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

REF NO: LU/33/26/S73

LOCATION: Land to the East of Flint Acre
Toddington Lane
Littlehampton
BN17 7PN

PROPOSAL: Variation of condition 2 imposed under LU/139/24/PL relating to approved plans and condition 3 relating to rewording of condition.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks the variation of the plans condition (Condition 2) attached to LU/139/24/PL which would result in a dwelling of a different design and orientation.
TREES	There are a row of mature trees Cypress trees that run along the southern and eastern site boundaries along Toddington Lane. No trees of relevance are subject to a Tree Preservation Order or part of a Conservation Area.
BOUNDARY TREATMENT	Tall wooden boundary fence to the North of the site to the north, west, and south of the proposal site that neighbour existing or approved residential plots. The eastern side of the site is predominantly occupied by a substantial row of trees with fencing in-between.
SITE CHARACTERISTICS	The site is a grassland with pond that forms part of the curtilage of Flint Acre with trees surrounding the south and east of the site.
CHARACTER OF LOCALITY	The area is predominantly residential with a commercial site to the north. There is a variety of different residential dwelling designs with a mix of scales though a rural/semi-rural character prevails. There is a railway approx. 50m to the South and 'Old Byre House' (a nearby Grade 2 Listed Building) to the west.

RELEVANT SITE HISTORY

LU/139/24/PL	Erection of 1 No. self build dwelling together with associated access, car parking, landscaping, new pond and filling in existing pond. This application affects the setting of listed buildings, is in CIL Zone 2 and is CIL Liable as a new dwelling, and may affect a Public Right of Way.	ApproveConditionally 19-09-24

LU/176/23/PL - This was a recently approved application for a single dwelling within the curtilage of 'Flint Acre' immediately to the south of this proposal.

REPRESENTATIONS

Littlehampton Town Council - No objection.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Conservation Officer - No objection. The proposal will not cause further harm to the significance of the relevant heritage assets or their setting.

Environmental Health - No objection. Has reviewed the amended report by Architekton Architects dated March 2026. The report has clarified the previous concerns regarding noise and so has no further objections.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built-up Area Boundary.
Partially at Low Risk of Surface Water Flooding.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DSP1	D SP1 Design
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
ENVSP1	ENV SP1 Natural Environment
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
HERSP1	HER SP1 The Historic Environment
HERDM1	HER DM1 Listed Buildings
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
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 relevant Development Plan policies in that it remains in character with the wider area and provides a dwelling of sufficient amenity, whilst preserving neighbouring residential amenity. It also preserves the significance of nearby Heritage Assets and would not prejudice any protected species.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:-

"In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

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

The proposal would contribute, albeit to a limited degree, to the housing stock in the District. It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and legislative background.

BIODIVERSITY NET GAIN

Check if liable as only applies if original application was determined subject to BNG .

This application is liable for Biodiversity Net Gain (BNG) and the following is a summary of the key points:
(List whether on or off site, %net gain, habitat types)

CONSIDERATION OF ALTERNATIVE SITES

ONLY REQUIRED FOR TELs)
The applications report received with this application explains that alternative sites have been considered. These include the following:
...(Enter site address and reason for discounting)

CONCLUSIONS

SECTION 73
As this is a Section 73 application, any new permission granted under this application sits alongside the original permission (LU/139/24/PL). The NPPG states that for the purpose of clarity, conditions imposed on the original/earlier permissions that continue to have an effect should be re-imposed (Paragraph: 040 Reference ID: 21a-040-20190723). In accordance with this advice, conditions from LU/139/24/PL have been re-imposed on this permission where necessary. Those which need to be amended to reflect the updated details submitted in support of this application have been amended accordingly.

CHARACTER & DESIGN
This revised proposal seeks to introduce a dwelling of a more typical form and layout relative to the previous, more bespoke design. The current design includes a front elevation that faces east, towards the access, is over two-storeys with integrated side garage, gable-ended porch, and is comprised of 'Vandersanden Antique Flemish bricks', Dove Grey Cedral Cladding, Marley Roof Tiles in Brindle mix, and Anthracite Aluminium Framed fenestrations. The materials are of a modern nature, but not such that would be at odds with the mixed materiality of the wider area. Additionally, the site is adjacent to a large upcoming residential estate in which modern materials would be prevalent. The dwelling would also have limited visibility within the wider area due to being set-back within the site and the surrounding boundary treatment and fencing. The proposal would not prejudice the prevailing character of the area and is in accordance with ALP policies D SP1 and D DM1.

