

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/3090	Case Officer:	Susan Dubberley
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition no 2 relating to planning application DM/23/0532 - to revise the location of the apartment blocks refuse and cycle store. Removal of condition 5 - wheelchair accessible unit.		
Site:	Land Rear Of 96 Folders Lane, Burgess Hill, West Sussex, RH15 0DX, , , ,		
Validation Date	2 Dec 2025	Overall Expiry Date:	9 Mar 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	20 Apr 2026
Target Date:	3 Mar 2026	Recommending Officer Signature:	<i>Susan Dubberley</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Steven King</i>	Date:	20 Apr 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/3090

**Land Rear Of 96 Folders Lane, Burgess Hill, West Sussex, RH15 0DX, , ,
Variation of condition no 2 relating to planning application DM/23/0532 - to revise the location of
the apartment blocks refuse and cycle store. Removal of condition 5 - wheelchair accessible unit.
Jones Homes (Southern) Limited**

SUMMARY OF REPRESENTATIONS

None

SUMMARY OF CONSULTATIONS

Housing

No objection

Burgess Hill Town Council:

The Committee of 16th February noted the amended description and requests evidence to ensure the development will continue to provide a range of house types to meet accessibility, and adaptability needs to comply with Policy DP28 of the Mid Sussex District Plan.

The Committee of 5th January would Recommend Approval.

INTRODUCTION

This application seeks to amend a planning condition (condition 2) attached to a previous planning permission (DM/23/0532) which gave approval for the development of 40 dwellings (including 12 affordable homes) with access from Phase 1. Provision of car parking, access roads and landscaping. The current application seeks an amendment to condition 2 to vary the list of approved plans and to remove condition 5 (wheelchair unit). The amendment to the approved plans relates to the relocation of the external refuse and cycle storage serving the apartments in the north of the site and there are also minor associated changes to the parking layout landscaping and the pump station location to facilitate the relocation of the refuse and cycle storage.

RELEVANT PLANNING HISTORY

DM/25/2633 - Condition 13 and 20 biodiversity plan - current application.

DM/25/2792 - Conditions 22 and 23 - current application.

DM/25/1970 - DoV This application seeks to revise the agreed affordable housing tenure mix for the 12no. permitted affordable units and remove requirement for a wheelchair unit. Agreement completed.

DM/23/0532 - Development of 40 dwellings (including 12 affordable homes) with access from Phase 1. Provision of car parking, access roads and landscaping. Approved 29/04/2025.

DM/25/2295 - Discharge of planning conditions 3, 4, 9, 15 relating to planning application DM/23/0532. Approved 04/02/2026.

DM/25/2396 conditions 18,19 and 21 relating to planning application DM/23/0532. Approved 06/11/2026.

DM/25/1777 - Discharge of planning conditions 10 and 22 relating to planning application DM/23/0532. Approved 22/10/2025.

DM/25/2434 - Discharge of planning condition 7 relating to planning application DM/23/0532. Approved 20/10/2025.

SITE AND SURROUNDINGS

The application site is approximately 1.871 hectares and is located on the south side of Folders Lane, in Burgess Hill. The site comprises a large open field with grassland. To the north of the site are the rear gardens of properties 96-98 Folders Lane and to the south the site borders the garden of a residential property, known as Fragbarrow house. To the west is a recent housing development of some 73 houses built by the same developer (Jones Homes) who has submitted this current application and to the east there is open land.

There is a public right of way (59BH) which runs along the western boundary with links to the development to the west.

The site is located in a residential area. Folders Lane is a residential street characterised by large detached dwellings set in large plots with the houses set well back from the street frontage, with verdant tree cover to the front of the plots.

The site lies within the built-up area of Burgess Hill.

LEGAL FRAMEWORK AND LIST OF POLICIES

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018. 2018 and forms part of the development plan. Relevant policies:

Policy DP26: Character and Design

Policy DP28: Accessibility

Site Allocations Development Plan Document

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031. Relevant policies specific to this application:

SA34: Existing Employment Sites

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was adopted in January 2016.

No relevant policies.

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 hearings were concluded on the 19th March 2026. The District Plan remains at Examination until the Inspector has published his report, until that time only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

DPB1: Character and Design

DPH12: Accessibility

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 POLICY

The National Planning Policy Framework (NPPF) December 2024.

Assessment

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 site comprises the Mid Sussex District Plan 2014-2031, Site Allocations DPD and the Burgess Hill Neighbourhood Plan.

This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Section 73(2) of the Town and Country Planning Act 1990 states *'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.'

