

## Delegated Decision

### Sign off Sheet

|                                              |                                                                                                                                   |                                        |              |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|--------------|
| <b>Ref. No:</b>                              | DM/26/0122                                                                                                                        | <b>Case Officer:</b>                   | Deborah Lynn |
| <b>Application Type:</b>                     | Lawful Development Certificate -Proposed                                                                                          |                                        |              |
| <b>Proposal:</b>                             | Removal of existing garage and conservatory. Erection of a rear single-storey extension spanning the width of the original house. |                                        |              |
| <b>Site:</b>                                 | 139 Chanctonbury Road, Burgess Hill, West Sussex, RH15 9HE, , , ,                                                                 |                                        |              |
| <b>Validation Date</b>                       | 19 Jan 2026                                                                                                                       | <b>Overall Expiry Date:</b>            | 11 Feb 2026  |
| <b>Pre-Commencement Conditions Required:</b> |                                                                                                                                   | <b>Pre-Com Conditions Date Agreed:</b> |              |
| <b>Recommendation:</b>                       | Permission                                                                                                                        | <b>Recommendation Date:</b>            | 17 Apr 2026  |
| <b>Target Date:</b>                          | 16 Mar 2026                                                                                                                       | <b>Recommending Officer Signature:</b> | Deborah Lynn |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 0 |
|--------------------------------------------------------|--|-------------------------------|---|

|                              |             |              |             |
|------------------------------|-------------|--------------|-------------|
| <b>Signed and Agreed By:</b> | Steven King | <b>Date:</b> | 21 Apr 2026 |
| <b>Comments:</b>             |             |              |             |

## **MID SUSSEX DISTRICT COUNCIL**

**DM/26/0122**

**139 Chanctonbury Road, Burgess Hill, West Sussex, RH15 9HE, , ,  
Removal of existing garage and conservatory. Erection of a rear single-storey extension  
spanning the width of the original house.  
Mr And Mrs Morley**

### **SUMMARY OF REPRESENTATIONS**

None received.

### **SUMMARY OF CONSULTEES**

#### **Southern Water**

No objections.

### **BURGESS HILL TOWN COUNCIL OBSERVATIONS**

The Committee of the 27th January noted that this was a legal decision to be made by the Mid Sussex Planning Officers.

### **INTRODUCTION**

This application seeks to formally establish whether the proposed development consisting of the removal of an existing garage and conservatory and erection of a single storey rear extension, would constitute permitted development.

### **RELEVANT PLANNING HISTORY**

DM/25/3181 - Erection of a single storey rear extension extending beyond the rear wall of the original house by 5m, to a maximum height of 3m and the height of the eaves to 3m. Prior approval not required 15.01.2026.

DM/26/0650 - Demolition of detached domestic garage. Prior approval not required 08.04.2026.

### **SITE AND SURROUNDINGS**

No. 139 Chanctonbury Road is a semi-detached 1950s house located within a row of similar properties on the eastern side of Chanctonbury Road. The dwellinghouse is well set back from the road with a large grass verge to the front and a shared driveway to the south that provides access to a detached garage set back to the rear of the house. A small conservatory has been added to the rear. The property backs onto the London to Brighton railway line; land levels gently rise to the rear.

In terms of planning policy, the site lies within the built up area of Burgess Hill.

### **APPLICATION DETAILS**

Proposed plans show that the existing conservatory and detached garage to the rear of the dwellinghouse will be removed to allow for the erection of a single storey rear extension that measures 5 metres deep by 6 metres wide and 3 metres high with a flat roof.

The extension will be finished with materials to match the original dwellinghouse. A roof light is proposed to the flat roof.

### **LEGAL FRAMEWORK**

As this is an application to establish whether the proposed development would benefit from permitted development rights and will be a legal decision, any planning merits cannot be taken into account when considering this application.

Section 55 of The Town and Country Planning Act 1990 sets out that the demolition of buildings is considered a building operation and as such constitutes development. Section 55 (2) sets out operations that shall not be taken for the purposes of the Act to involve development of the land, which at criteria (g) states *'the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.'*

This refers to The Town and Country Planning (Demolition - Description of Buildings) Direction 2021 by the Secretary of State for Housing, Communities and Local Government which states at Section 3. (1) that:

*'3. (1) Subject to sub-paragraph (2), the demolition of the following descriptions of building shall not be taken, for the purposes of the Town and Country Planning Act 1990, to involve development of land:*  
*(a) any building the cubic content of which, measured externally, does not exceed 50 cubic metres;*  
*(b) the whole or any part of any gate, fence, wall or other means of enclosure.'*

As the detached garage has a cubic content that exceeds 50 cubic metres, the proposed demolition of the building is considered to constitute development. The proposed demolition of the conservatory is not considered to constitute development.

The proposal therefore falls to be tested against the relevant criteria of Part 1, Class A and Part 11, Class B of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, as detailed below:

## **PART 1**

### **Development within the curtilage of a dwellinghouse**

#### **Class A - enlargement, improvement or other alteration of a dwellinghouse**

##### **Permitted Development**

##### **A. The enlargement, improvement or other alteration of a dwellinghouse.**

##### **Development not permitted**

##### **A.1** Development is not permitted by Class A if—

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);
- (b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;
- (d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;..
- (f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—
  - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;
- (g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
  - (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
  - (ii) exceed 4 metres in height;...
- (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;...
- (k) it would consist of or include—
  - (i) the construction or provision of a verandah, balcony or raised platform,
  - (ii) the installation, alteration or replacement of a microwave antenna,
  - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
  - (iv) an alteration to any part of the roof of the dwellinghouse; or
- (l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)...

