

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1758	Case Officer:	Joanne Fisher
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition No's: 2,19 and 20 of planning application DM/23/2794 - to reflect updated noise report and revised plans.		
Site:	Gatehouse Farm, 1 Birdcage Lane, Goddards Green, Hassocks, West Sussex, BN6 9HH, ,		
Validation Date	1 Aug 2025	Overall Expiry Date:	28 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	9 Oct 2025
Target Date:	26 Sep 2025	Recommending Officer Signature:	<i>Joanne Fisher</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	10 Oct 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1758

**Gatehouse Farm, 1 Birdcage Lane, Goddards Green, Hassocks, West Sussex, BN6 9HH,
Variation of condition No's: 2,19 and 20 of planning application DM/23/2794 - to reflect updated
noise report and revised plans.
Steven Doel**

REPRESENTATIONS

None received.

SUMMARY OF CONSULTATIONS

MSDC Environmental Protection

No objection.

PARISH COUNCIL OBSERVATIONS

The committee recommends that MSDC grant permission.

INTRODUCTION

Permission is sought to vary condition No's: 2,19 and 20 of planning application DM/23/2794 - to reflect updated noise report and revised plans at Gatehouse Farm, Gatehouse Lane, Goddards Green.

RELEVANT PLANNING HISTORY

DM/23/2794 - Construction of five detached dwellings with associated landscaping. AMENDED PLANS received 4th March 2024 showing a 2.5 metre high acoustic fence along the eastern and part northern boundary and the submission of a Noise Report. Approved.

DM/24/1875 - Discharge of planning condition numbers 4, 10 and 11 relating to planning application DM/23/2794. Approved.

DM/24/1876 - Discharge of planning condition numbers 3, 5 and 9 relating to planning application DM/23/2794. Approved.

DM/24/1973 - Discharge of condition 6 relating to planning application DM/23/2794. Approved.

DM/24/2232 - Discharge of planning condition no. 7 relating to planning application DM/23/2794. Approved.

DM/24/2679 - Discharge of condition 8 in relation to DM/23/2794. Approved.

DM/25/0440 - Discharge of Condition 16 (Secure Cycle Stores), Condition 17 (LEMP) and Condition 18 (External Lighting Plan) relating to planning reference DM/23/2794. Approved.

DM/25/1816 - Non Material Amendment to application DM/23/2794 to remove the wording 'AMENDED PLANS received 4th March 2024 showing a 2.5 metre high acoustic fence along the eastern and part northern boundary and the submission of a Noise Report. Approved.

SITE AND ITS SURROUNDINGS

The application relates to the recently approved residential development at Gatehouse Farm.

The development is progressing.

The adjoining site of Centre for Outdoor Sport (now know as The Arc Centre for Sport) has been completed and is open. Close to the western boundary with the application site is an acoustic fence which spans part of this boundary due to the location of a grass pitch.

The site lies within the countryside as defined in the District and Neighbourhood Plan.

APPLICATION DETAILS

This application seeks permission to vary condition no's 2,19 and 20 of planning application DM/23/2794 - to reflect an updated noise report and revised plans.

A covering letter has been submitted as part of the application. This sets out that the approved scheme included an acoustic fence to be added to the eastern boundary and part of the northern boundary at a height of 2.5m. At the same time, a noise barrier of the same height and specification would be inset around 1m from the eastern boundary within the adjoining "Centre for Outdoor Sports" development.

The covering letter states that the '*application proposes that the acoustic fence on the eastern boundary of the Gatehouse Farm Site be removed where it is directly behind an identical acoustic barrier within the Centre for Outdoor Sports.*

A more conventional close boarded fence of some 1.8m in height would be installed on the boundary as an alternative to the approved acoustic fence.'

As part of the amended plans, a gate to either end of the installed acoustic fence with the boundary for this application site would be installed to close the gap between the fencing so that the area between is not accessible to the public.

Accompanying the application is an updated Noise Report. The covering letter sets out that this updated report '*considers the impact on noise levels if the acoustic fencing within the Gatehouse Farm Site is removed where it sits directly behind an identical barrier within the Centre for Outdoor Sports.*

The report recommends in the first instance that an overlap of at least 4m, or twice the distance between the two fence lines (whichever is greater) should be retained. If that recommendation is adhered to, the removal of the fence would result in a difference of + / - 1 decibel across the Site. Having regard to IEMA guidelines, this difference is negligible and would have no observed effect on the residential amenity of the approved dwellings.'

