

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1379	Case Officer:	Joanne Fisher
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of Condition 2 relating to DM/24/1139 to allow changes to plans for minor amendments of the housetypes.		
Site:	Land At 147 To 149, College Lane, Hurstpierpoint, West Sussex, , , ,		
Validation Date	28 May 2025	Overall Expiry Date:	23 Jun 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	18 Jul 2025
Target Date:	23 Jul 2025	Recommending Officer Signature:	Joanne Fisher

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	22 Jul 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1379

**Land At 147 To 149, College Lane, Hurstpierpoint, West Sussex, , ,
Variation of Condition 2 relating to DM/24/1139 to allow changes to plans for minor amendments
of the housetypes.
Mr Julian Walker**

REPRESENTATIONS

None received.

SUMMARY OF CONSULTATIONS

None.

PARISH COUNCIL OBSERVATIONS

The committee recommends that MSDC grant permission, as the amendments do not significantly alter the plans previously approved.

INTRODUCTION

Permission is sought to vary condition 2 relating to DM/24/1139 to allow changes to plans for minor amendments of the house types at land at 147 - 149 College Lane, Hurstpierpoint.

RELEVANT PLANNING HISTORY

DM/24/1139 - Erection of 7 detached dwellings with new access from College Lane together with parking, landscaping and associated works. Approved.

DM/25/1192 - Modification of S106 agreement relating to DM/24/1139 to replace plan in appendix 1 of the agreement. Pending consideration.

DM/25/1231 - Non-Material Amendment to application DM/24/1139 - Removal of chimneys to plots 1 and 4. Minor amendment to single storey rear projection on plots 2, 3, 5 and 6. Correction of error to roof design as shown for plot 7. Refused.

SITE AND ITS SURROUNDINGS

The site comprises of land to the side and rear of nos. 147 to 149 College Lane. It is currently used as grassland for the grazing of sheep.

The main part of the site is set back from College Lane, situated behind the two existing properties at no.147 and 149. These two properties are a detached bungalow and chalet bungalow respectively, each with separate detached garages. The existing properties are both set back from the road.

The front of the site is set at a higher level than the highway. However, the main part of the site to the rear is set at a lower level with the land gently sloping away from the south to the north.

There are small fruit trees within the site with a mature hedgerow and several larger, more mature oak trees along the rear (eastern) boundary. To the north, the boundary is marked by an existing hedgerow.

Surrounding the site to the south and west there is a mixture in design and scale of dwellings, and on the opposite side of the highway is a Grade II listed building 'Grove Cottage' a two-storey dwelling. To the north and east are fields.

The site is situated within the countryside as defined in the District and Neighbourhood Plans. However, part of the southern (side) boundary adjoining no. 143 College Lane is contiguous with the development boundary of Hurstpierpoint.

APPLICATION DETAILS

This application seeks permission to vary condition 2 relating to DM/24/1139 to allow changes to plans for minor amendments of the house types.

The amendments being sought do not alter the housing mix of the development as approved.

The proposed amendments comprise of the following:

- amendment of the red line to show application site and ownership correctly for the land bound by the legal agreement
- removal of a chimney from plots 1 and 4;
- enlargement of the single storey rear projection on plots 2,3, 5 and 6 across the whole rear of the dwellings;
- alterations to position and size of windows to plots; and
- amendments to the roof shown on plot 7.

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) And 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.'

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Site Allocations Development Plan Document and the Hurstpierpoint and Sayers Common 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.

The application is submitted under Section 73 of the Town and Country Planning Act 1990. 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.'

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies include:

DP12 - Protection and Enhancement of Countryside
DP26 - Character and Design
DP34 - Listed Buildings and Other Heritage Assets

Mid Sussex Site Allocations Document (DPD)

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

There are no relevant policies.

Hurstpierpoint and Sayers Common Neighbourhood Plan

The Hurstpierpoint and Sayers Common Neighbourhood Plan was made on the 19th March 2015. It forms part of the development plan with full weight.

Relevant policies:

Hurst C1 - Conserving and enhancing character
Hurst H1 - Hurstpierpoint and Sayers Common new housing development
Hurst H5 - Development principles

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

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 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
DPB2 - Listed Buildings and Other Heritage Assets

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 overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

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

ASSESSMENT

This application is made under section 73 of the Town and Country Planning Act 1990 to vary condition 2 of planning application DM/24/1139 to allow changes to plans for minor amendments of the house types.

Condition 2 states:

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.'

