

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

REF NO: R/191/13/

LOCATION: 26 The Martlets
Rustington

PROPOSAL: Erection of a 1.8 metre fence to rear of the property.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The fence will enclose an open area of land to the east of the property.
SITE AREA	Approximately 375 square metres.
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open to front. The side (east) boundary is marked by a brick wall extending the full length of the plot at approximately 2m in height. To the rear there is close boarded fencing at approximately 1.8m in height.
SITE CHARACTERISTICS	A two storey detached property with brown brick elevations and a pitched roof with plain tiles. The property has a bay window to front and portico over the front door.
CHARACTER OF LOCALITY	Wholly residential in character with two storey detached properties of broadly similar design. There are also two storey semi-detached properties and three storey blocks of flats in the vicinity. The area is characterised as being open and spacious with a lack of hard boundary treatments close to the road.

RELEVANT SITE HISTORY

R/209/12/CLP	Application for a Lawful Development Certificate for a Proposed sun room to the left side elevation and a conservatory to the rear elevation.	PP Not Required 04-12-2012
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REPRESENTATIONS

Representations received:
Rustington Parish Council

No objection.

Comments on Representations received:

Noted.

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

N/A

POLICY CONTEXT

Designation applicable to site:
Within Built Up Area Boundary
Open Plan Condition

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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SUPPLEMENTARY POLICY GUIDANCE

RDS	Rustington Design statement by Rustington Parish Council
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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. 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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the visual amenities of the locality and would 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:
INSIDE

The site is located within the built-up area where the principle of development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed is contained within Arun District Local Plan Policy GEN7 which seeks to prevent development that would have an adverse impact upon visual and residential amenities.

DESIGN AND VISUAL AMENITY

This application considers a wooden fence approximately 1.8m in height which will enclose an open area laid to grass that is east of the boundary wall of the property. This property and its surrounding area has an Open Plan Condition set down through the estate permission under planning permission LU/372/68. This application seeks to overturn this condition through the erection of a fence in the proposed location by coming forward of the established boundary line. The Open Plan condition has been evidently respected and left intact since the street scene remains open and spacious in appearance.

This site occupies a corner location where three roads meet and so the fencing would be prominently out of character with the open appearance of the road and surrounding estate. By enclosing an open area of land with fencing in such close proximity to the road, the proposal fails to respond positively to the identified characteristics of the area and so would be contrary to Local Plan policy GEN7(ii). It is also considered to be in conflict with the Rustington Village Design Statement which requires new development to recognise 'the character of the particular locality' which this fencing unacceptably fails to do.

RESIDENTIAL AMENITY

The proposed fence by reason of its siting, distance to neighbouring properties and materials causes no adverse effects to neighbouring amenity and so is considered to comply with Local Plan policy GEN7(iv).

However, on account of the unacceptable impact caused by the fencing which conflicts with the open appearance of the street scene and is to the detriment of the prevailing spatial layout and character of the area, it is recommended that the application be refused for 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 family and private 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 introduction of the fence within an open location forward of the established boundary line in such close proximity to The Martlets would seriously detract from the visual amenities and open character and appearance of the estate in conflict with policy GEN7 of the Arun District Local Plan and the National Planning Policy Framework.
- 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 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.