

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

REF NO: P/92/25/S73

LOCATION: Land North of Hook Lane
Pagham

PROPOSAL: Variation of condition 1 imposed under P/141/22/RES relating to plans condition (site plan, ASHP Compound, Mechanical Services Proposed Services Schematic Layout).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks permission for the variation of condition 1 (Plans) approved under P/141/22/RES, in order to amend the Proposed Site Plan, and add the ASHP Compound Plan, and Mechanical Services Proposed Services Schematic Layout to the approved plans.
SITE AREA	The site is approximately 0.55ha in size.
TOPOGRAPHY	The Site is generally flat with a 1:140 cross fall, towards the north-west of the site.
TREES	There are no trees within the application site. There is a large mature hedgerow which partly lines the southern boundary of the site.
CHARACTER OF LOCALITY	The locality of the site is semi-rural in character but on the edge of the existing built up area; however the site is currently subject to ongoing residential development as part of the Strategic Allocation for Pagham North. Development is present to the east of Pagham Road which is characterised predominantly by two storey dwellings and bungalows of various designs and styles which are set back from the highway. A cluster of two storey residential development is situated to the north-west of the application site. There are a number of listed buildings in proximity to the site.

RELEVANT SITE HISTORY

P/69/25/NMA	Non-material amendment following the grant of P/141/22/RES to Condition 1 (Plans) to amend: 1) Substation at the vehicular entrance road updated with the actual size required for a brick enclosure to house a 400 kV substation (brick enclosure details previously submitted and approved via application reference number P/86/24/DOC), Substation access required in front of the doors, 2mt from the footpath; 2) New Fire Hydrant location added; 3) Maintenance Store adjacent	Approve 03-07-25
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the car park omitted; 4) Footpaths and resident's patios rationalised; 5) External Refuse Store with sedum roof is proposed at the south gable wall; 6) Locations and number of roof dormers re-arranged due to internal layout alterations; 7) Locations and number of rooflights re-arranged due to internal layout alterations; 8) Minor changes to fenestration at first floor level due to buildability/ headroom issues.

P/86/24/DOC	Approval of details reserved by condition imposed under reference P/141/22/RES relating to condition 2 - substation details.	DOC Approved 16-09-24
P/54/24/DOC	Approval of details reserved by condition imposed under P/141/22/RES relating to condition 2-details of substation.	DOC Approved 09-08-24
P/101/24/NMA	Non material amendment following the grant of P/141/22/RES for 1- Substation at the vehicular entrance road updated with the actual size required for a brick enclosure to house a 400 kV substation; 2- New Fire Hydrant location added; 3-Maintenance Store adjacent the car park omitted; 4-Footpaths and resident's patios rationalised; 5-External Refuse Store with free standing sedum roof/canopy is proposed; 6-Air Source Heat Pump enclosure shown at the South gable. ASHP to be installed on a plinth, surrounding area to be retained as soft landscaping; 7-Locations and number of roof dormers re-arranged due to internal layout alterations; 8- Locations and number of rooflights re-arranged due to internal layout alterations; 9-Minor changes to fenestration at first floor level due to buildability/headroom issues; 10-The timber frame at the cycle store area is omitted. The new cycle store is designed to allow for 3 No of E-bike charging stands with two IP66 weatherproof sockets each for Electric cycles/scooters to accommodate total of 6 bicycles. The cycle store is to have a clear canopy. The proposed cycle store facility drawing is included in the submitted details; 11-The timber frame at the terrace above the main entrance is omitted. The glazed balustrade is proposed as Stainless Steel posts, glass infill panels, 1800mm high AFFL.	Refused 05-12-24
P/77/23/NMA	Non-material amendment following grant of	Approve

P/141/22/RES for amendment to revision numbers of drawings relating to conditions 1 and 3.

