

REPORT UPDATE

Application No: AL/44/26/S73

Reason for the Update / Changes

Reason for Update/Changes:

The NPPF has been updated. Paragraph 116 of the NPPF is replaced by policy TR6.4 states development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety.

The NPPF changes do not alter the officers recommendation.

Condition 2 has been amended to reflect that the northern access has now been constructed and secures it in perpetuity along with visibility splays. Condition 9 which related to visibility splays has been removed and forms part of condition 2.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.

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

REF NO: AL/44/26/S73

LOCATION: Laurel Rise and
Grey Gables (former Plot 1)
Fontwell Avenue
Eastergate
PO20 3RU

PROPOSAL: Variation of condition following the approval of AL/112/24/S73 relating to approved plans, access arrangements and visibility splays.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Variation of conditions 1, 2 and 9 of AL/112/24/S73 which required access arrangements to be carried out in accordance with the approved drawings and the submission of visibility splays.
TOPOGRAPHY	Predominantly flat.
TREES	None of affected by the development.
SITE CHARACTERISTICS	Two semi-detached, two storey dwellings (Laurel Rise and Grey Gables) with rear gardens and front parking areas. Both dwellings are accessed by an internal site road with an existing access at the northern end onto Fontwell Avenue.

CHARACTER OF LOCALITY

Predominantly residential with dwellings on both sides of the site and on the opposite side of the A29. The site frontage falls in a 40mph zone and the start of the 30mph zone is adjacent to the southern end of the site. There is a vehicle scrapyards to the rear of the site, beyond the line of conifers.

RELEVANT SITE HISTORY

AL/116/18/PL	Variation of conditions 2, 10, 11 & 12 imposed under AL/121/16/PL relating to the substitution of the proposed site plan.	ApproveConditionally 22-03-19
AL/121/16/PL	2No. semi detached houses. This application is a Departure from the development plan	ApproveConditionally 01-02-17
AL/21/21/NMA	Non material amendment following grant of AL/116/18/PL Part Apprv/Part Refu for changes to fenestration from the approved plans and changes to the Landscaping plan previously approved	04-03-21
AL/112/24/S73	Variation of condition following the approval of AL/116/18/PL relating to revised access proposal from bellmouth to vehicle crossover.	ApproveConditionally 18-12-24

REPRESENTATIONS

Aldingbourne Parish Council - no comment received.

No representations received from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

WSCC Highways - More Information requested. Vehicular visibility splays of 2.4m x 43m in accordance with 30mph speed limit have been demonstrated from the amended access location. In previous applications visibility splays of 59m had been provided and the Highways Statements state that splays in excess of 43m can be achieved. Require clarification of the previous 59m splay as these were likely secured due to actual 85th percentile speeds. Whilst it is acknowledged the posted limit is now 30mph, it would be useful for maximum achievable splays (within publicly maintained highway and applicant land)

to be provided whilst being mindful of any impact a greater splay may have on landscaping on site frontage.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Visibility splays were provided and WSCC have been reconsulted. Comments awaited.

POLICY CONTEXT

Designations applicable to site:

- Within the Built-up Area Boundary.
- Potential for high Groundwater levels.
- Current & Future Flood Zone 1.
- Lidsey Treatment Catchment Area.
- Low Surface Water Flood Risk (1:1000 year).
- WSCC Protected Minerals Consultation Area.
- WSCC Waste Site Buffer Area.
- Within 12km of the Singleton and Cocking Tunnels Special Area of Conservation.
- Close to an existing Southern Water Sewer.
- A Road*.
- Area of Advert Special Control; and
- CIL Zone 2.

DEVELOPMENT PLAN POLICIES

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

DDM1 D DM1 Aspects of form and design quality

TSP1 T SP1 Transport and Development

[Aldingbourne Neighbourhood Plan 2019-31 Policy EH1](#) Built up area boundary

Aldingbourne Neighbourhood Plan 2019-31 Policy GA2 Footpath and cycle path network

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

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 complies with relevant Development Plan policies in that it does not result in any harm to highway safety nor upon the appearance or character of the street scene.

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 mandatory BNG as the application relates to a section 73 permission where the original permission which the section 73 relates to was either granted before 2 April 2024 or the application for the original permission was made before 2 April 2024.

