

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2211	Case Officer:	Stefan Galyas
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition no 2 relating to planning application DM/25/1117 - to substitute new drawings.		
Site:	Sharpthorns, 60A Folders Lane, Burgess Hill, West Sussex, RH15 0DX, , ,		
Validation Date	1 Sep 2025	Overall Expiry Date:	29 Sep 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	17 Oct 2025
Target Date:	27 Oct 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	3
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	20 Oct 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2211

**Sharpthorns, 60A Folders Lane, Burgess Hill, West Sussex, RH15 0DX, ,
Variation of condition no 2 relating to planning application DM/25/1117 - to substitute new drawings.**

Mr James Marks

SUMMARY OF REPRESENTATIONS

There were three letters of representation received in response to the proposed development. All three letters sought to support the proposal for the following reasons:

- The annexe's new position away from the shared boundary mitigating against any overbearing or loss of outlook impact that may be incurred at the neighbouring property.
- The new siting of the building being more visually appealing.
- There being more privacy for the family member to be housed in the proposed annexe.

SUMMARY OF CONSULTEES

Tree Officer: No objection.

TOWN/PARISH COUNCIL OBSERVATIONS

Town Council: *'The Committee of 15th September would Recommend Approval.'*

INTRODUCTION

The application seeks permission under section 73 of the Town and Country Planning Act 1990, to vary condition 2 of planning permission DM/25/1117.

RELEVANT PLANNING HISTORY

DM/25/1117 - Proposed two storey side extension to house in place of existing ground floor garage. Minor extension to rear of house. Construction of an annexe building for a family member within the garden. Permission 30.07.2025.

SITE AND SURROUNDINGS

The proposal relates to Sharpthorns, a detached two storey dwelling featuring a cross pitched roof and set to the southern side of the highway. The dwelling is served access from the highway edge by a tarmacked front driveway and an accompanying grassed front garden amenity space sets the property back from the roadside. There is a generous amount of rear garden amenity space which stretches back within a linear plot form. The existing dwelling appears to have been extended to the rear through the addition of a single storey flat roofed rear extension of a brick construction. In terms of external materials, the existing property is composed of brick walls and tile hanging at first floor level, a tiled roof, uPVC windows and doors.

With regard to the site's locality, there are a number of detached two storey dwellings set within ample garden amenity spaces. There is a regular pattern between each of the detached dwellings to the southern side of the highway with some gaps providing access to residential driveways between.

The site is within the built-up area for Burgess Hill as defined in the District Plan (DP). There are some trees subject to tree preservation orders to the north of the site.

APPLICATION DETAILS

The application seeks permission, under section 73 of The Town and Country Planning Act 1990, to vary condition no. 2 of planning permission approved DM/25/1117.

Condition no. 2 of planning permission DM/25/1117 states that:

'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 proposal would maintain the same quantum of accommodation internally as the previously consented scheme, however the outbuilding would be re-sited to be re-sited away from the shared boundary to the west. Furthermore, the proposed outbuilding would be re-orientated so that the principal elevation would face towards the north.

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 Allocation Development Plan Document (DPD) and the Burgess Hill 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

DP29: Noise, Air and Light Pollution

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

Burgess Hill Neighbourhood Plan (Made January 2016)

Relevant Policies:

Policy H2 - Back Garden Development

Other Material Considerations

Mid Sussex District Plan 2021-2039 Consultation Draft

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 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:

DPS1 - Climate Change

DPS2 - Sustainable Design and Construction

DPB1 - Character and Design

DPT4 - Parking and Electric Vehicle Charging Infrastructure

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 National Planning Policy Framework (NPPF) 2024 is a material consideration. Paragraphs 2, 8, 11, 39, 48, 131, 135 & 139.

ASSESSMENT

This application seeks permission to develop land without compliance with condition no. 2 previously attached to planning permission DM/25/1117, 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 and Character
- Impact on Neighbouring Amenities
- Other Matters

Design and Character

DP26 of the 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 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'*

Policy H2 of the Burgess Hill Neighbourhood Plan states in regard to back garden development that:

Development in back gardens in residential areas of Burgess Hill will generally not be supported.

