

REPORT UPDATE

Application No: AL/46/26/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 which 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.

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/46/26/S73

LOCATION: Plot 3 (not yet constructed)
Fontwell Avenue
Eastergate
PO20 3RU

PROPOSAL: Variation of condition following the grant of AL/114/24/S73 relating to approved plans, vehicular access and pedestrian crossing and visibility splays.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Variation of condition 2, 10 and 13 of AL/114/24/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 affected by the development.
SITE CHARACTERISTICS	Vacant grassed parcel of land with foundations of development.
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 scrapyard to the rear of the site, beyond the line of conifers.

RELEVANT SITE HISTORY

AL/114/24/S73	Variation of condition following the grant of AL/139/22/PL relating to condition 10 - amendments to access arrangements.	ApproveConditionally 18-12-24
AL/136/17/PL	Erection of pair of semi detached houses & new access onto A29 - This is a Departure from the Development Plan	ApproveConditionally 03-10-18
AL/1/24/NMA	Non-material amendment following the grant of AL/139/22/PL relating to revised drawings and materials on the front elevation.	Approve 02-02-24
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.	ApproveConditionally 20-10-23

REPRESENTATIONS

Aldingbourne Parish Council - no comment received.

No representations were 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 states that splays in excess of 43m can be achieved. Require clarification of the previous 59m splay. Whilst it is acknowledged that 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](#) Built up area boundary

[EH1](#)

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

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD13 Arun District Design Guide (SPD) January 2021

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 the development plan in that the proposal does not result in any harm to highway safety.

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 have not yet been commenced but benefit from an extant planning permission (AL/139/22/PL) which expires on 20 October 2026. The access arrangements were varied and approved under AL/114/24/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 scheme afresh since the original permission is still extant. 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 existing 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 two access points, positioned to 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 existing 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 the 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 therefore 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 that for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect.

It is not necessary to reimpose any conditions requiring the submission of details that have already been discharged. However, 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 10 has been amended to prevent occupation to plot 3 until the access to the south has been constructed in accordance with approved plans. Completion of the northern access is secured under Plot 1 and 2.

As per the development description section above, Conditions 2, 10 and 13 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 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 before the expiration of 3 years from the date of the permission granted by AL/139/12/PL (20 October 2023).

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 - 2024-6677-L001 Rev C
 Surface Water Drainage Construction Details Dwg No 2112/C5.
 Surface Water Drainage Dwg No 2112/D1.4.*
 Surface Water Drainage Dwg No 2112/D1.2.*
 Proposed Floor Plans Dwg No CHI/20080/BR 1 of 4.
 Site Plan and Proposed Elevations Dwg No CHI/24001/P.*
 Proposed Sections Dwg No CHI/20080/BR 3 of 4.
 Proposed Site Plan for Drainage Dwg No CHI/20080/BR 4 of 4.*
 Preliminary Ecological Appraisal by Arbtech.
 Preliminary Ecological Appraisal.
 Environmental Noise Assessment Rev 0 dated 21.9.22
 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

* Insofar as they relate to drainage and site layout only. These drawings also show the previously approved access arrangements and a further application may be required to amend these drawings to suit the amended access scheme.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in

accordance with Arun Local Plan policies D SP1 and T SP1.

- 3 No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.

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.

- 4 Prior to occupation of any of the approved dwellings, the applicant or developer shall provide the dwellings with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

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.

- 5 All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Arbtech, November 2022) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species in accordance with Arun Local Plan policy ENV DM5, and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 6 A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) Detailed designs to achieve stated objectives;
- c) Locations of proposed enhancement measures by appropriate maps and plans;
- d) Persons responsible for implementing the enhancement measures; and
- e) Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

Reason: To enhance protected and Priority species & habitats in accordance with Arun Local Plan policy ENV DM5, and to allow the Local Planning Authority to discharge its duties under

S40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 7 A lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In accordance with Arun Local Plan policies ENV SP1 & ENV DM5 and to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 8 The development shall include energy efficiency measures that reflect the current standards applicable at the time of submission and decentralised, renewable or low carbon energy supply systems. Any physical features required as part of the works must be installed prior to the occupation of each dwelling and shall be thereafter permanently maintained in good working condition.

Reason: In order to secure a reduction in the use of energy at the site in accordance with the NPPF and Arun Local Plan policy ECC SP2.

- 9 No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plans. These spaces 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 policy T SP1.

- 10 No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the following approved drawings:

"Access Overview and Visibility Splays " - 2026-6677-1002 Rev A.

Reason: In the interests of road safety in accordance with Arun Local Plan policy T SP1.

- 11 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and Arun Local Plan policy T SP1.

- 12 The development shall be constructed in accordance with the Proposed Site Set-Up Plan (received 28/11/23) which was approved by the Local Planning Authority on 22 December 2023 through application ref AL/167/23/DOC. The approved Plan shall be implemented and adhered to throughout the entire construction period.

Reason: To avoid undue congestion of the site and consequent obstruction to access in accordance with Arun Local Plan policy T SP1.

- 13 No part of the development shall be first occupied until the required visibility splays have been provided at the proposed site vehicular access onto the A29 Fontwell Avenue in accordance with the approved planning drawings "Access Overview and Visibility Splays" 1002 Rev A. Once provided, the 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.

Reason: To secure satisfactory standards of highway safety in accordance with Arun Local Plan policies D DM1 and T SP1 and the NPPF.

- 14 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.

Reason: To protect the amenity of local residents in accordance with Arun Local Plan policy QE DM4.

- 15 No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no noisy work on Sunday or Bank/Public Holidays.

Reason: To protect the amenity of local residents in accordance with Arun Local Plan policy QE SP1.

- 16 Glazing and vents for habitable rooms shall achieve the acoustic performance criteria detailed in table 4.1. of the 'Environmental Noise Assessment | Land at Fontwell Avenue, PO20 3RU' (dated 21/09/2022) .

Reason: To protect the amenity of local residents in accordance with Arun Local Plan policy QE SP1.

- 17 No development beyond that shown in the approved plans, or new tree planting should be located within 3 metres 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: To ensure that the proposed development does not result in any damage to the existing foul sewer in accordance with Arun Local Plan policies W SP1 and W DM1.

- 18 Should any other sewer be found during construction works then all development activities within 5m of the external edge of the sewer shall cease and they shall not recommence until full details of the proposed measures to be undertaken to protect the existing public sewer have been submitted to and approved in writing by the local planning authority (in conjunction with Southern Water) and then implemented in accordance with the agreed details.

Reason: To ensure that the proposed development does not result in any damage to any other existing foul sewers in accordance with Arun Local Plan policies W SP1 and W DM1 and

the NPPF.

- 19 INFORMATIVE: To prevent impacts to the amenities of future occupiers of the proposed dwelling and occupiers of neighbouring dwellings, the development should be carried out in accordance with the 'Arun District Council Construction Code of Practice: For small developments in Arun', available from : <https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n12193.pdf&ver=12201>
- 20 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.
- 21 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.
- 22 INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read the New Connections Services Charging Arrangements documents which are available to read on the Southern Water website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.