

**Recommendation Report for Application under Section 73 for the Removal or Variation of Conditions
Under a Previously Approved Permission**

REF NO: AL/104/25/S73

LOCATION: Land North of The Haven
and East of Northfields Lane
Westergate
PO20 3UH

PROPOSAL: Variation of conditions 2 and 5 imposed under AL/127/24/PL relating to plans and revised Tree Retention Protection Plan.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application seeks to vary condition 2 and 5 imposed under AL/127/24/PL for the development of 1No. dwelling.
TREES	Condition 2 relates to the approved plans and condition 5 relates to the tree protection plan. The site is subject to a TPO and there are numerous other trees on site.
BOUNDARY TREATMENT	The site has significant planting along all boundaries of the site.
SITE CHARACTERISTICS	The site is occupied by a vacant plot of land which is largely overgrown, situated to the outskirts of Westergate. It is accessed from Nyton Road to the south via an access track and driveway although is currently overgrown.
CHARACTER OF LOCALITY	The area is semi-rural. There are residential properties to the rear of the site and south of the site.

RELEVANT SITE HISTORY

AL/127/24/PL	Erection of 1 No 4-bed detached dwelling (self build). This application is a Departure from the Development plan and is in CIL Zone 3 and is CIL Liable as a new dwelling.	Refused 03-01-25
		Appeal: Allowed+Conditions 21-08-25

REPRESENTATIONS

Aldingbourne Parish Council

- In regard to the above, the planning committee were not sure what this relates to. This has been previously refused by ADC under application AL/127/24/PL, and on looking at the Officers Report and Decision Notice there is no mention of the conditions that were imposed, so cannot really comment on

conditions 2 & 5 as it is unclear what was imposed in the first instance.

3 letters of objection from 2 nearby occupiers were received.

- Will cause significant damage to an already fragile private road access.
- The documents contradict each other.
- The CIL form makes no reference to the triple garage and has not been accurately completed.
- The scale of the development.
- Overshadowing
- Flooding/Drainage
- Wildlife/Trees
- Highway Safety

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and addressed in the conclusions.

A response was provided to the Parish Council to explain that the application was approved on appeal and what the application sought to vary.

The officer has calculated the increase in floor space when compared to the original approved application and this will be used for CIL purposes.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

None.

POLICY CONTEXT

Outside Built up Area Boundary

TPO

Lidsey Catchment Area

Flood Zone 2 and 3 and Climate Change 2111.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)
DSP1	D SP1 Design
ENVDM4	ENV DM4 Protection of trees
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[Aldingbourne Neighbourhood Plan 2019-31 Policy EH6](#) Protection of trees and hedgerows

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13	Arun District Design Guide (SPD) January 2021
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POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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 comply with relevant Development Plan policies in that the amendments proposed do not result in adverse harm upon the character of the area, amenity nor upon trees.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

BIODIVERSITY NET GAIN

The application is exempt from BNG as it is for a self build.

CONCLUSIONS**PRINCIPLE**

This application seeks to vary condition 2 (approved plans) and condition 5 (tree plan) and only the matters which are relevant to the changes will be discussed below. All other matters were considered and remain as approved under application AL/127/24/PL.

DESIGN AND VISUAL AMENITY

Policy D SP1 of the Arun Local Plan requires that development proposals make efficient use of land. Policy D DM1 provides criteria for design aspects that should be addressed.

The application seeks to alter the plans condition. The proposal seeks to extend the ground floor to construct a three-bay car port with an annexe above. This will have a pitched roof and 4 dormers. It will have a length of 10m and a depth of 6.35m.

The permitted dwelling is of an L shape and with the addition of triple car barn, it will form a T shape, with the car port located to the western elevation extending towards the front of the site. The design of the car port/annexe integrates well with the host dwelling and will feature timber cladding and a slate roof to match the main dwelling.

27m is retained to the front boundary and with significant planting across the site, views will be screened.

Whilst the dwelling and proposed extension is large, it is comfortably accommodated on the site and the car port/annexe does not result in an overdevelopment of the site.

The alteration does not result in adverse harm upon the character of the area and accords with ALP policies D DM1 and D SP1.

RESIDENTIAL AMENITY

ALP policy D DM1(3) indicates planning permission will only be granted where it has minimal impact on the users or occupiers of nearby land.

The site is large and the proposed changes would not result in demonstrable harm through overbearing or overshadowing on amenity. The car port/annexe is to the western elevation with 8m retained to the northern boundary and further separation is retained between this boundary and the closest residential properties on Humphrey Way, with substantial planting also in place.

The annexe will have two dormer windows to both the north and south elevation. Due to the separation distance between the northern and southern boundaries, with 36m retained to the boundary to the south and with tree screening, no adverse views would be achievable upon neighbouring amenity.

Whilst the property adds additional bulk to the dwelling, due to the size of the site and location of the development, it would not result in adverse overbearing, overshadowing or overlooking upon neighbouring amenity in accordance with ALP policies D DM1 and D SP1.

TREES

ALP policy ENV DM4 and ANDP policy EH6 relate to the protection of trees.

Condition 5 is also sought for variation. The condition reads:

'Prior to the commencement of development, including site clearance, the trees to be retained on the site shall be protected in full accordance with the details shown on drawing GS344.Northfield.TRPP Version 1 dated 02.11.2024 titled 'Tree Retention and Protection Plan'. Those protection measures shall be maintained in accordance with those details until the construction period is complete.'

The application seeks to amend the tree protection plan in which the tree protection measures should be in accordance with. In order to accommodate the new car port/annexe, it is sought to slightly amend the location of the tree protection fencing. The tree protection fencing is proposed to be moved at one specific point on site to the northwestern corner where it is closest to the proposed car port. Its relocation is minor and the protection fencing remains some distance from the root protection area of nearby trees.