Exceptionally,

proposals to intensify existing residential areas will only be supported where this can be achieved through good design and without harming local amenities. Any attractive prevailing character and appearance of the area must be protected.

Where back garden development is proposed; special regard must be paid to:

- (i) The density and height of the proposal;*
- (ii) The privacy and outlook from existing dwellings and, in particular, gardens;*
- (iii) Any proposed demolition of existing dwellings or parts of dwellings to form access. If this would create an unattractive breach in a consistent street frontage then this will not be permitted;*
- (iv) Access arrangements that would cause significant nuisance to neighbouring properties will not be permitted;*
- (v) Sufficient garden depth and area should be retained by existing dwellings commensurate with their size and character;*
- (vi) The layout, scale and form of housing visible from the street should be compatible with the predominant scale of housing on the street; and,*
- (vii) The effect and cumulative impact of the development on the loss of garden habitat/biodiversity.*

The external appearance of the outbuilding would remain of a similar appearance to that of the previously consented scheme and would utilise the same external materials as previously proposed. The primary alteration would come through the reorientation of the outbuilding so that the principal elevation would face towards the north as opposed to the east. Given the discrete location with regard to the public domain and the limited scope of the alteration, it is considered that the proposal would result in an acceptable appearance with regard to the character and appearance of the area.

Accordingly, the proposal would comply with the provisions of Policy DP26 of the District Plan and Policy H2 of the Burgess Hill Neighbourhood Plan.

Impact on Neighbouring Amenities

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 DP29);'*

DP29 then relates to noise, air and light pollution:

The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:

Noise pollution:

- o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

- o an assessment of the impact of noise generated by a proposed development; or*
- o an assessment of the effect of noise by an existing noise source upon a proposed development;*

Light pollution:

- o The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- o The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;*

Air Pollution:

- o It does not cause unacceptable levels of air pollution;*
 - o Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;*
 - o Development proposals (where appropriate) are consistent with Air Quality Management Plans.*
- The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.*

The proposed outbuilding would be offset further from the sites western boundary by virtue of the re-orientation. A distance of circa 5m would remain between the proposal and the western boundary whilst a distance of approximately 1m would remain when measured from the sites eastern boundary. However, the outbuilding would be positioned so that the majority of the bulk would be set beyond the side elevation of the neighbouring dwelling at No.21 Bartlett Close to the east. In any instance, the single storey size and scale of the outbuilding is not considered to give rise to a significant overbearing impact towards the nearby neighbouring properties.

In light of the above, the proposal is considered to comply with the provisions of DP26 and DP29 of the Mid Sussex District Plan on terms of neighbouring amenities.

Other Matters

A key element which contributes towards the acceptability of an annexe is that there should be a functional relationship with the primary use of the planning unit. However, as established within the *Uttlesford DC v SSE & White [1992] JLP 171*, even if the accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree.

It is considered that the proposed outbuilding would be linked to the host dwelling through an existing pathway which runs from north to south and currently connects the existing shed outbuildings to the main dwelling on site. Moreover, the two buildings on site would share the same access.

In terms of the proposed internal facilities, the outbuilding would accommodate a bedroom, a bathroom and what would likely be a living area although this space is unlabelled on the proposed plans. No kitchen or kitchenette has been shown within the proposed floor plans and therefore it is considered that the outbuilding would have some reliance on the host dwelling for the preparation of meals. In any circumstance, an appropriately worded condition ensuring that the outbuilding remains ancillary to the host property is considered to be relevant and necessary in the instance that planning permission is granted.

Therefore, as established the proposal would not constitute a separate unit on site and would be used as ancillary to the host dwelling.

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 is a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a householder application this development is exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposed variation to planning permission DM/25/1117, in respect of the changes to the approved extensions, is considered acceptable. As such, the application is considered to comply with Policies DP26 and DP29 of the Mid Sussex District Plan, Policy H2 of the Burgess Hill Neighbourhood Plan, the Mid Sussex Design Guide and the National Planning Policy Framework.

Decision: Permission

Case Officer: Stefan Galyas