

Delegated Decision

Sign off Sheet

Ref. No:	DM/26/1467	Case Officer:	Anna Tidey
Application Type:	Full Application		
Proposal:	Retrospective change of use from an annexe and workshop used incidental to main dwelling house, to a separate dwelling house		
Site:	Carlos Lopez And Son, 151A London Road, Burgess Hill, West Sussex, RH15 8LH, , ,		
Validation Date	22 Jul 2026	Overall Expiry Date:	12 Aug 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	16 Sep 2026
Target Date:	16 Sep 2026	Recommending Officer Signature:	Anna Tidey

Date Legal Agreement Completed: (if applicable)		No of Representations:	2
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Signed and Agreed By:	Stephen Ashdown	Date:	16 Sep 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/26/1467

**Carlos Lopez And Son, 151A London Road, Burgess Hill, West Sussex, RH15 8LH, ,
Retrospective change of use from an annexe and workshop used incidental to main dwelling
house, to a separate dwelling house
Mr Daniel Lopez**

SUMMARY OF REPRESENTATIONS

Three representations received from same objector, which contain the following points:

- Concerned that incorrect ownership certificate was submitted with application.
- The applicant is using adjacent owners land for utilities without consent.
- Land to the east of 151A does not belong to the applicant.
- There is no legal right of access.
- Object to retrospective planning and believe the original planning permissions should be revoked.
- The owner of the adjacent property states there is no permission to their land for utilities, and this is subject to legal proceedings.
- Requests a restriction on the property being resided in or sold as a separate residential dwelling.

CONSULTATIONS

MSDC Street Naming and Numbering: Recommends a street naming and numbering informative to any decision notice granting approval.

PARISH COUNCIL OBSERVATIONS

Burgess Hill Town Council: The Committee noted that the neighbour disputes land ownership and the correctness of the ownership statement on the application. The committee would advise Mid Sussex District Council to satisfy themselves of this before determining the application.

Further comments: The Committee of 3rd August would recommend approval subject to: SE Water confirming that they can provide utility services to the new property, due to the land dispute. A condition to be included that the property may not be resided in or sold as a separate dwelling in the future.

INTRODUCTION

This application seeks retrospective planning approval for change of use from an annexe and workshop incidental to the main dwelling house to a separate dwelling house at 151A London Road in Burgess Hill.

RELEVANT PLANNING HISTORY

DM/19/4872. Lawful Development Certificate for an existing use of the rear part of the building and entire first floor as a residential annexe to the main building. Approved February 2020.

01/00374/FUL. Extension to form W.C. and lobby area. Approved April 2001.

SITE AND SURROUNDINGS

No 151A London Road is a modest one and a half storey building formerly in use as an antique furniture restorers' workshop, with residential accommodation, and more recently as a residential annexe adjoining the adjacent house at No 151 London Road in Burgess Hill.

Formerly the annexe building was linked with an internal connecting ground floor doorway to the adjacent house. This doorway has been blocked off as the house is now in separate use and ownership.

The building is set back from London Road and is accessed by a pedestrian path between No 151 and the commercial property at No 153 and the adjacent residential units at Nos 153A and 153B, both of which share the same pedestrian access path from the main road.

Access into No 151A is via a front door located at the eastern end of the building, through the former workshop space, which is currently in use for residential storage. The residential accommodation at No 151A is sited at the western end of the building, and on the first floor the full length of the building.

There is a ground floor kitchenette and dining space, a shower and toilet in a single storey projection on the southern side of the building, and a rear door provides external access to a rear amenity yard and a storage shed. There is an internal stairway to the upper floor, in which there is a further living area and two bedrooms located within the roof space of the building. The available accommodation allows for independent living and the applicant has provided billed evidence for separated services (water and gas) to the building.

The dwelling is located in the Fairfield Conservation Area and within the Built up Area of the town.

APPLICATION DETAILS

The proposed plans show the former workshop area to be taken into the residential unit, to create a new living room, but no other internal or external alterations are shown to the existing building on the proposed plans.

