

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/0265	Case Officer:	Andrew Horrell
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition nos 2, 5, 6 and 7 relating to planning application DM/25/1882 - Condition 2 (Approved Plans) to incorporate revised landscape proposals, including an open swimming pool and pool/plant house, a greenhouse and tree planting, together with the submission of details to address Conditions 5 (Natural England demolition licence), 6 (Biodiversity Enhancement Strategy) and 7 (Foul and surface water drainage).		
Site:	Summer Lodge, Copyhold Lane, Cuckfield, Haywards Heath, West Sussex, RH17 5EB, ,		
Validation Date	3 Feb 2026	Overall Expiry Date:	25 Feb 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	7 Jul 2026
Target Date:	31 Mar 2026	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Joanne Fisher	Date:	8 Jul 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/0265

**Summer Lodge, Copyhold Lane, Cuckfield, Haywards Heath, West Sussex, RH17 5EB, Variation of condition nos 2, 5, 6 and 7 relating to planning application DM/25/1882 - Condition 2 (Approved Plans) to incorporate revised landscape proposals, including an open swimming pool and pool/plant house, a greenhouse and tree planting, together with the submission of details to address Conditions 5 (Natural England demolition licence), 6 (Biodiversity Enhancement Strategy) and 7 (Foul and surface water drainage).
Mr Lance Smith**

SUMMARY OF REPRESENTATION

None received

SUMMARY OF CONSULTATION RESPONSES

Ecology: We have no objections with the proposed minor variations to the design layout secured under Condition 2 at an ecological perspective. Mindful to support the discharge of Condition 5 in full and subject to the submitted details being secured and implemented in full, we would recommend that Condition 6 of DM/25/1882 is discharged in full.

Drainage: The Flood Risk and Drainage Team are satisfied that sufficient information has now been provided for Condition 7 and therefore we have no objections

PARISH COUNCIL OBSERVATIONS

No objection

INTRODUCTION

This application seeks planning permission for variation of conditions 2, 5, 6 and 7 relating to planning application DM/25/1882 - Condition 2 (Approved Plans) to incorporate revised landscape proposals, including an open swimming pool and pool/plant house, a greenhouse and tree planting, together with the submission of details to address Conditions 5 (Natural England demolition licence), 6 (Biodiversity Enhancement Strategy) and 7 (Foul and surface water drainage).

RELEVANT PLANNING HISTORY

DM/25/1882 - Erection of a self-build replacement, detached dwelling following demolition of the existing dwelling (approved)

SITE AND SURROUNDING

Summer Lodge is a two-storey pitched roofed timber clad dwelling within a cul-de-sac.

The dwelling is characterised by timber doors and windows and dormers to the front and rear. The dwelling also has a two-storey side extension and a rear balcony. There is also an existing detached pitched roofed garage to the front of the property used for a storage outbuilding.

To the north-east of the site is close boarded fencing to neighbouring Southease beyond, to the south-west of the site is close boarded fencing to neighbouring Ridge House beyond, to the north-west of the site is the driveway to the highway beyond and to the south-east of the site is the long rear garden with fields beyond.

The site is outside of the built-up area of Cuckfield within the countryside.

APPLICATION DETAILS

The application seeks to vary conditions 2, 5, 6 and 7 of DM/25/1882.

Condition 2 Stated:

'The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application."

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

The Planning Statement outlines that the approved Peter Huf Architecture Site Plan (drawing b120 rev D) is to be substituted with the Eclipse Landscapes Landscape and General Arrangement Plan (drawing L102 rev P03). The revised plan retains the approved siting of the dwelling and incorporates the proposed hard and soft landscaping, including the open swimming pool, pool and plant house, greenhouse and associated garden paths.

The open swimming pool measures some 10.6m in width and 5m in depth.

The pool house and plant building measures 3.5m in depth, 4.5m in width with a height to eaves of 2.5m and an overall height of 4m.

The proposed greenhouse measures 4.567m in depth, 2.438m in width with a height to eaves of 1.681m and an overall height of 2.9m.

The hard landscaping details include a permeable resin driveway, lower porcelain tiled terrace, pool terrace, pathway from terrace to pool and steps to lower terrace.

Soft landscaping includes planting and hedging to screen lower terrace from front and rear, landscaping around the pool terrace, with pathways and steps surrounded by ornamental and native planting.

The approved Alastair Durkin Tree Protection Plan (TPP/1/2025) is to be substituted with the revised Tree Protection Plan drawing 2025/001/TPP rev A. The updated plan extends tree protection measures further into the garden area and reflects the positioning of the proposed pool and pool outbuilding.