RESIDENTIAL AMENITY AND NOISE
The proposed dwelling will retain sufficient separation distances from the neighbouring residential plots and dwellings to ensure there would be no unacceptable adverse impacts by way of overbearing, overshadowing, or overlooking in accordance with the recommended minimum distances set out within Section G.03 of the Arun Design Guide (ADG). The amenity space proposed to serve the dwelling is extensive and provides a high standard of amenity, well above the requirements of Section H.04 of the ADG.

The previous application (LU/139/24/PL) was approved subject to condition 3 requiring the submission of a scheme to protect the dwelling from the noise generated within the commercial site to the north. This submission has been supported by such a scheme, and it has been reviewed by Environmental Health, who have raised no objections. As such, the details submitted in support of this application have been secured by way of condition, and the amenity of future occupiers will be sufficiently protected from the nearby noise-generating use. With respect to residential amenity, the proposal is in accordance with ALP

policies D DM1 and QE SP1.

INTERNAL SPACE STANDARDS
The proposal is for a 4-bedroom, two-storey dwelling. Whilst the number of occupants/bed spaces is unclear, the gross internal floor space far exceeds the minimum set out in the Nationally Described Space Standards (NDSS) for a property of this type.

Bedrooms 1 and 2 fall below the minimum internal area to qualify as a double room by 0.5sqm, a marginal shortfall but no bed is shown in these rooms, and it can be assumed they are single occupancy only. In either case, such a minor shortfall alongside the other high-standard amenity qualities of the proposal would not be harmful overall. Bedrooms 3 and 4 (master) both have sufficient internal areas, and all bedrooms have sufficient widths. The proposal is in accordance with ALP policy D DM2.

ACCESS & PARKING
There is no proposed amendment to the access previously approved.

The dwelling would have 4 No. bedrooms and is in Parking Zone 2. As such, the dwelling would be expected to have off-street parking provision for 3 cars and 2 cycle storage spaces per the Arun Parking Standards SPD. The parking provision on-site is more than sufficient and cycle storage is shown to the rear, which appears capable of accommodating two bicycles.

The Arun Parking Standards SPD and ALP policy T SP1 require new dwellings to provide electric vehicle charging points if they feature driveway or garage. A condition has been attached to this application to secure an EV charging point. The proposal, subject to relevant conditions, is in accordance with ALP policy T SP1.

HERITAGE
The applicant has not provided an updated dedicated Heritage Statement but has considered the heritage impacts within the supporting statement.

The Grade II Listed Buildings of relevance to the proposal (in reasonable proximity to the site) are The Old Farmhouse & Holly Cottage, and Dovecote at Toddington Farm. The Old Farmhouse & Holly Cottage is identified as being C16 or early C17 and it is of architectural and historic significance. Dovecote is dated 1699 and is a two-storey square building with flint elevations and a tiled roof. It is attached to, and forms part of the property known as Old Byrne House. Dovecote is also of architectural and historic significance.

The site is in the vicinity of a third Grade II Listed Building, Toddington House. This is a C16 or early C17 timber framed house now faced with brick and flints. There are attractive barns in the grounds which have been converted into other uses. It is of architectural and historic significance. This building, however, remains further afield than the other two and therefore, impacts on its significance are limited.

The extensive and emerging development within the vicinity has had some adverse impact on the setting of these Listed Buildings. Similar to the dwelling previously approved on this site, the erection of the dwelling now proposed would not give rise to any further harm to the setting of any of the Listed Buildings within the locality, particularly considering the recently approved dwelling to the south of this site and surrounding planting.

The proposal would not cause any harm to the Heritage Assets or their setting and is therefore, in accordance with ALP policies HER SP1 and HER DM1 and the NPPF.

ECOLOGY & LANDSCAPING

The proposal is exempt from the requirements of statutory Biodiversity Net Gain under the Self-Build exemption, which has been secured by way of a S.106 legal agreement. The existing site features a large manmade pond and a significant amount of planting including mature and prominent trees along the boundary to Toddington Lane.

The previously submitted ecological appraisal and assessment identified a lack of priority and protected species within the site, alongside several biodiversity enhancement measures, including a replacement wildlife pond (albeit smaller), to contribute to achieving a biodiversity net gain on site. These documents, and the submitted Arboricultural Report were reviewed by the Local Planning Authority's ecological advisor, who identified that the measures were acceptable, but requested that ecological details of the pond and its dimensions were secured by way of conditions.

The current proposal does not materially alter the approved ecological matters of the proposal. As such, the relevant conditions attached previously have been re-imposed. The submission has been supported by an updated Arboricultural Assessment that has not altered the proposed works to trees on site but has updated the tree protection measures required during the construction phase. The updates to the protection measures are isolated to the north of the site, seeking to protect Tree Group G1. These trees are understood to be on neighbouring land, and at the time of the visit, they had been removed. It is understood they were removed by the neighbouring landowner(s)/occupier(s). The updated Arboricultural details are to be secured by way of condition, notwithstanding the Tree Protection Plan which is now superfluous in the absence of G1.