A Planning and Design and Access Statement and a Sustainability Statement were submitted to accompany the application, and these are available to view on the planning file.

In summary the Planning and Design and Access Statement contains the following points:

- The property is currently being lived in by the applicant and owner.
- The joinery workshop is empty, as the applicant relocated his business to a larger more suitable premises in Cuckfield almost two years ago.
- An ample enclosed garden space is available to the west of the property.
- The appearance and design of the existing building will be unchanged, which relates to the character of the surrounding mixed style of dwellings in the area.
- The proposal will create a small family home for the applicant's needs.
- There is no on site parking. The applicants park on the street.
- The loss of the joinery workshop use will remove customer visits to the site.
- Emergency vehicle access and pedestrian access has, and can be, achieved from the front of the property.
- The proposed dwelling is proportionate in both scale and massing to most of the neighbouring properties.
- this represents an environmentally sound development, achieved without changing the external appearance of the existing building.

The Sustainability Statement contains the following points:

- Currently the annexe section of the building fully complies with the building regulations, in terms of insulation and heating for an annexe.
- The foul and surface water drainage, water usage, insulation levels will remain unchanged.
- The intention is to insulate the ground floor and external walls to accord with Building Regulations.
- The existing windows and doors in this area will be replaced on a like for like basis, with new UPVC double glazed windows and doors which will comply with current U values.
- Heating in this area will be via an extension from the existing annexe from a two year old combination gas boiler.
- The conversion of the workshop into a living space will not require a water supply, or any drainage.

As originally submitted the application was submitted with a Certificate A stating that the site was in the ownership of the applicant. Following representations received from the adjacent land owner, reported above, a Certificate B was completed and Notice served upon the neighbouring land owner to correct the application.

LEGAL FRAMEWORK AND LIST OF POLICIES

The new National Planning Policy Framework (NPPF) is a material consideration that needs to be read alongside the policies within the development plan. Annex A makes it clear that any development policy that is materially inconsistent with the national decision-making policies within the NPPF should be given very limited weight.

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

The development plan for this part of Mid Sussex consists of the District Plan, the Burgess Hill Neighbourhood Plan and Site Allocations DPD.

Mid Sussex District Plan

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

- DP4 Housing
- DP6 Settlement Hierarchy
- DP17 Ashdown Forest SPA and SAC
- DP21 Transport
- DP26 Character and Design
- DP27 Dwelling Space Standards
- DP29 Noise, Air and Light Pollution
- DP35 Conservation Areas
- DP38 Biodiversity
- DP39 Sustainable Design and Construction
- DP41 Flood Risk and Drainage

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.

There are no relevant policies.

Neighbourhood Plan

Burgess Hill Neighbourhood Plan -made January 2016.

Policy S4 Parking Standards for New Developments

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 is currently at Examination with initial hearings held in

February/March 2026. The Council is consulting on Main Modifications which are required to ensure the plan is legally compliant and sound. 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.

Relevant policies:

DPS2 Sustainable Design and Construction
DPS6 Health and Wellbeing
DPN1 Biodiversity, Geodiversity and Nature Recovery
DPN2 Biodiversity Net Gain
DPB1 Character and Design
DPH1 Housing
DPH3 Sustainable Development - Inside the Built up Area
DPH11 Dwelling Space Standards

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.

WSCC Guidance on Parking at New Developments (September 2020)

National Planning Policy Framework (NPPF) (August 2026)

National Planning Policy Guidance (NPPG)

ASSESSMENT

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

- Principle of the development
- Design and Impact upon the Conservation Area
- Impact on residential amenities
- Dwelling Space Standards
- Access and Parking
- Sustainability/Climate Change
- HRA Assessment
- Biodiversity Net Gain
- Other Matters
- Planning Balance and Conclusion

Principle of the development

Policy DP4 of the District Plan sets out the housing needs for the district and Policy DP6 supports the expansion of settlements, with development within defined built-up area boundaries within towns and villages being permitted subject to being an appropriate nature/scale and not causing harm to the character and function of the settlement.