## Conditions

A.3 Development is permitted by Class A subject to the following conditions—

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;...

A.4— (1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(2) Before beginning the development the developer must provide the following information to the local planning authority—

(a) a written description of the proposed development including—

(i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;

(ii) the maximum height of the enlarged part of the dwellinghouse; and

(iii) the height of the eaves of the enlarged part of the dwellinghouse; ...

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(4) Sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) The local planning authority must notify each adjoining owner or occupier about the proposed development by serving on them a notice which—...

(6) The local planning authority must send a copy of the notice referred to in sub-paragraph (5) to the developer.

(7) Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

(8) The local planning authority may require the developer to submit such further information regarding the proposed development as the authority may reasonably require in order to determine the application.

(9) The local planning authority must, when considering the impact referred to in sub-paragraph (7)—

(a) take into account any representations made as a result of the notice given under subparagraph (5); and

(b) consider the amenity of all adjoining premises, not just adjoining premises which are the subject of representations.

(10) The development must not begin before the occurrence of one of the following—

(a) the receipt by the developer from the local planning authority of a written notice that their prior approval is not required;

(b) the receipt by the developer from the local planning authority of a written notice giving their prior approval; or

(c) the expiry of 42 days following the date on which the information referred to in subparagraph (2) was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.

(11) The development must be carried out—

- (a) where prior approval is required, in accordance with the details approved by the local planning authority;
- (b) where prior approval is not required, or where sub-paragraph (10)(c) applies, in accordance with the information provided under sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.

(12) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the impact of the proposed development on the amenity of any adjoining premises.

## **PART 11**

### **Heritage and demolition**

#### **Class B - demolition of buildings**

##### **Permitted development**

##### **B. Any building operation consisting of the demolition of a building.**

##### **Development not permitted**

**B.1** Development is not permitted by Class B if—

- (a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;
- (b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area);
- (c) the building is used, or was last used, for a purpose falling within—
  - (i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or
  - (ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;
- (d) the building is used, or was last used, for the purpose of—
  - (i) a concert hall;
  - (ii) a venue for live music performance; or
  - (iii) a theatre; or
- (e) the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure—
  - (i) that is a listed building;
  - (ii) that is a scheduled monument;
  - (iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;
  - (iv) within the grounds of a museum or art gallery; or
  - (v) within the curtilage of a dwellinghouse.

##### **Conditions**

**B.2** Development is permitted by Class B subject to the following conditions—

- (a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;
- (b) where the demolition does not fall within paragraph (a) and is not excluded demolition—
  - (i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site;...
  - (vii) the development must not begin before the occurrence of one of the following—
    - (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
    - (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or
    - (cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;...

Class B.3 clarifies that "excluded demolition" means demolition—

- (a) on land which is the subject of a planning permission, for the redevelopment of the land, granted on an application or deemed to be granted under Part 3 of the Act (control over development),
- (b) permitted to be carried out by a consent under Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 (scheduled monument consent),
- (c) permitted to be carried out by a consent under Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listed building consent),
- (d) required or permitted to be carried out by or under any other enactment, or
- (e) required to be carried out by virtue of a relevant obligation.'

## **ASSESSMENT**

The planning records for the property highlight a condition imposed on the original planning permission DM.54.144 which states that:

*'The provisions of Article 3(1) of the Town and Country Planning General Development Order 1950, and of the First Schedule thereto shall not apply to the land the subject of this approval, except in regard to works of maintenance and development permission must be obtained before the carrying out of any development not hereby specifically approved and which would result in a building structure or works visible from any road (or paths) used by the public.'*

Therefore, any works to the property that would result in a building, structure or works being visible from any road (or paths) used by the public, would not be considered to benefit from permitted development rights and would require planning permission.

As the proposed single storey rear extension would not be visible from any road or paths used by the public, the proposal falls to be considered against relevant permitted development criteria as set out under Part 1, Class A as noted above, subject to condition that prior approval is sought from the local planning authority (LPA) for the proposal as noted under Class A.4 as the proposed rear extension would exceed 3 metres in depth as set out by Part 1, Class A.1 (f)(i) but would not exceed 6 metres in depth as set out by Part 1, Class A.1 (g)(i).

An application for prior approval for a larger home extension (DM/25/3181) was submitted to the LPA on the 12th December 2025. The Council determined on the 15th January 2026 that prior approval was not required for the proposal as no neighbours had commented on the proposal.

With regards to the demolition of the detached garage, the proposal is considered to constitute development as the garage exceeds 50 cubic metres in volume. As the garage is sited to the rear of the dwellinghouse and obscured in views from any road or path used by the public, it is considered that the proposal also falls to be considered against relevant permitted development criteria, particularly as the proposal concerns the demolition of a building, rather than the erection of a building, structure or other works.

The proposal is considered to comply with relevant permitted development criteria as set out under Part 11 Class B of the GPDO as noted above, subject to condition that prior approval is sought from the local planning authority in respect of the method of demolition and the proposed restoration of the site.

An application for prior approval to demolish the garage was submitted to the local planning authority on the 12th March 2026 under reference DM/26/0650. The Council determined on the 8th April 2026 that prior approval was not required.

The proposed demolition of the garage and erection of a single storey rear extension are considered permitted development, subject to condition that prior approval is sought from the local planning authority. As prior approval has been sought by the applicant for both the demolition of the garage and larger home extension in accordance with relevant permitted development criteria and in both cases, the local planning authority has deemed that prior approval is not required, it is considered that the proposed development is permitted development.

## **PLANNING BALANCE AND CONCLUSION**

The proposed development is found to comply with permitted development criteria as stated under Part 1, Class A and Part 11, Class B of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Decision:       Permission

Case Officer: Deborah Lynn