

Recommendation Report for Planning Permission

REF NO: P/137/21/PL

LOCATION: Land at the rear of
69 The Causeway
Pagham
PO21 4PQ

PROPOSAL: Change of use from public amenity land to private residential garden together with boundary works. This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This proposal is for the change of use from public amenity land to private residential garden with boundary works. The site is located off The Causeway.
SITE AREA	190 square metres
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the development.
BOUNDARY TREATMENT	Timber fence with trellis on the top to the rear of No 69, close board panel timber fence approximately 1.8m high to the east (dividing the open area), close board timber fence with trellis on the top to the south-east (side boundary of of 65 Conway Drive rear garden, open to the south-west.
SITE CHARACTERISTICS	The site comprises open amenity land dissected by a right of way to properties and garages to the south. The site is flat, gently sloping to the south-west with a mature tree in south-eastern corner.
CHARACTER OF LOCALITY	Part of Kings Beach Estate. The quality of the built environment derives from its open appearance. 69 and 71 the Causeway are 2 storey semi-detached dwellings situated in a strip of land between Ashcroft Way and Conway Drive surrounded by open space. The area is residential of a suburban character.

RELEVANT SITE HISTORY

P/30/04/	Outline application for a three bedroom detached dwelling house, garage and access.	Refused 04-05-04
P/127/01/	Change of use of land from maintainable highway, to residential garden. Erection of a portable timber garage and a 2m high timber ship lap fence on the western	Refused 09-01-02

boundary.

There were two further attempts for a change of use of land to the rear of 69 The Causeway to residential garden - P/97/06 and P/25/09. All of them have been refused on the grounds of adverse impact of an enclosure on the character and visual appearance of the area. This proposal would have a similarly adverse impact.

Outline application P/30/04 for a three bedroom detached dwelling was refused as an unsympathetic intrusion into an existing open area and would be contrary to the original conception of the layout and would detract from the pleasant open character and appearance of the estate.

REPRESENTATIONS

Pagham Parish Council:

No objection; any permitted development rights that would allow for building to take place in the space to be removed, in order to ensure the space remains as a garden.

1 letter of objection received:

- The land is publicly maintainable highway, open to public use.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC: The area in question forms part of the publicly maintainable highway. Does not consider this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. The applicant is advised to contact the Department for Transport in order to commence the "Stopping-Up" process under Section 247 of the Town and Country Planning Act.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary;

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
QESP1	QE SP1 Quality of the Environment

SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

PDS	Pagham Parish Council's Village Design Statement by PaghamPC
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and it would 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 be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES

The key issues are principle, visual /residential amenity and highways/traffic.

PRINCIPLE

The site falls in the Pagham Harbour Built-up Area Boundary in the Local Plan where development is acceptable in principle in accordance with policy SD SP1 of the Arun Local Plan and provided it accords with other policies of the Local Plan covering such issues as visual amenity/character, residential amenity and parking.

Policies D SP1 and D DM1 (ALP) are consistent with NPPF provisions in that they require development proposals to make efficient use of land but reflect the characteristics of the site. Policy D SP1 requires

development proposals to have derived from a thorough site analysis and context appraisal. Policy D DM1 requires development to have regard to character, appearance, density and scale.

Paragraph 130(d) expects developments to establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

The land is a part of Kings Beach Estate identified by non-enclosed frontages and open spaces which are essential elements of the character and streetscape of the 1960's developed Kings Beach Estate. The Pagham Village Design Statement identifies that aspect as being particularly worthy of preservation. Higher density linked bungalows with asymmetric roofs on Conway Drive with small front gardens and 2-storey terraced homes along Churchill Walk and The Parade with garage compounds lining Ashcroft Way differ from the general character of Kings Beach estate. Larger grassed and open amenity plots are provided to re-established the openness of the Estate.

The application seeks to enclose maintainable highway land to residential garden by the erection of a 1.8m close boarded fence. Whilst the parcel of land is in the ownership of the applicant, the Highway Authority may undertake enforcement action to remove any permanent enclosures that may have been erected. At the time of the officer's visit the parcel of land to the east fronting Conway Drive had a close boarded fence approximately 1.8m in height. The historic maps show that the fence on the site since approximately 2007.

P/127/01, P/97/06 and P/25/09/ were refused on the basis that by enclosing this open area it would be contrary to the original conception of the layout of the 1960's Kings Beach Estate and would detract from the pleasant open character and appearance of the area.

The change of use would have a significant impact upon the wider visual amenity of the area in conflict with accordance with policies D SP1 and D DM1 of the Arun Local Plan and paragraph 130(d) of the National Planning Policy Framework.

HIGHWAYS, TRANSPORT AND PARKING

Paragraph 110 (NPPF) states it should be ensured safe and suitable access to the site can be achieved for all users. Paragraph 111 (NPPF) states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

WSCC does not consider this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the NPPF (paragraph 111), and that there are no transport grounds to resist the proposal.

The applicant is advised to contact the Department for Transport in order to commence the "Stopping-Up" process under Section 247 of the Town and Country Planning Act.

Taking into account the above, the proposal is not contrary to the T SP1 and relevant paragraphs of the NPPF.

CONCLUSION

The principle of the current application is not materially different from that previously refused and commented on by the Highway Authority. The land must not be enclosed prior to the successful completion of a Stopping Up Order, which is required to extinguish the highway rights.

Taking the above into account it is considered that the enclosure of this land would represent an unsympathetic intrusion in an existing open area and it is recommended the application be refused, subject to the following reason.

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), 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 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

REFUSE

- 1 The proposal represents an unsympathetic intrusion into an open area and would be contrary to the original conception of the layout of the Kings Beach Estate and detract from the pleasant open character and appearance of the area. It would therefore conflict with policies D SP1 and D DM1 of the Arun Local Plan and paragraph 130(d) of the NPPF.
- 2 If this proposal 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 alter the character of the locality to the serious detriment of the amenities of the area in conflict with policies D SP1 and D DM1 of the Arun Local Plan.
- 3 **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 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 provide pre-application advice in respect of any future application for a revised development.