The policies contained within the newly published NPPF are material considerations which should be taken into account in decision-making from the day of its publication, i.e. from 17th August 2026.

The NPPF recognises that Development Plan policies which are materially inconsistent with national decision-making policies in the NPPF should be given very limited weight. In this context, Policies DP4 and DP6 of the District Plan are materially inconsistent with the NPPF and should be afforded very limited weight. Greater weight should be given to the relevant NPPF policies in these circumstances.

NPPF Policy S3 states that decisions on development proposals should apply a presumption in favour of sustainable development, and refers to NPPF Policy S4 which applies to the principle of development within settlements. This is a pro development policy, except where the benefits of the development would be substantially outweighed by any adverse effects, when assessed against national decision-making policies as set out in the Framework. A substantial adverse effect of a development may be 'c. *where the development fails to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances*'.

Furthermore, Policy L2: Making effective use of land, requires substantial weight to be given to making better use of 'vacant and underutilised land and buildings (such as: by bringing back into residential use empty homes and other suitable buildings; converting space above shops; redeveloping underutilised retail and business sites; and building on or above service yards, lock-ups, car parks and other transport infrastructure which are no longer required).

Having regard to the above, the principle of the development of the former annexe to form a separate independent dwelling, taking the former workshop into the residential use, is acceptable as this represents a sustainable residential development within the built-up area of Burgess Hill. The development is therefore acceptable in principle in the context of both the development plan and the NPPF. The remainder of the report will consider the relevant details of the proposal to inform the overall planning balance exercise that needs to be taken.

Design and Impact upon the Conservation Area

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states '*In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.*'

Policy DP26 of the District Plan requires all proposals to be well designed and reflect the distinctive character of the towns and villages as well as addressing the character and scale of the surrounding buildings and landscape. Policy DP35 refers to development within Conservation Areas and requires proposals to conserve or enhance the special character and appearance of these areas. These policies are considered to be material inconsistent with the NPPF and as such should be afforded very limited weight, and greater weight should be given to the relevant NPPF policies.

Also relevant in the determination of the application is the design guidance contained in the Mid Sussex Design Guide. 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 Supplementary Design Guidance for use in the consideration and determination of planning applications. The principles in this SPD are a material consideration in the determination of planning applications.

The NPPF contains Policy L2: Making effective use of land, which seeks to create additional homes within settlements through sensitive redevelopment or additional development within existing plots. Part1.b refers to making better use of underutilised buildings, and refers to the reuse of commercial space as an example. This policy supports the reuse of the disused workshop space at No 151A, to expand the available living space for the former annexe building, and to create a larger floor space within a modest dwelling unit.

Section 14 of the NPPF, titled 'Achieving well-designed places', includes Policy DP3: Key principles for well-designed places. This requires consideration of the context of new development, to include the history, character and features of the site and its setting.

Section 20 of the NPPF is titled 'Conserving and enhancing the historic environment' and Policies HE4, HE6 and HE9 are of particular relevance in respect to this proposal. Policy HE4 sets out that heritage asset should be conserved in a manner appropriate to their significance. Policy HE6 sets out that where harm to a heritage asset is identified it should be weighed against the public benefits resulting from the proposal. Policy HE9 deals specifically with Conservation Areas and sets out development proposals

should retain and conserve buildings or features which make a positive contribution to the character and appearance of the conservation area, where possible.

The building which is the subject of this application is a former outbuilding, and it has a subordinate relationship to No 151, to which it is attached. It has historic value as an older building within the Conservation Area. Its set back position from London Road means that it is not highly visible within the street scene, but it contributes to the character and appearance of the area.

It has not been necessary to consult the Conservation Officer on the proposal, as the proposed work to create a separate dwelling will not affect the publicly visible external appearance of the building. The creation of a living room within the former workshop is mainly decorative, requiring new internal finishes to the exposed brick walls. Any subsequent alterations to windows or doorways to improve the insulation of the space can be the subject of a planning condition to control the detail of such physical changes.

