

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

REF NO: R/197/25/S73

LOCATION: 46 Jervis Avenue
Rustington
BN16 2AS

PROPOSAL: Variation of condition 2 imposed under R/37/25/HH relating to approved plans.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE CHARACTERISTICS	The site is a detached bungalow.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/37/25/HH	Single-storey side extension on the south and north elevations, infill to front elevation. Removal of the chimney on the front elevation.	ApproveConditionally 22-04-25
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Planning history noted.

REPRESENTATIONS

Rustington Parish Council - No objection.

No representations were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATION RESPONSES RECEIVED:

None.

POLICY CONTEXT

Designation applicable to site:
Built Up Area Boundary

DEVELOPMENT PLAN POLICIES

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

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)

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 alteration would not harm the visual amenity of the property, or result in adverse impacts on neighbouring occupiers.

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**

R/37/25/HH was approved on 22 April 2025 and granted permission for a single-storey side extension on the south and north elevations, infill to front elevation and removal of the chimney on the front elevation. This application seeks to amend the plans condition on the original permission, in order to create an additional window to the front of the property.

SUMMARY

The application seeks to add an additional window to the front elevation, next to the front door. The window is modest in size and the alteration would not have any significant impact on the appearance of the dwelling. The window is located on the front elevation at ground floor level and would not result in overlooking impacts. The proposals would not harm neighbouring residential amenity in accordance with policies D DM1 and D DM4 of the Arun Local Plan.

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 approved shall be carried out in accordance with the following approved plans:

- Location and Block Plans 1288-DPA-01
- Proposed Site & Roof Plan DPA-02
- Existing and Proposed Floor Plans 1288-DPA-03 REVA
- Proposed Elevations 1288-DPA-05 REVA

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

accordance with Arun Local Plan policy D DM1.

- 2 The materials and finishes of the external walls of the extensions hereby permitted shall match in colour and texture those of the existing building.

Reason: In the interests of amenity in accordance with Arun Local Plan policies D DM1 and D DM4.

- 3 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).