

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2913	Case Officer:	Deborah Lynn
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition no 8 (opening hours) relating to planning application DM/24/1445.		
Site:	Le Flamant, 64 High Street, Lindfield, Haywards Heath, West Sussex, RH16 2HL, ,		
Validation Date	25 Nov 2025	Overall Expiry Date:	2 Jan 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	14 Jan 2026
Target Date:	20 Jan 2026	Recommending Officer Signature:	Deborah Lynn

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	16 Jan 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2913

**Le Flamant, 64 High Street, Lindfield, Haywards Heath, West Sussex, RH16 2HL,
Variation of condition no 8 (opening hours) relating to planning application DM/24/1445.
Mr Tim Hinchliffe**

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

MSDC Environmental Protection

I recommend that if granted, conditions are applied to this variation to ensure that:

1. On Mondays and Tuesdays, hours of opening will be 11.00 to 23.00.
2. On Fridays and Saturdays, hours of opening will be 11.00 to midnight.
3. On Christmas Eve hours of opening will be 11.00 to midnight.
4. On New Years Eve the hours of opening will be from 11.00 to 01.00 on New Years Day (I'm not sure how best to word this)
5. No external plant to the premises shall be operational after 23.00 on any day of the week. This includes extract ventilation to the kitchen and any air conditioning units.

LINDFIELD PARISH COUNCIL OBSERVATIONS

Lindfield Parish Council has no objection to this application.

INTRODUCTION

This application seeks permission, under section 73 of The Town and Country Planning Act 1990, to vary condition no. 8 of planning permission DM/24/1445.

RELEVANT PLANNING HISTORY

DM/24/1445 - Change of use from Tea Rooms (Class E) to Wine Bar (Sui Generis). Description amended 23.10.2024 to change use to mixed wine bar/restaurant use. Amended plans received to show extraction system to rear, plus additional cladding. Additional documents received including Noise Impact Assessment and Odour Risk Assessment. Permission granted 03.12.2024.

DM/25/0552 - Discharge of planning condition No: 3 relating to planning application DM/24/1445. Permission granted 28.04.2025.

SITE AND SURROUNDINGS

No. 64 High Street is a ground floor restaurant / wine bar, known as Le Flamant, located within a 2½ storey terraced building located on the eastern side of the High Street. The premises falls within a parade of commercial properties with flats located above. The flat above the unit is accessed via an external staircase to the rear and an alleyway located between 68 and 70 High Street. A commercial building, Lindfield Coffee Works, adjoins the site to the rear with a terrace of 5 residential properties on Alma Road located beyond.

In terms of planning policy, the site lies within the built up area of Lindfield, Lindfield conservation area and a grade red West Sussex Archaeological Area covering the historic core of Lindfield. A terrace of

grade II listed properties at 75 to 79 High Street lies opposite the site on the western side of the road, with the grade II Red Lion public house located at no. 60 High Street to the south.

APPLICATION DETAILS

This application seeks permission, under section 73 of The Town and Country Planning Act 1990, to vary condition no. 8 of planning consent DM/24/1445.

Planning permission was granted under reference DM/24/1445 to change the use of the commercial unit from a tea room to a mixed wine bar / restaurant use.

A number of planning conditions were imposed under the permission, including condition no. 8 which states:

'The use hereby permitted shall not operate except between the following hours:

Wednesday to Saturday: 11:00 - 23:00 hours

Sunday: 12:00 - 22:00 hours

Reason: To protect the amenities of nearby residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.'

This application seeks to extend the opening hours to the following times:

Mondays and Tuesdays - 11:00 to 23:00 hours

Fridays and Saturdays - 11:00 to 00:00 hours

Christmas Eve - 11:00 to 00:00 hours

New Years Eve - 11:00 to 01:00 hours New Years Day.

In the planning statement accompanying the application, the applicant advises that the extended opening hours on Fridays and Saturdays are proposed to fall in line with other establishments on the High Street.

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.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

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.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and Lindfield and Lindfield Rural 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.

Mid Sussex District Plan

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

Relevant policies:

DP26 character and design

DP29 noise, air and light pollution

Site Allocations DPD

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

Relevant policies:

SA38 air quality

Lindfield and Lindfield Rural Neighbourhood Plan

The Neighbourhood Plan was made on the 23rd March 2016.

Relevant policies:

There are no relevant policies.

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

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 stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to the majority 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 policies:

DPS6 health and wellbeing

DPN6 pollution

DPN7 noise impacts

DPN9 air quality

DPB1 character and design

DPB3	conservation areas
DPB2	listed buildings and other heritage assets
DPE1	sustainable economic development
DPE4	town and village centre development
DPE6	development within primary shopping areas

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 objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

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

National Design Guide

Ministerial Statement and Design Guide

On 1 October 2019 the Secretary of State for the Ministry of Housing, Communities and Local Government made a statement relating to design. The thrust of the statement was that the Government was seeking to improve the quality of design and drive up the quality of new homes. The Government also published a National Design Guide, which is a material planning consideration.

The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social, economic and environmental change will influence the planning, design and construction of new homes and places.

ASSESSMENT

This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.

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.'

Accordingly, it is not necessary to reassess all of the issues from the original planning application; it is only necessary to assess the issues that are relevant in relation to the condition that is proposed to be amended.

As this application solely seeks to vary the opening hours of the existing wine / bar restaurant, the main issue deemed relevant to the consideration of this application is impact on neighbouring residential amenities.

Impact on residential amenity

Policy DP26 of the District Plan refers to amenity and states that development proposals 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*'.

Policy DP29 relates to noise and light pollution stating in part that '*the environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

Noise pollution:

- o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

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.

In appropriate circumstances, the applicant will be required to provide:

- o an assessment of the impact of noise generated by a proposed development; or*
- o an assessment of the effect of noise by an existing noise source upon a proposed development;'*

Policy SA38 of the Mid Sussex Site Allocations DPD has superseded District Plan policy DP29 in respect of air pollution and states in part that '*the Council will require applicants to demonstrate that there is not unacceptable impact on air quality.*'

This application seeks to extend current opening hours by 1 hour to midnight on Fridays and Saturdays and to also operate on Mondays and Tuesdays from 11:00 to 23:00 hours. Permission is also sought to operate until midnight on Christmas Eve and on New Years Eve until 01:00 hours on New Years Day.

An updated Noise Impact Assessment has not been included with this application to cover the extended hours. However, in the Planning Statement submitted with the application, the applicant advises that the use of plant and machinery will not change. Air conditioning will not be used after 23:00 hours on any night.

The Council's Environmental Protection Team has been consulted on the proposal and has raised no objection to the proposal, subject to the proposed opening hours being conditioned and provided that no external plant or machinery is operated after 23:00 hours on any night.

In view of these comments, the proposal is deemed acceptable in that the extended opening hours should not cause significant harm to neighbouring amenities in terms of creating additional noise and disturbance, air or light pollution. The proposal therefore accords with policies DP26 and DP29 of the District Plan and policy SA38 of the Site Allocations DPD.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application is comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed development is deemed acceptable in that the extended opening hours should not cause significant harm to neighbouring amenities in terms of generating additional noise and disturbance, or air and light pollution. The proposal therefore accords with policies DP26 and DP29 of the Mid Sussex District Plan and policy SA38 of the Mid Sussex Site Allocations Development Plan Document.

Decision: Permission

Case Officer: Deborah Lynn