06-07-23

P/141/22/RES	Reserved matters application following P/30/19/OUT (providing details of layout, scale, appearance and landscaping) in relation to the provision of an 80-bed care home.	ApproveConditionally 10-03-23
P/30/19/OUT	Outline application with some matters reserved for the construction of up to 300 No. new homes, a care home of up to 80 beds, D1 uses of up to 4,000 sqm including a 2 form entry primary school, the formation of new means of access onto Hook Lane & Pagham Road, new pedestrian & cycle links, laying out of open space, new strategic landscaping, habitat creation, drainage features & associated ground works & infrastructure. This application may affect the setting of a listed building (resubmission following P/6/17/OUT).	App Cond with S106 02-09-19

Relevant planning history noted. Existing DOC and NMA applications have been considered, and the conditions reimposed on this permission reflect the changes and information approved under previous applications. This is namely in respect of P/77/23/NMA, P/86/24/DOC, and P/69/25/NMA.

REPRESENTATIONS

Pagham Parish Council - No objection:

- Provided the sound levels are within acceptable limits.

No further representations received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Noise levels and additional information in respect of the proposed plant / ASHP / VRF compound has been conditioned below. The acceptance of the compound on the plans does not permit the operation of the equipment until details have been provided and approved by the LPA.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ENVIRONMENTAL HEALTH:

No response.

COMMENTS ON CONSULTATION RESPONSES:

None.

DEVELOPMENT PLAN POLICIESArun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
HSP2	H SP2 Strategic Site Allocations
HWBSP1	HWB SP1 Health and Wellbeing
SDSP1A	SD SP1a Strategic Approach
TSP1	T SP1 Transport and Development
DSP1	D SP1 Design
ENVSP1	ENV SP1 Natural Environment
HDM2	H DM2 Independent living and care homes
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM4	HER DM4 Areas of Character
HERSP1	HER SP1 The Historic Environment
LANDM1	LAN DM1 Protection of landscape character
QESP1	QE SP1 Quality of the Environment

PLANNING POLICY GUIDANCE:

NPPDG	National Design Guide
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

PDS	Pagham Parish Council's Village Design Statement by PaghamPC
SPD8	Areas of Special Character
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 is considered to comply with relevant Development Plan policies in that the proposal would not result in adverse harm to visual, residential amenity nor the quality of the environment.

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

The permission for this site has been granted under P/30/19/OUT, and P/141/22/RES. The Outline permission was granted on 02/09/19, and Reserved Matters on 14/03/23. As per the Outline, the development shall have begun before the expiration of 2 years of the approval of the last reserved matters. In this case this would be 14/03/25. Confirmation has been provided under this application that the development was started on 25/06/24. As such, the permission is extant.

The policies of the Arun Local Plan remain in force now as at the time of the original decision. There have been no amendments to the Neighbourhood Plan and its policies implemented at the time. It is not necessary to reconsider the whole application afresh since the original permission is extant. The only aspect to consider under this s73 application is whether the addition of ASHP / VRF Compound has a material impact on the issues previously assessed and is unduly more harmful than approved.

The issues considered under P/141/22/RES have been reviewed, and it is identified the proposed amendment would only have any impact on the following: Design; Residential Amenity; Heritage; and Soft and Hard Landscaping.

DESIGN

This application seeks the addition of an Air Source Heat Pump (ASHP) compound, comprising both ASHPs and VRF (Variable Refrigerant Flow) units, with an ancillary enclosure.

This compound would include 4 No. ASHP units, 4 No. VRF units, a 900mm high gate, timber rail fencing (measuring 2.4m high), and hedging to the outer perimeter. It would be 5.35m deep and 9.51m wide, with a total area of 50.9sqm, and sited on a concrete base. Details of the exact ASHP / VRF units has not been provided, and as such this S73 only permits the siting, scale and appearance of the compound in line with the details provided. Details of the equipment to be associated with the compound (i.e. technical specifications of the ASHP / VRF units to be used) has been conditioned below. The justification for this is explained further under 'Residential Amenity'.

A Mechanical Services Schematic Layout has been provided with this application, showing how the compound will be adjoined to the care home, and service the building. This layout will include a series of underground wires which will connect from the compound into the ground floor plant store, and into the internal services via the second floor plant room. Further details of the internal layout of this second floor

plant room have been provided, showing the layout of equipment within this room. In respect of design, this layout is acceptable, and has no material impact on the design approved under P/141/22/RES.

