

PLANNING STATEMENT

IN RELATION TO:

‘Variation of the Approved Plans and Access Arrangements/ Visibility Splays detailed in conditions 1, 2 & 9 listed on the decision notice for AL/112/24/S73; Conditions 1, 2 and 6 listed on the decision notice for AL/113/24/S73; and Conditions 2, 10 & 13 listed on the decision notice for AL/114/24/S73.

Proposed amendments include: Proposed adjustment to the position of the southern access to reduce the access’s impact on existing utilities’.

Land West of Fontwell Avenue, Eastergate, PO20 3RU

June 2026

1.0 INTRODUCTION

- 1.1 Pursuant to Section 73 of the Town & Country Planning Act 1990, we submit these applications to seek permission for amendments to the following developments on a site known as Land west of Fontwell Avenue, Aldingbourne, PO20 3RU.

Plot 1

- **Planning ref: AL/112/24/S73/:** Variation of condition following the approval of AL/116/18/PL relating to revised access proposed from bellmouth to vehicle crossover. Approved Conditionally 18-12-2024.

Condition 1 – Approved Plans

Condition 2 – Access Arrangements

Condition 9 – Visibility Splays

Plot 2

- **Planning ref: AL/113/24/S73:** Variation of condition following the grant of AL/117/18/PL relating to condition 6 - amendments to the access arrangements. Approved Conditionally 18-12-2024.

Condition 1 – Approved Plans

Condition 2 – Access Arrangements

Condition 6 – Visibility Splays

Plot 3

- **Planning ref: AL/114/24/S73/:** Variation of condition following the grant of AL/139/22/PL relating to condition 10 – amendments to access arrangement. Approved Conditionally 18-12-2024.

Condition 2 – Approved Plans

Condition 10 – Vehicular access and pedestrian crossing

Condition 13 – Visibility Splays

- 1.2 As detailed above, these applications seeks to vary Conditions 1, 2 & 9 listed on the decision notice for AL/112/24/S73; Conditions 1, 2 & 6 listed on the decision notice for AL/113/24/S73; and Conditions 2, 10 & 13 listed on the decision notice for AL/114/24/S73, relating to the approved drawings and Access Arrangements/ Visibility Splays attached to the existing consents for redeveloping the respective sites.
- 1.3 The amendments now sought are material, but are of a minor nature. As detailed in the accompanying Highway Statement (HS), *“the 3 sites are to be served from 2 access points, positioned in the northern and southern development sites. This HS addresses proposed adjustment to the position of the southern access to reduce the access’s impact on existing utilities”*.
- 1.4 This Planning Statement is submitted in support of the above applications. This statement should be read in conjunction with the technical HS report and its attached plans, which have been prepared by Bright Plan.

2.0 SITE CIRCUMSTANCES

- 2.1 The area of land to which this application relates was originally an area of grass land, with a total site area of 0.6 hectares. The site is located on Fontwell Avenue, with other established residential development neighbouring the site.
- 2.2 The original planning approval on the site related to Outline planning application for 3 No. detached houses with garaging, which was approved conditionally on 25-04-2014 (**Planning ref: AL/95/13**). A number of subsequent approvals have followed (as set out in detail below). This self-build development site now consists of three housing plots individually owned (Plots 1, 2 & 3), each with planning consents for two houses on each plot. It is understood that to date, four of the houses have been built.



Fig 1. Aerial photograph of the site and its surroundings (*Courtesy of Google Maps*)

- 2.3 The surrounding area is predominately residential, with dwellings on both sides of the site and on the opposite side of the A29. The adjacent property, Westfield House is served by a crossover type access which adjoins the access point to the application site. Westfield House's access is shared with three other properties.
- 2.4 With regard to site designations, according to the Arun Local Plan Policy Map (central area), the application site is located within the settlement boundary, where the principle of new development is accepted.

3.0 PLANNING HISTORY

3.1 The original planning approval on the site related to Land west of Oaktrees, Fontwell Avenue and was as follows: -

- **Planning ref: AL/95/13/:** Outline planning application for 3 No. detached houses with garaging – This is a Departure from the Development Plan.
Approved Conditionally 25-04-2014.



Fig 2. Approved Site Layout Plan (ref: AL/95/13)

3.2 Subsequent applications related to the individual sites; identified as Plots 1, 2 and 3. The relevant approvals relating to these plots are outlined below: -

Plot 1

- **Planning ref: AL/121/16/PL/:** 2 No. semi-detached houses. The application is a Departure from the development plan. Approved Conditionally 01-02-2017.



