

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

REF NO: EP/120/25/S73

LOCATION: Fleurs Et Neige
23 Michel Grove
East Preston
BN16 2SX

PROPOSAL: Application under section 73 of the Town and Country Planning Act 1990 for the variation of condition 2 imposed under EP/75/25/HH relating to approved plans.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

EP/75/25/HH	Erection of a single-storey garden outbuilding comprising a multi-use garden studio with integrated store.	ApproveConditionally 30-10-25
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Relevant planning history noted.

REPRESENTATIONS

East Preston Parish Council - No objection.

1 comment received stating the following concerns:

- The size and scale of the garden storage shed.
- The relocation of the existing smaller garden storage potentially further impeding drainage.
- The negative impact on drainage to the surrounding area and neighbouring gardens.
- The visual harm when existing shrubs and trees are pruned and/or when not in leaf.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

DRAINAGE ENGINEERS - No response received.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Within an area with potentially high ground water.

Built Up Boundary Area.

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems

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 proposal would not result in harm to visual or neighbouring amenity.

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.

CONCLUSIONS

PRINCIPLE

EP/75/25/HH was approved on 30 October 2025 and granted planning permission for a single storey garden outbuilding comprising a multi-use garden studio with integrated store.

This application seeks to amend the 'Proposed Site Plan P1003' and 'Proposed Site Plan - Dimensions P1003-A' condition on the original permission, in order to re-site the single-storey garden outbuilding approximately 3m south towards the host dwelling away from the existing culverted pipe which is a contravention of Land Drainage Byelaws (2004) covered by Arun District Council.

DESIGN AND VISUAL AMENITY

The proposed single storey garden outbuilding (garden studio and garden store) would maintain the same footprint, height, and design as the approved outbuilding under application reference EP/75/25/HH. Whilst the garden outbuilding would be re-sited 3m closer to the host dwelling, it would not result in any additional impact on visual amenity and would not result in harm to the character or appearance of the host dwelling, the street scene, or the wider locality. The proposal is in accordance with Arun Local Plan policy D DM1 and the ADG.

NEIGHBOURING RESIDENTIAL AMENITY

The proposed single storey garden outbuilding (garden studio and garden store) would be set 5.6m from the northern (rear) boundary; an increase in distance of 5.1m. The separation distances from the western (side) boundary would be 13m and from the eastern (side) boundary would be 0.4m. Given that separation distances are comparable to those approved under the previous application (EP/75/25/HH) and given the presence of neighbouring large gardens, the proposal would not result in any additional overshadowing or overbearing impacts, or loss of amenity to neighbouring properties.

The proposed re-siting of the garden outbuilding would maintain separation distances from the neighbouring properties and not alter the outlook previously approved under application (EP/75/25/HH). Therefore, the proposal would not result in harm to neighbouring residential amenity by way of overbearing, overshadowing, or overlooking impacts, and is in accordance with Arun Local Plan policy D DM1 and the ADG.

DRAINAGE ENGINEERS

The Drainage Engineers were consulted but no response was received.

The re-siting of the proposal is in response to the Drainage Engineers comments in EP/75/25/HH regarding the proposed multi-use garden studio and its location over an existing culverted pipe. This contravened Arun District Council's (ADC) Land Drainage Byelaws (2004) which requires a minimum 3m distance between the structure and the edge of the culverted pipe.

The re-siting of the proposal would be approximately 3m south towards the host dwelling away from the existing culverted pipe.

Surface water disposal from the roof, would be dealt with via Building Regulations. If connection to the watercourse is required, as means of disposal, then consent would be required from ADC under the Land Drainage Byelaw, and potentially under the Land Drainage Act (1991) , which would be dealt with by West Sussex County Council, as the Lead Local Flood Authority.

The proposed development would be acceptable in accordance with Arun Local Plan policies W DM1

and W DM3, and the NPFF.

SUMMARY

The application seeks to re-site the single storey garden outbuilding approximately 3m south towards the host dwelling away from the existing culverted pipe. The re-siting of the proposed outbuilding would not result in any additional harm to visual or neighbouring amenity and is in accordance with relevant development plan policies.

OTHER MATTERS

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.

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

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 not CIL liable.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun on or before the expiration of 3 years from the date of the original permission granted under application reference EP/72/25/HH approved on the 30 October 2025.

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:

- Proposed Site Plan P1003.
- Proposed Site Plan - Dimensions P1003-A.
- Proposed Floor Plans PI004.
- Proposed Floor Layout with Dimensions PI005.
- Proposed Elevations PI006.

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

- 3 The proposal garden outbuilding hereby permitted shall be occupied solely for purposes ancillary to the occupation and enjoyment of Fleurs Et Neige, 23 Michel Grove as a garden outbuilding and shall not be used as a separate unit of accommodation.

Reason: To accord with Arun Local Plan policy D DM1 and to prevent the establishment of an additional independent unit of accommodation which would give rise to an over-intensive use of the site and lead to an unsatisfactory relationship between independent dwellings.

- 4 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission has been granted under a Section 73 application within the meaning of the Town and Country Planning Act 1990 (as amended) and relates to a planning permission for development which is a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

- 5 **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.