

Parish: East Wittering And Bracklesham	Ward: East Wittering
---	-------------------------

EWB/16/03473/FUL

Proposal Change of use of land to residential garden and erection of 1.2 m fence to southern boundary.


Site Site Adjacent To Papua West Bracklesham Drive Bracklesham PO20 8PH

Map Ref (E) 480296 (N) 96523

Applicant Mr Steve Grant

RECOMMENDATION TO PERMIT



	NOT TO SCALE	Note: Do not scale from map. For information only. Reproduced from the Ordnance Survey Mapping with the permission of the controller of Her Majesty's Stationery Office, Crown Copyright. License No. 100018803
---	---------------------	---

1.0 Reason for Committee Referral

Parish Objection - Officer recommends Permit

2.0 The Site and Surroundings

2.1 The application site comprises a parcel of land which runs along the western boundary of the residential property Papua, West Bracklesham Drive. Temporary security fencing has been erected and existing vegetation around the site has been cleared.

2.2 The application site lies on the corner of Legion Way and West Bracklesham Drive. Legion Way is an identified public footpath with a width of 2.3m. The application site falls outside of the identified width of the public footpath and is not subject to this designation. West Bracklesham Drive comprises a number of residential plots. All plots are set back from the immediate road frontage and boundaries are denoted by low lying hard and soft landscaping. The existing boundary treatments to Papua comprise a low lying existing 1.2m high brick wall which surrounds the car parking area to the front.

2.3 The application site falls within the East Wittering/Bracklesham Settlement Boundary and does not comprise any formally designated area of flood risk. There are no further local or statutory designations that implicate upon the determination of this application.

3.0 The Proposal

3.1 The application proposes the change of use of existing amenity land to residential garden land, facilitated through the erection of 1.5m high close boarded timber fencing with 300mm high trellis over to the western side of the site and a 1.2m high close boarded timber fence to the southern boundary of the site. Landscaping is proposed along the western boundary that abuts Legion Way.

3.2 Amended plans were submitted on 20 February 2017. It is on the basis of these plans that this application has been assessed.

4.0 History

16/01774/DOM	PER	Extension and alterations.
16/04134/NMA	PER	Non material amendments to permission EWB/16/01774/DOM - French windows to south elevation omitted and replace with windows.

5.0 Constraints

Listed Building	NO
Conservation Area	NO
Rural Area	NO
AONB	NO
Strategic Gap	NO
Tree Preservation Ord	NO
South Downs National Park	
EA Flood Zone	

- Flood Zone 2	NO
- Flood Zone 3	NO
Historic Parks and Gardens	NO

6.0 Representations and Consultations

6.1 East Wittering and Bracklesham Parish Council

(22 November 2016)

OBJECTION: The Committee objects to the 1.2m fence around this area of common land as it is out of keeping with the area, which is a wide designated footpath number 3656 with common land either side which had shrubs and small trees growing before they were cleared and fenced off by the applicant. The Committee also objects to the land being used as garden land as this is an amenity for all to use. If the LPA grants permission for use as garden land, the Committee requests a condition be imposed that it must not be built on.

(17 January 2017)

In light of climate change the Parish Council feels it imperative that the full width of this access be maintained in perpetuity for the benefits of residents in West Bracklesham Drive who are vulnerable to the predicted future sea level rises. No access wide enough to take emergency vehicles in this location should be restricted. West Bracklesham Drive is a long residential road with only 2 accesses, one at each end. The Legion Way 'connection' sits midway along East Bracklesham Drive and should be maintained to ensure an alternative access in the case of emergency. The Parish Council would be willing, as it has done for the past 17 years, to maintain this area on behalf of the residents affected. As East Wittering and Bracklesham Parish Council hold the position of Co-ordinator of the Emergency Plan it feels that to restrict this access could be detrimental to those who are vulnerable.

6.2 WSCC Strategic Planning

(01 March 2017)

West Sussex County Council was consulted previously on Highway Matters for this application and last provided a response dated 17/02/2017. In conclusion the Local Highway Authority no longer had any overriding concerns with regard to this application.

Subsequently, revised plans dated 20/02/2017 have been submitted. After reviewing these revised plans no additional highways comments, following those provided on 17/02/2017..

