

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/1838	Case Officer:	Peter Davies
Application Type:	Full Application		
Proposal:	Proposed store in rear garden of Sams Fish Bar.		
Site:	Sams Fish Bar, 36 Sussex Road, Haywards Heath, West Sussex, RH16 4EA, ,		
Validation Date	28 Jul 2026	Overall Expiry Date:	28 Sep 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	8 Oct 2026
Target Date:	22 Sep 2026	Recommending Officer Signature:	Peter Davies

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	Steven King	Date:	9 Oct 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/1838

**Sams Fish Bar, 36 Sussex Road, Haywards Heath, West Sussex, RH16 4EA, ,
Proposed store in rear garden of Sams Fish Bar.
Mr S Arslan**

SUMMARY OF REPRESENTATIONS

2 letters of representation have been received. 1 objecting to the proposal for the following reasons:

- Impact on neighbour amenity including odours and smells
- Fire safety
- Noise and hours of use

1 letter of support was received supporting for the following reasons:

- Supporting local business
- Would not impact neighbouring properties

TOWN COUNCIL OBSERVATIONS

No comment.

INTRODUCTION

The application seeks planning permission for a proposed storage building in the rear garden of Sams Fish Bar 36 Sussex Road.

RELEVANT PLANNING HISTORY

CU/423/74 - Change of use of ground floor of existing dwellinghouse to shop and upper floor to office and store. Permission

CU/219/84 - Ground floor extension at rear providing new restaurant and customer toilets. Permission

HH/216/90 - Freezer cold store at rear of building. Permission

HH/017/95 - To form an outside seating area in front of existing restaurant catering for approximately 20 covers and to be used between April and September. Permission

DM/22/1931 - Construction of a 4 bed dwelling attached to 36 Sussex Road. Refused

DM/23/1600 - Erection of a two storey 2 bed detached dwelling to the rear of 36 Sussex Road. Refused

SITE AND SURROUNDINGS

36 Sussex Road is a two storey semi detached property, with Sam's Fish Bar restaurant and takeaway to the ground floor and a residential flat to the first floor. It is located to the western side of Sussex Road and is attached to No. 34 Sussex Road (Sussex Foot Care Centre) to the northern side, with a linked garage to No.38 Sussex Road (Lavender Motors) to the southern side. The west (rear) of the site shares a mutual boundary with the rear gardens of Nos 59 and 57 Gower Road.

The application site is situated within the built up area as defined in the Mid Sussex District Plan and the Haywards Heath Neighbourhood Plan.

APPLICATION DETAILS

The application seeks planning permission for a proposed storage building at the west end of the rear garden of the shop to serve both the shop and the flat above. The building will have a width and depth of 7.0 metres and 3.0 metres. The building will have a flat roof with a height of 2.30 metres have 2 no.

doors and a large window on the front elevation. The building will have a felt roof, vertical timber cladding and black uPVC fenestration.

The planning statement confirms that the building is to be used for storage use only and not to be used for any mechanical processes with no fridges or freezers to be stored within.

Works had been started on the floor and the frame of the building at the time of the officers site visit.

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 Haywards Heath 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:

- DP1 - Sustainable Economic Development
- DP2 - Town Centre Development
- 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.

There are no relevant policies.

Haywards Heath Neighbourhood Plan (made 2016)

Relevant policies:

B1 - Retail Development

E9 - Design

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 is currently at Examination with initial hearings held in February/March 2026. The Council has consulted on Main Modifications which are required to ensure the plan is legally compliant and sound with further Hearings taking place in November 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:

DPS1 - Climate Change

DPS2 - Sustainable Design and Construction

DPB1 - Character and Design

DPN7 - Noise Impacts

DPE1 - Sustainable Economic development

DPE4 - Town and Village Centre Development

DPE5 - Within Town and Village Centre Boundaries

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) (August 2026)

National Planning Policy Guidance

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- Principle of Development
- Design and Character
- Impact on neighbouring properties
- Biodiversity Net Gain

Principle of Development

The site lies within the town centre of Haywards Heath and along an area of secondary shopping frontage as defined by the Mid Sussex District Plan and Haywards Heath Neighbourhood Plan.

