

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2374	Case Officer:	Tracie Axford
Application Type:	Householder Application		
Proposal:	Retrospective application: A fence to the rear of the garden with associated gabion wall		
Site:	7 College Close, East Grinstead, West Sussex, RH19 3YA, , , ,		
Validation Date	13 Oct 2025	Overall Expiry Date:	23 Jan 2026
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	6 Feb 2026
Target Date:	8 Dec 2025	Recommending Officer Signature:	<i>Tracie Axford</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Joanne Fisher</i>	Date:	6 Feb 2026
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/2374

7 College Close, East Grinstead, West Sussex, RH19 3YA, , ,
Retrospective application: A fence to the rear of the garden with associated gabion wall
Mr James Leman

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

MSDC Conservation Officer

The proposal should be considered harmful to the settings and special interests of Estcots Farmhouse and Estcots Barn, and through impact on setting to the character and appearance of the Estcots Conservation Area. This will be contrary to the requirements of District Plan Policies DP34 and DP35. In terms of the NPPF, I would place the harm to all the affected heritage assets as less than substantial, such that the balancing exercise set out in paragraph 215 will apply.

TOWN COUNCIL OBSERVATIONS

East Grinstead Town Council made no comment on this application.

INTRODUCTION

The application seeks retrospective planning permission for the fence to the rear and associated gabion wall.

RELEVANT PLANNING HISTORY

DM/22/3740 - Removal of existing conservatory, part single side and double storey rear extension.
Permission 2023-01-20

SITE AND SURROUNDINGS

7 College Close is a detached two storey dwellinghouse located to the north-eastern side of College Close, with No. 6 College Close to the north western (side) and No.8 College Close to the southern (side) the eastern (rear) of the site backs onto the Grade II Listed Building Estcots Farmhouse, with Estcots and East Court Conservation Area running along the rear boundary of the site.

The application site lies within the built up area of East Grinstead as defined in the District and Neighbourhood Plan, it is also within the setting of the Conservation Area and setting of a Listed Building.

APPLICATION DETAILS

The proposal seeks retrospective planning permission for the fence to the rear and associated gabion wall. The fence sits atop of the boundary retaining wall therefore the total height in certain places exceeds two metres and does not benefit from PD rights. The gabion wall forms the retaining wall along the rear boundary of the application site and has been installed to accommodate the change in ground levels.

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, Site Allocation Development Plan Document (DPD) and the East Grinstead 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

DP34 - Listed Buildings and Other Heritage Assets

DP35 - Conservation Areas

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.

East Grinstead Neighbourhood Plan

The East Grinstead Neighbourhood plan was made in November 2016.

Relevant Policy:

Policy EG3 - Promoting Good Design

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:

DPS1 - Climate Change

DPS2 - Sustainable Design and Construction

DPB1 - Character and Design

DPB2 - Listed Buildings and Other Heritage Assets

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)

The National Planning Policy Framework (NPPF) 2024 is a material consideration.

ASSESSMENT

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

- Design and Character
- Impact on neighbouring properties
- Impact on Listed Building and setting of the Conservation Area

- Biodiversity Net Gain

Design and Character

Policy DP26 of the Mid Sussex District Plan 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:

- is of high quality design and layout and includes appropriate landscaping and greenspace; - 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;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- protects valued townscapes and the separate identity and character of towns and villages;*
- 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 DP27);*
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- positively addresses sustainability considerations in the layout and the building design;*
- 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;*
- optimises the potential of the site to accommodate development."*

Policy EG3 of the East Grinstead Neighbourhood Plan seeks to promote good design through the following measures:

- 'a) The form of the proposed development is proportionate and in keeping with the scale, height, materials and site coverage of the surrounding area;*
- b) The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity;*
- c) The proposal does not result in the loss of buildings or spaces that would have an unacceptable impact on the character of the area;*
- d) The proposal ensures satisfactory means of access for vehicles and pedestrians and provides adequate parking, cycle storage and refuse facilities on site;*
- e) The design of new buildings and the layout of spaces, including footways, car and cycle parking areas, should be permeable and provide connectivity with neighbouring areas;*
- f) New development must be inclusive and where appropriate make satisfactory provision for the safe and easy access for those with mobility impairment; and*
- g) The design of new developments must result in the creation of a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour; and*
- h) Proposals make provision for green infrastructure and biodiversity enhancement.'*

The gabion wall forming the retaining structure along the rear boundary of the application site to accommodate the change in ground levels, is not visible from the public domain and is screened by vegetation. It is therefore considered that there is no impact in terms of design or harm to the character of the area.