Fig 3. Approved Location and Block Plan (ref: AL/121/16/PL)

- **Planning ref: 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. Approved Conditionally 22-03-2019.

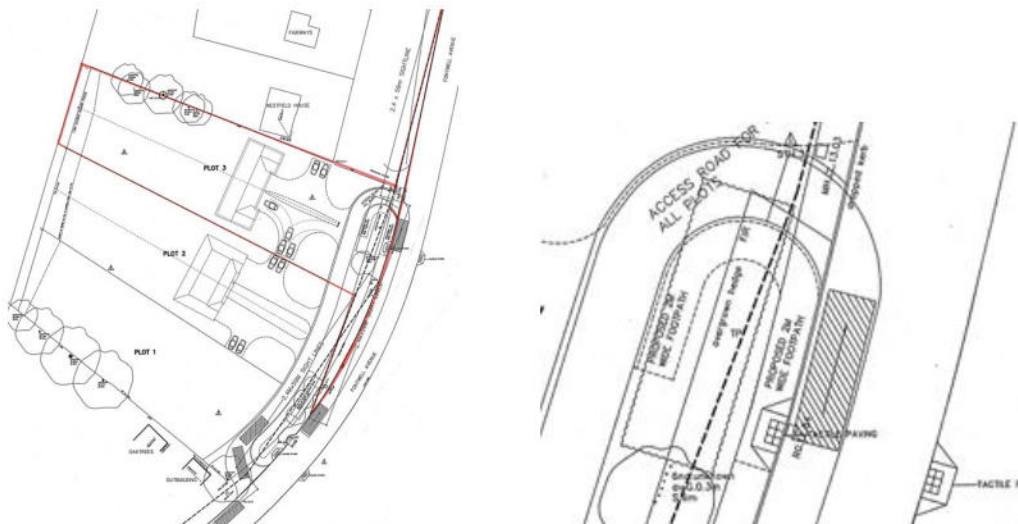


Fig 4. Proposed Site Plan (ref: AL/116/18/PL)

- **Planning ref: AL/21/21/NMA:** Non-material amendment following grant of AL/116/18/PL for changes to fenestration from the approved plans and changes to Landscaping Plan previously approved – Part Approved/Part Refused 04-03-2021.
- **Planning ref: AL/112/24/S73/:** Variation of condition following the approval of AL/116/18/PL relating to revised access proposed from bellmouth to vehicle crossover. Approved Conditionally 18-12-2024.

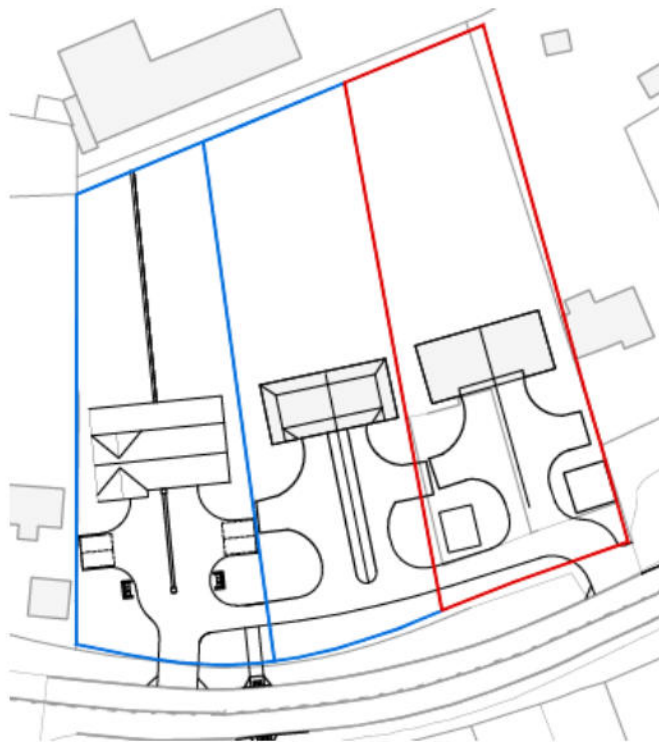


Fig 5. Approved Site Plan (ref: AL/112/24/S73)

Grey Gables (north side of plot 1)

- **Planning ref: AL/187/22/HH/:** Construction of a detached garage. Approved Conditionally 08-02-2023.

