

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0375	Case Officer:	Catherine Cardin
Application Type:	Full Application		
Proposal:	Erection of a single storey timber yoga studio.		
Site:	26 Gander Hill, Haywards Heath, West Sussex, RH16 1QX, , , ,		
Validation Date	26 Feb 2025	Overall Expiry Date:	21 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	22 Apr 2025
Target Date:	23 Apr 2025	Recommending Officer Signature:	<i>Catherine Cardin</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	2
--	--	-------------------------------	---

Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	23 Apr 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0375

**26 Gander Hill, Haywards Heath, West Sussex, RH16 1QX, , ,
Erection of a single storey timber yoga studio.
Mrs Alison Norris**

SUMMARY OF REPRESENTATIONS

One representation has been received in support of this application as there is a lack of yoga studios in the vicinity.

One letter of objection has also been received. In summary the following concerns have been raised:

- The impact on the mature hedge boundary,
- Overbearing,
- Loss of light,
- Noise and disturbance via the side access,
- Highway safety and parking, and
- Question if any planning permission would override specific covenants on the property.

When assessing planning applications, only material considerations can be considered. The maintenance of the hedge boundary and legal covenants are civil matters and therefore cannot be considered as part of this application. Additionally, it is the responsibility of the applicant to ensure that any works accord with all relevant legislative requirements.

SUMMARY OF CONSULTEES

Southern Water

No objection.

WSCC Highways

No objection.

MSDC Environmental Health

No objection.

MSDC Trees

No objection.

TOWN COUNCIL OBSERVATIONS

No comment.

INTRODUCTION

Planning permission is sought for the erection of a single storey timber yoga studio.

RELEVANT PLANNING HISTORY

CU/215/81- Extension to provide accommodation for elderly relative and to provide new car port and new garage. Alterations to drive. Permission.

01/02437/FUL- Conservatory to rear of property. Permission.

HH/109/99- Two storey extension in place of single storey extension to side elevation. Refusal.

HH/222/99- Two storey extension in place of single storey extension to side elevation. Permission.

14/00295/FUL- Single storey rear extension and oriel bay window projection to front elevation. Permission.

DM/15/3184- Proposed roof alterations to existing attached garage and utility room. Permission.

SITE AND SURROUNDINGS

The application property is a detached, two storey dwelling, located on the southern side of Gander Hill. The dwelling is constructed of red brick, with white uPVC windows on the front elevation and grey uPVC windows on the rear elevation. The dwelling has a plain tile roof. The property benefits from off street parking to the front of the property. The property has been extended several times and benefits from a rear single storey rear extension and a two-storey rear extension.

The property is located within the built-up area of Haywards Heath. The properties along Gander Hill are positioned on gently sloping ground level. Neighbouring properties are located to the east, west and south. The highway is located to the north.

APPLICATION DETAILS

Planning permission is sought for single storey timber studio which is proposed to be used as a yoga studio and would be positioned in the south-west corner of the rear garden. The proposed studio would measure some 6 metres in width and some 3.6 metres in depth. This would have a gable roof with cedar shingle roof tiles. This would have a height to the ridge of some 2.7 metres and a height to the eaves of some 2.1 metres. The proposed walls would have painted timber cladding. It is proposed that there would be a set of double doors on the northern elevation and a set of double doors and two windows on the eastern elevation.

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) Any 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:

DP21- Transport

DP26 - Character and Design

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.

Neighbourhood Plan

Haywards Heath Neighbourhood Plan made in 2016.

Relevant policies:

Policy 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 (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:

DPS2 - Sustainable Design and Construction

DPS6 - Health and Wellbeing

DPB1 - Character and Design

DPT4 - Parking and Electric Vehicle Charging Infrastructure

DPN4 - Trees, Woodland and Hedgerows

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.

National Planning Policy Guidance

National Design Guide/Code

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

ASSESSMENT

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

- Design and Character
- Impact on neighbouring properties
- Biodiversity Net Gain
- Highways
- Impact on Trees
- Other matters

Design and character

Policy DP26 of the Mid Sussex District Plan 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 E9 of the Haywards Heath Neighbourhood Plan relates to design and states that:

Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site. This will include having regard to the following design elements:

- o height, scale, spacing, layout, orientation, design and materials of buildings,*
- o the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,*
- o respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,*
- o creates safe, accessible and well-connected environments that meet the needs of users,*
- o Will not result in unacceptable levels of light, noise, air or water pollution,*
- o Makes best use of the site to accommodate development,*
- o Car parking is designed and located so that it fits in with the character of the proposed development.*

Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character.

The locality is characterised by detached dwellings where properties are a range of ages and designs.

It is considered that the proposed studio would be of a design, form and scale that would appear in proportion and appropriate to the character of the existing dwelling. The studio would be set back from the rear elevation in the south-western corner of the rear garden and would be obscured from public views by the existing dwelling. As the proposal would not be visible from the street, it is not considered that the proposal would have any impact on the streetscene.

The proposal is therefore considered to comply with policy DP26 of the District Plan and policy E9 of the Haywards Heath Neighbourhood Plan.

Impact on neighbouring properties

In terms of impact upon neighbouring amenities, Policy DP26 in part seeks to ensure that development:

'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);'

Policy H9 states that proposals should "safeguard" adjoining neighbours amenity whereas policy DP26 of the MSDP states that development should 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. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect.