The addition of the compound to the external layout of the site will have an impact on the design and appearance of the care home. This external area to the southwest of the building is designed to provide a large external garden space for residents. The approved layout included a circular seating area in the location of the proposed compound, with a footpath which spanned the perimeter of the garden, with planting along the site boundary. The proposed compound would result in the relocation of this seating area, and movement of the footpath. Rather than following the curve of the perimeter, this path will now skirt around the compound. This results in the loss of part of the green lawn space to the provided within the garden, but will have a minor impact on the layout design and its visual amenity.

The relocation of the circular seating area would result in this now being sited to the north of the compound, and closer to a set of benches positioned along the footpath. These benches were previously positioned to the east of the path, but are now relocated to the west. This has little impact on the design and layout of the garden, and is an acceptable amendment.

The compound will result in some visual intrusion on the garden, through the replacement of more open and soft landscaping, with 2.4m high timber fence. This fence is to be treated redwood, and will be feather edged. This treatment is acceptable. To help soften the compound, and reduce its intrusion on the garden and surrounding elevations, hedging is proposed to perimeter of the enclosure. This is acceptable mitigation to aid any impact to visual amenity, and will help to screen the compound from visibility within the garden space. As a result of existing and proposed boundary treatment, the ASHP compound will not be visible from the wider area, and will have no intrusion on surrounding street scenes.

It is concluded that the ASHP compound will have no adverse impact on the design and visual amenity of the site. It will result in some intrusion on the residents garden space, however this will not be unduly harmful, and is in accordance with ALP policy D DM1, the Arun Design Guide and the NPPF.

RESIDENTIAL AMENITY

This application seeks approval of the ASHP compound to the approved plans condition. Details of the ASHP and VRF units have not been provided within the application, and as such it has not been possible to assess the impact of the units themselves in respect of noise pollution or impact to the quality of environment for nearby occupiers.

In respect of the enclosure, its height, scale and location will have some impact on the amenity of future residents of the care home. This is as a result of its siting being outside habitable windows and patio areas, which will result in some overbearing and overshadowing impact. At its closest point, the compound will be approximately 8.7m from the nearest patio; and 12m from the window. Whilst this will be a more intrusive structure than the previous soft landscaping, the siting of this compound and its 2.4m height will not be unduly harmful to residential amenity. There is sufficient separation distance between the compound and the nearest neighbouring patio / window to allow for adequate outlook and sunlight. The compound is low in height, and as a result of being to the south west, will have little to no overshadowing impact on residential patios or windows. This is in accordance with ALP policy QE SP1, and will have minor impact on residential amenity and quality of environment.

The compound will be over 30m from the nearest neighbouring property to the south, along Hook Lane. As such it will have no overbearing or overshadowing impact on residential amenity for existing occupiers.

As no noise or specification details of the ASHPs / VRFs / external or internal plant equipment has been provided within this application, it is necessary to impose a condition seeking full details of the proposed equipment, and an acoustic assessment of its proposed operation. This is as a result of the equipment being noise generating, and posing a risk of noise pollution and disturbance. This could have negative implications for the quality of the environment for existing and future residents. Without these details, and approval by ADC Environmental Health, Officers cannot be confident that granting the submitted details without a further condition would not have adverse harm to the quality of the environment or residential amenity as a result of unacceptable noise pollution or disturbance. Therefore in the interests of ensuring this does not occur, a condition has been proposed requiring details to be submitted under a Discharge of Condition application, prior to first operation of any plant equipment or machinery.

Subject to compliance with the imposed condition, the addition of the ASHP compound to the south-west of the site will have no adverse harm to residential amenity, nor quality of the environment, in accordance with ALP policy QE SP1, and the NPPF.

HERITAGE

The impact of development on heritage assets was assessed at outline and reserved matters stage, where it was concluded that the proposed development would not result in any harm to the setting or significant of any designated or non-designated heritage assets.

It is concluded that the inclusion of the ASHP compound would not have any further impact on the setting or significance of any heritage assets, and is an acceptable addition within the grounds of the development.

HARD / SOFT LANDSCAPING

The inclusion of the ASHP compound would result in minor revisions to the hard and soft landscaping to the south-west corner of the site. This concerns primarily the relocation of an HL03 Resin Bound Gravel footpath, which leads from the deliveries area, and spans the perimeter of the site. It would also include the relocation of a circular seating area, small outbuilding, and bench area. There will also be some minor changes to the number and location of proposed trees.

