

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0305	Case Officer:	Joseph Swift
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of conditions 1 and 16 of planning application DM/23/1548 - to amend the plans to allow minor amendments to the approved scheme.		
Site:	Land To The South Of Kings Way, Burgess Hill, West Sussex, , , ,		
Validation Date	11 Feb 2025	Overall Expiry Date:	21 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	30 Apr 2025
Target Date:	13 May 2025	Recommending Officer Signature:	Joseph Swift

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	7 May 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0305

**Land To The South Of Kings Way, Burgess Hill, West Sussex, , , ,
Variation of conditions 1 and 16 of planning application DM/23/1548 - to amend the plans to allow
minor amendments to the approved scheme.
C/O Agent**

SUMMARY OF REPRESENTATIONS

- No third party letters of representation have been received in regards to this application.

SUMMARY OF CONSULTATIONS

MSDC Tree Officer

I have reviewed the landscaping plans and details for this application and have no objection.

BURGESS HILL PARISH COUNCIL OBSERVATIONS

Recommend Approval. The amended plans addressed the Committee's previous concerns.

Introduction

This application seeks permission for variation of conditions 1 and 16 of planning application DM/23/1548 - to amend the plans to allow minor amendments to the approved scheme at Land to the South of Kings Way, Burgess Hill.

Relevant Planning History

DM/21/3385: Erection of a 68 bedroom residential care facility, with associated access works, car parking, servicing, private amenity space, landscaping and boundary treatment. (Amended plans 14.03.2022) Permission.

DM/23/0438: Variation of conditions 1 and 8 of planning application DM/21/3385 - The application seeks minor amendments to the consented scheme, and as such requires the plans set out within conditions 1 and 8, to be substituted (description amended to include condition 8 28/03/2023) Refused.

DM/23/1548: Variation of conditions 1, 4 and 6 of planning application DM/21/3385 - The application seeks minor amendments to the consented scheme, and as such requires the plans set out within condition 1, to be substituted. (Amended description 24/08/2023). Permission.

DM/23/2296: Discharge of Planning Conditions No's 5, 7 and 15 relating to planning application DM/23/1548. Permission

DM/23/2522: Discharge of planning conditions 3, 4, 10, 16 and 20 relating to planning application DM/23/1548 (description/ reference updated 31.10.2023). Permission.

DM/23/2582: Discharge of condition 6 in relation to DM/23/1548. Permission

DM/24/1177: Discharge of conditions 11 and 17 in relation to DM/23/1548. Permission.

DM/24/2008: Re Discharge of Planning Condition No: 3 relating to DM/23/1548. Permission.

DM/24/2055: Discharge of condition no 21 relating to planning application DM/23/1548. Permission.

DM/24/2969: Discharge of condition no 13 in relation to planning application DM/23/1548. Permission.

Site and Surroundings

The application site is a triangular piece of land located to the south/south east of Kings Ways, with the railway line running along the south western boundary, with a mixture of Ancient Woodland, open land and housing development of Unicorn Way and Hestia Place along the eastern boundary. Kings Way is located at a higher level than the application site, with the road rising at a higher level at the south western part of the site, with the change in level reduced at the northern part of the site.

The application site is designated within the Mid Sussex District Plan as being within the built up area boundaries of Burgess Hill. An area of land to the south east is designated as Ancient Woodland, with the trees along the north/north west boundary and the trees along the eastern boundary being subject to a TPO (TP/19/0002).

Application Details

As this is a section 73 application, national advice is that the LPA should focus attention on any material changes since the previous permission.

Permission is sought for a variation of conditions 1 and 16 of planning application DM/23/1548 - The application seeks minor amendments to the consented scheme, these amendments included:

- 3 additional parking spaces replacing landscaped area
- Layout of car park updated around disabled parking bays to add 1 extra car parking space.
- Overall car parking increase from 21 to 25 spaces

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, Burgess Hill Neighbourhood Plan and the Sites Allocation Development Plan Document (DPD).

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 Mid Sussex District Plan (adopted March 2018) forms part of the development plan against which the application would be determined. The relevant policies are:

The most relevant policies are:

Policy DP21: Transport

Policy DP26: Character and Design

Policy DP37: Trees Woodland and Hedgerows

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.

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made January 2016 and so forms part of the development plan. The most relevant policies are:

Policy S4 Parking Standards for New Developments

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 the 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:

DPN4: Trees, Woodland and Hedgerows

DPB1: Character and Design

DPT4: Parking and Electrical Vehicle Charging Infrastructure

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.

Assessment

This application has been submitted under Section 73 of the Town and Country Planning Act and seeks planning permission to vary conditions 1 and 16 of planning permission reference DM/23/1548.

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.'

The principle of the development has been established by virtue of the previous permission. The current proposal is seeking to change the layout of the parking as such the main issues for consideration are:

- Design and character
- Parking

Design and impact on character of the area

Policy DP26 of the District Plan relates to character and design and 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 DP27);
- 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.'

Policy DP37 of the District Plan states that: *'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'*

The proposed changes to the layout of the parking will result in a small reduction in the landscaped area to the (north) front of the care home, the existing established trees that surround the site boundary will be retained and will not be impacted by the proposal. The modest reduction in landscaping to the car parking on the backdrop of the established surrounding vegetation is not considered to impact on the high quality design of the scheme and as such is considered acceptable. Furthermore, the Councils Tree Officer has also been consulted on the proposal and has raised no objection to the proposal. Therefore, it is considered to comply with the above mentioned policies.

Parking

Policy DP21 the Mid Sussex District Plan requires development to: be sustainably located to minimise the need for travel; promote alternative means of transport to the private car, including provision of suitable facilities for secure and safe cycle parking; not cause a severe cumulative impact in terms of road safety and increased traffic congestion; be designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages; and provide adequate car parking in accordance with parking standards as agreed by the Local Planning Authority or in accordance with the relevant Neighbourhood Plan.

Policy S4 of the Burgess Hill Neighbourhood Plan seeks to ensure adequate parking is provided for all new development.

Considering that permission has already been granted for the proposal with 21 car parking spaces and the current proposal is actually seeking to increase on site provision to 25 car parking spaces, the current proposal is actually improving the parking situation and as such is considered to comply with the above mentioned policies.

Other Matters

The Planning Obligation securing the infrastructure contributions dated the 05.09.2022 pursuant to the previous application DM/21/3385 will be equally applied to this application by condition. The proposal therefore accords with Policy DP20 of the Mid Sussex District Plan.

The application was originally submitted only seeking to vary condition 1 and the site plan. However, in order to ensure that the plans are consistent condition 16 has been added to this application as the alterations to the car parking layout has a knock-on effect on the approved hard and soft landscaping plans.

Conclusion

To summarise it is considered that the proposed amendments are acceptable. As such this application can be approved.

Decision: Permission

Case Officer: Joseph Swift