

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2656	Case Officer:	Caroline Grist
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of conditions no's 13 (Ecology mitigation and enhancement measures) and 24 (approved plans) relating to planning application DM/23/0990		
Site:	Walnut Marches, Crawley Down Road, Felbridge, East Grinstead, West Sussex, RH19 2PS, ,		
Validation Date	14 Nov 2025	Overall Expiry Date:	2 Feb 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	3 Mar 2026
Target Date:	9 Jan 2026	Recommending Officer Signature:	<i>Caroline Grist</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	2
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	4 Mar 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2656

**Walnut Marches, Crawley Down Road, Felbridge, East Grinstead, West Sussex, RH19 2PS,
Variation of conditions no's 13 (Ecology mitigation and enhancement measures) and 24
(approved plans) relating to planning application DM/23/0990
Mr Michael Lee**

SUMMARY OF REPRESENTATIONS

Two representations have been received in response to this application, one in support and the other in objection.

The letter of objection raised, in summary, the following issues:

- o Permission has already been granted, even though objections were raised and the scheme is an overdevelopment;
- o Overlooking concerns, including to 5 Walnut Grove;
- o Questions where the bat accommodation will be or if it is to be removed;
- o The site is visible from a public road, footpath and right of way; and
- o It is suggested that plots 1-3 are re-positioned to address overlooking concerns.

The letter in support was received as this neighbour considers that these properties require a double garage.

Following a change to the description and the receipt of a bat report, a re-consultation was undertaken. No representations were received in response to this consultation.

It should be noted that the Local Planning Authority can only assess the scheme that has been submitted and this assessment needs to take into account the previously approved application. Overall the submitted layout remains consistent with the previously permitted scheme.

SUMMARY OF CONSULTEES

Ecological Consultant

We note that the previous surveys identified that a Brown Long-eared maternity roost and a Brown Long-eared day roost were present in the main void and the northern void of the main house. In addition, the surveys identified a possible maternity roost for Common Pipistrelle on the western elevation and a total of six other day roosts for, probably, Common Pipistrelle.

As a result, to allow appropriate compensation measures to be secured within the design for bat species under the European Protected Species Mitigation Licence, we can see that the proposals intend to incorporate a bat habitat garage within the garage for plot 3. Therefore, we have reviewed the amended mitigation and compensation and are satisfied that appropriate recommendations have been made within the Bat Survey Report v03 (Deepdene Ecology Ltd., December 2025). However, a copy of the finalised European Protected Species Mitigation Licence will still be required to be submitted to the Council under Condition 11 of the original consent.

As a result, we would support the variation of condition 13.

TOWN COUNCIL OBSERVATIONS

First response

No comment.

Second response

No comment.

INTRODUCTION

This application seeks permission under section 73 of the Town and Country Planning Act 1990, to vary conditions 13 and 24 of planning application DM/23/0990.

RELEVANT PLANNING HISTORY

12/00368/FUL - Construction of ten new dwellings on land to west of Walnut Marches. Permission.

14/03966/OUT - Construction of 5 new dwellings on land to north east of Walnut Marches. Refused. Allowed on appeal.

DM/16/1966 - Construction of two new dwellings on land to south west of Walnut Marches. Permission.

DM/17/0360 - Construction of two new dwellings on land to south of Walnut Marches. Permission.

DM/17/0641 - Construction of two new dwellings (net) on land to north west of Walnut Marches. Permission.

DM/22/0581 - Construction of three dwellings on land to the east of Walnut Marches. Permission.

DM/23/0990 - Demolition of the existing dwelling and erection of 6 dwellings with associated access, landscaping, garaging and parking. Permission.

DM/23/2085 - Discharge of conditions 10, 11, 12 and 13 in relation to DM/22/0581. Not Proceeded With.

DM/25/1063 - Partial discharge of Planning condition No: 12 relating to planning application DM/23/0990. Permission.

DM/25/2748 - Non Material Amendment to remove "arboricultural information received 23/11 (amended plans received 10th July and 17th July)" from the description of original application DM/23/0990. Permission.

SITE AND SURROUNDINGS

The site measures 0.6 hectares and is located close to the edge of the village of Felbridge. Sitting, broadly, centrally on the site is a two storey dwelling, with the rest of the site being made up of garden and a circular driveway.