Policy DP1 of the District Plan supports the effective use of employment land and premises permitting appropriate intensification, conversion, redevelopment and/or extension for employment purposes provided its in accordance with other policies of the District Plan. However, the policy is considered to have very limited weight as it is materially inconsistent with the NPPF, and greater weight should be given to policy E2 of the NPPF. Policy E2 of the NPPF looks to support business growth and meeting the needs of businesses with weight given to supporting development that's provides economic benefits for commercial development and allow businesses to invest, expand and/or adapt.

Policy DP2 of the Mid Sussex District Plan and policy B1 of the Haywards Heath Neighbourhood Plan supports retail development within the defined Town Centre of Haywards Heath. These policies are considered to have very limited weight as they are materially inconsistent with policy TC2 of the NPPF, therefore greater wight should be given to policy TC2. Policy TC2 states that substantial weight should be given to the supporting the overall vitality and viability of the centre as well as improving or retaining access to local shops and other facilities which provide day to day services for the local community.

The above-mentioned policies therefore support the principle of development for the proposed storage building in order to support and meet the needs of the local business within the defined town centre. The principle of development therefore accords with policies E2 and TC2 of the NPPF, policies DP1 And DP2 of the District Plan and policy B1 of the Neighbourhood Plan.

Design and Character

Policy DP26 of the District Plan and E9 of the Neighbourhood Plan relate to character and design. However, these policies are considered to have very limited weight as they are materially inconsistent with the NPPF, and greater weight should be given to policy DP3 of the NPPF.

Policy DP3 of the NPPF sets out the key principles for well-designed places. This sets out in part that proposals should respond to their context, so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets.

The proposed building is of an acceptable scale, form and design to the character of the area. The building would not be visible from the highway and is located at the rear of the site. The building is of a modest height of 2.3 metres and constructed from appropriate materials. Therefore, the application is considered to comply with the above part of policy DP3 of the NPPF, policy DP26 of the District Plan and E9 of the Neighbourhood Plan.

Impact on neighbouring properties

Policy DP26 in part seeks to ensure that new development does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings. Policy DP29 relates to noise air and light pollution and requires development to minimise the impact on neighbouring properties. It is considered that these polices have very limited weight as they are considered to be materially inconsistent with the NPPF and consideration should be given to policies L2 and P3 of the NPPF.

Policy L2 of the NPPF relates to making effective use of land. Part L2(1dii) requires proposals to have '*acceptable living standards for residents and neighbours in terms of access to daylight, sunlight, privacy and external amenity space*'.

Policy P3 of the NPPF relates to living conditions and pollution. Part 2(b) of this policy requires proposals '*Not give rise to, or contribute to, an unacceptable level of access to daylight and sunlight for neighbouring residents and occupiers, or unacceptable levels of air, noise, artificial light, water, soil or other forms of pollution on or beyond the site*'.

The proposed building is located approximately 0.30 metres from the north boundary, with private parking beyond serving the neighbouring property. The building would be 0.45 metres from the southern boundary which borders with a large commercial building used for car servicing and repairs. The building would be 0.40 metres from the rear boundary marked by close board fencing which backs onto the rears of nos. 57 and 59 Gower Road, with the dwellings approximately 23 and 16 metres from the proposed building. The dwelling is of a modest height, with openings facing into the application site and will therefore not result in unacceptable harm in terms overlooking or loss of light.

The comments from the letter of objection are noted, however the proposed building is to be used for storage purposes only and will therefore not be used for cooking or the use of any machinery. Additionally, no fridges or freezers are to be used within the storage building so as to not cause unacceptable levels of noise. This can be secured with a suitably worded condition. Should there be any nuisance this can be investigated by the Council's Environmental Health team and the Environmental Protection Act 1990.

With the necessary condition, the proposal would therefore not result in unacceptable harm to neighbour amenities and is therefore considered to comply with the above mentioned parts of policies L2 and P3 of the NPPF and 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. Under the statutory framework for biodiversity net gain this application comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Haywards Heath Neighbourhood Plan.

Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.

In conclusion, the proposal is considered to be acceptable in terms of design, scale and form and would not cause unacceptable harm to the amenities of neighbouring residents. Therefore, the application complies with policies E2, TC2, DP3, L2 and P3 of the NPPF, policies DP1, DP2, DP26 and DP29 of the District Plan and policies B1 and E9 of the Neighbourhood Plan and is considered acceptable.

Decision: Permission

Case Officer: Peter Davies