- **Planning ref: AL/36/24/HH/:** Removed the existing bund and replace with 2.4 metre high close boarded fencing in 2.4 metre concrete posts. Approved Conditionally 23-07-2024.

Laurel Rise (south side of plot 1)

- **Planning ref: AL/35/24/HH/:** Remove the existing bund and replace with 2.4 metre high close boarded fencing in 2.4 metre concrete posts and erect a purpose build garage to front elevation. Approved Conditionally 23-07-2024.

Plot 2

- **Planning ref: AL/95/13/:** Outline planning application for 3 no. detached houses within garaging – this is a Departure from the Development Plan. Approved Conditionally 25-04-2014.
- **Planning ref: AL/122/17/PL/:** 2 No. dwellings (resubmission following AL/72/17/PL). This application is a Departure from the Development Plan. Approved Conditionally 14-02-2018.
- **Planning ref: AL/117/18/PL/:** Variation of conditions 2, 6, 7 & 8 imposed under AL/122/17/PL relating to the substitution of the proposed site plan. Approved Conditionally 05-04-2019.
- **Planning ref: AL/113/24/S73/:** Variation of condition following the grant of AL/117/18/PL relating to condition 6 - amendments to the access arrangements. Approved conditionally 18-12-2024



Fig 6. Approved Location Plan (ref: AL/113/24/S73)

Plot 3

- **Planning ref: AL/136/17/PL/:** Erection of pair of semi-detached houses & new access onto A29 – This is a Departure from the Development Plan. Approved Conditionally 03-10-2018.
- **Planning ref: AL/139/22/PL/:** Pair of semi-detached dwelling houses with two storeys under a pitched roof. This application is in CIL Zone 2 and is CIL liable as new dwellings. Approved Conditionally 20-10-2023.
- **Planning ref: AL/1/24/NMA/:** Non-material amendment following the grant of AL/139/22/PL relating to revised drawings and materials on front elevation. Approved 02-02-2024.
- **Planning ref: AL/114/24/S73/:** Variation of condition following the grant of AL139/22/PL relating to condition 10 – amendments to access arrangement. Approved Conditionally 18-12-2024.



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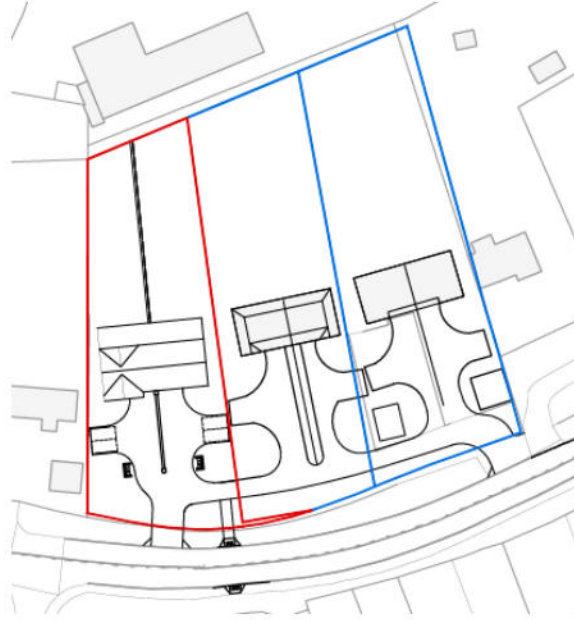


Fig 7. Approved Site Plan (ref: AL/114/24/S73)

4.0 THE PROPOSALS

4.1 This s73 application seeks to make adjustments to the southern access arrangements serving all 3 plots. The relevant plots and application reference numbers are set out in detail below:-

Plot 1

- **Planning ref: AL/112/24/S73/:** Variation of condition following the approval of AL/116/18/PL relating to revised access proposed from bellmouth to vehicle crossover. Approved Conditionally 18-12-2024.

Plot 2

- **Planning ref: AL/113/24/S73:** Variation of condition following the grant of AL/117/18/PL relating to condition 6 - amendments to the access arrangements. Approved Conditionally 18-12-2024.

Plot 3

- **Planning ref: AL/114/24/S73/:** Variation of condition following the grant of AL/139/22/PL relating to condition 10 – amendments to access arrangements. Approved Conditionally 18-12-2024.

