

PLANNING APPLICATION REPORT**REF NO:** LY/10/13/**LOCATION:** Old Vicarage Cottage
Lyminster Road
Lyminster
BN17 7QF**PROPOSAL:** Retention of 1.83m fence, concrete post, feather edge panels at the front of the property.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above. The application is retrospective in nature.
SITE AREA	Approximately 400 square metres.
RESIDENTIAL DEVELOPMENT DENSITY	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The fencing subject of this application is to the front along with trees and vegetation at over 2m in height. To the rear, a flint and brick wall at approximately 2m in height with well developed hedging and trees.
SITE CHARACTERISTICS	A two storey detached property with flint elevations, brick quoins and brick capping around many of the windows. The roof is hipped with plain brown tiles. There is a detached garage to the side of the property.
CHARACTER OF LOCALITY	Rural in character with fields to the north and south. Residential development is broadly linear in arrangement along Lyminster Road. A bridleway runs along the southern boundary of the site.

RELEVANT SITE HISTORY

LY/9/13/	Refurbishment and enlargement of existing property to provide an additional bedroom with en- suite, ground floor reception and utility room.	Approve Conditionally 10-07-2013
None		

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**Lyminster & Crossbush Parish Council
Objection.

There was strong representation from parishioners to the wooden fence that has been recently erected. Whilst acknowledging that the new residents require privacy and security for their property the high, wooden fence being placed outside the flint boundary wall is not only too high but obliterates the beautiful flint wall which was so in keeping with a number of neighbouring properties in Lyminster.

It is for the above reasons that Lyminster and Crossbush Parish Council object to the wooden fence at its present height and position.

Seven letters of objection.

Out of keeping with the local area.

Very close to the Lyminster Conservation Area.

Above the one metre Permitted Development height for fencing.

The fence has been erected on public land and not within the ownership of the property.

The fence is too high and appears oppressive.

The old flint wall that complements the house is now obscured.

New fence should be inside the flint wall.

COMMENTS ON REPRESENTATIONS RECEIVED:

Parish objection noted. These comments are addressed in the Conclusions section of the report.

Objection letters noted.

The fence is the subject of a planning application and so Permitted Development rights in regard to fencing do not apply. Land ownership is not a planning matter. The site is not within the Lyminster Conservation Area and so has no special designation in this regard. All other comments are discussed in the Conclusions section.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

N/A

POLICY CONTEXT

Designation applicable to site:

Outside the Built Up Area Boundary

Building of Special Character

Class A Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

GEN3

GEN7

GEN22

Protection of the Countryside

The Form of New Development

Buildings or Structures of Character

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 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.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012 and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published. Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

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 outside the built up area boundary where the principle of new development is unacceptable. In such locations, extensions and alterations to residential building will not be permitted, unless the proposal complies with other Local Plan policy which in this case is policy GEN7.

DESIGN AND VISUAL AMENITY

The close boarded fencing is currently in situ and replaces a flint boundary wall of approximately one metre in height. Whilst the new fencing forms a higher boundary treatment than before, it is set back from the road by a grass verge which softens its appearance, along with two well-established trees at either end of the fencing.

The fence is made from light coloured wood which currently has an unacceptable appearance given its countryside location. However, a condition requiring its staining in a colour to be agreed with the Local Planning Authority is considered to overcome this concern and accord with Local Plan policy GEN7(ii).

RESIDENTIAL AMENITY

On account of its location adjacent to the highway and opposite open fields, the fencing is not

overlooked by any properties and is therefore not considered to cause any overbearing or overshadowing effects. It is therefore acceptable in terms of residential amenity.

CONCLUSION

It is a significant material consideration that a boundary wall has been present on this road frontage for many years and would have been seen as a recognised feature in the street scene. The property is not within a Conservation Area and so there are no strong environmental constraints, albeit that it is outside any settlement boundary in what defines as the countryside. With this background in mind, it is not considered that the development has had an unacceptably adverse impact on the visual amenities of the locality or adjoining properties and therefore does not conflict with Policy GEN7 of the Arun District Local Plan 2003. It is therefore considered that the development is, on balance, acceptable and consent be granted, subject to the following conditions.

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 to 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 Within one month from the date of this permission, details of the staining/painting of the fence shall have been submitted for the written approval of the Local Planning Authority. Within one month of the details having been approved, the staining/painting will be carried out and maintained in perpetuity thereafter.

Reason: In the interests of visual amenity in accordance with policy GEN7 of the Arun District Local Plan.

- 2 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.