

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0970	Case Officer:	Anna Tidey
Application Type:	Mod. / Discharge of Planning Obligation		
Proposal:	Release of above property from Section 52 restriction dated 29th December 1986.		
Site:	2 Hoathly Hill, West Hoathly, East Grinstead, West Sussex, RH19 4SJ, , ,		
Validation Date	8 Apr 2025	Overall Expiry Date:	6 May 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	29 Apr 2026
Target Date:	3 Jun 2025	Recommending Officer Signature:	Anna Tidey

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	30 Apr 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0970

**2 Hoathly Hill, West Hoathly, East Grinstead, West Sussex, RH19 4SJ, ,
Release of above property from Section 52 restriction dated 29th December 1986.
Mr Martin Symes**

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

None.

PARISH COUNCIL OBSERVATIONS

West Hoathly Parish Council: No objections.

INTRODUCTION

This application seeks to remove the property from a Section 52 legal agreement dated 29th December 1986, and follows similar applications which have been made at Hoathly Hill.

RELEVANT PLANNING HISTORY

DM/23/0360. Application to remove property (No 3 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 05.09.2023.

DM/23/0308. Application to remove property (No 25 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 28.04.2023.

DM/22/2301. Application to remove property (No 24 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 19.10.2022.

DM/22/1923. Application to remove property (No 19 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 08.07.2022.

DM/22/1644. Application to remove property (No 6 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 30.09.2022

DM/21/3586. Application to remove property (No 9 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 01.12.2021.

DM/21/2341. Application to remove property (No 14 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 16.09.2021.

DM/21/2339. Application to remove property (No 13 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 20.09.2021.

DM/21/1664. Application to remove property (No 5 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 03.08.2021.

DM/21/1495. Application to remove property (No 21 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 28.01.2022.

DM/21/0460. Application to remove property (No 21 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 24.06.2021

DM/20/2208. Application to remove property (No 1 Hoathly Hill) from Section 52 legal agreement dated 29th December 1986, following on from application DM/19/3820. Decision issued 12.11.2020

DM/19/3820. Discharge the section 52 legal agreement dated 19 December 1986, in respect of land at Hoathly Hill. Decision issued 24.06.2020.

SITE AND SURROUNDINGS

No. 2 Hoathly Hill is a dwellinghouse located within the Hoathly Hill site, which contains a number of residential dwellings. The dwellinghouse is attached to No 3 and benefits from an irregular shaped rear garden

The property is located outside the Built up Area boundary of West Hoathly in the High Weald National Landscape/AONB.

APPLICATION DETAILS

This application seeks to remove land within the ownership of No. 2 Hoathly Hill from a Section 52 legal agreement dated 29th December 1986 in respect of land at Hoathly Hill, between Mid Sussex District Council and Carbonek Land Company Ltd, and Carbonek Housing Association Ltd. The Hoathly Hill Association Ltd. has subsequently replaced the Carbonek Land Company and Housing Association.

The legal agreement relates to a number of planning permissions granted in the 1970s and 80s (listed on pages 2 and 3 of the agreement) and supersedes previous agreements concerning the site. The agreement imposed that:

'3. The site shall be used only for purposes of a farm and/or nursery and/or market garden and/or for horticultural and agricultural purposes and/or (and in pursuance of the activities of the Community) for purposes of residential accommodation including ancillary amenity and recreation land for (a) members of the Community participating in the activities of the Community there (b) members of their respective families or households residing with them and (c) trainees students or employees studying or working at the site with the Community and for purposes of cultural social recreational educational and other activities of the Community but for no other purposes whatsoever.

4. In the event of the Company and the Association or either of them disposing of any or all of the areas of land shown hatched blue on the plan annexed hereto then the Council subject to any necessary planning permission being obtained will not unreasonably withhold consent to the release of the said area or areas of land from the terms of this Agreement.'

The legal agreement defines "the Community" as being a group of neighbouring occupiers of the site or various parts thereof who have joined together to co-operate in (a) creating a supportive physical, social and cultural environment for the home life of all who live there and (b) facilitating the carrying on of self-subsisting enterprises by individual members or groups of members being enterprises which are consistent with the creation of such an environment and which contribute towards the general health of society and who seek to carry out this task as taking as a starting point an image of the human being and social life which arises out of Anthroposophical Spiritual Science originated by Rudolf Steiner.'

The applicant has confirmed on the submitted application form that he is trying to sell No 2 and that mortgage lenders will not offer mortgages on properties with the s52 agreement still in place. Reference is made to the consented application under DM/19/3820, referred to above.

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 West Hoathly Neighbourhood Plan and Site Allocations DPD.

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.

Paragraph: 020 Reference ID: 23b-020-20190315 of the National Planning Practice Guidance (NPPG) states that:

'Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it "no longer serves a useful purpose" or would continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990).'

Mid Sussex District Plan

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

Relevant policies:

DP12 Protection and enhancement of the countryside
DP15 New homes in the countryside
DP16 High Weald Area of Outstanding Natural Beauty
DP25 Community facilities and local services

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 policies deemed relevant to this application.

Neighbourhood Plan

West Hoathly Neighbourhood Plan - made on the 16th April 2015.

WP11 Hoathly Hill

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 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:

DPS2 Sustainable Design and Construction
DPS6 Health and Wellbeing
DPB1 Character and Design

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.

*High Weald Area of Outstanding Natural Beauty Management Plan 2024-2029
National Planning Policy Framework (NPPF) (December 2024)*

ASSESSMENT

The principle of discharging the Section 52 legal agreement dated the 29th December 1986 has been established in the determination of a series of similar applications for a number of properties at Hoathly Hill, see listed above, the most recent being under planning reference DM/23/0360 for No 3.

The view has been taken that the Section 52 legal agreement dated 29th December 1986 in respect of land at Hoathly Hill no longer serves a useful purpose from a planning perspective and therefore the proposed discharge of the agreement has been deemed acceptable.

Whilst application DM/19/3820 referred to the whole community and land at Hoathly Hill, it is understood that not all residents of the community wish to release their property from the legal agreement. Where required the residents are approaching the Council on an individual basis to release their property from the agreement.

The current application seeks to solely remove land within the ownership of No. 2 Hoathly Hill from the legal agreement.

The Council's Legal Team has been instructed to proceed with the deed of release in view of the previous permissions. A Draft has now been issued, and it is understood that the Housing Association has returned the executed documents to the Council. The applicant has received the legal fee invoice.

PLANNING BALANCE AND CONCLUSION

The discharge of the Section 52 legal agreement has been previously established under application DM/19/3820, and further subsequent applications. The removal of land at No 2 Hoathly Hill from the legal agreement is deemed acceptable.

Consequently this application is recommended for approval.

Decision: Permission

Case Officer: Anna Tidey