

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

REF NO: R/210/17/HH

LOCATION: 7 Orchard Gardens
Rustington
BN16 3HN

PROPOSAL: Retention of wooden gate & raised bed planter to front.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
	The proposed boundary treatment comprises timber planter measuring approximately 2.4m wide, 1m deep and 0.8m high and a gate measuring approximately 1.2m with a 0.9m gate post. The proposed development encloses the front boundary of the site.
	The development has been carried out and the application is therefore retrospective.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The frontage was originally open but now has the timber planter on the boundary, which is the subject of the application, on the north and east boundary. The west boundary is 1.8m high timber fence
SITE CHARACTERISTICS	The property is an end terrace two storey property set on a modest sized plot. The property is located on the corner of the road as Orchard Gardens turns into the cul de sac. The property has existing mature planting along the eastern boundary on the corner.
CHARACTER OF LOCALITY	Residential estate of similar style properties. Some with open plan frontage. There area is subject to an open plan condition.

RELEVANT SITE HISTORY

R/45/00/	Two storey side extension.	Approve Conditionally 21-06-00
----------	----------------------------	-----------------------------------

R/11/00/

Two storey side extension and new boundary wall

Refused
10-03-00**REPRESENTATIONS****REPRESENTATIONS RECEIVED:**

Rustington Parish Council

Rustington Parish Council has no objections

10 letters of support have been received raising no objections and considering that the proposed boundary treatment is attractive and not out of character.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments are noted and addressed on the conclusions

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

None

COMMENTS ON CONSULTATION RESPONSES:

None

POLICY CONTEXT

Designation applicable to site:

Built up area

Open plan condition

DEVELOPMENT PLAN POLICES[Arun District Local Plan \(2003\):](#)

GEN2 Built-up Area Boundary

GEN7 The Form of New Development

[Publication Version of the Local Plan \(October 2014\):](#)

D DM1 Aspects of Form and Design Quality

D SP1 Design

SD SP2 Built -Up Area Boundary

[Rustington Neighbourhood Plan 2014 Policy 2](#) Housing Design**PLANNING POLICY 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.

A new local plan is in preparation and is a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these has taking place. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification. The examination was completed in September 2017.

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

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an 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).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

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).

The relevant policy in the Rustington parish NP has been taken into account.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

PLANNING

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 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 warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The application site lies within the built up area where the principle of development is acceptable subject to other planning policies. However, in this case permission is required as there is a condition on the original planning permission, restricting the erection of fences, walls and other means of enclosure in front of houses.

This is a retrospective application as the boundary planter is already erected. The proposed planter is sited to the front of the property along the front boundary and adjoins existing planting. The surrounding estate has occasional fences and also hedges/planting on their front boundaries. In the immediate location of the site which is within a more enclosed location, than some of these other properties, due to its position within the end of the road at the end of the cul de sac. The properties within the immediate locality are primarily open or have planting along their boundary. The current proposal provides a more solid form of enclosure within this open plan area

Therefore, on balance and based on the above analysis it is considered that the proposed development create an unduly dominant feature on the frontage of the property adjacent to the highway. As such it would be harmful to the character an appearance of the wider area.

Given the height and siting of the proposed fence there will be no adverse impact upon the amenity of the adjoining occupiers.

The proposed development would therefore not comply with adopted planning policies in the Arun Local Plan and the Rustington Neighbourhood Plan and is recommended for approval subject to the following conditions.

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 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 proposed development of a timber planter would create an unduly dominant feature on the frontage of the property adjacent to the highway. As such it would have an unacceptable impact on the character and appearance of the wider area. The proposed development is therefore contrary to policies GEN7 of the Arun Local Plan 2003, policy 2 of the Rustington Neighbourhood Plan and the National Planning Policy Framework.
- 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 identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.