

REPORT UPDATE

Application No: LU/258/15/HH

Reason for the Update / Changes

Reason for Update/Changes:

Letter of objection received.

- Fence is outside the boundaries of the land registered.
- Applicant benefitting at taxpayers expense.
- Sheds and conservatory erected prior to gaining planning consent.

Officers Comment:

A land registry search revealed that the area of land enclosed is within the ownership of the applicant.

A retrospective application for development is acceptable within Planning law.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

LU/258/15/HH

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

REF NO: LU/258/15/HH

LOCATION: 6 Willowbrook
Littlehampton

PROPOSAL: Retention of fence in back garden and change of use from highway verge to C3 Residential use.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

A 2 metre close boarded fence with concrete posts has been erected enclosing an area of approximately 40 sq.metres of land previously part of the highway verge into their private garden.

SITE AREA

approx. 243 sq.m.

TOPOGRAPHY

Predominantly flat.

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

A 2 metre close boarded fence with concrete posts and barge boards has been erected to

report

	the rear garden of the property. A 40cm picket fence to the open plan front garden.
SITE CHARACTERISTICS	The property is an end terraced dwelling house with an enclosed rear garden and an open plan front and side gardens. The property is located on a corner plot facing a recreational green to the front.
CHARACTER OF LOCALITY	A residential area on a modern open plan estate in Wick ,Littlehampton

RELEVANT SITE HISTORY

LU/312/68 - Original planning permission for housing estate on Willow Brook

Condition 6 - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) order 1963, no gate, fence, wall or other means of enclosure shall be erected or constructed in front of the building unless permission is granted by the LPA on an application in that behalf.

Reason - In order to safeguard the character and visual amenities of the locality.

REPRESENTATIONS

Representations received:

2 letters of support have been received with the following comments:

- No problem with the fence. They consider it looks nice and does not cause them any loss of sunlight or view.
- Glad to see our neighbour is making good use of their own land. At least it will stop people in the area using it as a rubbish/dumping ground. Nice job.

The applicant made further comments in a letter of support, a letter of no objection and a further comment received by email all received further to their original application which can be summarised as follows;

- Looking great , no problems.
- Complaint that the area was being used to dump rubbish and for dogs to foul on.
- Pavement still available
- trying to improve look of the neighbourhood.
- Neighbours say how nice it looks.
- Pensioner and cost of taking down the fence and re-erecting it will cause great hardship to me.
- a 1 metre fence to the side would leave me vulnerable with no privacy or security.

Comments on Representations received:

The key planning issues is the effect of proposal on visual amenity.

Privacy and security were protected by the previous 2 metre boundary wall to the rear garden of the property.

Any fence erected on the property would require planning permission due to the removal of

permitted development rights on the open plan estate.i.e. all gardens in the area require planning permission for any form of fence or means of enclosure. This has been well observed as evidenced by the open plan nature of the general estate.

CONSULTATIONS

Consultations responses received:

N/A

Comments on Consultation responses:

N/A

POLICY CONTEXT

Designation applicable to site:

ADOPTED LOC PLN

NO PUBLIC SEWER

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: GEN2
GEN7

Publication Version of the Local
Plan (October 2014):

Built-up Area Boundary
The Form of New Development
SD SP2 Built-Up Area Boundary
D DM1 Aspects of Form and Design
Quality
D DM4 Extensions and Alterations to
Existing Buildings (residential and non-
residential)

PLANNING POLICY GUIDANCE

NPPF
NPPG

National Planning Policy Framework
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.

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 in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

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 on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

There are no policies from the Littlehampton Neighbourhood Development Plan that are considered relevant to this application.

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 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

Development within the built up residential area of Littlehampton is considered acceptable in principle in accordance with policy GEN 2 of the Arun District Local Plan and policy SD SP2 of the Emerging Arun District Local Plan (Publication Version). This is, however, subject to compliance with other development control policy which includes policies GEN7 of the Arun District Local Plan and D DM1 and D DM4 of the emerging plan.

In addition to the requirement for planning permission for any fence above 1 metre in height adjacent to the highway, the applicant's property is located on an open plan estate where the original planning permission for the estate LU/312/68 removed the permitted development rights to construct fences or means of enclosure of any height in front of the building line in order to safeguard the character and visual amenities of the locality.

DESIGN AND VISUAL AMENITY

The rear garden of the applicant's property has been extended beyond the building line (i.e. in front of the houses at 8 - 18 Willow Brook), impacting on views southwards and approaching Willow Brook.

Part (ii) of Policy GEN 7 of the Arun District Plan states that development (i.e. the construction of the 2 metre fence and the change of use of land from highway verge to private garden land) should;

'demonstrate that it responds positively to the identified characteristics and resources of the site and the area to create attractive places and spaces with the needs of people in mind and respects and enhances local distinctiveness;'

The open plan nature of the estate is an 'identified characteristic' and is still a strong feature of the

character of the area. The newly installed fence and change of use of land to private garden space do not 'respond positively' to this characteristic which is considered to be significantly harmed by the enclosure and the prominence of the fence in the streetscene.

The adverse impact of the developments adverse impact on character is further emphasised by how the development fails to comply with policy D DM1 of the Emerging Arun District Local Plan where at para 1 - Character, the policy states that development should 'Make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features.'

Policy D DM4 of the Emerging Arun District Local Plan states at part (e) that alterations to residential properties 'should not compromise the established spatial character and pattern of the place but is instead a positive addition.'

The character of the estate remains open plan generally to this day. It is considered that the fence as constructed and the change of use of land is in conflict with policy above because it encloses open land, narrows views into and out of the estate and removes green verges. It is therefore considered that the fence and change of use has an unacceptable impact on the character and appearance of the area.

It also sets an undesirable precedent which would if repeated elsewhere result in the loss of this pleasant open plan character.

RESIDENTIAL AMENITY

The Council operates the 45 degree rule to assess the impact of development on the amenity of neighbouring residents by way of overshadowing and loss of light. In this case the fence as constructed marginally intersects the 45 degree line measured from the centre of the living room window at 8 Willow Brook, the neighbouring property. The fence is therefore considered to have an overshadowing impact on the habitable room windows of 8 Willow Brook and thereby serve to have a loss of daylight and sunlight to that property.

The proposed fence is therefore considered contrary to GEN7 (iv) of the Arun District Local Plan and policy D DM4 (c) of the Emerging Arun District Local Plan as it has an unacceptable impact on neighbouring amenity through a loss of daylight and sunlight to the neighbouring property.

In summary, the proposal is considered to be contrary to policies GEN 7 of the Arun District Local Plan and Policy D DM1 and D DM4 of the Emerging Arun District Local Plan and on that basis should be refused for the following reasons.

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 privacy and family life)

and 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 neighbouring properties and/or residents in the local area). 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 development hereby approved shall be carried out in accordance with the following approved plans plan labelled SX126257 - Mrs Turner, 6 Willowbrook

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:** 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.