4.2 In all other respects the development is to remain as previously permitted, by application refs AL/112/24/S73, AL/113/24/S73, and AL/114/24/S73.

4.3 This S73 application is submitted separately for each of the 3 identified plots, as each have their own consent that requires variation. These applications seeks to vary the following conditions that relate to approved drawings and Access Arrangements/ Visibility Splays:-

- Plot 1 - Conditions 1, 2 & 9 listed on the decision notice for AL/112/24/S73;
- Plot 2 - Conditions 1, 2 & 6 listed on the decision notice for AL/113/24/S73; and,

- Plot 3 - Conditions 2, 10 & 13 listed on the decision notice for AL/114/24/S73.

4.4 The accompanying Highway Statement confirms that *“the permitted access arrangements to the site take the form of 2 direct accesses adjoining the A29 Fontwell Avenue. The southern access, subject to the application outlined in this HS, comprises of a 6.0m wide direct access with 1.5m chamfers. A short footpath leading to an uncontrolled pedestrian crossing is situated to the north of the access. The 3 separate land plots have legal rights of access across each other’s land and can utilise both access points”.*

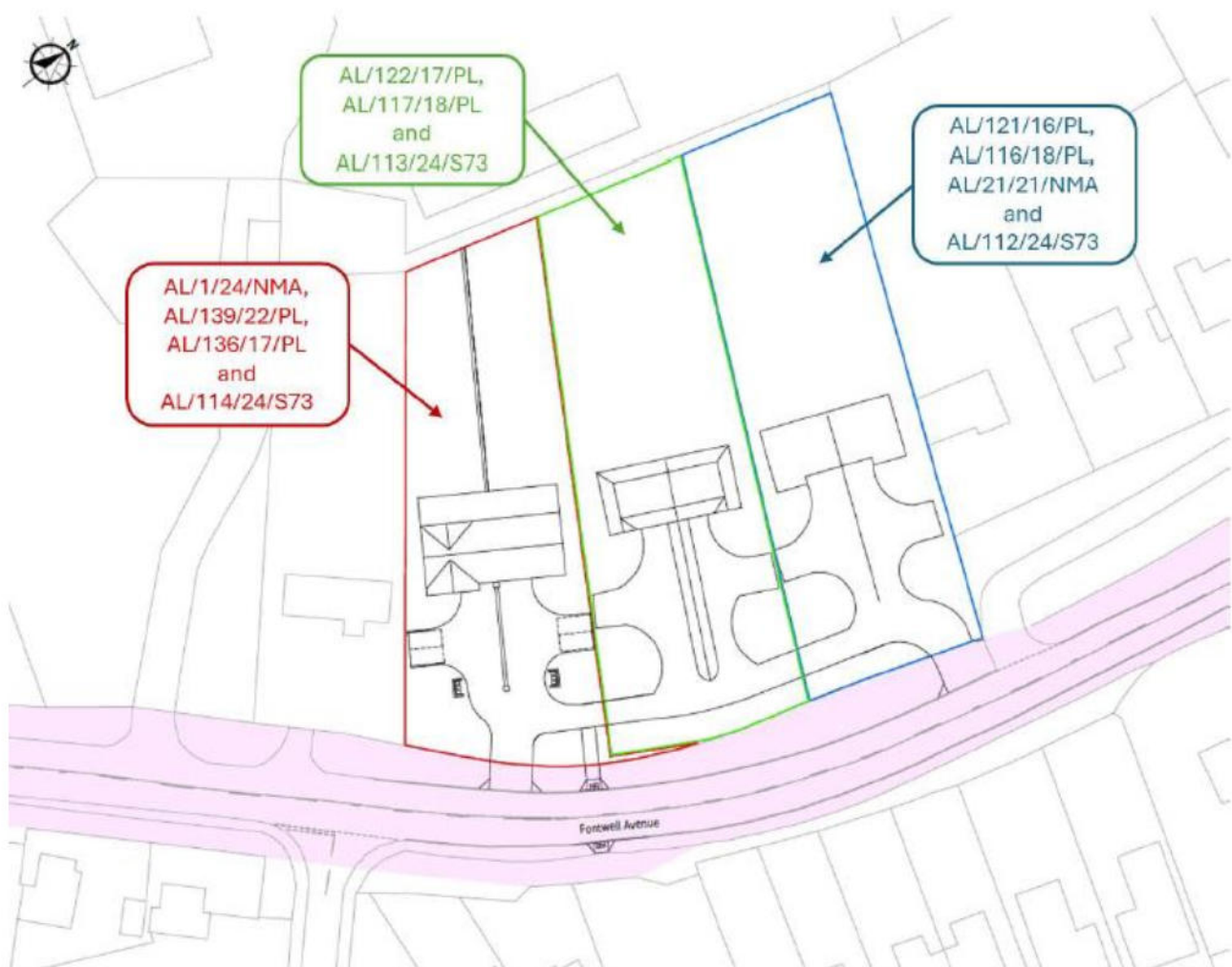
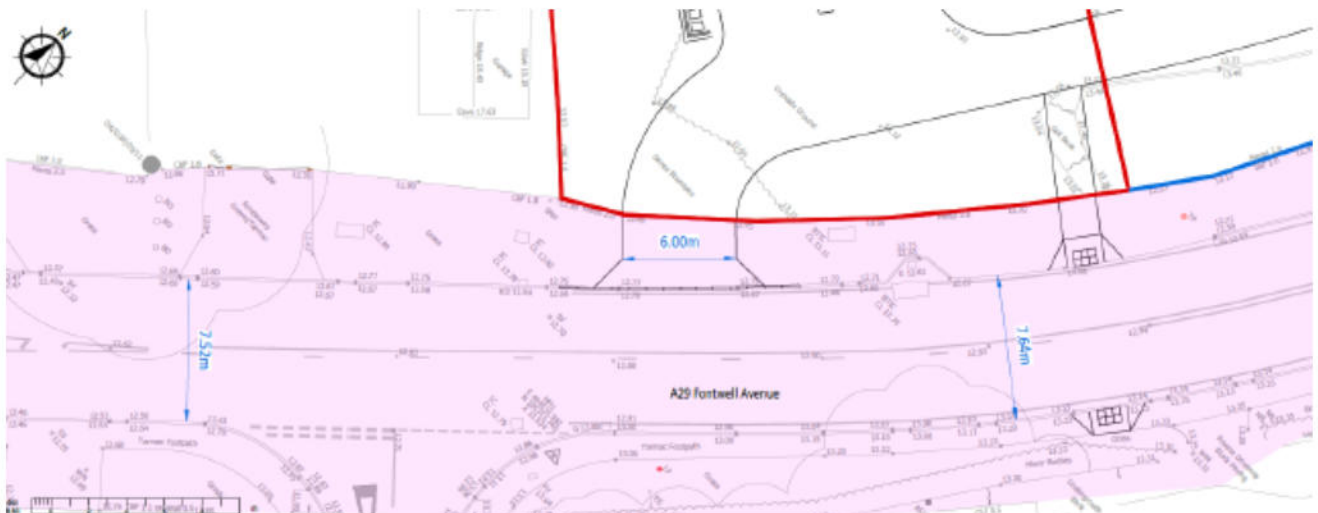