S73 applications allows for developers to amend conditions attached to planning permissions. Such an application only allows amendments to the conditions 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 conditions relating to the approved plans listed under the decision notice reference DM/24/1139. The original planning permission was granted under reference DM/24/1139 which granted permission for the erection of 7 detached dwellings with new access from College Lane together with parking, landscaping and associated works. As the operative part of the permission does not specify the plan numbers, the size and design of the dwellings, or the area of the site, an application under S73 to allow changes to the details within the documents can be considered relevant.

The principle of the development has already been accepted through the approval of the original permission DM/24/1139. Even though the result of this application would result in the issuing of a new planning permission, 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.

As such the main issue for consideration are:

- design, the impact on the character of the area;
- the impact on the setting of designated heritage assets; and
- neighbouring amenity.

Design, impact on the character of the area

One of the objectives of achieving sustainable development is to ensure that proposals '*contribute to protecting and enhancing our natural, built and historic environment*' (para 8, NPPF). In addition, the NPPF states that policies and decisions should contribute to and enhance the natural and local environment by '*recognising the intrinsic character and beauty of the countryside*' (para 180).

As the proposed development is located within the countryside, Policy DP12 of the District Plan is relevant. The principal aim of Policy DP12 of the District Plan states the: '*countryside will be protected in recognition of its intrinsic character and beauty.*' A similar ethos is found in policy Hurst C1 of the Neighbourhood Plan.

In terms of design, Policy DP26 of the District Plan relates to character and design and requires all proposals to be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside as well as addressing the character and scale of the surrounding buildings and landscape.

Policy HurstH1 of the Neighbourhood Plan relates to new housing development and in part seeks to enhance the existing settlement pattern of the village.

Within the Mid Sussex Design Guide there is support for innovative and inventive designs that responds to the sustainability agenda within DG37. There is support for architectural integrity and a sense of place within DG38 where the facade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings. In addition, DG40 requires buildings to be designed so that streets and public spaces have good levels of natural surveillance and are overlooked by ground floor habitable rooms and upper floor windows.

It is considered that the alterations to all the plots are acceptable in design and are of a scale sensitive to the character of the proposed dwellings within the development and those surrounding within College Lane. The alterations would still result in a high-quality design and layout within the site appropriate to its context. In addition, the amendments would maintain the character of the countryside.

The increase in the single storey rear elements to the plots 2, 3, 5 and 6 would not extend further in depth than that previously approved and only across the whole width of the property. As such these dwellings would still result in spacious plots and be well-spaced between each other.

The proposal is thereby considered to comply with policies DP12 and DP26 of the District Plan, policies Hurst C1 and HurstH1 of the Neighbourhood Plan, the design principles of the Mid Sussex Design Guide and the requirements of the NPPF.

Impact on the setting of designated heritage assets

Opposite the access to the west of College Lane is a Grade II listed building Grove Cottage (122 College Lane).

S.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Policy DP34 of the District Plan refers to listed buildings and other heritage assets. It requires development to protect listed buildings and their settings.

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paras 212 - 215 of the NPPF states:

'212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional⁷⁵.*

214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

the nature of the heritage asset prevents all reasonable uses of the site; and
b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
d) the harm or loss is outweighed by the benefit of bringing the site back into use.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The alterations to the design would not result in any greater visual prominence of the development and would therefore result in a neutral impact from that previously approved to the setting of the designated heritage asset.

The proposal is thereby considered to comply with policy DP34 of the District Plan, and the relevant paragraphs of the NPPF.

Neighbouring amenity

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do *'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 are to be alterations to the fenestration at ground floor to plots 2, 3, 5 and 6 as well as the enlargement of a ground floor window to plots 1 and 4.

Due to the positioning of the windows and the separation between plots, it is considered that these changes would not result in significant harm to the amenities of future and existing occupiers.

The proposal thereby complies with policy DP26 of the District Plan.

CONCLUSION

It has previously been considered that the development of the site for housing is acceptable through the determination of the permission reference DM/24/1139.

The proposed amendments to the previously approved plans detailed in condition 2 is considered to be sensitive to the character of the dwellings previously approved and would not detract from the character of the area. The changes would still result in a high-quality design and layout within the site appropriate to its context. The amendments would maintain the character of the countryside and preserve the setting of the surrounding listed building. No significant harm would be caused to the amenities of future or existing occupiers through the changes proposed.

The proposal is thereby considered to comply with policies DP12, DP26 and DP34 of the District Plan, the design principles of the Mid Sussex Design Guide, policies Hurst C1 and HurstH1 of the Neighbourhood Plan, and the relevant provisions of the NPPF.

Decision: Permission

Case Officer: Joanne Fisher