

PLANNING STATEMENT

IN RELATION TO:

‘Variation of Condition 9 pursuant to planning permission DC/24/1144 (‘Variation of Condition ‘A’ to DC/14/0413 and Condition 1 of previously approved applications DC/15/0834, DC/15/1712, DC/21/2359, DC/23/0069 Relating to the alignment and position of the access drive and refuse collection point. The access position remains unchanged’) to remove the requirement for a fire hydrant’

**Site to the rear of former Longfield House (Plots 2 and 3),
East Street, Rusper, West Sussex**

May 2026

1.0 INTRODUCTION

- 1.1 This application is submitted on behalf of the landowner, Mr. John Sage of Mansion Acquisitions Limited.
- 1.2 Pursuant to Section 73 of the Town & Country Planning Act 1990, this application seeks permission to remove the need for details to be submitted in respect of a fire hydrant, as required by Condition 9 of the latest planning permission relating to this site (DC/24/1144).
- 1.3 The development was lawfully commenced in May 2017, in accordance with Condition 1 of the original 2014 permission.
- 1.4 This application now seeks to vary the wording of Condition 9, to remove reference to the need for details of 'fire hydrant(s)' to be submitted to the Local Planning Authority for formal approval. The Council may instead consider it appropriate to replace the wording of Condition 9 with a new regulatory requirement in respect of the on-site underground water tanks that have been installed by the Applicant for fire fighting purposes.
- 1.5 This Planning Statement is submitted in support of the above application. This statement should be read in conjunction with the accompanying documents that have been supplied by the Applicant, which provide detailed specifications of the water storage tanks, including their size and positioning on the site.

2.0 SITE CIRCUMSTANCES

- 2.1 The Application Site comprises a parcel of land that is accessed on its northern boundary from East Street, Rusper. The site comprises the curtilage of the former Longfield House (now demolished). The northern part of the Application Site benefits from separate, extant planning permission for a block of 6 flats (application reference: DC/15/2552). Work relating to Plots 2 and 3 at the rear (south) of the site are now nearing completion.
- 2.2 The site borders open fields to the east. The land immediately to the northeast is in the same ownership as the Application Site. This neighbouring site now benefits from a planning permission for 6 dwellings (application reference: DC/21/2172). There are residential dwellings on large plots immediately to the west, with higher density housing beyond - all fronting onto East Street.
- 2.3 The Rusper Conservation Area follows the same boundary line as the settlement edge of Rusper. The application site relates to land that is outside of the Conservation Area and the Built-up Area Boundary, as per the adopted Horsham District Planning Framework (2015). However, it is understood that the draft Local Plan (which is at examination stage), is proposing to extend the settlement boundary of Rusper to encompass this site.

3.0 PLANNING HISTORY

- 3.1 The most relevant application is **DC/24/1144**, which was approved for ‘*Variation of Condition 'A' to DC/14/0413 and Condition 1 of previously approved applications DC/15/0834, DC/15/1712, DC/21/2359, DC/23/0069 Relating to the alignment and position of the access drive and refuse collection point. The access position remains unchanged.*’ The permission is dated 19th September 2024. It is noted that most recently there was a subsequent Non-material Amendment approved in November 2025 (see DC/25/1255), which included changes to the hardstanding area to the front (east) of Plots 2 and 3 to include the provision of a turning head for larger vehicles, and the provision of 2 no. underground water tanks for firefighting purposes. However, and despite there no longer being a need for a fire hydrant, condition 9 of DC/24/1144 remains in place. This application seeks to correct this position.
- 3.2 According to the Council’s online planning records the Application Site has an extensive planning history. The following applications are considered to also be relevant:-
- **Planning ref: DC/14/0413:** Erection of two detached dwellings and garages (to the rear of the site) and revisions to approved dwelling (permitted under DC/12/0353 dated 16/04/2012) together with a new access road. Application Permitted – 14th May 2014.
 - **Planning ref: DC/15/0834:** Minor material amendments to detached dwelling (plot 2) previously approved under DC/14/0413. Application Permitted – 10th July 2015.
 - **Planning ref: DC/15/1712:** Minor Material Amendment to detached house previously approved under DC/14/041 to create additional bedroom in roof with 2 x rear dormers. Application Permitted – 6th October 2015.
 - **Planning ref: DC/21/2359:** Variation of condition A to previously approved application DC/14/0413 (Erection of two detached dwellings and garages (to the rear of the site) and revisions to approved dwelling (permitted under DC/12/0353

dated 16/04/2012) together with a new access road)) to allow for a revised site area to accommodate a separate access to serve the previously permitted 2no. dwellings at the rear of the former Longfield House site and additional minor amendments to Plot 1. Application Permitted – 11th March 2022

- **Planning ref: DC/23/0069:** Variation of condition A to previously approved application DC/14/0413 (Erection of two detached dwellings and garages (to the rear of the site) and revisions to approved dwelling (permitted under DC/12/0353 dated 16/04/2012) together with a new access road)) to allow for amendments include changes to the internal layout of the dwellings, resulting in Plot 2 becoming a 5-bed (previously 4-bed) property, with associated fenestration changes and the increase in size of the permitted garages serving both Plots 2 and 3 to include first floor home office space. Application Permitted – 24th March 2023