Fig 8. Site Location Plan (Courtesy of Highways Statement)

- 4.5 The proposed access would “replicate the geometries of the approved access (6.0m wide direct access, with 1.5m wide chamfers). The access would be positioned c.8.5m to the south of the approved access location to avoid existing utilities...Pedestrian access would be unchanged, served from an uncontrolled crossing facility providing a link to the existing footway on the east side of the A29 Fontwell Avenue. An overview of the amended vehicle access arrangement is shown on **Drawing 2026-6677-1002...**”.



Site 9. Revised Vehicle Arrangements (Courtesy of Highways Statement)

- 4.6 With regard to visibility splays, “in line with the approved vehicle access, visibility requirements have been based on a design speed of 30mph. The visibility has been calculated in accordance with Manual for Streets calculation coefficients which requires visibility splays measuring 2.4m x 43.0m would be required in both directions...The required visibility splays are achievable in both the primary and secondary directions as demonstrated in **Drawing 2026-6677-1002**. It is worth noting that visibility splays in excess of this distance are achievable in both directions”.

5.0 PLANNING POLICY

(i) National Planning Policy Framework

- 5.1 The National Planning Policy Framework (NPPF) was originally published on 27th March 2012 and updated most recently on 12th December 2024. This sets out the Government's planning policies for England and how these are expected to be applied.
- 5.2 The NPPF confirms that planning law, as set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, requires that applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

(ii) National Planning Policy Guidance

- 5.3 The following extracts of the National Planning Policy Guidance are considered relevant to this s73 application:

Amending the conditions attached to a permission including seeking minor material amendments (application under Section 73 TCPA 1990)

How are the conditions attached to a planning permission amended?

