

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2428	Case Officer:	Steven King
Application Type:	Removal/Variation of Condition		
Proposal:	Variation of conditions 3, 4, 5, 6a, 7 and 13 relating to reference DM/22/2832 to amend wording of the conditions to explicitly exclude demolition from their time triggers.		
Site:	Wealden House, Lewes Road, Ashurst Wood, West Sussex, RH19 3TB, , ,		
Validation Date	25 Sep 2025	Overall Expiry Date:	21 Oct 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	7 Nov 2025
Target Date:	25 Dec 2025	Recommending Officer Signature:	<i>Steven King</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Steven King</i>	Date:	7 Nov 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2428

**Wealden House, Lewes Road, Ashurst Wood, West Sussex, RH19 3TB, ,
Variation of conditions 3, 4, 5, 6a, 7 and 13 relating to reference DM/22/2832 to amend wording of
the conditions to explicitly exclude demolition from their time triggers.
Antler Homes**

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

Contaminated Land Officer

I am not opposed to the change in wording of the condition. However, the applicant should ensure than any hazardous materials within the building, such as asbestos, is properly removed prior to demolition in order to prevent contamination occurring.

PARISH COUNCIL OBSERVATIONS

No objection.

INTRODUCTION

This application seeks to vary of conditions 3, 4, 5, 6a, 7 and 13 relating to reference DM/22/2832 to amend wording of the conditions to explicitly exclude demolition from their time triggers. As originally submitted the application also sought to change the wording of condition 8 but this was removed from the application by the applicants during the course of determining this application.

RELEVANT PLANNING HISTORY

There have been numerous previous planning applications at this site. Of direct relevance to this application is the planning permission granted under reference DM/22/2832 on 19th November 2024 for the following development:

Demolition of existing buildings and erection of residential redevelopment scheme comprising 2 x three storey buildings containing 15 apartments together with 35 x three and four bedroom houses, 105 car and garage spaces, associated landscaping and open space. 'Additional supporting information (Viability Report) received 26th October 2022.'

SITE AND SURROUNDINGS

The site of the application comprises the EDF Energy building and Wealden House. The EDF Energy building is located on the southern side of Lewes Road in Ashurst Wood. The building is set back some 70m from the Lewes Road. It is bounded by car parking to the north, east and south. There is a large telecommunications mast to the rear of the building. Wealden House is located to the northwest of the EDF Energy building. It is a two storey pitched roof building in commercial use. There is a car parking area to the front (northeast) of Wealden House and a garden area to the rear (southwest). The garden area is some 50m in depth. This garden falls away to the southwest. Beyond the rear garden area is a sharper fall in levels and a belt of ancient woodland.

The access road to the site also serves the former EDF Energy building to the southeast, a development of flats to the north (Carlton House) and a development of flats to the northwest (Ashbourne House). To the northeast is an area of car parking.

In policy terms the site lies within the countryside as defined in the Mid Sussex District Plan (MSDP) and is allocated for development under policies ASW9 and ASW10 in the Ashurst Wood Neighbourhood Plan

(AWNP). The site also lies within the High Weald area of outstanding natural beauty (AONB), now known as National Landscape.

APPLICATION DETAILS

This application seeks to vary of conditions 3, 4, 5, 6a, 7 and 13 relating to planning permission reference DM/22/2832 to amend wording of the conditions to explicitly exclude demolition from their time triggers. Amendments are sought to the wording of these conditions to enable demolition works to commence prior to the conditions being discharged.

The conditions are proposed to be reworded as follows:

Condition 3

No development (**excluding demolition**) shall take place unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the Mid Sussex District Plan 2014 - 2031.

Condition 4

No development (**excluding demolition**) shall take place unless and until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality / amenities of adjacent residents and to accord with Policy DP26 of the District Plan 2014 - 2031.

Condition 5

Prior to the commencement of construction of any dwelling or building subject of this permission, including construction of foundations **but excluding demolition**, full details of a hard and soft landscaping scheme shall be submitted to and approved by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. These and these works shall be carried out as approved. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policies DP26 and DP37 of the Mid Sussex District Plan 2014 - 2031.