The protection measures to the TPO tree are not proposed to be changed.

The tree officer has not provided comment and in the absence of comments it would be unreasonable to assume it was unacceptable.

The relocation of the fencing is minor and considered acceptable in accordance with ALP policy ENV DM4.

DRAINAGE

ALP policy W DM2 and W DM3 relates to flood risk and sustainable drainage.

The application is subject to a condition for detail to be submitted which shows how the site will be drained. These details are still required and the drainage design would now have to take into the account the additional footprint proposed. A condition securing drainage details will be applied to this permission to ensure it does not result in an increase in flood risk at the site or wider area.

SUMMARY

As this is a Section 73 application any new permission sits alongside the original permission, which remains intact and unamended. Government guidance states that for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect. Therefore, a time condition will be requiring the works to commence within 3 years of the original permission will be applied and all other remaining conditions.

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) 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 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.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun on or before the 21.08.2028 (being three years from the date of the original planning permission).

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

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan - 24005 - 01
- Proposed Block Plan - 24005 - 02B
- Proposed Ground Floor Plan - 24005 - 04B
- Proposed First Floor Plan - 24005 - 05B
- Proposed Elevations - 24005 - 06A
- Proposed Elevations - 24005 - 07A
- Proposed Site/Roof Plan - 24005 - 03B

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1.

- 3 No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include:
- A risk assessment of construction activities that are potentially damaging to biodiversity and identification of protection zones;
 - Measures to avoid or reduce ecological impacts during construction;
 - Location and timing of sensitive works and details of when an ecologist may need to be present on the site, and;
 - Responsible persons and lines of communication.

The construction process shall be carried out only in accordance with the approved.

Reasons: To ensure protection of species and habitats in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 4 Prior to the commencement of development, full details of the proposed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include:
- Winter groundwater monitoring;
 - Winter infiltration testing in accordance with BRE DG 365 or similar;
 - Details of the proposed method and location of surface water disposal in accordance with the SUDS Hierarchy;
 - An impermeable area plan;
 - Calculations modelling for the surface water drainage network for the following storm events: 100% Annual Exceedance Probability (AEP); 10% AEP plus climate change allowance; 3.3% AEP plus climate change allowance, and; 1% AEP plus climate change allowance. All storm events must include an allowance for urban creep and surcharged outfalls where appropriate.
 - Detailed drainage plans;
 - Specifications for all surface water drainage components and associated infrastructure or

flow control mechanisms, and;

- Any relevant permissions relating to the discharge location, works to watercourses or adoption of the SUDS scheme.

The development shall be carried out only in accordance with the approved plans. The surface water drainage system shall remain for the lifetime of the development.

Reasons: To ensure that the proposed development is satisfactorily drained and in accordance with Arun Local Plan policies W SP1, W DM1, W DM2 and W DM3. This is required to be pre-commencement so details can be approved prior to construction.

- 5 Prior to the commencement of development, including site clearance, the trees to be retained on the site shall be protected in full accordance with the details shown on drawing GS344.Northfield.TRPP Version 2 dated 08.10.2025 titled 'Tree Retention and Protection Plan'. Those protection measures shall be maintained in accordance with those details until the construction period is complete.

Reasons: To ensure the trees are satisfactorily protected in compliance with Arun Local Plan policy ENV DM4. This is required to be pre-commencement to ensure the protection measures are in place prior to works starting.

- 6 The development shall be carried out in accordance with the mitigation measures set out in Section 9 of the 'Flood Risk Assessment and Drainage Strategy' ref D2312/FRA1.1 dated September 2024 by BP Civils. The development shall be maintained in accordance with those measures at all times.

Reasons: To ensure the site does not increase flood risk to occupiers in compliance with Arun Local Plan policy W DM2.

- 7 Prior to commencement of development above the damp proof course, final details of a biodiversity enhancement plan shall be submitted to and approved in writing by the Local Planning Authority. Those measures shall be installed in full not later than 12 months following the first occupation of the dwelling and shall be maintained thereafter.

Reasons: To ensure protection of species and habitats in accordance with Arun Local Plan policies ENV SP1 and ENV DM5.

- 8 The installation of any hard surface within the root protection area of tree T04 (as annotated on drawing GS344.Northfield. TRPP Version 1 dated 02.11.2024 titled 'Tree Retention and Protection Plan'), shall be carried out in accordance with the details specified in paragraphs 3.7 to 3.11 of the Arboricultural Impact Assessment and Method Statement by South Downs Ecology version 1 dated 2nd November 2024.

Reason: To ensure the tree is adequately protected in accordance with Arun Local Plan policy ENV DM4.

- 9 If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is

identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 10 Any works which will impact the breeding or resting place of dormice shall not commence unless the Local Planning Authority has first been provided with either:
- A licence issued by Natural England authorising the development or activity to go ahead, or;
 - A statement in writing from Natural England to the effect that it does not consider that the specified development or activity will require a license.

Reasons: To ensure protection of species on site in compliance with Arun Local Plan policy ENV DM5.

- 11 Prior to the first occupation of the dwelling, an electric vehicle charging point shall be installed for use by future occupiers. This shall be maintained and be available for use at all times.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

- 12 No external lighting shall be installed to the site unless details of that lighting have first been submitted to and approved in writing by the Local Planning Authority. Those details shall demonstrate how the lighting is designed and positioned to avoid harmful effects on bat species and the lighting shall only be installed and maintained in accordance with the approved details.

Reasons: In the interests of the amenities of the area, the site biodiversity (particularly in respect of bats), the interests of minimising crime, road safety and to minimise unnecessary light spillage outside the development site in accordance with Arun Local Plan policies QE SP1, QE DM2, T SP1 and ENV DM5.

- 13 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the NPPF.