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Paragraph: 013 Reference ID: 17a-013-20140306

Revision date: 06 03 2014

Are there any restrictions on what section 73 can be used for?

Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to change the description of the development.

Paragraph: 014 Reference ID: 17a-014-20140306

Revision date: 06 03 2014

What is the effect of a grant of permission under section 73?

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the [guidance for use of planning conditions](#).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 015 Reference ID: 17a-015-20140306

Revision date: 06 03 2014

Is there a definition of ‘minor material amendment’?

There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Paragraph: 017 Reference ID: 17a-017-20140306

Revision date: 06 03 2014

Can section 73 be used to make minor material amendments if there is no relevant condition in the permission listing approved plans?

Section 73 cannot be used to make minor material amendments if there is no relevant condition in the permission listing the originally approved plans.

It is possible to seek the addition of a condition listing plans using an application under section 96A of the Town and Country Planning Act 1990. This would then enable the use of a section 73 application to make minor material amendments.

Paragraph: 018 Reference ID: 17a-018-20140306

Revision date: 06 03 2014

Use of Planning Conditions

What are the main legal powers relating to use of conditions?

The main powers are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by sections 77, 79, 177, and Schedule 6 of the Act. In some areas there may also be powers under local Acts which complement or vary the powers in the 1990 Act.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

A pre-commencement condition must not be imposed on the grant of permission (other than a grant of outline planning permission within the meaning of Section 92 of the 1990 Act) without the written agreement of the applicant except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

Paragraph: 002 Reference ID: 21a-002-20190723

Revision date: 23 07 2019

What options are available to an applicant who does not wish to comply with a condition?

Following the decision of a local planning authority to grant planning permission subject to conditions, an applicant may consider taking the following actions if they do not wish to be subject to a condition.

These options remain available where the applicant has agreed a pre-commencement condition, or the pre-commencement condition has been imposed where the applicant has not responded within the time limit set out in a notice served under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018:

- Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.*
- Appeal to the Secretary of State against the decision of the local planning authority to grant planning permission subject to conditions. An appeal must be received within 12 weeks of the date on the decision notice for householder planning applications or 6 months for other planning decision types. A Planning Inspector on behalf of the Secretary of State will re-determine the whole application (not only the decision to impose the conditions) – so there is a risk that the Inspector could refuse planning permission and therefore reverse the decision of the local planning authority. Further guidance on appeals.*

Development that is taken forward in breach of conditions may be subject to local authority enforcement action. It is also possible to apply for retrospective planning permission under section 73A of the Town and Country Planning Act 1990. Further guidance on enforcement (including section 73A).

Paragraph: 031 Reference ID: 21a-031-20180615

Revision date: 15 06 2018

How are conditions treated under section 73?

The original planning permission will continue to exist whatever the outcome of the application under section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

Any pre-commencement conditions may not be imposed without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of section 92 of the 1990 Act or in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018). Further guidance on section 73.

Paragraph: 040 Reference ID: 21a-040-20190723

Revision date: 23 07 2019

(iii) Arun Local Plan 2011-2031

5.4 The following policies are considered relevant:

- **Policy DDM1:** Aspects of form and design quality
- **Policy QESP1:** Quality of the Environment
- **Policy SD SP2:** Built-up Area Boundary
- **Policy TSP1:** Transport and Development

(iv) Aldingbourne Neighbourhood Plan 2019-31

5.5 The Aldingbourne Neighbourhood Plan was formally adopted by Arun District Council in 2016 and was revised in 2020. The following policies are considered of relevance: -

- **Policy EH1:** Built up Area Boundary (BUAB)
- **Policy GA2:** Footpath and cycle path network.
- **Policy GA3:** Parking and new development

(v) Supplementary Policy Guidance

5.6 **SPD13** Arun District Design Guide (SPD), January 2021

(vi) New Local Plan

5.7 It is understood that work is continuing on a draft local plan, however this is at an early stage and therefore it cannot be afforded any weight in the planning decision making process.