Condition 5 stated:

'Any works which will impact the breeding / resting place of bats, shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or*
- evidence of site registration supplied by an individual registered to use a Bat Mitigation or Earned Recognition Class Licence; or*
- a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.*

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998 and to accord with Policy DP38 of the Mid Sussex District Plan 2014 - 2031. '

The completed Natural England Licence Return Form (reference WML-CL21) is submitted as part of this application. This is to show compliance with the requirements of the demolition licence issued by Natural England.

Condition 6 stated:

'Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the Preliminary Ecological Assessment (JW Biodiversity Management, July 2025) and the Bat Emergence Surveys (JW Biodiversity Management, July 2025), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;*
- b) detailed designs or product descriptions to achieve stated objectives;*
- c) locations of proposed enhancement measures by appropriate maps and plans (where relevant);*
- d) persons responsible for implementing the enhancement measures; and*
- e) details of initial aftercare and long-term maintenance (where relevant).*

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

Reason: To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended) and to accord with Policy DP38 of the Mid Sussex District Plan 2014 - 2031. '

A Biodiversity Enhancement Strategy prepared by JW Biodiversity Management, dated 12 January 2026, is submitted in support of the application. The report sets out a package of habitat enhancement measures, including tree and hedgerow planting, bat and bird boxes, and other ecological enhancements as detailed in the report referring to landscape plan L100 rev P03.

Condition 7 stated: *'The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The building shall not be occupied or brought into use, until all the approved drainage works have been carried out in accordance with the agreed details.*

Reason: To ensure that the proposal is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031'.

The foul and surface water drainage strategy is provided on the HODEL Consulting Engineers Engineering Layout Plan (drawing 25187-HOD-XX-ZZ-DR-C-5100 revision P05) and Technical Note Doc ref 25187-HOD-XX-XX-RP-C-5806. The plan and technical note demonstrates how the drainage measures to manage foul and surface water arising from the development, including allowances for the proposed landscaping and pool infrastructure.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Sites Allocation DPD and the Cuckfield Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

Policy DP12 (Protection and Enhancement of the Countryside)
Policy DP26 (Character and Design)

Policy DP38 (Ecology)
Policy DP41 (Flood Risk and Drainage)

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

Cuckfield Neighbourhood Plan

The Cuckfield Neighbourhood Plan was made on 1st October 2014.

Relevant policies:

CNP1 - Design of New Development and Conservation
CNP4 - Protect and Enhance Biodiversity
CNP5 - Protect and Enhance the Countryside

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and hearings were concluded on the 19th March 2026. The District Plan remains at Examination until the Inspector has published his report, until that time only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPC1: Countryside
DPB1: Character and Design
DSP4: Flood Risk and Drainage

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Policy

National Planning Policy Framework (NPPF) (December 2024)

ASSESSMENT

This application has been submitted under Section 73 of the Town and Country Planning Act and seeks planning permission to vary conditions No's 2, 5, 6 and 7 of planning permission DM/25/1882 to allow for minor revisions to the approved drawings to include a swimming pool, pool building and greenhouse within the rear garden and landscaping details and revisions to the drainage design to comply with pre-commencement condition and to comply with ecology pre-commencement conditions.

S.73 of the Act states that '*On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and-*

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.'

S73 applications allows for developers to amend conditions attached to planning permissions. Such an application only allows the conditions to which have been granted as part of the original planning permission and cannot amend the operative part of the planning permission i.e. the description of the development. This was recently clarified in case law of *Finney v Welsh Ministers* [2019] EWCA Civ 1868 where the Court of Appeal held that S73 applications cannot be used to obtain a varied planning permission when the change sought would require a variation to the terms of the "operative" part of the permission.

The principle of the development has been established by virtue of the previous permission.

The current proposal is to include a swimming pool, pool building and greenhouse within the rear garden, landscaping details and revisions to the drainage design to comply with pre-commencement condition and to comply with ecology pre-commencement conditions.

As such the main issues for consideration are the design and character, neighbouring amenity, biodiversity and drainage.

Impact on the character of the area

As the application site lies within the countryside, policy DP12 requires that there is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised, and that development should contribute to protecting and enhancing the natural, built and historic environment. The aim of protecting the character of an area is found in the NPPF at para 187 where it states that planning policies and decisions should recognise *'the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits'*.

