

Steven King
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

12 September 2025 Dear Mr. King,
Ref: JC/Let/P2304

Section 73 Application for the amendment of Conditions 3, 4, 5, 6a, 7, 8, and 13 of application under reference DM/22/2832 at Wealden House, Lewes Road, Ashurst Wood, West Sussex, RH19 3TB.

This Section 73 Application seeks to amend Conditions 3 (Foul & Surface Water Drainage), 4 (Levels), 5 (Hard & Soft Landscaping), Condition 6 Part A (External Noise), 7 (Air Quality), 8 (Contamination), and 13 (Fire Hydrants) of the previously permitted application (ref: DM/22/2832), granted permission on 19th November 2024 for:

'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.' *(Amended elevations to plots 1 to 6 and plot 47 received 30th November 2022).'*

Amendments to the wording of the aforementioned conditions are proposed to enable demolition works to commence prior to the conditions being discharged.

In email discussions with the case officer (dated 29 August 2025) it was confirmed that commencement, for the purposes of the decision notice (ref: DM/22/2832), should be taken to include demolition. It was then further suggested that a Section 73 Application could be submitted to amend certain pre-commencement conditions to explicitly exclude demolition from their time-trigger. This would be to enable demolition prior to the discharge of these conditions.

It should be noted that some conditions within the decision notice (Conditions 2, 9 and 10) do explicitly refer to demolition. It may therefore be assumed that the omission of this wording in other commencement conditions implies that the Council did not consider demolition an integral part of commencement in all other instances.

It is therefore argued that amending the wording of Conditions 3, 4, 5, 6a, 7, 8, and 13 of the permission to explicitly exclude demolition from their time triggers is entirely acceptable and follows the spirit and intent of the original decision.

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The Council should also note that the Applicant fully intends to discharge Conditions 2, 9 and 10 prior to demolition, as originally required by the decision notice approved under reference DM/22/2832. An application for the discharge of these conditions is to be submitted in the near future.

The wording of Conditions 3, 4, 5, 6a, 7, 8, and 13 is therefore proposed to be amended as follows.

Condition 3 (Foul & Surface Water Drainage)

Condition 3 currently reads:

No development 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.

The wording of Condition 3 is proposed to be amended as follows:

*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.*

Condition 4 (Levels)

Condition 4 currently reads:

No development 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.

The wording of Condition 4 is proposed to be amended as follows:

*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..*

Condition 5 (Hard & Soft Landscaping)

Condition 5 currently reads:

Prior to the commencement of construction of any dwelling or building subject of this permission, including construction of foundations, 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.

The wording of Condition 5 is proposed to be amended as follows:

*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.*

Condition 6 Part A (External Noise)

Condition 6 Part A currently reads:

No development 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.

The wording of Condition 6 Part A is proposed to be amended as follows:

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 LAmax 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.

Condition 7 (Air Quality)

Condition 7 currently reads:

Prior to the commencement of any residential part of the development hereby permitted, 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.

The wording of Condition 7 is proposed to be amended as follows:

*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.*

Condition 8 (Contamination)

Condition 8 currently reads:

Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses*
- potential contaminants associated with those uses*
- a conceptual model of the site indicating sources, pathways and receptors*
- potentially unacceptable risks arising from contamination at the site*

and unless otherwise agreed in writing by the Local Planning Authority,
b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
and, unless otherwise agreed in writing by the Local Planning Authority,
c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

The wording of Condition 8 is proposed to be amended as follows:

*Prior to the commencement of development approved by this planning permission **(excluding demolition)**(or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:*

a) A preliminary risk assessment which has identified:

- all previous uses*
- potential contaminants associated with those uses*
- a conceptual model of the site indicating sources, pathways and receptors*
- potentially unacceptable risks arising from contamination at the site*

and unless otherwise agreed in writing by the Local Planning Authority,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
and, unless otherwise agreed in writing by the Local Planning Authority,
c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Condition 13 (Fire Hydrants)

Condition 13 currently reads:

Prior to the commencement of the development 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.

