

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0379	Case Officer:	Katherine Williams
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of condition 11 of application 00/02576/FUL to allow for design changes to allow additional parking spaces and maintenance/storage yard.		
Site:	Burgess Hill Burial Ground, Jane Murray Way, Burgess Hill, West Sussex, , , ,		
Validation Date	17 Feb 2025	Overall Expiry Date:	12 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	24 Jun 2025
Target Date:	14 Apr 2025	Recommending Officer Signature:	Katherine Williams

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	25 Jun 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0379

**Burgess Hill Burial Ground, Jane Murray Way, Burgess Hill, West Sussex, , ,
Variation of condition 11 of application 00/02576/FUL to allow for design changes to allow
additional parking spaces and maintenance/storage yard.
Mrs Ramize Easter**

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

Tree Officer - no objection following amendments

PARISH COUNCIL OBSERVATIONS

The committee's recommendation is that MSDC should give permission.

INTRODUCTION

Variation of condition 11 of application 00/02576/FUL to allow for design changes to allow additional parking spaces and maintenance/storage yard.

RELEVANT PLANNING HISTORY

00/02576/FUL - Burial ground. Granted

DM/24/2838 - Non Material Amendment to application HP/00/02576/FUL - to add a condition to allow amendments to the approved plans. Granted

SITE AND SURROUNDINGS

The property is located off the western side of Jane Murray Way, outside the built up area of Burgess Hill.

The site consists of a burial ground which shares an access point off the highway with a public carpark which serves the green circle, a public bridleway which extends around Burgess Hill and runs between the application site and the highway. This public right of way is bordered on both sides by mature trees and hedging which obscures the application property largely from view of the main highway.

The application site consists of a large rectangular field with the northern portion currently in use of a burial ground with looped access road through the area and soft landscaping. This area is separated from the parking area by hedging.

APPLICATION DETAILS

As this is a section 73 application, national advice is that the LPA should focus attention on any material changes since the previous permission.

The application seeks planning permission to enable additional plans for the layout of the southern portion of the site. This would include extending the access road and parking area with two additional looped access to reflect the layout of the northern section of the site. To the eastern side of the site

would be a storage yard for the site, this would be separated by 1.8 metre close boarded boundary fencing and timber gates.

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 Allocation DPD and 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.

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
- DP37 - Trees, Woodland and Hedgerows

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.

Hurstpierpoint and Sayers Common Neighbourhood Plan (made March 2015)

Relevant policies:

HurstC1 - Conserving and enhancing character

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:

DPB1 - Character and Design

DPN4 - Trees, Woodland and Hedgerows

DPC1 - Protection and Enhancement of the Countryside

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 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 or remove conditions associated with a planning permission. 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.'

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- Design and Character
- Impact on the amenities of neighbouring properties
- Impact on Trees
- Biodiversity Net Gain

Design and Character

Policy DP12 of the Mid Sussex District Plan states, in part: *'The countryside will be protected in recognition of its intrinsic character and beauty.'*

Policy HurstC1 of the Neighbourhood Plan echoes the ethos of this policy.

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:

- *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.'*

The proposed alterations would be of forms and designs which would reflect the existing appearance and proportions of the northern section of the site. The site is surrounded by trees and planting which restricts public views of the proposal. It is therefore considered that the proposed changes would be in keeping with the character of the rural locality and the existing property and would comply with policies DP12 and DP26 of the Mid Sussex District Plan and policy HurstC1 of the Hurstpierpoint and Sayers Common Neighbourhood Plan.

Impact on the amenities of neighbouring properties

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 Policy DP29);'

The closest residential properties to the application site include No.s 1 and 2 Kents Farm Cottages, which are approximately 123 metres from the proposal with an area of trees in between. Given the separation distance to neighbouring properties it is considered that the proposal would not cause harm to the amenities of neighbouring properties.

Impact on Trees

Mid Sussex District Plan policy DP37 states:

'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'

Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.

Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose.

Trees, woodland and hedgerows will be protected and enhanced by ensuring development:

- *incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme; and*
- *prevents damage to root systems and takes account of expected future growth; and*
- *where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management; and*
- *has appropriate protection measures throughout the development process; and*
- *takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change; and*
- *does not sever ecological corridors created by these assets.*

Proposals for works to trees will be considered taking into account:

- *the condition and health of the trees; and*
- *the contribution of the trees to the character and visual amenity of the local area; and*
- *the amenity and nature conservation value of the trees; and*
- *the extent and impact of the works; and*
- *any replanting proposals.*

The felling of protected trees will only be permitted if there is no appropriate alternative. Where a protected tree or group of trees is felled, a replacement tree or group of trees, on a minimum of a 1:1

basis and of an appropriate size and type, will normally be required. The replanting should take place as close to the felled tree or trees as possible having regard to the proximity of adjacent properties.

Development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary.'

The Council's Tree Officer has been consulted on the application and raise no objection, following amendments to the position of the storage yard in relation to the existing perimeter trees. It is considered that the proposal would protect the surrounding trees and would comply with DP37 of the Mid Sussex District 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 application for the original planning permission to which the Section 73 planning permission relates was made before 12th February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

CONCLUSION

In conclusion, the proposed alterations are considered to be appropriate in terms of design and the impact on the character of the area, would not cause harm to the amenities of neighbour properties and acceptable in terms of trees, Therefore, the proposal complies with Mid Sussex District Plan policies DP12, DP26 and DP37, policy HurstC1 of the Hurstpierpoint and Sayers Common Neighbouring Plan, and the relevant provisions of the NPPF. The application is therefore recommended for approval.

Decision: Permission

Case Officer: Katherine Williams