In addition, Policy DP26 of the District Plan states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- protects valued townscapes and the separate identity and character of towns and villages;*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- positively addresses sustainability considerations in the layout and the building design;*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300 unit) schemes will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development.'*

Cuckfield Neighbourhood Plan policy CNP1 states:

'New development in accordance with the Neighbourhood Plan will be permitted where it:

- a) Is designed to a high quality which responds to the heritage and distinctive character and reflects the identity of the local context of Cuckfield as defined on Map 3 - Conservation Areas and Character Areas, by way of;*
 - i. height, scale, spacing, layout, orientation, design and materials of buildings,*
 - ii. the scale, design and materials of the public realm (highways, footways, open space and landscape), and*
- b) Is sympathetic to the setting of any heritage asset and*
- c) Follows guidance in the Conservation Area Appraisals and Management Plans, the High Weald AONB Management Plan, and*
- d) Respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site, and*
- e) Creates safe, accessible and well-connected environments that meet the needs of users, and*
- f) Will not result in unacceptable levels of light, noise, air or water pollution, and*
- g) Makes best use of the site to accommodate development.'*

The additions of the swimming pool, pool room and greenhouse are located primarily within the rear garden so will not be publicly visible. The greenhouse whilst set further forward would be sited behind the existing garage. Such elements are considered to maintain the character of the countryside.

The hard and soft landscaping is predominantly not visible from the streetscene and would be in character with the proposed dwelling and the rural locality. A landscaping condition will be added to the approval.

The updated tree report will replace the previously approved document of the same name with the condition amended.

The alterations are deemed therefore to comply with DP12 and DP26 of the Mid Sussex District Plan, CNP1 and CNP5 of the Cuckfield Neighbourhood Plan and the relevant paragraphs of the NPPF.

Impact upon neighbouring amenity

Policy CNP10 states that proposals should "safeguard" adjoining neighbours amenity whereas policy DP26 of the MSDP states that development should not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004, if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

The previous approval deemed that significant harm was not caused to neighbouring amenities for the replacement dwelling. The only new aspect of this application which will affect neighbouring amenities is the installation of a swimming pool, pool house and greenhouse.

Neighbouring Ridge House is some 35m from the pool house and swimming Pool, with Southease some 50m from the proposed pool. Whilst the greenhouse is closer to Southease at some 28m at the closest point. Therefore significant harm is not deemed to be caused to neighbouring amenities.

Whilst the proposed swimming pool will likely increase noise, this is no more than would be expected from outdoor activities within a domestic garden such as football, cricket etc.

The alterations therefore comply with DP26 of the Mid Sussex District Plan and CNP10 of the Cuckfield Neighbourhood Plan in terms of neighbouring amenities.

Drainage

Policy DP41 of the District Plan requires development proposals to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. In areas that have experienced flooding in the past, use of Sustainable Drainage Systems should be implemented unless demonstrated to be inappropriate.

Following the submission of revised drainage plans The Council's Drainage Officer has confirmed that the proposal still meets the design requirements for the condition and as such have raised no objection. In accordance with these comments and subject to the condition being amended to require the proposed drainage proposal to be carried out in accordance with the plans and prior to the occupation of the dwelling, the proposal is considered to comply with Policy DP41 of the Mid Sussex District Plan.

Impact to biodiversity

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the District Plan relates to Biodiversity and seeks proposals to protect and enhance biodiversity.

Chapter 15 of the NPPF in part relates to habitats and biodiversity. Para 193 states '*When determining planning applications, local planning authorities should apply the following principles:*

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁷⁰ and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'.*

A licence has been shown to be issued by Natural England authorising the development which has been accepted by our ecology consultants. Therefore condition 5 will be reworded to comply with the licence.

The biodiversity Enhancement strategy is deemed acceptable and has been recommended to be discharged by our ecology consultant. Condition 6 shall therefore be reworded so that it is adhered to.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Self and Custom Build development is exempt from providing biodiversity net gain, meaning development which:

- i) consists of no more than 9 dwellings
- ii) is carried out on a site which has an area no larger than 0.5 hectares, and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in Section 1(A1) of the Self Build and Custom House Building Act 2015).

The application has been submitted as a proposal for self-build and custom build development on a site of <0.5 hectares. In this case mandatory BNG is not required as the proposal is exempt because it is for a self-build dwelling.

PLANNING BALANCE AND CONCLUSION

It has previously been considered that the development for a replacement dwelling was acceptable through the determination of the permission reference DM/25/1882.

The proposed amendments to conditions 2,5,6 and 7 which relates to design, drainage, biodiversity and the documents detailed to allow for revised wording of conditions 6 and 7 is considered acceptable. The alterations are not deemed to cause harm to the character and appearance of the area; neighbouring amenities will not be harmed with drainage and biodiversity deemed dealt with in a satisfactory manner. The proposal is thereby considered to comply with Policies DP12, DP26, DP38 and DP41 of the District Plan CNP1 and CNP10 of the Cuckfield Neighbourhood Plan and the relevant provisions of the NPPF.

Decision: Permission

Case Officer: Andrew Horrell