

## Delegated Decision

### Sign off Sheet

|                                              |                                                                                                                                                                                     |                                        |                |
|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|----------------|
| <b>Ref. No:</b>                              | DM/26/1069                                                                                                                                                                          | <b>Case Officer:</b>                   | Andrew Horrell |
| <b>Application Type:</b>                     | Removal/Variation of Condition                                                                                                                                                      |                                        |                |
| <b>Proposal:</b>                             | Variation of condition no 4 relating to planning application DM/21/1567 - to allow minor amendments to the approved garage design and to regularise the development as constructed. |                                        |                |
| <b>Site:</b>                                 | 17 Lewes Road, Haywards Heath, West Sussex, RH17 7SP, , , ,                                                                                                                         |                                        |                |
| <b>Validation Date</b>                       | 28 Apr 2026                                                                                                                                                                         | <b>Overall Expiry Date:</b>            | 12 Jun 2026    |
| <b>Pre-Commencement Conditions Required:</b> |                                                                                                                                                                                     | <b>Pre-Com Conditions Date Agreed:</b> |                |
| <b>Recommendation:</b>                       | Permission                                                                                                                                                                          | <b>Recommendation Date:</b>            | 2 Jul 2026     |
| <b>Target Date:</b>                          | 23 Jun 2026                                                                                                                                                                         | <b>Recommending Officer Signature:</b> | Andrew Horrell |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 0 |
|--------------------------------------------------------|--|-------------------------------|---|

|                              |               |              |            |
|------------------------------|---------------|--------------|------------|
| <b>Signed and Agreed By:</b> | Joanne Fisher | <b>Date:</b> | 2 Jul 2026 |
| <b>Comments:</b>             |               |              |            |

## MID SUSSEX DISTRICT COUNCIL

**DM/26/1069**

**17 Lewes Road, Haywards Heath, West Sussex, RH17 7SP, , ,  
Variation of condition no 4 relating to planning application DM/21/1567 - to allow minor  
amendments to the approved garage design and to regularise the development as constructed.  
Mr And Mrs P Bryant**

### **SUMMARY OF REPRESENTATIONS**

None received.

### **SUMMARY OF CONSULTEE COMMENTS**

MSDC Conservation Officer: *'The building is not considered contentious, nor are the amended proportions of the doors to the façade, in the context of the existing approval. I would however recommend that the style of the garage doors should ideally be amended to side hung doors to better reflect the traditional character of the house.'*

*Subject to the above, the proposal is considered to preserve the character and appearance of the Conservation Area, meeting the requirements of District Plan Policy DP35 and the relevant paragraphs of the NPPF.'*

### **TOWN COUNCIL OBSERVATIONS**

No comment.

### **INTRODUCTION**

Permission is sought to vary of condition 4 of DM/21/1567 to allow for alterations to the approved plans.

### **RELEVANT PLANNING HISTORY**

DM/21/1567 - Proposed garage block and extension to existing hardstanding. (amended plans received 07/07) (approved).

DM/26/1018 - Non material amendment to planning permission DM/21/1567 to amend the description of the development by removing the wording (Amended plans received 07/07) (Approved)

### **SITE AND SURROUNDINGS**

17 Lewes Road is a two-storey hipped terracotta style roofed art deco style detached dwelling with two front gables. The dwelling is characterised by a mix of white painted render and face brickwork and timber doors and windows.

To the north of the site is sloped rear garden with neighbours beyond, to the south of the site is front garden and driveway to highway beyond, to the west of the site is hedging and woodland to neighbour No.15 beyond, to the east of the site is hedging to the neighbour No.19 beyond.

The site is within built up area of Haywards Heath and Lewes Road Conservation Area.

### **APPLICATION DETAILS**

This application seeks permission to vary condition 4 of DM/21/1567.

