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

REF NO: **R/232/14/HH**

LOCATION: 8 Holmes Lane
Rustington

PROPOSAL: Retention of 1.8m fence (North West boundary)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	Approximately 518 square metres
TOPOGRAPHY	Predominantly flat
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The original front boundary treatment of the property was a low wall approximately 0.2 metres in height. A new close boarded fence has been erected behind this measuring approximately 1.8 metres and is the subject of this application.
SITE CHARACTERISTICS	The property is a detached bungalow set back from the road and rendered white with white PVCu windows and a brown tiled roof.
CHARACTER OF LOCALITY	The locality of the site is primarily residential and features properties of various designs and styles.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations received:

Rustington Parish Council

My Council has noted the above application and wishes to raise no objection to it.

3 Letters of Objection:

- The fence is not in keeping with the openness of the area.
- Retrospective application and people should apply before the work is done.
- As well as the north-west boundary, the fence has also been erected on the east boundary.
- Fence is out of character with the area.
- Blocks motorists vision when turning into/out of Holmes Lane/Hawley Lane.

Comments on Representations received:
Comments from the Parish Council are noted.

In response to the objections raised I can provide the following comments:-

- I am in agreement that the fence is not in keeping with the open character of the area.
- It is not a criminal offence to carry out development without planning permission and the submission of a retrospective planning application is an accepted means of regularising unauthorised development.
- The fence erected on the eastern boundary of the property may be permitted development under Schedule 2, Part 2, Class A of The Town and Country (General Permitted Development) Order 1995 (as amended) which allows for the erection of fences up to 2 metres in height so long as they are not adjacent to the highway.
- The fence is not deemed by the Council to pose a risk to the safety of highway users, given its position upon the site and the visibility available at the junction.

CONSULTATIONS

Consultations responses received:
None
Comments on Consultation responses:
None

POLICY CONTEXT

Designation applicable to site:

Adopted Local Plan
Public Sewer on Site

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN7	The Form of New Development
Publication Version of the Local Plan (October 2014):	D DM1	Aspects of Form and Design Quality

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

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

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 and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. 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: Arundel; Barnham & Eastergate; Bersted; Felpham; Littlehampton; Yapton

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 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 situated within the built-up area boundary where the principle of development is acceptable, subject to accordance with relevant planning policies. The main criteria against which this application will be assessed is contained within the Arun District Local Plan which in this case is policy GEN7.

DESIGN AND VISUAL AMENITY
This application seeks permission for the retention of a 1.8m high close boarded fence adjacent to the highway on the north-western boundary of the property for a distance of approximately 18.5

metres.

8 Holmes Lane is prominent within the street scene given its location upon the corner of Holmes Lane and Hawley Road. Prior to the erection of this fence the site was open in character with the bungalows being clearly visible with only a 0.2m high wall between the property and the highway. The fence erected adversely impacts upon the character of the site largely obscuring the property within the street scene.

Both 6 and 8 Holmes Lane are both prominently sited corner properties where they shared a harmonious and related appearance having previously featured low 0.2m high brick walls. The design of these properties and their siting created a symmetry to the junction of Holmes Lane and Hawley Road. The erection of the fence has removed the open character of the site and adversely altered the symmetry of the junction.

The applicants have identified examples of other means of enclosure, above 1m in height within close proximity of the application site. The first point to note is that these examples have not been subject to enforcement investigations and it is therefore not known whether they too represent a breach of planning control. Secondly, a number of them are materially different. For example 1 & 3 Holmes Lane where the screening is broken up by green evergreen hedging, set back from the highway by a strip of grassed land and where the two storey nature of the properties together with their greater distance away from the boundary fence ensures that the appearance of these corner locations remains open and not unacceptably affected. The character and appearance of the area made up by properties immediately north of the application site is different to that found to those along the south side of Holmes Lane. Those to the north tend to be two storey dwellings as opposed to the south where they are predominantly shallow roofed bungalows. Screening to the south therefore has a greater impact on the street scene than that located to the north.

GEN7 seeks to prevent development where it would have an adverse impact upon the visual and residential amenity of the area. The retention of this fence is considered to constitute an alien and incongruous structure within the immediate locality at odds with policy GEN7 and resulting in considerable harm to the open character of the area.

RESIDENTIAL AMENITY
The application site is a corner plot with the fence having been erected adjacent to Holmes Lane. Given the location of the fence upon the site it is not felt to cause any harm to the residential amenity of neighbours.

Therefore, given the above it is recommended that the application for retention of the fence is refused.

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 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 no impacts have been identified upon any protected characteristics.
To address any negative impacts identified the following mitigation measures have been proposed.

RECOMMENDATION

REFUSE

1 The erected fence by virtue of its location, height, siting and materials is having an unacceptable prejudicial impact on the character and appearance of the area in conflict 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 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.