

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1576	Case Officer:	Andrew Horrell
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition No. 2 relating to dm/24/1491 to amend window design and internal alterations		
Site:	Tilecroft, Lewes Road, Lindfield, Haywards Heath, West Sussex, RH16 2LF, ,		
Validation Date	15 Jul 2025	Overall Expiry Date:	8 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	29 Aug 2025
Target Date:	9 Sep 2025	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Steven King	Date:	29 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1576

**Tilecroft, Lewes Road, Lindfield, Haywards Heath, West Sussex, RH16 2LF,
Variation of condition No. 2 relating to dm/24/1491 to amend window design and internal alterations
David Pembrey**

SUMMARY OF REPRESENTATIONS

None received

CONSULTEE COMMENTS

None received

PARISH COUNCIL OBSERVATIONS

No objection

INTRODUCTION

Permission is sought to vary of condition 2 of planning application DM/24/1491 to amend the approved drawings to allow for external and internal alterations.

PLANNING HISTORY

LF/015/85 - SINGLE STOREY EXTENSION TO DWELLING INCORPORATING CHIMNEY STACK. (approved)

LF/082/99 - SINGLE AND TWO STOREY SIDE EXTENSIONS. FRONT PORCH. (approved)

07/02261/FUL - Addition of dormer windows and rooflights in roof - revised application. (refused)

07/03564/FUL - Addition of dormer windows and rooflights in roof - revised application. (refused and appeal dismissed)

08/00800/LDC - The insertion of 5 no. conservation roof lights in roof slopes i.e 2 no. at the front and 3 no. at the back of an existing dwelling in a Conservation Area. This is an application to establish whether the proposed development is lawful: this will be a legal decision where the planning merits of the proposed development cannot be taken into account. (split decision)

08/03552/FUL - Two dormers To Existing Roof Space - Corrected Plans Received 21/11/08 (approved)

DM/15/1709 - Retrospective application for the erection of trellis panels above existing boundary wall to replace screen of ivy. (approved)

DM/24/1491 - New bay window and infill existing external corridor and various internal alterations (approved)

DM/25/1701 - non-material amendment to planning reference DM/24/1491 to remove the bracketed wording and the word bay from the description (approved)

SITE AND SURROUNDINGS

Tilecroft is a two-storey detached pitched roofed corner dwelling. The walls are a mix of painted brickwork and hanging tiles with upvc and timber doors and windows. The dwelling is characterised by an existing pitched roofed front dormers and a timber side conservatory.

To the north-east of the site is hedging to Highway beyond, to the south-east of the site is the driveway to highway beyond, to the north-west of the site is the rear garden with brick wall and close boarded fencing boundary to South Malling Lodge and set back neighbouring Cheyneys beyond. To the south

west of the site is close boarded fencing with the access to Cheyneys to set forward 1 Eastern Cottages beyond.

The site is within the built-up area of Lindfield and the Lindfield Conservation Area.

APPLICATION DETAILS

This application seeks permission to vary condition number 2 in relation to planning application DM/24/1491.

Condition 2 is in relation to approved plans and stated the following:

'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.'

Alterations to the approved plans include the installation of a new window to replace the bay window to the kitchen with fenestration changes from four pane bay window to three pane window and a single window serving the room.

Other alterations include the infilling of the existing external corridor to integrate within the house with various internal alterations.

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 Lindfield 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
DP35 - Conservation Area

Lindfield and Lindfield Rural Neighbourhood Plan

The Lindfield and Lindfield Rural Neighbourhood Plan was formally made on 23 March 2016

No relevant policies:.

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.'*

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:

DPB1 - Character and Design

DPB3 - Conservation Areas

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/25/0143 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 allows 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 changes to the approved front bay window kitchen window being altered to a new window to replace the bay window to the kitchen with fenestration changes from four pane bay window to three pane window and a single window serving the room with other alterations include the infilling of the existing external corridor to integrate within the house with various internal alterations.

The principle of the development was originally accepted through the previous permission under reference DM/24/1491. 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 and Impact on Conservation Area

Design and impact on the character of the area and Impact on Conservation Area

Policy DP26 of the District Plan relates to character and design. It 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:

- o is of high quality design and layout and includes appropriate landscaping and greenspace;*
- o 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;*
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- o protects open spaces, trees and gardens that contribute to the character of the area;*
- o protects valued townscapes and the separate identity and character of towns and villages;*
- o 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 DP29);*
- o creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- o incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- o positively addresses sustainability considerations in the layout and the building design;*
- o 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;*
- o optimises the potential of the site to accommodate development.'*

Policy DP35 of the District Plan states:

'Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:

- o New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials;*
- o Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character;*
- o Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not result in the loss of a traditional shopfront and the new design is sympathetic to the character of the existing building and street scene in which it is located;*
- o Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area;*
- o Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;*
- o New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.*

Development will also protect the setting of the conservation area and in particular views into and out of the area.

New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area.'

The proposed external changes to the dwelling are modest and are not out of character with the existing dwelling, the surrounding area and preserves the character and appearance of the Conservation area. The internal works are not development under Section 55 of the Town and Country Planning Act 1990.

The proposal is thereby considered to comply with Policy DP26 of the Mid Sussex District Plan, the design principles set out in the Design Guide, and the requirements of the NPPF.

PLANNING BALANCE AND CONCLUSION

It has previously been considered that the development was acceptable through the determination of the permission reference DM/24/1491.

The proposed amendments to the previously approved plans detailed in condition 2 are considered to be sensitive to the design and character of the dwelling and the Conservation Area.

The proposal is thereby considered to comply with Policies DP26 and DP35 of the Mid Sussex District Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.

Decision: Permission

Case Officer: Andrew Horrell