

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/3126	Case Officer:	Joanne Fisher
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition 2 of planning application DM/23/2282, as amended by reference DM/25/0428 - to amend the approved plans to allow for design changes.		
Site:	Townhouse Farm Cottages, Church Lane, Ardingly, West Sussex, RH17 6UR, , ,		
Validation Date	2 Jan 2025	Overall Expiry Date:	7 Feb 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	3 Mar 2025
Target Date:	27 Feb 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:	4 Mar 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/3126

**Townhouse Farm Cottages, Church Lane, Ardingly, West Sussex, RH17 6UR, ,
Variation of condition 2 of planning application DM/23/2282, as amended by reference DM/25/0428
- to amend the approved plans to allow for design changes.
Mr And Mrs R Ohlson**

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTATIONS

None.

PARISH COUNCIL OBSERVATIONS

The Parish Council accept the amendments with no objections.

INTRODUCTION

Permission is sought to vary condition 2 of planning application DM/23/2282 as amended by DM/25/0428 - to amend the approved plans to allow for design changes at Townhouse Farm Cottages, Church Lane, Ardingly.

RELEVANT PLANNING HISTORY

DM/21/3536 - Demolition of pair of semi-detached houses (C3) and steel portal frame barns currently used for commercial purposes (B8) as well as removal of hardstanding and silage clamp. Construction of 2 No detached four-bedroom dwellinghouses (C3) with outbuildings incidental to the enjoyment of the properties. AMENDED PLANS received 5/08/2022 and updated supporting statements received 10/08/2022 showing revised design of dwellings and outbuildings and revised positioning of outbuildings for all Plots. Approved.

DM/23/1431 - Variation of conditions 3, 4, 5, 6, 7 and 8 relating to planning reference DM/21/3536. Approved.

DM/24/1851 - Discharge of planning conditions no's 3, 4, 5, 7 and 8 relating DM/23/1431 (which varied conditions to DM/21/3536) in relation to Plot 2. Approved.

DM/23/2282 - Demolition of two existing semi-detached cottages and construction of 1 No. detached four-bedroom three storey dwelling house (plus a basement) together with a detached two storey garage (garage below ground level) with home office over, associated landscaping and infrastructure. AMENDED PLANS received 5th July providing revised landscaping and details on the proposed pool and greenhouse. Approved.

DM/25/0428 - Non Material Amendment to planning application DM/23/2282 - Removal of the following words from the approval: "AMENDED PLANS received 5th July providing revised landscaping and details on the proposed pool and greenhouse". Approved.

SITE AND ITS SURROUNDINGS

The site comprises of a pair of cottages and their gardens which is located to the south of Townhouse a Grade II Listed Building (within its setting) and within the setting of the Ardingly Conservation Area. This plot is set at a significantly lower level than Church Lane with trees on the western boundary.

To the north of the application site was a former farm yard and range of farm buildings, located within the Ardingly Conservation Area and is directly to the west of Grade II listed Townhouse, within its setting. A second listed building, Old Knowles, is a short distance to the north-east along Church Lane.

The surrounding land with the exception of the development along Church Lane is rural, open fields and woods. There are extensive views to the south looking across a valley, to the bottom of which is Ardingly Reservoir. The site sits to the south of a crossing of public rights of way, one running south-west to north-east, and one west to south-east, before turning south.

The application site is situated within a countryside and the High Weald Area of Outstanding Natural Beauty (HWAONB), as designated within the Mid Sussex District Plan and the Neighbourhood Plan.

APPLICATION DETAILS

This application seeks permission to vary condition 2 of planning application DM/23/2282 as amended by DM/25/0428 - to amend the approved plans to allow for design changes.

This condition relates to the list of approved plans set out in the decision notice of DM/23/2282.

This application seeks to amend the approved plans linked to the proposed dwelling as well as the external landscaping to the site. A planning statement accompanies the application detailing the proposed changes as follows:

- Fenestration revisions of 2 No rooflights on main roof moved to north (front) slope from south (rear), windows revised to timber sliding sash, bifold doors revised to sliders, general fenestration revisions, as indicated on plans;
- Internal layout revisions;
- Development of basement layout and provision of external steps as secondary means of escape;
- Provision of external steps to basement;
- Addition of planters in locations as indicated on plans;
- Addition of dog wash in location as indicated on plans;
- Revision to lower seating area at +95.70 to be finished in permeable paving.

Further clarification has also been provided in respect of further changes which are sought as part of the application comprising of:

- Extent of stone to ground floor west elevation reduced;
- Tiles revised;
- ASHP moved from West Elevation to Outbuilding;
- Bottom terrace and around pool hard landscaping permeable; and
- Pool made marginally larger by an additional 0.7 metres in length and 0.5 metres in width and moved marginally south within garden with enlarged paving around.

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 the Ardingly 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 include:

DP12 - Protection and enhancement of the countryside
DP16 - High Weald Area of Outstanding Natural Beauty
DP26 - Character and Design
DP34 - Listed Buildings and Other Heritage Assets
DP35 - Conservation Areas

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.

Ardingly Neighbourhood Plan

The Neighbourhood Plan was made in November 2014.