The existing annexe use at the site has been established. The LDC application made in 2019, under DM/19/4872, was supported by evidence that the applicant for the current application had lived at the property for 15 years.

The building occupies a set back position from the main road and is located immediately next to other modest dwelling units at Nos 153A and 153B. The annexe is accessed via the same path and presents a front door to the road frontage. It is considered that the building and the associated rear yard creates a unique and characterful dwelling unit in its historic setting and contributes to the character and appearance of this part of the Fairfield Conservation Area.

The proposed provision of a new independent dwelling on this site, which is in a well-connected and sustainable location, is of public benefit. Within the context of the presumption in favour of sustainable development set out in NPPF Policies S3 and S4 it is considered that this benefit is in addition to the benefit of the proposal to enhance the Conservation Area.

The proposal is acceptable with regard to the relevant development and NPPF policies with regard to this issue.

Impact on residential amenities

Policy DP26 in part seeks to ensure that new development does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings. It is considered that this policy has very limited weight as it is materially inconsistent with the NPPF and consideration should be given to Policies L2 and P3 of the NPPF.

Policy L2 of the NPPF relates to making effective use of land. Part L2(1dii) requires proposals to have '*acceptable living standards for residents and neighbours in terms of access to daylight, sunlight, privacy and external amenity space*'.

Policy P3 of the NPPF relates to living conditions and pollution. Part 2(b) of this policy requires proposals '*Not give rise to, or contribute to, an unacceptable level of access to daylight and sunlight for neighbouring residents and occupiers, or unacceptable levels of air, noise, artificial light, water, soil or other forms of pollution on or beyond the site*'.

In addition Principle DG45 in the Design Guide refers to the need to consider privacy of existing and future residents and it is noted that privacy may be affected by the relationship of buildings to each other.

The proposed enlargement of the living accommodation and the independent use of the building at No 151A will not have a significant impact upon the outlook and amenities of the occupiers of the adjacent dwellings to the site, which include the attached house at No 151 and the adjacent units at Nos 153A and 153B.

As such the proposal is not considered to cause unacceptable harm to the amenities of nearby residents. The proposal is therefore, considered to comply with policy DP26 of the district plan and policies L2 and P3 of the NPPF.

Dwelling Space Standards

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents.

District Plan Policy DP27 - Dwelling Space Standards, retains full weight for the determination of this application.

Having regard to the size of the building (which measures 17.5m long by 3.09m wide) the resulting dwelling, to include the former workshop space, would have a total floor space area of 114 square metres (approx.). The proposal shows a two bed dwelling, with one bedroom providing 12 sq m floor space and the other 9.8 sq m. The national standards require a single bedroom to have a floor area of at least 7.5 sq m, and to be at least 2.15m wide, and a double (or twin bedroom) to have a floor area of at least 11.5 sq m, and at least 2.75m wide. The size of the original building (which measures 3m in width) constrains the available space for the two bedrooms in the dwelling. The actual internal width of the double bedroom is just below this standard at approx. 2.5m.

Overall the proposed dwelling would exceed the National Housing standard requirements for a 2 storey 2 bed property. Overall it is considered that the proposed dwelling complies with the requirement of Policy DP27 of the District Plan for new dwellings, and the national housing standards.

Access and Parking

Policy DP21 of the District Plan deals with transport matters relating to highway safety and the parking, amongst other things. It is considered that this policy is materially inconsistent with the NPPF and therefore can only be given very limited weight. Greater weight needs to be given to the relevant NPPF policy in these circumstances.

The NPPF contains Policy TR3: Locating development in sustainable locations. This encourages development in locations where there are opportunities to walk, wheel, cycle and use public transport.

The proposed dwelling is centrally located in Burgess Hill, off London Road, which is served by bus services and within walking distance of the town centre and its services. On street parking is available in the nearby residential roads and around St Johns Park.

The site is sustainably located with sustainable travel options for the occupiers of the proposed new dwelling. It is considered that the proposal complies with District Plan Policy DP21 and NPPF Policy TR3.