Condition 4 stated:

*'The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".*

*Reason: For the avoidance of doubt and in the interest of proper planning'.*

The alterations to the approved garage are to change the garage door arrangement from a larger door measuring some 5.5m in width and 2.1m in height and a smaller door measuring 1.55m in width and 2.1m in height.

The proposed arrangement would be two matching doors measuring 3.15m in width and 2.2m in height. The design will be visually similar to the existing windows on the main dwelling with the materials to match (Crittall style). A side door for access is required for building regulations.

## **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.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, the Site Allocations DPD and the Haywards Heath 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:

DP26 - Character and Design

DP35 - Conservation Area

### **Neighbourhood Plan**

The Haywards Heath Neighbourhood Plan has been formally 'made' as of 15th December 2016.

Relevant policy:

E9 (Design)

### **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.

### **Other Legislation**

Planning (Listed Buildings and Conservation Areas) Act 1990

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.'*

## **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.

Relevant policies:

DPB1 - Character and Design

DPB3 - Conservation Areas

#### *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)

### **ASSESSMENT**

This application is made under section 73 of the Town and Country Planning Act 1990 to vary condition 4 associated with the planning permission reference DM/21/1567 for alterations to the approved plans.

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.'*

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 changes to the detached garage being altered for a new front garage door arrangement and the installation of a side access door.

The principle of the development was originally accepted through the previous permission under reference DM/21/1567.

Even though the result of this application would be the issuing of a new planning permission, in light of the above legislation, 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.

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

- Design and Character and Impact on Conservation Area

### **Design and impact on the character of the area and Impact on Conservation Area**

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

- o is of high quality design and layout and includes appropriate landscaping and greenspace;*
- o 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;*
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- o protects open spaces, trees and gardens that contribute to the character of the area;*
- o protects valued townscapes and the separate identity and character of towns and villages;*
- o 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);*
- o creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- o incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- o positively addresses sustainability considerations in the layout and the building design;*
- o 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;*
- o optimises the potential of the site to accommodate development.'*

Policy DP35 of the District Plan states:

*'Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:*

- o New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials;*
- o Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character;*
- o Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not result in the loss of a traditional shopfront and the new design is sympathetic to the character of the existing building and street scene in which it is located;*
- o Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area;*
- o Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;*
- o New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.*

*Development will also protect the setting of the conservation area and in particular views into and out of the area.*

*New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area.'*

Policy E9 of the Haywards Heath Neighbourhood Plan states:

*'Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site. This will include having regard to the following design elements:*

- o height, scale, spacing, layout, orientation, design and materials of buildings,*
- o the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,*
- o respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,*
- o creates safe, accessible and well-connected environments that meet the needs of users,*
- o Will not result in unacceptable levels of light, noise, air or water pollution,*
- o Makes best use of the site to accommodate development,*
- o Car parking is designed and located so that it fits in with the character of the proposed development.*

*Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character'.*

Para's 212 - 215 of the NPPF are also relevant.

The proposed external changes to the approved garage are modest and are not out of character with the existing garage/dwelling, the surrounding area and preserves the character and appearance of the Conservation area. The internal works are not development under Section 55 of the Town and Country Planning Act 1990.

Whilst the Conservation Officer has suggested a side hung door to the garage, it is the officers view that the proposed garage doors are more in keeping with the existing dwelling with the Crittall style design.

The proposal is thereby considered to comply with Policies DP26 and DP35 of the Mid Sussex District Plan, E9 of the Haywards Heath Neighbourhood Plan and the design principles set out in the Design Guide, and the requirements of the NPPF.

### **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.

### **PLANNING BALANCE AND CONCLUSION**

It has previously been considered that the development was acceptable through the determination of the permission reference DM/21/1567.

The proposed amendments to the previously approved plans detailed in condition 4 are considered to be sensitive to the design and character of the dwelling and the Conservation Area.

The proposal is thereby considered to comply with Policies DP26 and DP35 of the Mid Sussex District Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.

Decision:       Permission

Case Officer: Andrew Horrell