6.3 WSCC Public Rights of Way(PROW)

The right of way known as FP 3656 runs on the western side of the boundary to the proposed application. LSU confirm that the DMMA for the footpath in 1998 has a recorded width of 2.3m and was the longstanding, walked, hardened surface that basically exists today and not the land to the east of it. Therefore if the stated order width of 2.3m is available, which I understand it is this proposed application does not directly impact on the right of way and PROW (Public Rights of Way) would not object to this application.

6.4 8 third party letters of objections were received throughout the initial consultation periods. These objections comprised the following matters:

- a) the land is owned by West Sussex County Council
- b) the land is a highway
- c) Dexters was subject to certain restrictions as regards its positioning relative to Legion Way, which should apply to Papua
- c) In the event that the highways department chose to re-instate this end of Legion Way as a through road then private ownership of part of the land would cause a serious problem
- d) All land has some value - the applicant clearly believes that if his application is granted it will add value to Papua,
- e) Concern that the applicant wants to demolish Papua and divide the land area in order to construct several properties in its place –
- f) The argument that making the land tidy would benefit other members of the community only makes sense if the land remains unfenced and accessible with the normal restrictions on use of any such land
- g) Loss of open space and vegetation
- h) Applicant is not the owner
- i) Land is common land -
- j) Open spaces should be preserved - Certificate A is not correct as applicant is not the owner of the site
- k) Would set a precedent.

6.5 3 letters of support have been received. This support comprised the following matters:

- a) The land in question beside the footpath could never be walked on, or used by the public, the footpath is trodden down, the piece of scrub land beside the footpath in question was just brambles, some 6ft high, a mess of dog fouling, and indeed a homeless person made a den in the thicket.
- b) proposal is a good outcome for the road and indeed for the footpath, an individual was mugged in said footpath because there were so many places to hide in amongst the mess.
- c) It would be good to see this unkept bramble bed utilised
- d) Under the proviso that the ROW is unhindered as a public footway to and from the beach

Applicant/Agent's Supporting Information

Following the original consultation period, the applicant submitted an amended site/location plan dated 20 February 2017 including elevational details (1625 4.01 Rev A), amended ownership certificates and copies of the public notice at the request of the Local Planning Authority.

7.0 Planning Policy

The Development Plan

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029. There is no made neighbourhood plan for East Wittering and Bracklesham at this time.

7.2 The principal planning policies relevant to the consideration of this application are as follows:

Policy 1: Presumption in Favour of Sustainable Development

Policy 2: Development Strategy and Settlement Hierarchy

Policy 33: New Residential Development

Policy 39: Transport, Accessibility and Parking

National Policy and Guidance

7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF), paragraph 14 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking:

For decision-taking this means unless material considerations indicate otherwise:

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in (the) Framework indicate development should be restricted.*

7.4 Consideration should also be given to paragraph 17 (Core Planning Principles) and section 6 of the NPPF..

Other Local Policy and Guidance

7.5 There are no Supplementary Planning Documents that are material to the determination of this planning application:

7.6 The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Maintain the low levels of crime in the district in the light of reducing resources
- Support communities to meet their own housing needs
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main issues arising from this proposal are:

- i) Principle of development;
- ii) Impact upon visual amenity
- iii) Impact on Public Right of Way
- iv) Other matters

Assessment

i) Principle of development

8.2 The application proposes the change of use of amenity land to residential curtilage. The application site falls within the identified Settlement Boundary of East Wittering/Bracklesham. Policy 2 (Development Strategy and Settlement Hierarchy) and Policy 33 (New Residential Development) supports residential development within settlement boundaries. Therefore, subject to accordance with the criteria contained within Policy 33, primarily impact upon visual and public amenity, the principle of development accords with policy.

8.3 Under Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015, as amended, the applicant would be able to erect a fence of up to 1m in height to the southern side of the application site and a fence of up to 2m in height to the western boundary where it would not be adjacent to the highway. This fall-back position is also relevant to the consideration of the principle of the development, given that the boundary treatment could be erected without a grant of planning permission if it were not to be carried out in connection with the change of use of the land to garden land.

ii) Impact upon visual amenity

8.4 Policy 33 (New Residential Development) of the Chichester District Council Local Plan Key Policies (2014-2029) requires new residential development to meet the highest standards of design, including providing a high quality living environment in keeping with the character of the surrounding area and its setting in the landscape. Policy 33 of the Local Plan requires development to promote public safety and deter crime and disorder through careful design and layout.