4.0 THE PROPOSALS

- 4.1 This s73 application seeks to vary the wording of Condition 9 of planning permission DC/24/1144 to remove the requirement for details of fire hydrant(s) to be submitted to the Council for approval, and replaced with new condition wording so that the development is carried out in accordance with the water storage facilities approved under NMA application DC/25/1255 and the further details that accompany this Section 73 submission.
- 4.2 This would enable the water storage tanks to be secured by condition for the purpose of fire safety.
- 4.3 Prior to submitting this Application we engaged with HDC Planning Officer, Tamara Dale. She has advised that *“variation of the condition would secure the water tanks for the purpose of fire safety and would negate the requirement to install a fire hydrant as required by condition (9).”*
- 4.4 In all other respects the development is to remain as previously permitted, most recently via MMA application DC/24/1144 and amended by DC/25/1255.
- 4.5 All pre-commencement conditions have been discharged by the District Council and construction works commenced on site in May 2017, and works are now progressed substantially in respect of Plots 2 and 3 at the rear (south end) of the site. The relevant legislation confirms, however, that S73 applications can be made post grant of this application in respect of the same details, if appropriate.

5.0 PLANNING POLICY

(i) National Planning Policy Framework

- 5.1 The National Planning Policy Framework (NPPF) was originally published in 2012, and has been subject to a number of revisions, most recently in December 2023.
- 5.2 The NPPF confirms that planning law, as set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, requires that applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

(ii) National Planning Policy Guidance

- 5.3 The following extracts of the National Planning Policy Guidance are considered relevant to this s73 application:

Amending the conditions attached to a permission including seeking minor material amendments (application under Section 73 TCPA 1990)

How are the conditions attached to a planning permission amended?

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Paragraph: 013 Reference ID: 17a-013-20140306

Revision date: 06 03 2014

Are there any restrictions on what section 73 can be used for?

Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to change the description of the development.

Paragraph: 014 Reference ID: 17a-014-20140306

Revision date: 06 03 2014

What is the effect of a grant of permission under section 73?

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the [guidance for use of planning conditions](#).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 015 Reference ID: 17a-015-20140306

Revision date: 06 03 2014

Is there a definition of ‘minor material amendment’?

There is no statutory definition of a ‘minor material amendment’ but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Paragraph: 017 Reference ID: 17a-017-20140306

Revision date: 06 03 2014

Can section 73 be used to make minor material amendments if there is no relevant condition in the permission listing approved plans?

Section 73 cannot be used to make minor material amendments if there is no relevant condition in the permission listing the originally approved plans.

It is possible to seek the addition of a condition listing plans using an application under section 96A of the Town and Country Planning Act 1990. This would then enable the use of a section 73 application to make minor material amendments.

Paragraph: 018 Reference ID: 17a-018-20140306

Revision date: 06 03 2014

Use of Planning Conditions

What are the main legal powers relating to use of conditions?

The main powers are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by sections 77, 79, 177, and Schedule 6 of the Act. In some areas there may also be powers under local Acts which complement or vary the powers in the 1990 Act.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

A pre-commencement condition must not be imposed on the grant of permission (other than a grant of outline planning permission within the meaning of Section 92 of the 1990 Act) without the written agreement of the applicant except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

Paragraph: 002 Reference ID: 21a-002-20190723

Revision date: 23 07 2019

What options are available to an applicant who does not wish to comply with a condition?

Following the decision of a local planning authority to grant planning permission subject to conditions, an applicant may consider taking the following actions if they do not wish to be subject to a condition.

These options remain available where the applicant has agreed a pre-commencement condition, or the pre-commencement condition has been imposed where the applicant has not responded within the time limit set out in a notice served under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018:

- Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.*
- Appeal to the Secretary of State against the decision of the local planning authority to grant planning permission subject to conditions. An appeal must be received within 12 weeks of the date on the decision notice for householder planning applications or 6 months for other planning decision types. A Planning Inspector on behalf of the Secretary of State will re-determine the whole application (not only the decision to impose the conditions) – so there is a risk that the Inspector could refuse planning permission and therefore reverse the decision of the local planning authority. Further guidance on appeals.*

Development that is taken forward in breach of conditions may be subject to local authority enforcement action. It is also possible to apply for retrospective planning permission under section 73A of the Town and Country Planning Act 1990. Further guidance on enforcement (including section 73A).

Paragraph: 031 Reference ID: 21a-031-20180615

Revision date: 15 06 2018

How are conditions treated under section 73?

The original planning permission will continue to exist whatever the outcome of the application under section 73. The conditions imposed on the original permission still have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

Any pre-commencement conditions may not be imposed without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of section 92 of the 1990 Act or in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018). Further guidance on section 73.