Condition 6 Part A

No development (**excluding demolition**) shall take place until a scheme for protecting the residential unit from noise generated by road traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an Acoustic Design Statement in line with the recommendations of ProPG: Planning and Noise Professional Practice Guidance on Planning and Noise 2017 and shall ensure that internal and external noise levels are in accordance with BS 8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms internally between 23:00 and 07:00 hours, post construction unless otherwise agreed in writing with the LPA.

Where the internal noise levels will be exceeded by more than 5dB with windows open, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure the thermal comfort of the occupants with windows closed.

Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period unless otherwise agreed in writing.

All works that form part of the scheme shall be completed before the noise sensitive development is occupied.

Reason: to protect the amenity of local residents and to accord with policy DP29 of the Mid Sussex District Plan 2014 - 2031.

Condition 7

Prior to the commencement of any residential part of the development hereby permitted **excluding demolition**, a scheme of mitigation measures to improve air quality relating to the development shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be in accordance with, and to a value derived in accordance with, the "Air Quality and Emissions Mitigation Guidance for Sussex" which is current at the time of the reserved matters application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: to preserve the amenity of local residents regarding air quality and emissions and to accord with policy SA38 of the Site Allocations DPD.

Condition 13

Prior to the commencement of the development **excluding demolition** details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Reason: In the interests of amenity and to accord with policy DP20 in the Mid Sussex Local Plan 2014-2031 and in accordance with The Fire and Rescue Service Act 2004.

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, and*
- 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 Ashurst Wood Neighbourhood Plan

National policy (which is contained in the National Planning Policy Framework (NPPF) 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
DP29 Noise, Air and Light Pollution
DP41 Flood Risk and Drainage

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

Relevant policies.

SA38 Air Quality

Ashurst Wood Neighbourhood Plan

The Ashurst Wood Neighbourhood Plan was made on 30th June 2016 and so forms part of the development plan. It is therefore a material consideration with full weight.

Relevant policies:

Policy ASW 14 - Design and Character

Other Legislation

Countryside and Rights of Way Act (CRoW) 2000

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

DPN6: Pollution
DPN7: Noise Impacts

National Planning Policy Framework (NPPF) (December 2024)

National Planning Policy Guidance

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.'

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

Section 55 of the Town and Country Planning Act 1990 defines the meaning of 'development' as *'...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.'* It goes on to state that *'building operations'* includes *'demolition of buildings'*. Therefore, as currently worded, the conditions that the applicants seek to amend would require details to be submitted and the conditions to be discharged, before any works, including demolition, take place on the site.

In this case, the proposed development would not be changed because of this application. The change to the wording of the conditions would allow demolition to take place prior to the conditions being discharged. This would not impact on the approved scheme because the conditions will need to be discharged prior to any works, other than demolition, taking place on the site. The development to be constructed would remain as originally approved.

It is important to note that condition 2, which requires a Construction Management Plan to be approved before any works (including demolition) take place, would remain unchanged. Therefore, this condition will need to be discharged before demolition takes place, ensuring that the amenities of neighbouring properties are safeguarded.

It is considered that the rewording of the conditions is acceptable. There would be no adverse impacts from the details required by these conditions being submitted after the existing buildings on the site have been demolished. There is no imperative for them to be provided in advance of the demolition.

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.

Other matters

The approval of this application will result in the creation of a new planning permission that sits alongside the original planning permission. It is then up to the developer as to which planning permission they choose to implement. There is a clause within the original section 106 legal agreement that ensures that the provisions of that legal agreement will also apply to any subsequent application granted under 73 of the Town and Country Planning Act.

As the proposed development would not change because of this permission and the date for implementing the scheme cannot be extended from the date of the original consent, it is not considered to be necessary for a new Habitats Regulation Assessment to be carried out. The required mitigation for the Ashdown Forest will be secured through the original section 106 legal agreement.

PLANNING BALANCE AND CONCLUSION

To conclude, the originally approved scheme would remain unchanged as a result of this application. The rewording of the conditions would allow the demolition of the existing buildings on the site prior to these conditions being discharged. It is not felt that this would have any detrimental impact and therefore this application can be approved.

Decision: Permission

Case Officer: Steven King