

**MID SUSSEX DISTRICT COUNCIL**

**PLANNING COMMITTEE A**

**26 APR 2018**

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# MID SUSSEX DISTRICT COUNCIL

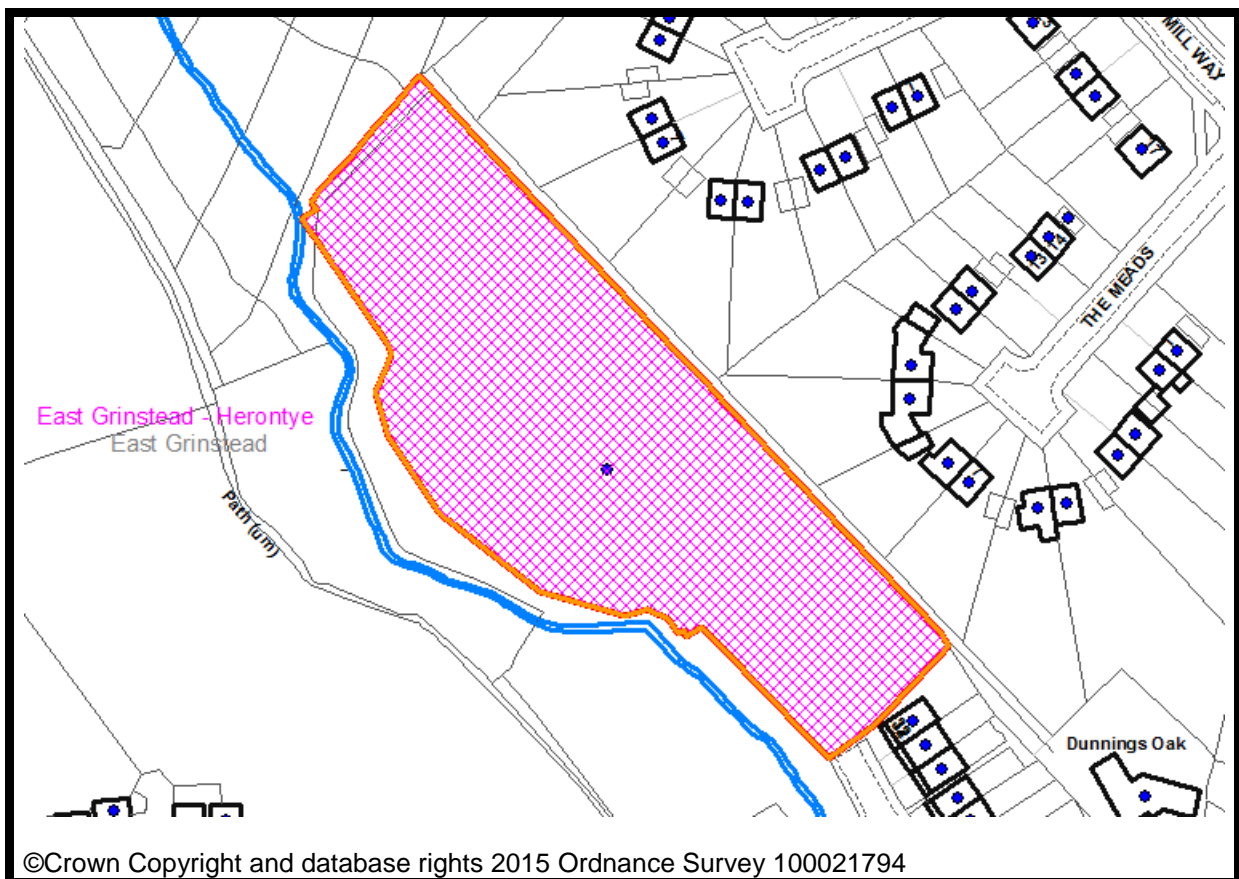
PLANNING COMMITTEE A

**26 APR 2018**

**PART I – RECOMMENDED FOR APPROVAL**

## East Grinstead

1. DM/15/2830



**LAND AT DUNNINGS MILL DUNNINGS ROAD EAST GRINSTEAD WEST SUSSEX**

**OUTLINE APPLICATION FOR THE ERECTION OF 12 HOUSES (AMENDED PLANS RECEIVED SHOWING REMOVAL OF PROPERTY, ORIGINALLY PLOT 13, AND ADDITIONAL DRAINAGE INFORMATION)**