CONCLUSIONS

PRINCIPLE

The two dwellings were commenced under planning permission AL/116/18/PL which varied AL/121/16/PL. Following this, the access arrangements were varied and approved under AL/112/24/S73. This application seeks to amend part of the approved access by moving the southern access further south to avoid utilities.

The policies of the Arun Local Plan (ALP) and the Aldingbourne Neighbourhood Development Plan (ANDP) remain in force now as at the time of the original decision and it is not necessary to reconsider the whole application afresh. Due to the nature of the changes, it is only relevant to assess the proposal in respect of highway safety and the character/appearance of the immediate surroundings.

HIGHWAY SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network. Schemes should accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements and create safe and secure layouts for traffic/cyclists/pedestrians. The Arun Design Guide (ADG) contains guidance relevant to highway layout. ANDP policy GA2 states the loss of footpaths and cycle paths will be resisted. NPPF paragraph 116 states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Access will consist of of two points, positioned in the north and south of the site, with an internal road linking the plots.

The proposed access would replicate the approved (6.0m wide direct access, with 1.5m wide chamfers) but the southern access would be 8.5m further south to avoid utilities. Pedestrian access would be unchanged which is served from an uncontrolled crossing facility providing a link to the footway on the east side of the A29 Fontwell Avenue and this is sufficient to serve the six permitted dwellings. There is no conflict with ANDP policy GA2 as there is no loss of an existing pedestrian crossing point.

WSCC Highways requested an additional visibility splay. This has been provided and further comment is awaited. On the basis that splays are achievable and no objections were raised previously, it is not considered the alterations would result in harm in respect to road safety or capacity.

The proposal is in accordance with the relevant development plan policies.

DESIGN AND APPEARANCE

ALP policy D DM1 states development should reflect or improve upon the character of the site and the surrounding area including with respect to layout and the public realm.

The access would have the same appearance as that approved with the overall dimensions and set up being retained. It re-positioning further south would not give rise to visual harm upon the site or wider area. There is no conflict with the relevant policies.

CONDITIONS

As this is a Section 73 application any new permission sits alongside the original permission, which remains intact and unamended. Government guidance states for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect.

It is not necessary to reimpose conditions requiring the submission of details that have already been discharged. For completeness, those that have been discharged will be retained in an amended form to make reference to the details approved by the relevant condition discharge applications.

Condition 2 and 9 have been amended to require that within 3 months the development constructs the northern access in accordance with approved plans. Completion of the southern access will be secured with occupation of Plot 3.

As per the development description section above, Conditions 1, 2 and 9 have been amended to refer to the new access plans and visibility.

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 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 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 approved shall be carried out in accordance with the following approved plans:

Location plan" LO03 Rev B
 Proposed Layouts & Outline Section" Drawing No. X01.
 Proposed Ground Floor Plan 02 Rev H.
 Proposed Elevations" Drawing No. X04 Rev G.
 Street Scene" Drawing No. X12.
 Northern Access Overview and Visibility Splays" 101 Rev A.
 Site Overview 2026-6677-1001 Rev A.
 Access Overview and Visibility Splays - 2024-6677-1002 Rev A
 Estate Car & 4.6t Light Van Access and Egress - 2026-6677-1003.
 Fire Tender Access and Egress - 2026-667--1004.
 Emergency Servicing - 2026-6677-1005.
 Refuse Collection - 2026-6677-1006.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1 and D SP1.

- 2 The access arrangements as constructed in accordance with "Northern Access Overview and Visibility Splays" 101 Rev A" shall be permanently retained and the visibility splays shall thereafter be maintained in perpetuity and kept free of all obstructions over a height of 0.6m above the adjoining carriageway level or as otherwise agreed.

Reasons: To ensure safe access/egress from/to the site in accordance with Arun Local Plan policies D DM1 and T SP1 and the NPPF.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment submitted with application AL/121/16/PL (ref Rodway/FontwellAv/FRA, March 2014). In particular, all finished floor levels should be set no lower than 13.5m above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To ensure safe access/egress from/to the site and to reduce the risk of flooding to the proposed development and future occupants all in accordance with Arun Local Plan policy W

DM2 and the National Planning Policy Framework.

