Recommendation Report for

REF NO: FG/73/23/S73

LOCATION: 38A Ferring Lane
Ferring
BN12 6QT

PROPOSAL: Variation of condition following FG/158/22/PL relating to Condition 2 - approved plans.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. This application seeks the variation of a condition applied to approved permission FG/158/22/PL relating to Condition 2 - approved plans. The proposal seeks to alter the location of the structure as approved and enforced under the plans condition of FG/158/22/PL (Condition 2).
TOPOGRAPHY	Predominantly flat.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

FG/158/22/PL	Erection of a log cabin to be used as a Grooming Parlour. This site is in CIL Zone 4 (Zero Rated) as other development.	ApproveConditionally 19-12-22

Variation of plans condition imposed on FG/158/22/PL.

REPRESENTATIONS

Ferring Parish Council - No Response.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

None.

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

None.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
QEDM1	QE DM1 Noise Pollution
TSP1	T SP1 Transport and Development

Ferring Neighbourhood Plan 2014 Policy 1A A Spatial Plan for the Parish

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 73 provides for the determination of applications to develop land without compliance with conditions previously attached. It only provides for the variation of conditions attached to an existing permission; it does not provide a means of varying the development permitted (other than through the imposition of new/varied conditions). Given the previous permission, the principle of the development is considered to be acceptable.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE

FG/158/22/PL remains implementable, subject to any related works being started on or before 19/12/2025. The application form states that works commenced on 14/11/2022 and completed 14/05/2023. The policies of the Arun Local Plan remain in force now as at the time of the original decision. There have also been no amendments to the Neighbourhood Plan and its policies implemented at the time. It is not necessary to reconsider the whole application scheme afresh since the original permission is still extant. The only aspect to consider under this s73 application is whether the movement of the cabin from its original location in FG/158/22/PL has a material impact on the issues previously assessed, and is unduly more harmful than previously approved.

SUMMARY

The grooming parlour will be orientated to match the building line of the garage, and therefore will be moved away from the existing boundary fence to the west. This will change the distances from this fence from 1m, to 1.75m from the northern corner, and 2.7m from the southern corner. The structure will also be moved 0.4m south of its original distance from the garage, retaining 2.8m from the southern boundary. The movement of the parlour from its previously approved positioning will locate it further away from the nearest neighbour, and therefore will reduce the potential impact the structure would have on their amenity. There will be no change to the impact of the structure on the visual appearance and character of both the property and the locality, and no changes to the impacts on noise, parking or waste, as previously considered. As such, the movement is acceptable, and will not result in a material change to the proposal previously approved.

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. The application form states that the works of the original permission have commenced as of 14/11/2022 and were completed 14/05/2023. Therefore a time condition will not be added.

Two previous conditions on the original application FG/158/22/PL have been discharged and are no longer relevant to this s73 application. However, in accordance with government advice some conditions have been re-imposed to this permission.

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.

RECOMMENDATION

APPROVE CONDITIONALLY

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

- Location Plan
- Site Plan
- Proposed Floor Plan, Elevations and Section, received 21/10/22 and 26/10/22, and approved under FG/158/22/PL.

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

2 The use hereby permitted shall only open to customers within the following times: 09.00am-17:00pm Monday to Saturday and not at all on Sundays or public holidays.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.

3 There shall be no more than one dog/dogs from one household at the property which has a booking for grooming sessions at any one time.

Reason: To maintain control of dogs on the premises and to ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties in accordance with Arun Local Plan policies QE SP1 and QE DM1.

4 There shall be no more than one employee associated with the dog grooming parlour at any one time without the prior written consent of the Local Planning Authority. The employee shall be a resident of 38A Ferring Lane.

Reason: To safeguard the amenities of the neighbouring properties in accordance with D DM1 of the Arun Local Plan.

5 The plant and equipment and provision of waste storage and recycling for the development shall be as per the planning condition details submitted under application reference FG/66/23/DOC and approved in writing by the local planning authority on 28 July 2023. The approved plant and equipment and waste/recycling provision shall be maintained for the duration of the use.

Reason: To ensure compliance with the original concerns of FG/158/22/PL in accordance with the policies of the Arun Local Plan.

6 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. 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 National Planning Policy Framework.