**CROWNWOOD ESTATES (EAST GRINSTEAD) LTD**

**GRID REF: EAST 539131 NORTH 137080**

POLICY: Areas of Special Control for Adverts / Ashdown Forest SPA/SAC / Built Up Areas / Countryside Area of Dev. Restraint / Informal Open

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 25th May 2018

WARD MEMBERS: Cllr Edward Belsey / Cllr Dick Sweatman /

CASE OFFICER: Mr Stuart Malcolm

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader for Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

The application seeks outline planning consent for the erection of 12 houses on land at Dunnings Mill.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. As the proposed scheme does not comply with certain aspects of the Development Plan, other material considerations need to be considered in determining the application, including the National Planning Policy Framework (NPPF).

The planning application was considered by Planning Committee A on the 1st March 2018. The Committee resolved to grant planning permission subject to the completion of a S106 legal agreement to secure the necessary financial contributions towards infrastructure and SAMM mitigation as well as the on-site affordable housing. The legal agreement is awaiting to be finalised.

Since the resolution by Members to approve the application, the District Plan has been adopted and the Council can now demonstrate a 5 year supply of deliverable housing land. This results in a significant change in circumstances since the application was considered by Committee and is material to how the Council considers the proposals. The Council previously applied the 'presumption in favour of sustainable development' test within para.14 of the NPPF as the Council could not demonstrate a 5 year supply of housing land in its assessment of the proposals at that point.

It is therefore necessary to review the application in light of the changed planning policy position for the application.

The Development Plan consists of the District Plan and the made East Grinstead Neighbourhood Plan. The application site lies in the countryside, outside the built up area of East Grinstead, and thus would be contrary to policy DP12 of the District

Plan as the proposals are not necessary for the purposes of agriculture and are not supported by other policies in the Plan. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty.

Policy DP15 of the District Plan provides for exceptions to the presumption against new homes in the countryside where special justification exists. The proposals do not accord with DP15.

The proposal does not comply with policy DP6 of the District Plan as the proposal, although it is contiguous with the built up area, is for a development of twelve units when the policy allows for only less than ten units.

Whilst the proposals conflict with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely EG5 that does not restrict the location of new developments. 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 - in this case the District Plan. Only limited weight can therefore be given to policy EG5 of the Neighbourhood Plan in support of the application.

In accordance with the law, whilst this breach of district plan policy is the starting point for decision making, the Council also must have regard to other material considerations. It is considered that there are other material considerations, specific to this site, that are relevant to the application. These include:

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. In this case the site is not isolated or in open countryside as it immediately adjoins the built up area of East Grinstead on three sides and the development relates well to the urban grain of surrounding development. The site is also well contained by trees along the north western and north eastern boundaries which ensures that any public views of the site are somewhat limited. Views of the development from the footpath and AONB to the south west will be seen in the context of the existing built up area. It would not therefore be contrary to the aims of Policy DP12.

Whilst the development lies outside of the built up area of East Grinstead, it is situated directly adjacent to the development boundary bordering on three sides, a category 1 settlement which is a sustainable location providing a comprehensive range of employment, retail, health, education leisure services and facilities.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In addition the scheme would secure the delivery of 30% affordable housing equating to 4 units on site, and infrastructure payments. The development will provide a positive economic benefit through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

The applicants fallback position is also a material consideration. In this case the applicant has indicated that, were this application to be unsuccessful, an application for nine units would be submitted (so as not to conflict with DP6 restriction to less than ten units) and this would not trigger the need for affordable housing as long as the combined floorspace was less than 1000m<sup>2</sup>.

The proposal will result in a neutral impact in respect of a number of issues such as drainage and flooding, highway safety, parking, residential amenity, the open space drainage and the Ashdown Forest impact.