The compound will include a hard 2.4m high timber boarded fence around its perimeter. This is to be screened by hedging, to soften the compound within its setting.

The alteration to the hard and soft landscaping is not significant, and would still result in the delivery of the landscaping approved under the Reserved Matters, just with the exception of an amended location. This is an acceptable alteration, and will not result in adverse harm to the proposal.

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. As the original works have been implemented, it is not necessary to reimpose a time condition on this permission. Consideration of more recent permissions and their conditions are pertinent, as so to not conflict other details which may have already been approved separately (P/77/23/NMA, P/86/24/DOC and P/69/25/NMA).

As such, other conditions have been re-imposed, but amended and/or updated.

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:

2324_005 Rev F Site Plan As Proposed
 2324_100 Rev A Ground Floor as Proposed
 2324_101 Rev A First Floor as Proposed
 2324_102 Rev A Second Floor as Proposed
 2324_104 Rev A Roof Plan as Proposed
 2324_200 Rev A Elevations 1 of 2
 2324_201 Rev A Elevations 2 of 2
 2324_21_510 Rev B Cycle Parking Facility
 2324_21_512 Rev B Refuse Store Details
 B24058-101A-Hook Lane - Landscape Proposals
 4670-VST-XX-ZZ-DR-A-0400-P06 - Proposed GA Sections
 4670-VST-XX-ZZ-DR-A-0401-P05 - Proposed GA Sections Reference Plan
 B22062-401C - Detailed Planting Plans Sheet 1 of 4
 B22062-402C - Detailed Planting Plans Sheet 2 of 4
 B22062-403C - Detailed Planting Plans Sheet 3 of 4
 B22062-404C - Detailed Planting Plans Sheet 4 of 4
 B22062-201C - External Works
 B22062-202C - Boundary Treatments

B22062-203C - External Lighting

B22062-204C - Garden Furniture

Tree Survey Report Arboricultural Impact Assessment and Method Statement July 2022 - Rev A - Drawing updated (By The Landscape Partnership) Dated 23.02.2023

2314_21_514 ASHP Compound Details

M-00-S(56)001 Rev B Mechanical Services Proposed Services Schematic Layout

Reason: For the avoidance of doubt and in the interests of proper planning.

- 2 The development shall be carried out strictly in accordance with Substation details 2324_21_513 (dated Aug 24), as approved under P/86/24/DOC.

Reason: In order to secure the design of the substation in line with policy D DM1.

- 3 The development shall provide external lighting strictly in accordance with the lighting shown on plan reference B22062-203B Rev C.

Reason: To control the residential amenities of the local environment in accordance with Policies D DM1 and QE DM2 of the Arun Local Plan and protection of bats.

- 4 The use hereby permitted shall not be commenced until full details of the kitchen equipment required to discharge odours and fumes from the cooking process and mitigate noise impacts on residents, shall be submitted to and approved in writing by the Local Planning Authority. The details shall adhere to EMAQ Control of Odour and Noise from Commercial Kitchen Extract Systems 6/5/22.

Reason: To ensure that unsatisfactory odours and noise are controlled in the interests of the amenity of future occupiers and existing neighbours in accordance with Arun Local Plan policy QE SP1.

- 5 No internally or externally located plant, machinery equipment or building services plant (including the ASHP and VRF Compound) shall be operated on the site until full details of all equipment, and an assessment of the acoustic impact arising from the operation of all such equipment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall be undertaken in accordance with BS 4142:2014+A1:2019 and shall include a scheme of attenuation measures to mitigate the adverse impacts identified in the acoustic assessment. The scheme shall ensure that the rating level of noise emitted from the proposed building services plant is 5 dB less than the prevailing background sound level (LA90). The scheme as approved by the Local Planning Authority shall be fully installed prior to first operation of the plant and shall be retained as such thereafter. Any agreed attenuation measures shall be permanently maintained in good working condition.

The applicant should review the Planning Noise Advice Document - Sussex, November 2023: <https://www.arun.gov.uk/download.cfm?doc=docm93jjm4n19846.pdf&ver=24686>.

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