Condition 2 relates to the approved plans, and this application would update the plans approved to address the revised positioning of the acoustic fence.

Condition 19 relates to the recommendations of the Noise Impact Assessment. Condition 20 requires that no dwelling can be occupied until the acoustic fencing has been installed and requires it to be retained thereafter. It is sought to revise these conditions with the following wording (amendments in bold and underline for ease of reference):

*19. Prior to the occupation of any dwelling, a report, by a suitably qualified practitioner, confirming that all recommendations outlined in the Noise Impact Assessment (**Acoustic Consultants Ltd Report Reference 11300/DO**) have been implemented, shall be submitted, and approved in writing by the Local Planning Authority, and all measures shall be thereafter maintained.*

Reason: To protect the amenity of neighbouring residents and to accord with Policy DP29 of Mid Sussex District Plan

*20. Prior to the occupation of any dwelling the acoustic fencing hereby approved to the northern and eastern boundary as shown on drawing **015 Rev P6** shall be installed and thereafter be retained.*

Reason: To protect the amenity of neighbouring residents and to accord with Policy DP29 of Mid Sussex District Plan.

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.

Specifically, Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes 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.'

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Site Allocations Development Plan Document and the Hurstpierpoint and Sayers Common 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.

The application is submitted under Section 73 of the Town and Country Planning Act 1990. 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.'

Mid Sussex District Plan

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

Relevant policy:

DP26 - Character and Design

DP29 - Noise, Air and Light Pollution

Mid Sussex Site Allocations Document (DPD)

The Site Allocations Development Plan Document was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

Hurstpierpoint and Sayers Common Neighbourhood Plan

The Hurstpierpoint and Sayers Common Neighbourhood Plan was made on the 18th March 2015. It is a material consideration in the determination of planning applications.

Relevant policies for consideration are:

HurstC1 - Conserving and enhancing character

Other Material Considerations

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 the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of policies in the draft District Plan and as such, 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 policy:

DPN7 - Noise Impacts

DPB1 - Character and Design

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 Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

Paragraph 12 of the NPPF states;

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Guidance

ASSESSMENT

This application seeks permission to condition no's: 2,19 and 20 of planning application DM/23/2794 - to reflect the updated noise report and revised plans.

These conditions currently state the following:

Condition 2:

'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.'

Condition 19:

'Prior to the occupation of any dwelling, a report, by a suitably qualified practitioner, confirming that all recommendations outlined in the Noise Impact Assessment [KP Acoustics Report 27779.NIA.01 Rev B] have been implemented, shall be submitted, and approved in writing by the Local Planning Authority, and all measures shall be thereafter maintained.

Reason: To protect the amenity of neighbouring residents and to accord with Policy DP29 of Mid Sussex District Plan.'

Condition 20:

'Prior to the occupation of any dwelling the acoustic fencing hereby approved to the northern and eastern boundary as shown on drawings 004 RevP6, 005 RevP5 and 015 RevP1 shall be installed and thereafter be retained.

Reason: To protect the amenity of neighbouring residents and to accord with Policy DP29 of Mid Sussex District Plan.'

S73 applications allows for developers to amend conditions attached to planning permissions. Such an application only allows amendments to the conditions 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.

In this instance, the application is for the amendment to the conditions relating to the approved plans listed under the decision notice reference DM/23/2794 as well as within the conditions concerning the noise impact assessment and the acoustic fence. The original planning permission was granted under reference DM/23/2794 which granted permission for the construction of five detached dwellings with

associated landscaping (description wording amended under the recent non-mat reference DM/25/1816). As the operative part of the permission does not specify the plan numbers, or the noise impact assessment, an application under S73 to allow changes to the approved plans and condition wording can be considered relevant.

The principle of the development has already been accepted through the approval of the original planning application DM/23/2794. Even though the result of this application would result in the issuing of a new planning permission, it is not considered necessary to go through all the planning issues. The only issue that is pertinent is to consider the specific changes that are proposed from the previous approval.