There are neighbouring residential properties on all four sides of the site and there are clusters of development, both modern and more historic, prevalent in the immediate vicinity of the site.

There is existing vehicular access into site from the west where an access track leads north directly up to the public highway, Crawley Down Road. This is a C classified road. The western part of the access onto Crawley Down Road is within Mid Sussex but the eastern part is within Tandridge. The access drive to the west is also a public footpath (44W). Most of the existing vegetation within the site is around the boundary edges.

In planning policy designation terms, the site is located within the countryside as defined by the development plan.

APPLICATION DETAILS

The application seeks permission, under section 73 of The Town and Country Planning Act 1990, to vary conditions no. 13 and 24 of planning permission approved DM/23/0990.

Condition no. 13 of planning permission DM/23/0990 states that:

'All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Bat Survey Report Version 1 (Deepdene Ecology Ltd., August 2023) and the Preliminary Ecological Appraisal (Deepdene Ecology Ltd., January 2023), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and to accord with Policy DP38 of the District Plan'.

Condition no. 24 sets out:

'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 Applications'.

Reason: For the avoidance of doubt and in the interest of proper planning'.

Planning permission was granted to demolish an existing dwelling and to erect 6 dwellings on the site, with associated access, landscaping, garaging and parking. The approved plans showed a garage building at the eastern side of the site, positioned between plots three and four. It is now proposed that plots 2, 3, 4 and 5 would have their own garage buildings to the front of each dwelling. Each would be approximately 5.5 metres deep and 5.2 metres wide, with a pitched roof that would measure some 2.2 metres to the eaves and 4.0 metres to the ridge. As a result it is also proposed to reverse the arrangement of plot 5, including the design of the building.

The single garage in the permitted scheme also contained the approved bat habitat. As such, the application description was revised for this condition to be also varied.

During the site visit it was noted that no works had started on site.

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, Site Allocations Document (DPD), the East Grinstead Neighbourhood Plan and the Crawley Down 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:

DP12- Protection and Enhancement of Countryside

DP26 - Character and Design

DP38 - Biodiversity

Site Allocations Development Plan Document

The Site Allocations DPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

East Grinstead Neighbourhood Plan

The East Grinstead Neighbourhood Plan was made in January 2016, which covers the eastern part of the site.

Relevant policies:

EG3 - Promoting Good Design

EG5 - Housing Proposals

Crawley Down Neighbourhood Plan

The Crawley Down Neighbourhood Plan was made in January 2016, which covers the western part of the site.

Relevant policies:

CDNP05 - Control of New Developments

CDNP09 - Protect and Enhance Biodiversity

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

DPN1 - Biodiversity, Geodiversity and Nature Recovery

DPC1 - Protection and Enhancement of the Countryside

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) (December 2024)

ASSESSMENT

This application seeks permission to develop land without compliance with conditions no. 13 and 24 previously attached to planning permission DM/23/0990, as set out under Section 73 of The Town and Country Planning Act 1990.

Section 73 (2) of the said Act states that:

'73 Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) 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.'

The principle of the development has been established by virtue of the previous permission. As such it is only necessary to consider the specific changes that are proposed to the previously approved development. The proposed amendments are for the following:

- Design, impact on character of area and amenity, and
- Impact to biodiversity.

Design, impact on character of area and amenity

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 DP27);*
- 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'.*

The ethos of this policy is reflected in policy EG3 of the East Grinstead Neighbourhood Plan and policy CDNP05 of the Crawley Down Neighbourhood Plan.

The Mid Sussex Design Guide also contains a number of relevant principles with the following being particularly relevant to the application:

- o Principle DG37 (Deliver high quality buildings that minimise their environmental impact);
- o Principle DG38 (Design buildings with architectural integrity and a sense of place); and
- o Principle DG40 (Design buildings that respond to and animate the street space).

Planning permission was originally granted to replace an existing dwelling with six houses on the plot. The scheme, as originally presented, proposed a detached garage to each of the new dwellings. Concerns were raised regarding the number of garages, from a design perspective including the arrangement of the built form and how this would appear. Revised plans were therefore provided, and approved, that reduced the number of garages to one.