8.5 Proposed along the western boundary of the site, adjacent to Legion Way, is a 1.5m high close boarded timber fence which would be screened by vegetation. The particulars of this vegetation, which is within the application site, would be secured by way of condition.

8.6 The proposed height of the boundary treatment drops to the southern elevation, where a 1.2m high close boarded timber fence would be provided to meet the existing 1.2m high brick wall. The southern elevation of the building is more publicly visible along West Bracklesham Drive and the continuation of boundary treatments at a consistent 1.2m in height provides visual coherence throughout. Furthermore, space would be provided between the fence and the carriageway of West Bracklesham Drive to allow for landscaping to be provided in front of the fence.

8.7 Whilst an element of the 1.5m high fencing to the side of the site would be visible from this point on the southern boundary, this is set back from West Bracklesham Drive. As such, the existing openness of this corner location is retained in the amended plans.

8.8 The appropriate use of vegetation would secure visual coherence and continuity within the existing street scape and, on this basis, the development would achieve sufficient public amenity. Therefore, the development would achieve a high quality design in accordance with Policy 33 (New Residential Development) of the Chichester District Council Local Plan Key Policies (2014-2029).

iii) Impact on Public Right of Way

8.9 The consultation response received from WSCC Highways notes that the Public Right of Way (PROW) runs adjacent to the application site. Records demonstrate this PROW has a recorded width of 2.3m.

8.10 The consultation response notes that the application site boundary does not interfere with this designation. Therefore, the proposals would not affect the designated PROW. An informative will be added to the decision notice to clarify that any works to the Public Right of Way require separate consent from West Sussex County Council.

8.11 Further, the proposed amendments to the land bounding the Public Right of Way would result in an improvement to the visual amenity of the site. As such, the appreciation of this visual amenity by users of the adjacent Public Right of Way would be improved as a result of this development. The fence would be set back behind vegetation and would still be wider than the line to the narrow northern part of the footpath. As such, the development would ensure that the feeling of openness is retained, given the views in and out of the footpath area.

iv) Other Matters

8.12 Throughout the public consultation period concern was raised regarding the potential for the applicant to develop this land. However, this parcel of land forms residential garden land. Therefore, any development in excess of permitted development rights would require the benefit of planning permission, by way of formal planning application. Such a requirement would be considered a necessary and sufficient means of controlling any future development in excess of permitted development.

8.13 Concern was raised throughout the public consultation period in respect of the definitive land ownership. Following discussions with the Local Planning Authority, the applicant has amended the land ownership certificates and placed an advertisement in the Local Paper, in accordance with the Town and Country Planning (Development Management Procedure) Order 2014 (as amended).

8.14 Any applicant is able to apply for planning permission within their own land ownership, or ownership of another person or body. Such matters do not comprise a material consideration for the purposes of determining applications in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended).

Significant Conditions

8.15 Conditions in respect of landscaping provision and retention are recommended to ensure a coherent visual appearance to the street scape in the interests of public amenity.

8.16 A conditions is also recommended to require the removal of the unauthorised security fencing within one month of the date of consent in the interests of public amenity.

Conclusion

8.17 Based on the above it is considered the proposal complies with the development plan policies. Therefore, the application is recommended for approval.

Human Rights

8.18 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to permit is justified and proportionate.

RECOMMENDATION

PERMIT subject to the following conditions and informatives:-

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- 2) The development hereby permitted shall be carried out in accordance with the approved plans 1625 4.01 A (Site Plan and Location Plan).

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) Within one month of the date of this consent the unauthorised security fencing shall be removed from the land in its entirety.

Reason: To ensure an appropriate level of visual amenity is achieved.

- 4) The development hereby permitted shall not be first brought into use until a fully detailed landscape and planting scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities, and for large scale developments shall include a program for the provision of the landscaping. In addition all existing trees and hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development. The scheme shall make particular provision for the conservation and enhancement of biodiversity on the application site. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. The approved scheme shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the locality and to enable proper consideration to be given to the impact of the proposed development on existing trees.

INFORMATIVES

- 1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2) This consent does not give consent for any works affecting the adjacent Public Right of Way. If the applicant or developer is in any doubt regarding the requirement for consent then they should contact West Sussex County Council directly to clarify this.

For further information on this application please contact James Cross.