

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

REF NO: R/33/15/HH

LOCATION: 8 Holmes Lane
Rustington

PROPOSAL: Retention of front fence, height reduced to 1.65m(Resubmission following R/232/14/HH)

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 close boarded fence has been erected behind this measuring approximately 1.80 metres in height.
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

R/232/14/HH	Retention of 1.8m fence (North West boundary)	Refused 21-11-2014
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Planning application R/232/14/HH sought permission for the retention of a 1.8 metre high close boarded fence and was refused on the 21st November 2014.

REPRESENTATIONS

Representations received:

Rustington Parish Council

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

4 x Letters of Objection:

- Reducing the height of the fence by 15cm does not reduce the visual impact.
- The property is a bungalow and as such the height of the fence appears incongruous.

- The fence obscures views at the junction.
- The fence is not in keeping with the character of the area.

Comments on Representations received:

Comments noted and agreed except that there is no reason to object to the fence on highway grounds.

CONSULTATIONS

Consultations responses received:

None

Comments on Consultation responses:

N/A

POLICY CONTEXT

Designation applicable to site:

Adopted Local Plan

Public Sewer on Site

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: [GEN2](#)
[GEN7](#)

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

Built-up Area Boundary
The Form of New Development
D DM1 Aspects of Form and Design Quality
D SP1 Design
SD SP2 Built-Up Area Boundary

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

RDS

Rustington Design statement by Rustington Parish Council

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. The Rustington Neighbourhood Plan has been 'made' although there are not considered to be any relevant policies in relation to this application.

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 unacceptable 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 reduction of the fence to 1.65m in height adjacent to the highway on the north-eastern boundary for a distance of approximately 18.5m. This is a resubmission following the refusal of R/232/14/HH on the 21st November 2014 for the retention of a 1.8 metre high fence in the same location.

Therefore, this application will be judged against the same criteria which was applied in the earlier refusal in order to ascertain if the reduction in height by 15cm has resolved the previous reasons for refusal.

The fence at 1.65 metres continues to negatively impact upon the character and appearance of the dwelling. Obscuring the vast majority of the bungalow within the street scene which causes considerable harm to the visual amenity of the area.

The reduction in height of the fence has not resolved the adverse impact of the fence upon the character and appearance of the area. Specifically, in relation to the symmetry previously identified between 6 and 8 Holmes Lane and the open appearance of the junction. The applicant states that reduction in height of the fence to 1m would also adversely impact upon this symmetry between the corner plots. However, it must be noted that were this to be the case the fence would benefit from permitted development rights under Schedule 2, Part 2, Class A of The Town and Country (General Permitted Development) Order 1995 (as amended). It should also be noted that hedges are not deemed to constitute development under Section 55 of The Town and Country Planning Act 1990 (as amended) and as such cannot be controlled by the Local Planning Authority.

The applicant makes reference to an earlier planning approval for a 1.8 metre high fence under reference R/182/12/. However, it should be noted that each application can only be judged upon its own merits - this earlier planning approval is fundamentally different in terms of the fences position and impact upon the appearance and character of the area. The fence approved under reference R/182/12/ replaced an existing 1.8 metre high wall located 1 metre from the highway which surrounded the rear garden of the property and due to its location maintains the open character of the junction.

It is therefore considered that the reduction in height of the fence by 15cm to 1.65m does not resolve the previously identified harm of the proposal under reference R/232/14/HH. It is therefore considered that the fence still constitutes an alien and incongruous feature within the immediate locality in conflict with policy GEN7 of the Arun District Local Plan.

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.

CONCLUSION

Given the above it is recommended that planning permission is refused for the retention of the fence.

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.