, given the separation distance to the central part of the balcony it is not considered that this part will give rise to a harmful impact upon the amenity of adjoining

occupiers.

As such it is not considered that the proposed development would be harmful to the amenity of the adjoining occupiers and would comply with policies GEN7 and DEV 19 in the Arun Local Plan.

With regard to character of the area, the design of the properties in the area is mixed with varying characteristics on these properties. The proposed development will not be readily visible form the streetscene with only a glimpse visible form Sea Drive as such the proposed scheme does not have a significant impact on the streetscene. The site can be viewed from the beach to the rear. However, there is some screening from existing planting and the hedge will be viewed side on with only angled views of its length. As mentioned by the objectors there are no other examples of such hedge screening in the immediate locality however this does not make it automatically harmful. Likewise fact that other sites use glazed privacy screens is not a justification to refuse the proposed application.

In considering the current application regard has been had to National Planning Policy in the NPPF paragraphs 60 which states, in part,

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.

Therefore, given the scale and size of the proposed development and its position to the rear of the property it is considered that, on balance, refusal of the application based on a harmful impact to the character and appearance of the wider area could not reasonably be sustained and, therefore, the proposal complies with policies GEN7 and DEV19 of the Arun Local Plan, policy ESD1 of the Felpham Neighbourhood plan and the NPPF

With regard to timing of the development and whilst the issues of enforcement are not an overriding consideration of the current proposal it is considered that to safeguard the privacy of the adjoining occupiers that the balcony should not be occupied until the artificial hedge screening has been put in place. A planning condition is proposed to support this requirement and ensure the screen remains in place permanently.

In conclusion, it is considered that there is no reasonable and justifiable planning reason to refuse planning permission. The application is therefore recommended for approval subject to the following 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 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 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 143/01 A, 143/106 A & 143/108 A and the details contained in the email from the applicant dated 27 July 2017.

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 balconies hereby permitted shall not be occupied until the artificial hedge screening on the side elevations as shown on the approved plans has been installed. The screening as approved shall remain unaltered and retained in perpetuity.

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

4 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.