

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/2071	Case Officer:	Andrew Horrell
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition no 2 relating to planning application DM/25/3212 - To allow minor amendments to the approved glazing and window specification.		
Site:	Red Oaks, Weald Chase, Staplefield Road, Cuckfield, Haywards Heath, West Sussex, RH17 5HY,		
Validation Date	20 Aug 2026	Overall Expiry Date:	17 Sep 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	18 Sep 2026
Target Date:	15 Oct 2026	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	20 Sep 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/2071

Red Oaks, Weald Chase, Staplefield Road, Cuckfield, Haywards Heath, West Sussex, RH17 5HY
Variation of condition no 2 relating to planning application DM/25/3212 - To allow minor
amendments to the approved glazing and window specification.
Mr John Orpen

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEE COMMENTS

None received

PARISH COUNCIL OBSERVATIONS

Ansty and Staplefield Parish Council have no objections to this planning application.

INTRODUCTION

Permission is sought to vary of condition 2 of DM/25/3212 to allow for alterations to the approved plans.

RELEVANT PLANNING HISTORY

DM/25/3212 - Conversion and extension of the existing garage into additional living accommodation, construction of new glass link extension and demolition of existing porch extension with proposed replacement extension. (approved)

SITE AND SURROUNDINGS

Red Oaks is a semi-detached hipped roofed dwelling which was originally a single dwelling within a private set of dwellings off Staplefield Road.

The walls are a mix of mock Tudor style painted render and timber cladding with face brickwork, hanging tiles and stonework with timber doors and windows.

The dwelling is characterised by rear conservatory, a detached pitched roofed garage and various previous enlargements and dormers.

To the west of the site is the adjoining neighbour Downsview, to the south of the site is the rear garden with fields beyond, to the east of the site is the driveway with hedging to public footpath to neighbouring North Lodge and Weald Chase Cottage beyond and to the north of the site is the driveway with hedging and woodland to access track serving Downsview and Orchard House to highway beyond.

The site is within the countryside and the High Weald National Landscape.

APPLICATION DETAILS

This application seeks permission to vary condition 2 of DM/25/3212.

Condition 2 stated:

' 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'.

The alterations comprise of the following:

- o A reduction in the extent of glazing to the south, east and north elevations of the garage extension (artist's studio).
- o A reduction in the extent of glazing to the north elevation of the utility room extension.
- o The replacement of the previously approved steel-framed windows with black-grey traditional timber windows with aluminium cladding to the outside, featuring classic ovolo glazing bar detailing,

This is enabling the required thermal performance (U-values) to be achieved whilst maintaining the traditional and heritage led appearance of the approved design. The proposed windows would be from Rationel and are their FORMA Plus range.

- o Areas where window openings have been reduced will be infilled with brickwork to match the existing dwelling,

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.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Site Allocations DPD and the Ansty and Staplefield 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

Neighbourhood Plan

Ansty and Staplefield Neighbourhood Plan

The Neighbourhood Plan was made on 2nd February 2017.

Relevant policies:

None relevant

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.

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 hearings were concluded on 19th March 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:

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) (August 2026)

ASSESSMENT

This application is made under section 73 of the Town and Country Planning Act 1990 to vary condition 2 associated with the planning permission reference DM/25/3212 for alterations to the approved plans.

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.'

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

The principle of the development was originally accepted through the previous permission under reference DM/25/3212.

Even though the result of this application would be the issuing of a new planning permission, in light of the above legislation, 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.

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

- Design and Character

Design and impact on the character of the area

Policy DP26 of the District Plan relates to character and design. However, this policy is 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.

DP3 of the NPPF in part states:

'create visually attractive, distinctive and characterful development to establish or maintain a strong sense of place and pride, including through the use of a coherent palette of materials, design features and planting'.

The changes to the approved extensions are modest alterations to the approved plans. Therefore, given the nature of the changes proposed and the location of the changes to the approved dwelling, they are not considered to cause detriment to the character of the area.

Therefore, the proposal is deemed to comply with DP26 of the Mid Sussex District Plan and DP3 of the NPPF.

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 to a householder application. This application is therefore exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

It has previously been considered that the development was acceptable through the determination of the permission reference DM/25/3212.

The proposed amendments to the previously approved plans detailed in condition 2 are considered to be not out of character to the design and character of the dwelling and the surrounding area.

The proposal is thereby considered to comply with Policy DP26 of the Mid Sussex District Plan, the Mid Sussex Design Guide SPD and policy DP3 of the NPPF.

Decision: Permission

Case Officer: Andrew Horrell