As such it is only necessary to consider the specific changes that are proposed to the previously approved development.

This application seeks an amendment to condition 2 to vary the list of approved plans relating to planning application DM/23/0532. The amendment relates to the relocation of the external refuse and cycle storage serving the apartments in the north of the site. The changes are to allow compliance with Building regulations that states that householders should not have to carry refuse more than 30 metres to their waste storage area and the approved location was in excess of the required distance, there are also minor associated changes to the parking layout landscaping and the pump station location to facilitate the relocation of the refuse and cycle storage.

The application also seeks the removal of remove condition 5 (wheelchair unit), which states:

'One x 1B/2P flat shall be provided as a wheelchair accessible dwelling which meets the requirements contained in Part M4(3)(1)(a) and (b) and Part M4(3)(2)(b) of Schedule 1 of the Building Regulations 2010 as amended. No works shall commence on site until the Local Planning Authority has approved a plan showing a minimum clear access zone of 1200mm to both sides of the wheelchair accessible car parking space and has approved final details for the wheelchair accessible dwelling demonstrating that all necessary requirements will be met. The unit shall only be constructed in accordance with the approved details.'

Reason: To ensure that the development provides a range of house types to meet accessibility and adaptability needs to comply with Policy DP28 of the Mid Sussex District Plan.'

As such the main issues are design, impact on adjoining properties and loss of the wheelchair accessible dwelling.

Design and impact on the character of the area

Policy DP26 of the District Plan deals with design matters and states the following:

'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- 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;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- protects valued townscapes and the separate identity and character of towns and villages;*
- 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.*
- creates a pedestrian friendly layout that is safe, well connected, legible and accessible;*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- positively addresses sustainability considerations in the layout and the building design;*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300 plus unit) scheme will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development.'*

It is considered that the relocation changes proposed are sensitive to the design of the larger development as a whole and therefore would not result in harm to the character of the area. It is noted that no changes to the footprint, height of the refuse and cycle storage, or materials are proposed.

In view of the above it is considered that the proposal would comply with policy DP26 of the District Plan.

Residential Amenity

Policy DP26 of the Mid Sussex District Plan DP26 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).'

It is not considered that the relocation of the refuse and cycle storage will give rise to any significant concerns in regard to impact on residential amenity, and it is noted that the Pumping Station would be below Surface.

It is therefore considered that the application complies with Policy DP26 of the Mid Sussex District Plan.

Loss of wheelchair unit

Policy DP28 of the MSDP relate to accessibility and in part states, regarding wheelchair use dwellings:

'Wheelchair-user dwellings under Building Regulations - Approved Document M Requirement M4(3) will be required for a reasonable proportion of affordable homes, generally 4%, dependent on the suitability of the site and the need at the time.

The Requirement will also apply to private extra care, assisted living or other such schemes designed for frailer older people or others with disabilities and those in need of care or support services.'

The comments of the Town council regarding the need to provide a range of house types to meet accessibility are noted. However, the removal of condition 5 is linked to a recent approval of a deed of variation to the original S106 which revised the previously agreed affordable housing tenure mix for the 12no. permitted affordable units, so that all units are to be shared ownership and none to be rented, this came about due to difficulties in finding a Housing Association to take on the 12 units. In addition, with the agreement of housing officers, the variation also removed reference to the wheelchair accessible unit due to the lack of a market for Wheelchair Accessible Shared Ownership properties.

Housing officers have also been consulted on this application and have raised no objection confirming the following:

'I support the removal of condition 5 relating to the delivery and approval of the wheelchair accessible unit. This is due to the Affordable Housing Units now being delivered as 100% Shared Ownership and all current evidence pointing to there not being any market appetite for Wheelchair Accessible Shared Ownership properties.'

In view of the above it is considered that that the removal of condition 5 is acceptable as it has been agreed that that all units are now to be shared ownership and that there is no demonstrable need for a shared ownership wheelchair unit. It is therefore considered that the application complies with Policy DP28 of the Mid Sussex District Plan as it has been shown that there is not a need for the wheelchair unit given the particular circumstances of this case.

Conclusion

In conclusion it is considered that the proposed changes would not significantly impact on the overall appearance of the buildings, the development as a whole or residential amenity. The removal of condition 5 is also acceptable as it is agreed that there is not a need for the wheelchair unit given the particular circumstances of this case. The proposal therefore complies with policies DP26 and DP28 of the District Plan.

Decision: Permission

Case Officer: Susan Dubberley