Paragraph: 040 Reference ID: 21a-040-20190723

Revision date: 23 07 2019

(iii) Horsham District Planning Framework (HDPF 2015)

5.4 The following policies are considered relevant:

- **Policy 1** - Strategic Policy: Sustainable Development.
- **Policy 2** - Strategic Policy: Strategic Development.
- **Policy 3** - Strategic Policy: Development Hierarchy.
- **Policy 4** - Strategic Policy: Settlement Expansion.
- **Policy 15** - Strategic Policy: Housing Provision.
- **Policy 16** - Strategic Policy: Meeting Local Housing Needs.
- **Policy 24** - Strategic Policy: Environmental Protection.
- **Policy 25** - Strategic Policy: The Natural Environment and Landscape Character.
- **Policy 26** - Strategic Policy: Countryside Protection.
- **Policy 31** - Green Infrastructure and Biodiversity.
- **Policy 32** - Strategic Policy: The Quality of New Development.
- **Policy 33** - Development Principles.
- **Policy 37** - Sustainable Construction.
- **Policy 38** - Strategic Policy: Flooding.
- **Policy 39** - Strategic Policy: Infrastructure Provision.
- **Policy 40** - Sustainable Transport.
- **Policy 41** - Parking.

(iv) Neighbourhood Plans

5.5 A referendum was held for Rusper's Neighbourhood Plan 2018-2031 on Thursday 6th May 2021, where 88.03% of people voted in favour of the plan. The plan has therefore been made and can be afforded weight accordingly. The following policies are considered to be of relevance to this proposal:-

- **Policy RUS1**: Spatial Plan;
- **Policy RUS3**: Design;
- **Policy RUS5**: Green Infrastructure and Biodiversity;
- **Policy RUS11**: Promoting Sustainable Transport.

6. PLANNING ASSESSMENT

- 6.1 Section 73 of the Town & Country Planning Act 1990 allows applications to be made for permission to develop without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original conditions should continue.
- 6.2 The original planning permission, as amended by the subsequent S73 and MMA approvals, will continue to subsist whatever the outcome of this further application under section 73.
- 6.3 Section 73 cannot be applied if the period in the previous condition limiting the duration within which the development could begin has now expired without the development having begun.
- 6.4 In this case, the original planning permission (**DC/14/0413**) was approved by the Council via decision notice dated 14/05/2014. We can confirm that this original approval has had all pre-commencement conditions discharged, and initial development works commenced on-site in May 2017. The Applicant confirmed this via formal correspondence with the Council at that time. More recently works have advanced in respect of the construction of Plots 2 and 3 at the rear of the site.
- 6.5 The most recent S73 approval is DC/24/1144, which sought variations to the approved drawing condition. A subsequent NMA application (DC/25/1255) was also approved, and this latest permission included layout changes that included the provision of 2 no. underground water storage tanks on-site, which are provided for the purpose of supplying water to the fire brigade in the event of a fire.

- 6.6 Condition 9 of S73 planning permission DC/24/1144 is a pre-occupation condition that reads as follows:
- “Pre-Occupation Condition: No part of the development hereby permitted shall be occupied until details of the proposed location of the required fire hydrant(s) have been submitted to and approved in writing by the Local Planning Authority. The approved fire hydrant(s) shall be installed and ready for use prior to the first use of the development hereby permitted and shall thereafter be retained as such.*
- Reason: In accordance with fire and safety regulations in accordance with Policy 33 of the Horsham District Planning Framework (2015).”*
- 6.7 It is understood that this condition was imposed as a result of consultee input from West Sussex Fire & Rescue. In response to their requirements, the Applicant has explored the possibility of installing a fire hydrant, but this is not possible as there is insufficient capacity on East Street due to the main water line in this location being too small.
- 6.8 Following engagement with the Fire Brigade, it was agreed that instead the Applicant should install on-site water tanks underground, which were shown on the site plan approved under subsequent NMA application DC/25/1255. These tanks provide water storage totalling 50,000 litres, which would be used for fire fighting in the event of a fire at this site.
- 6.9 As the storage tanks negate the need for a Fire Hydrant, we hereby submit that condition 9 should be re-worded so that any requirement for fire hydrants are removed, and replaced with a regulatory condition that refers specifically to the submitted water tank specification and related details, and secures this appropriate solution to water storage at the site for the use of the Fire Brigade in the event of a fire occurring.

7. CONCLUSIONS

- 7.1 In submitting this application regard has been given to the relevant Local and Neighbourhood Plans, in addition to the guidance contained in the NPPF and NPPG.
- 7.2 Paragraph 56 of the revised NPPF states that “*planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*”. It is considered that the proposed revision to condition 9 of planning permission DC/24/1144 is entirely compliant with the NPPF’s guidance in this respect.
- 7.3 The proposed variation of Condition 9 clearly constitutes a ‘minor material amendments’ in the context of the development as a whole. **Importantly the quantum of development remains unchanged, and the application description also is unaltered by these revisions.** The application therefore accords with the guidance set out in the NPPG. The proposed variation of Condition 9 will ensure that the development will accord with the relevant Development Plan policies, most pertinent of which is Policy 33 of the Horsham District Planning Framework. In our opinion the overwhelming weight of evidence supports the granting of permission.

May 2026