6.0 PLANNING ASSESSMENT

- 6.1 Section 73 of the Town & Country Planning Act 1990 allows applications to be made for permission to develop without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original conditions should continue.
- 6.2 Section 73 cannot be applied if the period in the previous condition limiting the duration within which the development could begin has now expired without the development having begun.
- 6.3 In this case, the original planning permissions were approved by the Council via the following decision notices.
- **Planning ref: AL/112/24/S73/:** Variation of condition following the approval of AL/116/18/PL relating to revised access proposed from bellmouth to vehicle crossover. Approved Conditionally 18-12-2024. **(Plot 1)**
 - **Planning ref: AL/113/24/S73:** Variation of condition following the grant of AL/117/18/PL relating to condition 6 - amendments to the access arrangements. Approved Conditionally 18-12-2024. **(Plot 2)**
 - **Planning ref: AL/114/24/S73/:** Variation of condition following the grant of AL139/22/PL relating to condition 10 – amendments to access arrangement. Approved Conditionally 18-12-2024. **(Plot 3)**
- 6.4 The development of the houses on all 3 plots is being undertaken by self-builders – as set out below:
- **Plot 1 – ‘Laurel Rise’ and ‘Grey Gables’:** Lee Duggin and Anna-Marie Ferrier are the owners of Laurel Rise and Clifford and Sheila Duggin are the owners of Grey Gables. Anna-Marie Ferrier is the applicant on behalf of the owners. The addresses are Laurel Rise and Grey Gables respectively of Fontwell Avenue, Eastergate, PO20 3RU.

- **Plot 2** – ‘Pip Pen’ and house constructed but not yet completed. Craig Norgate is the owner of Pip Pen and Graham & Anne Norgate are the owners of the other semi-detached house yet to be completed. Graham Norgate is the applicant on behalf of the owners. Craig Norgate’s address is Pip and Pen of Fontwell Avenue, Eastergate, PO20 3RU. Graham & Anne Norgate’s address is Four Views, Turnpike Road, Amberley BN18 9LX.
- **Plot 3** - Houses not yet constructed - As per previous S73, Ella Parker is the owner. David Parker is the applicant. Address for both: 31 Furze Road, High Salvington BN13 3BP.

- 6.5 The related planning conditions require completion of an access road to the properties at Fontwell Avenue, as well as completion of the northern access crossover and installation of a southern entrance crossover on to the A29 with pedestrian path. This was a variation of a previous planning consent which required 2 No. pedestrian paths and bellmouth accesses to the south and north. This variation was sought by the owner of the third housing plot and was made by Bright Plan (Transport Planners). The Civil Engineers, BP Civils, were then instructed to make the section 278 application on our client’s behalf. BP Civils required a topographical survey to inform their drawings for the application to WSCC. At this time, the drawings revealed that there would be a BT chamber and gully that would have to be re-located from the planned southern entrance.
- 6.6 Following consultation with a number of offsite highways works contractors in relation to the issue, it was determined that the cost of relocating the existing utilities infrastructure would be both substantial and unviable. As such, the only option deemed feasible, is the relocation of the southern entrance to the access road, further south.



- 293 UPPER SHOREHAM ROAD, SHOREHAM-BY-SEA, WEST SUSSEX, BN43 5QA



7. CONCLUSIONS

- 7.1 In submitting these applications, regard has been given to the relevant Local and Neighbourhood Plans, in addition to the guidance contained in the NPPF and NPPG.
- 7.2 Paragraph 57 of the revised NPPF states that *“planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects”*.
- 7.3 It is considered that the proposed revisions to conditions 1, 2 & 9 listed on the decision notice for AL/112/24/S73; Conditions 1, 2 & 6 listed on the decision notice for AL/113/24/S73; and Conditions 2, 10 & 13 listed on the decision notice for AL/114/24/S73, relating to the approved drawings and Access Arrangements/ Visibility Splays attached to the existing consents for redeveloping the site, would be entirely compliant with the NPPF’s guidance in this respect.
- 7.4 The proposed alterations to the approved plans constitute ‘minor material amendments’ in the context of the development as a whole. **Importantly the quantum of development remains unchanged, and the application description also is unaltered by these revisions.** The scale and/or nature of the proposed amendments result in a development which is not substantially different from the one which has been approved. The application therefore accords with the guidance set out in the NPPG. As the proposal meets all the necessary policy requirements, and will cause no harm to any matter of identified acknowledged importance. In our opinion the overwhelming weight of evidence supports the granting of permission.

June 2026