The scheme currently under consideration presents four garages to the plots on the eastern side of the site. Whilst the previous concerns are acknowledged, the garage design would reflect that of the proposed houses and the previously approved garage. Furthermore the four garages proposed would be set further into the site and the trees along the site boundary with the access would be retained, reducing their dominance from public vantage points. As such the entry to this development would not appear overly cluttered and it would respond appropriately to the existing area.

Whilst changes are proposed to the arrangement of plot 5, overall it retains the contemporary design of the approved scheme. It remains in a similar position on its plot and the landscaping around it would reflect the approved development.

It is therefore considered that, on balance, the changes made would be acceptable in design terms, would respond appropriately to the character of the surrounding area and would not have a harmful impact on the rural and landscape character of the countryside.

With regards to the impact to amenity, it is considered that the garages associated with plots 2 and 5 are of a design and positioned such that they would not result in a significant loss of light or outlook to surrounding properties.

It is noted that the garages associated with plots 3 and 4 are to be positioned on the eastern boundary of the site. The closest dwelling on Persia Place has a garage near to the boundary with plot 3 and the side of the property is orientated towards it. As such, the garage associated with this plot is not considered to result in a significant loss of light or outlook to this neighbour. The rear of the neighbour on Persia Place, however, is more orientated towards plot 4. Given the angle of this neighbour in relation to the boundary, it is considered that the rearward views towards the garage would be more oblique. The window with the most direct views, understood to be related to a utility room, is also set further back from the boundary. In addition the garage is to be a single storey building and, on balance, it is considered that it would not cause a significant loss of light or outlook to this neighbour either. In addition no windows are proposed in the garage buildings, so there would not be an adverse impact in terms of overlooking.

In terms of the impact arising from the changes to plot 5, the overall level of glazing reflects the approved plans but the arrangement has been reversed. It is acknowledged that the changes made would also bring the dwelling closer to the southern boundary by approximately 2.0 metres. There is existing vegetation in this boundary, to which no changes have been shown, and, as set out in the original assessment, it could be supplemented through a landscaping condition. Taking into account the level of overall change that would occur and the separation distance that would remain, it is considered that in this instance there would not be a significant harmful impact in terms of loss of light, outlook or overlooking.

No changes are proposed to the proposed dwellings to the north of the site, which are closest to 5 Walnut Grove. As such it is considered that the impact to this neighbour's amenity would remain as previously assessed, where significant harm was not identified.

Impact to ecology

Policy DP38 of the Mid Sussex District Plan relates to biodiversity and, in part, sets out:

'Biodiversity will be protected and enhanced by ensuring development:

- o Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- o Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*
- o Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- o Promotes the restoration, management and expansion of priority habitats in the District; and*
- o Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas'.*

Policy CDNP09 of the Crawley Down Neighbourhood Plan also seeks to protect and enhance biodiversity.

Bat roosts have been identified on site within the existing dwelling. The single garage in the permitted scheme contained the approved bat habitat. As this garage is no longer proposed in its approved form, an updated Bat Survey Report has been submitted and reviewed by the Ecologist. It is now proposed to incorporate a bat habitat within the garage for plot 3.

The amended mitigation and compensation has been reviewed by the Ecologist, who is satisfied that appropriate recommendations have been made within the latest Bat Survey Report. A variation to the wording of the previous condition has therefore been proposed by the Ecologist, which is considered to be acceptable. As such it is considered that the development would accord with the requirements of policy DP38 of the Mid Sussex District Plan and policy CDNP09 of the Crawley Down Neighbourhood 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. 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 was made before 12 February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed variation to planning permission DM/23/0990, in respect of the inclusion of additional garages, changes to plot 5 and associated changes to the bat mitigation. The proposal would not result in changes that would be harmful in design terms, in relation to the amenities of neighbouring dwellings or in terms of biodiversity. The proposal therefore accords with policies DP12, DP26 and DP38 of the Mid Sussex District Plan; policies EG3 and EG5 of the East Grinstead Neighbourhood Plan; policies CDNP05 and CDNP09 of the Crawley Down Neighbourhood Plan and the relevant paragraphs of the NPPF.

Decision: Permission

Case Officer: Caroline Grist