The fence erected on the rear boundary of the garden is a horizontal slatted fence, which is mostly not visible from the public domain. A small section of the fence can be viewed from Estcots Farmhouse and the PROW which runs past the farmhouse, which is situated at a lower level behind the application site. Any harm arising from the proposed design is considered de minimis, given its limited visibility. The proposal is therefore considered to comply policy DP26 of the District Plan, policy EG3 of the East Grinstead Neighbourhood Plan and the relevant principles of the Mid Sussex Design Guide SPD.

Impact on Neighbouring Amenities

In terms of impact upon neighbouring amenities Policy DP26 in part seeks to ensure that development:

'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);'

Policy EG3 states that proposals should "not harm" adjoining neighbours amenity whereas policy DP26 of the MSDP states that development should 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. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect.

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. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

The proposal relates to the rear boundary treatment of a domestic garden, the position of which is located away from the neighbouring amenities. It is therefore considered that it would not cause significant harm to the amenities, privacy or light received by the existing neighbouring residents. Accordingly, the proposal is considered to accord with the part of Policy DP26 of the Mid Sussex District Plan, which seeks to protect the amenities of neighbouring occupiers.

Impact on Listed Building and setting of the Conservation Area

The site lies within the setting of a listed building and a Conservation Area.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

While Policy DP34 seek to preserve the special interest of the Listed Building a similar ethos is found in Policy EG4 of the Neighbourhood Plan.

In relation to the Conservation Area 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:

- 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;*
- 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;*
- 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;*
- 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;*
- Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;*
- 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.'

A similar ethos is found within DG11 of the Mid Sussex Design Guide and EG4 of the Neighbourhood Plan.

The Conservation Officer has been consulted on this application and has provided the following comments:

'We have received a Heritage Statement. This suggests that the proposal should be considered acceptable in the context of other adjacent boundary treatments, and of a recently granted permission for an extension to the property. However, I note that we have not received as requested photographs to show the boundary prior to works, or to show the current situation from the gardens of Estcots Farmhouse.

With respect to the suggested justification for the works, whilst on site we noted some concrete block retaining wall to the north of the area in question, which I think would be part of the boundary to either the application site or its neighbour 6 College Close. However, this is more distant from the listed farmhouse and is not particularly attractive- I would not regard this as a justification for the current proposal.

The permission for an extension to 7 College Close was achieved following revisions during the course of the application to achieve a proposal which was considered to preserve the setting of the listed building and Conservation Area. It is also a completely different development to that currently under consideration and therefore not in my opinion a relevant precedent or fall-back position.

Without further information to allay the concerns previously raised I therefore remain of the opinion that the proposal is likely to have resulted in an adverse impact on the setting and significance of the farmhouse and Conservation Area due to loss of planting to the boundary of the site and introduction of urbanising features in the form of the gabion wall and surmounting close-boarded fencing. As we noted on site these are in an elevated position and fairly prominent in views looking across the front garden of Estcots Farmhouse from the south from the frontage to Escots Barn. In addition to the loss of rural character, the work also appears to reduce the sense of separation between the former farmstead and the Conservation Area and the surrounding suburbs of East Grinstead.

For these reasons, based on the information in front of me, it is my opinion that the proposal should be considered harmful to the settings and special interests of Estcots Farmhouse and Estcots Barn, and through impact on setting to the character and appearance of the Estcots Conservation Area. This will be contrary to the requirements of District Plan Policies DP34 and DP35. In terms of the NPPF, I would place the harm to all the affected heritage assets as less than substantial, such that the balancing exercise set out in paragraph 215 will apply.

The fence, as currently positioned on top of the existing wall, results in a height that exceeds that permitted under Class A of Part 2, Schedule 2 of the GPDO and is therefore not considered permitted development. However, it is material to note that if the same fence were positioned slightly further inside of the boundary line, by a few centimetres, it would fall within the parameters of permitted development. In that lawful position, the fence would have an equivalent visual impact on the listed building's setting. Whilst the current siting is considered to be technically harmful in planning terms, the harm is limited by the fact that a structure with the same visual effect could be erected without requiring planning permission. This fallback position is therefore afforded significant weight in this assessment. It is therefore concluded that as there would be no harm to the heritage assets, paragraph 215 of the National Planning Policy Framework (NPPF) does not apply.

Taking the limited level of harm and the significant weight afforded to the permitted development fallback into account, the proposal is considered to accord with DP34 and DP35 of the Mid Sussex District Plan, and EG4 of the East Grinstead Neighbourhood Plan.

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 is a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. As a

householder application this development is exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

The proposal is appropriate in terms of design and will not negatively impact on the host dwelling nor its immediate setting and the level of harm to the nearby listed building and Conservation Area is considered de minimis, with no adverse effect on neighbouring amenities. Therefore, the proposal complies with policies DP34, DP35 and DP26 of the Mid Sussex District Plan, Policy EG3 and EG4 of the East Grinstead Neighbourhood Plan and the relevant paragraphs of the NPPF and is considered acceptable.

Decision: Permission

Case Officer: Tracie Axford