Sustainability/Climate Change

Policy DP39 of the District Plan seeks to improve the sustainability of development, however it is considered to be material inconsistent with the NPPF and therefore greater weight should be given to the relevant policies within the NPPF.

The NPPF contains Policies CC2 - Mitigation of climate change and CC3 - Adaptation to climate change, which are relevant in the determination of this application.

NPPF policy CC2, para 1, c. states that where relevant to the proposal development proposals should use design approaches which conserve energy, to accord with Policy DP3(2)(b), one of the Key Principles for well-designed places.

The application has been accompanied by a Sustainability Statement, the details of which are summarised above. It is recognised that the proposal would need to comply with the Building Regulations in relation to these matters.

HRA Assessment

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

The proposed development is outside the 7km zone of influence and as such, mitigation is not required.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Biodiversity Net Gain

The Local Planning Authority has statutory biodiversity duties under s40 NERC Act 2006 (as amended) for the delivery of mandatory Biodiversity Net Gain.

The application refers to the development being subject to the 'de minimus' rule exemption, as the development on the site impacts less than 25 sq m of on site habitat.

Other Matters

Questions have arisen from Burgess Hill Town Council during the course of determining the application to seek clarification of the land ownership/the correctness of the ownership statement on the application, and also regarding the water service to the new property. They have requested that a planning condition is imposed that the property may not be resided in or sold as a separate dwelling in the future.

With regards to the validity of the application appropriate neighbour notification has been undertaken and the application was made Invalid until appropriate ownership certification was completed.

The applicant has provided billing evidence that the dwelling is supplied with water and gas, and the former LDC established that the unit has been in use for residential purposes for an extended period.

It is considered that the imposition of a restrictive use condition would be inappropriate and unnecessarily onerous upon the owner and resident of the dwelling at No 151A. The proposed independent dwelling occupies a sustainable site, which is supported by the relevant development plan policies and new NPPF Policies.

The neighbouring owner has raised concerns over legal rights for access and the utilities serving both the existing annexe and the proposed independent dwelling. Legal rights are not a matter that can be considered as a planning issue, and the owner could pursue this as a separate civil matter.

PLANNING BALANCE AND CONCLUSION

Having regard to the above assessment, it is established that the proposal complies with the relevant development policies and consideration needs to be given as to whether there are any other material considerations that would indicate that a decision should be made other than in accordance with the development.

The principle of development on the site is acceptable. The NPPF provides for a presumption in favour of sustainable development (NPPF Policy S3), and development in settlements (NPPF Policy S4). NPPF Policy 4.1 is relevant. This sets out that development should be approved unless the benefits of doing so would be substantially outweighed by the adverse effects, when assessed against the national decision-making policies within the Framework.

In terms of the scheme's benefits, the proposal would form a new independent dwelling in place of a former annexe, which would make a small contribution to meet the overall housing need in the district, where the Council are currently unable to demonstrate a 5-year housing land supply.

Environmentally, the proposed development is sustainably located within close proximity to facilities, services and public transport options available in Burgess Hill town centre. The proposal would also result in construction jobs for the workshop conversion works and an increase in spend in the local economy, albeit it is accepted that the benefit deriving from this latter two points is minimal.

The proposal would have a neutral impact on highway safety and parking and on the Ashdown Forest.

With regards to the impact of the development upon the character and appearance of the Fairfield Conservation Area District Plan Policies DP26 and DP35 are relevant and NPPF Policy HE9. The workshop use has been lost and the proposed works to utilise that area for residential purposes will not change the external appearance of the building as seen from public vantage points.

The proposal accords with the aims of District Plan Policies DP26 and DP35 and NPPF Policy HE9. The test within NPPF Policy HE6 is relevant and the provision of a single dwelling, within the sustainable location is a public benefit, within the context of the presumption in favour of sustainable development set out in NPPF Policies S3 and S4.

There are no other material considerations that are relevant in the determination and the planning balance falls in favour of approving planning permission.

Consequently this application is recommended for approval.

Decision: Permission

Case Officer: Anna Tidey