

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1632	Case Officer:	Andrew Horrell
Application Type:	Removal/Variation of Condition		
Proposal:	Proposed variation of condition 2 relating to planning application DM/25/0143 for alterations to the approved plans in relation to the roof		
Site:	33 Dukes Road, Lindfield, Haywards Heath, West Sussex, RH16 2JQ, , ,		
Validation Date	26 Jun 2025	Overall Expiry Date:	28 Jul 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	8 Aug 2025
Target Date:	21 Aug 2025	Recommending Officer Signature:	Andrew Horrell

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	8 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1632

**33 Dukes Road, Lindfield, Haywards Heath, West Sussex, RH16 2JQ, ,
Proposed variation of condition 2 relating to planning application DM/25/0143 for alterations to
the approved plans in relation to the roof
Mr P Lewry**

SUMMARY OF REPRESENTATIONS

None received

CONSULTEE COMMENTS

None received

PARISH COUNCIL OBSERVATIONS

No objection

INTRODUCTION

Permission is sought to vary of condition 2 of planning application to amend the approved drawings to allow for design alterations.

PLANNING HISTORY

CU/084/78 - Utility room extension. (approved)

CU/057/83 - Lounge and Master Bedroom Extension, Formation of Carport and internal alterations to this two storey residence. (approved)

09/01621/FUL - Single storey front and rear extensions (approved)

DM/25/143 - Proposed two storey side extension and alterations. (approved)

SITE AND SURROUNDINGS

33 Dukes Road is a two storey detached hipped roofed dwelling within a cul-de-sac serving 31-36 Dukes Road. The walls are a mix of face brickwork, hanging tiles, painted render. The property is characterised by an existing front gable and front flat roofed dormer with white upvc windows and mix of timber and upvc doors.

To the north of the site is the adjacent No.34, to the south of the site is close boarded fencing to neighbouring No.32, to the east of the site is the driveway to highway beyond and to the west of the site is the rear garden to neighbouring No.8 Alma Road beyond.

The site is within the built-up area of Lindfield.

APPLICATION DETAILS

This application seeks permission to vary condition number 2 in relation to planning application DM/25/0143.

Condition 2 is in relation to approved plans and stated the following:

Approved Plans

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.

Alterations to the approved plans include changes to the roof of the approved rear extension.

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 Lindfield 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

Lindfield and Lindfield Rural Neighbourhood Plan

The Lindfield and Lindfield Rural Neighbourhood Plan was formally made on 23 March 2016

Relevant policies:

None relevant

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

ASSESSMENT

This application is made under section 73 of the Town and Country Planning Act 1990 to vary condition 2 associated with the planning permission reference DM/25/0143 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.'

Section 73 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 approved rear extension roof.

The principle of the development was originally accepted through the previous permission under reference DM/25/0143. Even though the result of this application would be 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.

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

- Design and Character

Design and impact on the character of the 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.'*

Principle DG49 of the Mid Sussex Design Guide states:

'Extensions should typically use simple, uncomplicated building forms to compliment and coordinate with the scale, form and massing of the original dwelling. The design approach may benefit from coordinating with the existing pattern of window and door openings as well as employing facing materials to match those of the existing dwelling. Otherwise it should demonstrate the appropriateness of the alternative approach.'

Principle DG51 of the Mid Sussex Design Guide SPD relates specifically to rear extensions states the following:

'Rear extensions which are not visible from the street and do not negatively impact on neighbouring properties can be expressed in many forms, including by adopting a contemporary architectural approach. With reference to DG49, they should nevertheless have consideration for the character of the existing building and the relationship of the extension with the side boundaries and adjacent buildings and gardens'.

The changes to the approved rear extension are modest alterations to the approved plans. Therefore, given the nature of the changes proposed and the rearwards location of the changes to the approved dwelling, they are not considered to cause detriment to the character of the area.

The proposal is thereby considered to comply with Policy DP26 of the Mid Sussex District Plan, the design principles set out in the Design Guide, and the requirements of the NPPF.

CONCLUSION

It has previously been considered that the development of the site for householder extensions is acceptable through the determination of the permission reference DM/25/0143.

The proposed amendments to the previously approved plans detailed in condition 2 are considered to be sensitive to the design and character of the dwelling previously approved.

The proposal is thereby considered to comply with Policy DP26 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