The wording of Condition 13 is proposed to be amended as follows:

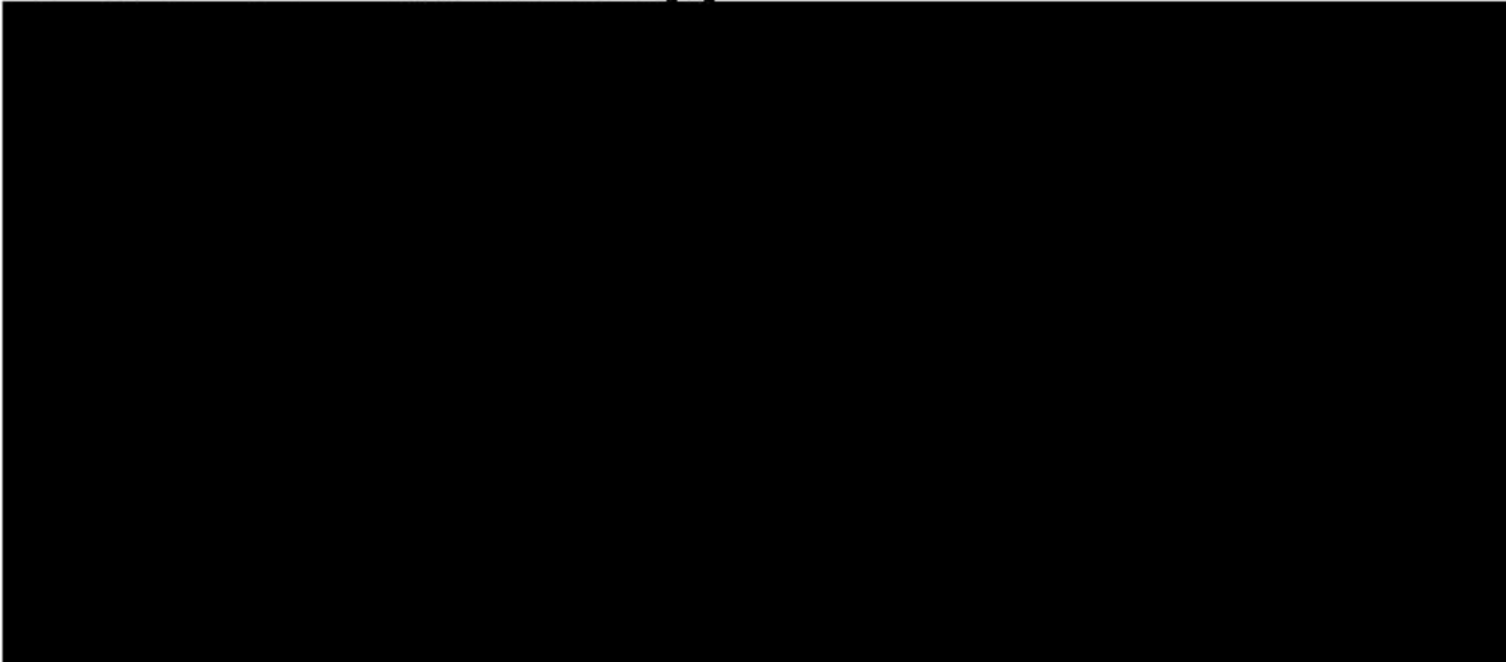
*Prior to the commencement of the development **(excluding demolition)** details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.*

Conclusion

We trust this letter sufficiently justifies the variation of Conditions 3, 4, 5, 6a, 7, 8, and 13 as listed above, pursuant to application reference DM/22/2832 at Wealden House, Lewes Road, Ashurst Wood, West Sussex, RH19 3TB.

If you have any further queries or require further information, please contact me on [REDACTED]
[REDACTED]

Yours sincerely
ECE Planning



Huw James MRTPI
Director