As such the main issue for consideration are:

- design, the impact on the character of the area; and
- neighbouring amenity.

Design, impact on the character of the area

One of the key issues is the visual impact on the character of the area. This is particularly important in this case given the site is within the countryside. One of the objectives of achieving sustainable development is to ensure that proposals *'contribute to protecting and enhancing our natural, built and historic environment'* (para 8, NPPF). In addition, the NPPF states that policies and decisions should contribute to and enhance the natural and local environment by *'recognising the intrinsic character and beauty of the countryside'* (para 180b). It is therefore necessary to consider the impact of the proposal in the local landscape in terms of the visual impact on the amenity of Hurstpierpoint and Burgess Hill.

As the proposed development is located within the countryside policy DP12 of the District Plan is relevant. The principal aim of Policy DP12 of the District Plan states the: *'countryside will be protected in recognition of its intrinsic character and beauty.'* The supporting text sets out the following:

'The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside.'

Policy HurstC1 of the Neighbourhood Plan has a similar ethos as it requires proposals to maintain or where possible enhance the quality of the rural and landscape character of the Parish area.

Policy DP26 of the District Plan relates to character and design and requires all proposals to be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside as well as addressing the character and scale of the surrounding buildings and landscape.

The acoustic fence has previously been considered as part of the original application to the eastern and northern boundaries of the site in order to mitigate the impact of outdoor pitches at the Centre of Outdoor Sport. It was considered that this acoustic fence would be seen in context with the proposed development, as well as landscaping and the boundary treatment for the neighbouring site.

Part of the acoustic fence on the eastern boundary is no longer to be constructed due to the overlap with the acoustic fence from that from the adjoining site with the outdoor sports pitches. The boundary would be replaced in part with a 1.8 metre high close boarded fence. There would be a gate installed at either end to adjoin between the boundary fencing with the acoustic fence with the outdoor pitches to close off the area of land between.

It is considered that this revisions to the proposed fencing and the addition of the gates would maintain the character of the countryside at this point within the District.

The proposal is thereby considered to comply with Policies DP12 and DP26 of the District Plan, the design principles of the Mid Sussex Design Guide and the provisions of the NPPF.

Neighbouring amenity

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do *'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'*.

Policy DP29 relates to Noise, Air and Light Pollution. Due to the proximity of the site adjacent to the Centre for Outdoor Sport which lies to the north and east, consideration is raised on the impact on noise to future occupiers from the sports pitches. In relation to noise this policy states in part:

'Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.'

Noise is a material planning consideration. The Planning Practice Guidance (PPG) states neither the Noise Policy Statement for England nor the NPPF (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

The submitted Noise Impact Assessment which accompanies this application sets out that *'Based on the noise predictions and calculation the removal of the Gatehouse Farm barrier from behind the sports centre barrier results in a difference of +/- 1 decibel across the site.'* It concludes that *'the Gatehouse Farm barrier can be removed from behind the sports centre barrier (apart from the overlap as stated above) without any adverse effect on residential amenity or the use of the sports centre.'*

The Council's Environmental Protection Officer has considered the updated noise report and revised plan and raises no objection to the amendments. They consider that as *'long as the properties are protected by an acoustic fence all along the Eastern boundary - which they still will be - then the residential amenity will be preserved as originally intended.'* There is no reason for Officers to disagree with the conclusions of the Environmental Protection Officer.

The proposal thereby complies with policies DP26 and DP29 of the District Plan.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted on an application made under Section 73 of the Town and Country Planning Act 1990 and the original planning permission to which the Section 73 planning permission relates was made before 12th February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

CONCLUSION

It has previously been considered that the development of the site for housing with an acoustic fence is acceptable through the determination of application reference DM/3/2794.

The proposed amendments to the acoustic fence on the eastern boundary detailed in conditions 2, 19 and 20 is considered would not detract from the character of the area nor result in significant harm to the amenities of future occupiers of the housing development.

The proposal is thereby considered to comply with policies DP12, DP26 and DP29 of the District Plan, the design principles of the Mid Sussex Design Guide, and the relevant provisions of the NPPF.

Decision: Permission

Case Officer: Joanne Fisher