The following policies are considered to be relevant:

Policy ARD5: Housing Design
Policy ARD9: Heritage Assets

Other Legislation

Countryside and Rights of Way Act (CRoW) 2000

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

DPC1: Protection and enhancement of the countryside
DPC4: High Weald Area of Outstanding Natural Beauty
DPB1 - Character and Design
DPB2 - Listed Buildings and Other Heritage Assets
DPB3 - Conservation Areas

High Weald Area of Outstanding Natural Beauty Management Plan 2024 - 2029

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

This application is made under section 73 of the Town and Country Planning Act 1990 to vary a condition associated with a planning permission DM/23/2282, as amended by reference DM/25/0428 for the demolition of two existing semi-detached cottages and construction of 1 No. detached four-bedroom three storey dwelling house (plus a basement) together with a detached two storey garage (garage below ground level) with home office over, associated landscaping and infrastructure.

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.'

Accordingly, it is not necessary to reassess all of the issues from the original planning application; it is only necessary to assess the issues that are relevant in relation to the condition that are proposed to be amended.

S73 applications allows for developers to amend conditions attached to planning permissions. Such an application only allows the conditions to 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 approved plans to allow various changes to the design of the dwelling and the landscaping. The principle of the development has already been accepted through the approval of the DM/23/2282. 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 and High Weald AONB;
- the impact on the setting of designated heritage assets;
- impact on residential amenities;
- Biodiversity net gain.

Design and Impact to the character of the area / High Weald AONB

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 187).

As the proposed development is located within the countryside the proposal, 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.'* The supporting text sets out the following:

'The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside.'

The legal framework for AONBs, (also known as National Landscapes) in England and Wales is provided by the Countryside and Rights of Way Act (CROW) 2000 which at Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty. Section 84 of the CROW requires Local Planning Authorities to *'take all such action as appears to them expedient for accomplishment of the purpose of conserving and enhancing the natural beauty of the AONB'*. The Levelling-up and Regeneration Act (2023) amended section 85 of the CROW Act, to create a new duty on relevant authorities to *'seek to further the purpose of conserving and enhancing the natural beauty of the area' when discharging their functions in AONBs'*. A similar ethos is found within The High Weald Area of Outstanding Natural Beauty Management Plan which is a material consideration in the determination of planning applications in the AONB.

Policy DP16 of the District Plan relates to the High Weald AONB and requires proposals to *'conserve or enhance natural beauty'*.

Paragraph 189 of the NPPF states:

'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks.'

Policy DP26 of the District Plan relates to character and design and 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:

- 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 (see Policy DP27);*
- 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+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development.'*

Policy ARD5 of the Neighbourhood Plan relates to housing design and states:

'The Neighbourhood Plan requires all developments, including alterations to existing buildings, to be sympathetic of the character and scale of surrounding buildings and landscape.'

Within the 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, design principle DG39 requires the scale of new buildings to relate to their context.

The amendments to the scheme in relation to the changes to the dwelling and external landscaping are acceptable in design terms and are considered to maintain the character of the area and the High Weald AONB in this part of the District. Overall, the change would still result in a high quality design appropriate to its context.

The proposal is thereby considered to comply with policies DP12 and DP26 of the District Plan, Policy ARD5 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

The site lies within the setting of the Ardingly (West) Conservation Area. In addition, the site is within the setting of the Grade II listed former farmhouse at Townhouse Farm, which is a short distance to the north, and within the wider setting of Old Knowles, also a Grade II listed former farmhouse, which is slightly further north again along Church 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 states:

'Listed Buildings

Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:

- A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of a listed building retain its significance and character whilst ensuring that the building remains in a viable use;*
- Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- Special regard is given to protecting the setting of a listed building;*
- Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric.*

Other Heritage Assets

Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.

The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic

Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.'

Policy DP35 of the District Plan relates to Conservation Areas. It requires developments to *'protect the setting of the conservation area and in particular views into and out of the area.'*

Policy ARD9 of the Neighbourhood Plan relates to Heritage Assets. In this it requires development proposals affecting a listed building or conservation area or their setting to conserve or enhance the special quality and distinctive character of Ardingly.

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 exceptional.*

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:

*a) 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.'

In the determination of the previous application Officers considered that due to the proposed design of the house and outbuildings, and the proposed screening that the development will preserve the setting of the Conservation Area and would not cause detriment to wider views in and out of this designated heritage asset. In addition, it was considered that the proposal would preserve the setting of the nearby listed buildings. As such it was considered that the development would result in a neutral impact to the nearby listed buildings and the setting of the Ardingly Conservation Area.

It is considered that the proposed amendments would still result in the same impact to the setting of the listed building and Conservation Area.

In view of the above it is therefore considered that the proposal would comply with Policies DP34 and DP35 of the District Plan, Policy ARD9 of the Neighbourhood Plan and the relevant paragraphs of the NPPF.

Impact on neighbouring amenity

Policy DP26 of the District Plan states in part that proposals 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*'.

Due to the position of the dwelling and its relationship with neighbouring properties, it is considered that the replacement dwelling and the proposed amendments will not result in significant detriment to the amenities of the existing surrounding neighbouring occupiers in terms of an overbearing impact, overlooking, loss of privacy or a loss of light.

The proposal is thereby considered to comply with Policy DP26 of the District Plan in respect of residential amenities.

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 granted before 12th February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

CONCLUSION

It has previously been considered that the development of the site for a dwelling is acceptable through the determination of the permission reference DM/23/2282.

The proposed amendments to the previously approved plans would still result in a high quality design appropriate to its context and would not detract from the character of the area of the High Weald AONB. The amendments would preserve the setting of the adjacent listed building and setting of the Conservation Area.

The proposal is thereby considered to comply with policies DP12, DP16, DP26, DP34 and DP35 of the District Plan, policies ARD5 and ARD9 of the Neighbourhood Plan, the design principles of the Mid Sussex Design Guide, and the relevant provisions of the NPPF.

Decision: Permission

Case Officer: Joanne Fisher