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. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

With regard to the neighbour at 24 Gander Hill, whilst the proposal would be in close proximity to the shared boundary, it is considered that there would be a substantial distance from the neighbouring property of some 14 metres. Given this distance from the neighbour and the relatively modest scale of the building, it is not considered that this development would give rise to concerns regarding the loss of light or outlook. No windows are proposed on the western elevation and given the distance of some 14 metres to the neighbouring property from the proposed doors on the northern elevation, it is not considered that this proposal would give rise to any significant overlooking concerns.

With regard to the neighbour at 28 Gander Hill, the proposal would be set back from the shared boundary by some 11 metres. Given this distance from the shared boundary, it is not considered that this proposal would cause significant harm to the amenities of this neighbour. Although windows are proposed on the eastern elevation, given the mature hedge boundary and that the proposal would be offset from the shared boundary by some 11 metres, it is not considered that this proposal would give rise to any significant overlooking concerns.

Policy DP26 also requires regard to be given to noise, air and light pollution. Concern has also been raised by a neighbouring property regarding noise, disturbance and privacy. The Environmental Protection Officer has been consulted as part of this application and has raised no objections, subject to the imposition of a condition that would restrict the opening hours of the business. The condition seeks to restrict the hours of operation to reduce the impact on neighbouring properties. Given the close proximity of neighbouring residents, it is considered reasonable to protect their amenity from long hours of operation. The hours proposed are not considered to be unreasonable, relating to weekday evenings and restricted hours on Saturdays. Furthermore, the requirements of the Environmental Protection Act 1990 protects neighbours from a statutory noise nuisance. An informative reminds the applicant of this duty of care. In addition, given the proximity to neighbouring properties, it is considered that the number of attendees to the class should also be restricted as well as the details of any ventilation to be undertaken in accordance with the details provided. This should further protect the amenity of this neighbour, reducing the potential impact occurring through noise, disturbance and overlooking.

Whilst the proposed development is considered to have some impact the amenity of neighbouring dwellings it is considered with appropriate conditions, as described above, the impact would not be significant enough as to warrant the refusal of this application.

Regarding the impact of construction, given the scale of the proposed building, it is considered that any impact would be relatively short term. In addition, an informative sets out the requirements of the Environmental Protection Act 1990 regarding construction and details measures to comply with the duty of care.

Highways

Policy DP21 of the Mid Sussex District Plan relates to transport and states that development proposals should protect the safety of road users and pedestrians.

Concern have been raised by a neighbouring property regarding the impact of the proposal on highway safety and parking. The Highways Authority have been consulted on the application and have advised that there are no proposed changes to the existing parking or access arrangements and there is parking on the driveway for up to 3 cars. The submitted plans show that there will be a maximum of 6-8 visitors at any one time from 1-3 hours at a time. Any overspill parking would have to be accommodated on-street. Furthermore, the Highways Authority have considered that there is no evidence that the proposal would exacerbate an existing safety concern, and that this proposal is not anticipated to result in a significant intensification of use of the existing access. Whilst the proposed development is considered to have some impact on the amenity of neighbouring dwellings regarding on-street parking, it

is considered with appropriate conditions, as described above, the impact would not be significant enough as to warrant the refusal of this application.

Overall, it is considered that the proposed yoga studio would not result in an adverse impact in relation to highways. The proposal therefore accords with policy DP21 of the District Plan.

Impact on Trees

Policy DP37 of the Mid Sussex Plan relates to trees and states:

'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.

Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.

Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose.

Trees, woodland and hedgerows will be protected and enhanced by ensuring development:

- o incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme; and*
- o prevents damage to root systems and takes account of expected future growth; and*
- o where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management; and*
- o has appropriate protection measures throughout the development process; and*
- o takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change; and*
- o does not sever ecological corridors created by these assets.*

Proposals for works to trees will be considered taking into account:

- o the condition and health of the trees; and*
- o the contribution of the trees to the character and visual amenity of the local area; and*
- o the amenity and nature conservation value of the trees; and*
- o the extent and impact of the works; and*
- o any replanting proposals.*

The felling of protected trees will only be permitted if there is no appropriate alternative. Where a protected tree or group of trees is felled, a replacement tree or group of trees, on a minimum of a 1:1 basis and of an appropriate size and type, will normally be required. The replanting should take place as close to the felled tree or trees as possible having regard to the proximity of adjacent properties.

Development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary.'

There are nine trees located within 15m of the application site and tree protection measures have been provided as part of this application. The MSDC Tree Officer was consulted on the application and considered the proposal. No objection has been raised. The views of the Tree Officer are shared, so it is considered that the development would comply with the requirements of policy DP37 of the Mid Sussex District Plan.

Other matters

A letter of representation was received which queried the status of the Restrictive Covenant. As this is a legal matter, this cannot be considered as part of this proposal.

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

The proposal is considered to be appropriate in terms of design, size and scale to the dwellinghouse and locality, and would not cause harm to the amenities of neighbouring properties. In addition, the proposal is not considered to result in an adverse impact to highways and would not be harmful to the amenity of neighbouring dwellings. Furthermore, the proposal is not considered to be harmful to trees.

In conclusion, the proposal with the conditions discussed above complies with Mid Sussex District Plan policies DP21, DP26, DP37, and policy E9 of the Haywards Heath Neighbourhood Plan, and the relevant provisions of the NPPF. The application is therefore recommended for approval.

Decision: Permission

Case Officer: Catherine Cardin