- 4 The development shall be implemented in accordance with the surface water drainage scheme which was approved by the Local Planning Authority on 13 June 2017 through application ref AL/50/17/DOC and which consisted of drawing 1730/D1.1 Rev A "Drainage Layout"; and drawing 1730/D5.1 "Drainage Construction Details". The approved drainage scheme shall be fully implemented prior to occupation of either of the dwellings and shall be permanently retained in good working order thereafter.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with Arun Local Plan policies W SP1, W DM2 and WDM3.

- 5 The development shall be implemented in accordance with the noise mitigation measures detailed in sections 6.3 & 6.4 of the Environmental Noise Assessment by Acoustic Associates (dated 25/04/17) which was approved by the Local Planning Authority on 13 June 2017 through application ref AL/50/17/DOC. The approved noise mitigation measures shall be fully implemented prior to occupation of either of the dwellings and shall be permanently retained thereafter.

Reason: To safeguard the amenities of residents in accordance with Arun Local Plan policies D DM1, QE SP1 and QE DM1.

- 6 The development shall be implemented in accordance with the schedule of materials and finishes which was approved by the Local Planning Authority on 22 August 2019 through application ref AL/52/19/DOC.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Arun Local Plan policy D DM1.

- 7 The development shall be implemented in accordance with the Landscaping Scheme as set out on drawing L02 Rev D "Proposed Dwelling Landscaping Plan" which was approved by the Local Planning Authority on 22 August 2019 through AL/52/19/DOC. The approved landscaping shall be implemented in accordance with the approved details and retained and maintained thereafter.

Reason: In the interests of amenity and of the environment of the development in accordance with Arun Local Plan policy D DM1.

- 8 The development shall be implemented in accordance with the boundary treatments as set out on drawing L02 Rev D "Proposed Dwelling Landscaping Plan" which was approved by the Local Planning Authority on 22 August 2019 through application ref AL/52/19/DOC. The boundary materials shall be retained and maintained thereafter.

Reason: In the interests of amenity in accordance with Arun Local Plan policy policy D DM1.

- 9 No part of the development shall be first occupied until vehicle parking and turning spaces have been constructed in accordance with the agreed drawing 'Access Overview Plan' 2024-6677-1002'. The parking spaces and turning areas shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with Arun Local Plan policies D DM1 and T SP1 and the NPPF.

- 10 The development shall be implemented in accordance with the secure cycle storage arrangements as set out on drawing L02 Rev D "Proposed Dwelling Landscaping Plan" which was approved by the Local Planning Authority on 22 August 2019 through AL/52/19/DOC. The

secure cycle garden stores shall be retained and maintained thereafter.

Reason: To ensure that adequate and satisfactory provision is made for the parking of bicycles in accordance with Arun Local Plan policies T SP1 & T DM1 and the NPPF.

- 11 The development shall be implemented in accordance with the waste and recycling storage arrangements as set out on drawing L02 Rev D "Proposed Dwelling Landscaping Plan" which was approved by the Local Planning Authority on 22 August 2019 through AL/52/19/DOC. The waste and recycling storage arrangements shall be retained and maintained thereafter.

Reason: To protect the amenities of nearby residents in accordance with Arun Local Plan policy WM DM1.

- 12 No development or new tree planting should be located within 3m of either side of the centreline of the public sewer which crosses the eastern (front) part of the site and all existing sewer infrastructure shall be protected during the course of construction works.

Reason: In the interests of protecting the existing public sewer and in accordance with Arun Local Plan policies D DM1 and W DM3.

- 13 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

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 D DM1, QE SP1 and QE DM4.

- 14 The two first floor bathroom windows shall at all times be glazed with obscured glass.

Reason: To protect the amenities and privacy of the adjoining properties in accordance with Arun Local Plan policies D DM1 and QE SP1.

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015, (or any Order revoking or enacting that Order) no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the flank walls of the new dwellings without the prior permission of the Local Planning Authority on an application in that behalf.

Reason: To protect the amenities and privacy of the adjoining properties in accordance with Arun Local Plan policies D DM1 and QE SP1.

- 16 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.

- 17 INFORMATIVE: The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works (vehicle crossover and uncontrolled crossing of Fontwell Avenue). The applicant is requested to contact the Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement

being in place.