

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

**REF NO:** LU/166/14/HH

**LOCATION:** 83 Timberleys  
Littlehampton

**PROPOSAL:** Erect a picket fence around the front garden. This application may be determined by Littlehampton Town Council under delegated powers.

**SITE AND SURROUNDINGS**

|                                 |                                                                                                                                                                                                                                                                                                 |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION OF APPLICATION      | The application seeks permission to erect a picket fence around the front garden of the property, the fence is to be 1.1 metres in height.                                                                                                                                                      |
| SITE AREA                       | n/a                                                                                                                                                                                                                                                                                             |
| RESIDENTIAL DEVELOPMENT DENSITY | N/A                                                                                                                                                                                                                                                                                             |
| TOPOGRAPHY                      | Predominantly flat.                                                                                                                                                                                                                                                                             |
| TREES                           | None of any significance affected by the proposed development.                                                                                                                                                                                                                                  |
| BOUNDARY TREATMENT              | The front garden is currently open.                                                                                                                                                                                                                                                             |
| SITE CHARACTERISTICS            | Terraced two storey dwelling. Open front garden with enclosed rear garden.                                                                                                                                                                                                                      |
| CHARACTER OF LOCALITY           | Located within a residential area with only access by foot to the front of dwellings which face onto a communal area laid to lawn. Garage compound to the east of the site. No other properties within the area have got fencing enclosing front gardens, however some are enclosed by hedging. |

**RELEVANT SITE HISTORY**

|          |                         |                                     |
|----------|-------------------------|-------------------------------------|
| LU/43/69 | Residential development | Approve Conditionally<br>25-04-1969 |
|----------|-------------------------|-------------------------------------|

LU/43/69 is the original planning permission for the housing estate and Condition 8 restricts front gardens from being enclosed, this has been respected within the immediate locality.

**REPRESENTATIONS**

**Representations received:**

Awaited.

**Comments on Representations received:**

None

#### CONSULTATIONS

##### Consultations responses received:

None

##### Comments on Consultation responses:

None

#### POLICY CONTEXT

Designation applicable to site:  
Open Plan Condition  
Within the Built-up Area Boundary

#### DEVELOPMENT PLAN POLICIES

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

#### 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 visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the

NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

The Neighbourhood Development Plan for Littlehampton 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. Whilst a 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).

#### **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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and 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 application seeks permission to erect a picket fence around the front garden of the dwelling. The site lies within the built up area boundary and is within an established residential area. The residential estate was constructed in the early 1970's in accordance with the planning approval LU/43/69, this approval was the subject of an open plan condition which prevents fences, gates, hedges or any other means of enclosure from being erected forward of the building line without formal consent from the Local Planning Authority.

The area is characterised by terraced dwellings extending north south between cul-de-sacs to the north and south of the terrace. Access to the properties is by foot only, with open front gardens free of any permanent means of enclosure to the west side of the footway and lawn area to the

east with intermittent trees.

The area is open in its appearance and the open plan condition originally applied to the area has been well respected and preserved. The introduction of a picket fence would significantly harm the established layout of the street scene to the detriment of the area. Also the introduction of this fencing would result in the Council finding it difficult to refuse other similar proposals which has the potential to completely change the character and appearance of the area, detrimental to the soft and open appearance that currently exists within the locality.

Accordingly, it is recommended that the application be refused for the reasons set out below.

#### **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 and private 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 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**

##### **REFUSE**

- 1 The fencing by way of its enclosure and height would result in an intrusive form of development which would detract from the spacious and green appearance of the locality, it would also fail to preserve the open plan appearance of the area. The proposal is therefore contrary to Policy GEN7(ii) of the Arun District Local Plan and Paragraph 64 of the National Planning Policy Framework.
- 2 If this proposed fencing were permitted the Local Planning Authority would find it difficult to resist similar proposals in the vicinity, the cumulative effect of which would be to significantly alter the established character of the locality to the serious detriment of the

amenities of this open plan residential area, in conflict with policy GEN7 of the Arun District Local Plan.

- 3      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 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.