Suitable replacement planting for the 7 No. Monterey Cypress trees to be removed has been conditioned again for consistency with LU/139/24/PL. Subject to securing the replacement planting, enhancement, and mitigation measures by way of conditions, the proposed scheme remains compliant with ALP policies ENV SP1, ENV DM4, ENV DM5, and QE SP1.

DRAINAGE AND FLOOD RISK
The proposal remains of a scale and nature such that the surface water drainage design falls below the Local Planning Authority's consultation threshold, and the relevant surface water drainage scheme will be addressed at the Building Regulations stage to ensure flood risk is not increased elsewhere. The proposal site is in Flood Zone 1, and the dwelling is not located within any surface water flood risk extents. Matters of flood risk remain unchanged and the development is acceptable in this respect. The proposal is in accordance with ALP policies W DM2 and W DM3, and the NPPF.

SUMMARY
The proposal is in accordance with relevant Development Plan policies and as such, it is recommended for approval subject to S.106 agreement and the following conditions and informatives.

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.

SECTION 106 DETAILS

The proposal is exempt from Statutory Biodiversity Net Gain under the 'Self-Build' Exemption. It has become apparent that a s106 legal agreement is required to secure this exemption following appeal decision APP/C3810/W/25/3363266. As such, a Section 106 agreement to this effect has been completed for this Section 73 application.

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

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of the original permission (19.9.24).

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 & statement:

- Location Plan 25011 AA V1 G DR A001A.
- Proposed Site Plan 25011 AA V1 G DR A0005.
- Variation of Condition Revised Layout 25011 AA V1 G DR A0004.
- Tree Survey, Arboricultural Impact Assessment & Tree Protection Plan prepared by 'The Mayhew Consultancy Ltd' (Dated: February 2026) (Notwithstanding the TPB1 shown in Appendix B).

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D SP1, D DM1 and ENV DM4.

3 The applicant shall, during the next planting season following the felling of the 7 No. Monterey Cypress trees to the northern aspect of G3, plant 7 No. replacement trees of a species, maturity, and positions to be agreed and approved in writing by the Local Planning Authority.

Reason: To retain trees in the interests of the environment of the locality in accordance with policies D DM1 & ENV DM4 of the Arun Local Plan.

4 Prior to any development above damp-proof course (DPC) level, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Assessment and Preliminary Bat Roost Assessment undertaken by ArbTech (Dated: 28/09/23), and ecological details and dimensions in plan format of the replacement pond hereby approved, shall be submitted to and approved in writing by the Local Planning Authority.

The enhancement measures shall be implemented in accordance with the approved details prior to first occupation of any part of the development and all features shall be retained in that manner thereafter.

Reason: To enhance protected and priority species and habitats in accordance with Arun Local Plan policies ENV SP1 and ENV DM5 and allow the Local Planning Authority to discharge its duties under the NPPF 2023 and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

5 The development hereby approved must be constructed in accordance with the mitigation measures outlined in Section 10.0. of the 'Acoustic Assessment & Noise Mitigation Statement Revision A' produced by Architekton Architects dated March 2026.

Reason: To ensure sufficient mitigation against existing noise-generating development and preserve the residential amenity of the occupiers of the development hereby approved in accordance with Arun Local Plan policy QE SP1.

6 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. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

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 QE SP1 and QE DM4.

7 Prior to occupation of the approved dwelling, the applicant or developer shall provide the dwelling with an electric vehicle charge point 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 charge point 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 point 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.

8 No part of the development shall be first occupied until the car parking has been constructed

in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with Arun Local Plan policy T SP1.

9 The approved 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 that are required as part of the works must be installed prior to the occupation of each dwelling/the building 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 national planning policy and Arun Local Plan policy ECC SP2.

10 INFORMATIVE: 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 relates to a development which consists of no more than 9 dwellings; is carried out on a site which has an area of no larger than 0.5 hectares; and consists exclusively of dwellings which are self build or custom housebuilding.

11 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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

12 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information, please contact the Environmental Health Team: pollution@arun.gov.uk, 01903 737555.

13 INFORMATIVE: On the basis that no fire hydrants have been proposed as part of this development, it is assumed that an alternative supply of water for firefighting is to be employed. This will need to conform with the details identified in Approved Document-B (AD-B) Volume 1: B5 section 14 and agreed with West Sussex Fire & Rescue Service.

14 INFORMATIVE: Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), or its agent (Arun District Council land.drainage@arun.gov.uk), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.

15 INFORMATIVE: This application is subject to a s106 agreement relating to Biodiversity Net Gain self build.