



Appeal Decision

Site visit made on 6 October 2025

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 November 2025

Appeal Ref: APP/C3810/W/25/3366564

52 Torton Hill Road, Arundel, West Sussex BN18 9HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for development of land that has already been carried out without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Reeves against the decision of Arun District Council.
 - The application Ref is AB/22/25/S73.
 - The application sought planning permission for erection of two storey side extension, part single, part two storey other side extension, single storey front and rear extension and installation of 1 No. front dormer at 52 Torton Hill Road, Arundel, West Sussex BN18 9HH without complying with the originally approved list of plan in condition 2 of planning permission Ref AB/1/23/HH. The application was granted planning permission on 4th April 2025.
 - The condition in dispute is condition 2, which states: Within THREE months from the date of this decision, the first floor window within the south eastern flank elevation of the building shall at all times be glazed with obscured glass to a level equivalent to Pilkington Level 3 or nearest equivalent standard and be non-openable below 1.7m above finished floor level. This arrangement shall be retained permanently thereafter.
 - The reason given for the condition is to protect the amenities and privacy of the occupiers of the host dwelling and the neighbouring property in accordance with Arun Local Plan policies D DM1.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two storey side extension, part single, part two storey other side extension, single storey front and rear extension and installation of 1 No. front dormer at 52 Torton Hill Road, Arundel, West Sussex BN18 9HH, in accordance with the terms of the application, without compliance with condition 2 previously imposed on planning permission Ref: AB/22/25/S73 and subject to the conditions set out below:
 - 1) The development hereby approved shall be maintained in accordance with the following approved plans (i) Ground floor block plan and elevations as built No: 2677/01/13, and (ii) First floor and roof as built No: 2677/01/14.

Background and Main Issue

2. Planning permission was originally granted under Ref AB/1/2/23/HH for a two-storey side extension, part single, part two storey other side extension, single storey front and rear extension and installation of 1 No. front dormer at the appeal property.
3. The appeal application Ref AB/22/25/S73 sought to vary the approved plans to regularise what has been constructed at the site in variance to what was originally

approved under planning permission Ref AB/1/2/23/HH. This comprised various alterations including a change to the positioning of the southeastern flank side first floor window from a more central position to one around 1 metre further back towards the rear of the property. These amendments were approved albeit with condition 2 imposed on planning permission Ref AB/22/25/S73 to include a requirement for the southeastern window to be glazed with obscured glass and non-openable to protect neighbouring amenity.

4. As I observed on my site inspection, the development has been completed and is retrospective. I have assessed the appeal on this basis and under Section 73A of the Town and Country Planning Act 1990 (as amended).
5. The only matter in dispute between the two parties is the requirement of condition 2 for the southeastern elevation side window to be obscured glazed and non-openable. All the other changes subject of planning permission Ref AB/22/25/S73 were accepted by the council and not in dispute between the parties in this appeal. Therefore, the main issue is the effect of the southeastern side elevation first floor window as built on the living conditions of the neighbouring property No 54 Torton Hill Road.

Reasons

6. The appeal site is located on the south west side of Torton Hill Road and comprises a detached dwelling that has been recently extended. The character of the area comprises large, detached dwellings set within spacious plots with large rear gardens.
7. I observed on my site inspection that the side window subject of this appeal has been constructed with standard glazing and can be opened. When standing right up next to this window there are views of some of the rear garden to No 54 if looking out in that direction. In practice, occupants would, however, mainly use the room for sleeping and would only occasionally pass by the window during their daily routines, rather than spending time continuously looking out. Moreover, I observed that the rear window to the bedroom already has clear, unobstructed views to No 54's rear garden. The rear window was approved with open glazing under planning permission AB/22/25/S73 and is not a matter of dispute between the parties in this appeal in terms of its acceptability and impact on long views of the neighbouring rear garden.
8. In this context, the side window's view of the rear garden does not materially increase what can already be seen from the approved rear window to the bedroom. The view from the side window is also more oblique and partly obscured by boundary vegetation, when in season, resulting in proportionately less of the adjacent rear garden being visible when compared to the views that exist from the rear window.
9. Furthermore, I am aware from the information before me that there was a previous open glazed window in a similar position on the flank wall before the extension was built. While the previous window was smaller and set further back it still would likely have had similar or greater unobstructed views to the adjacent property's rear garden than the window being contested in this appeal. As such, the side window as built does not materially increase the perception of overlooking over and above what previously existed.

10. There is also an element of mutual overlooking in the area from side windows to properties such as the clear glazed flank window on No 50 that looks out over into the appeal site. This relationship is not unacceptably intrusive due to the size of plots and gardens that exist in the area, which are large and spacious making any views into adjacent properties less impactful than if the urban grain were tighter.
11. For these reasons, I am not persuaded that the side window has a materially adverse or increased impact on adjacent living conditions over and above the approved rear window that would justify obscured glazing. As such there is also no justification for the window to be non-openable. The window being open on occasion would not result in any practical harm to adjacent living conditions as occupants would be very unlikely to be regularly leaning out of it and in practical terms would be used mainly for air and ventilation purposes, which I do not consider to be an unreasonable requirement.
12. To conclude, the southeastern side window as built does not lead to a materially greater impact on adjacent living conditions than the rear window already approved under planning permission Ref AB/22/25/S73, as well as considering what previously existed at the property. The development, therefore, accords with Policies D DM1 and D DM4 of the Arun Local Plan 2022-2031 and advice in the Arun District Design Guide Supplementary Planning Document 2021, which requires development to not have an adverse overlooking impact on neighbouring properties.

Other matters

13. I note concerns were raised during the application regarding whether the grant of planning permission would have the effect of authorising aspects that do not have planning permission at the site. From the information before me any unauthorised development at the site would be a separate matter between the Council and the site owner to resolve and not a matter for me to consider in this appeal.

Conditions

14. I have considered the need for conditions having regard to paragraph 57 of the Framework and Planning Practice Guidance. Having reviewed those attached to the previous approval, I consider it is necessary to include a condition listing the plans for reasons of clarity over what has been approved. Condition 2 is not necessary to re-impose for the reasons set out.
15. I also conclude that condition 3 is not necessary to re-impose now that the development has been completed and it already having been accepted, on the information provided in the planning application, that the development is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990.

Conclusion

16. For the reasons given above and considering all matters raised, I conclude that the development accords with the development plan and the appeal is allowed.

N Perrins

INSPECTOR