The proposal is therefore deemed to comply with the requirements of Policies DP4, DP13, DP16, DP17, DP21, DP26, DP27, DP31, DP37, DP38, DP41 and DP42 of the District Plan 2014-31 and Policies EG2a, EG3, EG5, EG7, EG11, EG12, EG14 and EG16 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

Your officers have reviewed the planning application in the context of the adopted District Plan and other material planning considerations and recommend that planning permission is granted.

## **RECOMMENDATIONS**

**Recommendation A** It is recommended that permission be granted, subject to the completion of a section 106 legal agreement to secure the necessary infrastructure contributions including the affordable housing, and to the conditions listed at Appendix A.

**Recommendation B** It is recommended that if the applicants have not completed a satisfactory signed planning obligation securing the necessary infrastructure payments and affordable housing by the 26th July 2018, then it is recommended that permission be refused, at the discretion of the Divisional Leader for Planning and Economy, for the following reason:

'In the absence of a signed legal agreement the application fails to deliver the necessary infrastructure, affordable housing and Ashdown Forest mitigation and as such conflicts with Policies DP17, DP20 and DP31 of the Mid Sussex District Plan and Policies EG5 and EG16 of the Neighbourhood Plan.'

## **SUMMARY OF REPRESENTATIONS**

A total of 40 letters from 24 different neighbours/third parties have been received.

35 objection letters raising the following issues:

- Surface water run-off into the site from surrounding land and it floods;
- existing watercourse floods into site and is in poor state and often blocked;
- seasonal stream from Southlands exacerbates issue;
- more development on land would increase risk elsewhere as well as on site;
- ponds on site not natural;
- new dwellings will not be able to get insurance;
- original dwelling 13 shown in area most at risk of flooding;

- issues downstream cause flooding problems on site;
- trees do not provide screening during winter;
- adverse impact on protected trees;
- impacts on countryside, adverse impacts on biodiversity, increased noise and disturbance, not suitable for housing and previous schemes not pursued or rejected due to flooding concerns;
- land classified as informal public open space;
- impact on AONB;
- poor visibility onto Dunnings Road;
- limited capacity for extra traffic on local roads;
- if there is a link to Southlands this would need to be upgraded;
- part of application site not in applicant's ownership;
- power lines had to be raised due to flooding;
- conflicts with Neighbourhood Plan;
- difficulties in relocating public sewer;
- impact on Ashdown Forest;
- Sunnyside Close access is restricted;
- who will pay for any damage to Sunnyside Close;
- construction disruption including contractor vehicles;
- loss of privacy and outlook;
- applicant's assertions in flood risk assessment not accurate and based on estimates;
- regular maintenance will be required to ensure flooding does not occur;
- parking problems in vicinity will be made worse; storm drainage in Sunnyside Close at capacity;
- not all drainage works can be secured as works not within red line of application site boundary;
- drainage proposals make no allowance for excessive rainfall;
- potential path would be unusable and would affect residential amenity;
- will lead to subsidence;
- EGTC object.

3 neutral letters advising that would prefer no further development but comfortable if no more than 12 houses; all flood/infrastructure issues taken into account; plus any damage to road are repaired; agreeing to principle of development but holding some concerns but not raising new issues

2 letters of support: Whilst would rather not have development supportive of this number of units and links to footpath have great merit; Trust that drainage issues properly assessed and disruption minimised; Good design; access to open space benefit to community; pleased to see a lot of hard work has gone into drainage.

**East Grinstead Society:** Recommend refusal.

Yet further traffic will use the narrow and dangerous Dunnings Road. Does the design of Sunnyside Close cater for the extra traffic? The bus information does not emphasise the service, 84 only runs every two hourly. The access for pedestrians to the town is up a steep incline. The site is outside the existing town built-up area on the edge of the AONB.

## **SUMMARY OF CONSULTATIONS**

### **MSDC Drainage:**

No objection subject to conditions.

### **MSDC Urban Designer:**

No objections.

### **MSDC Trees:**

No objections.

### **MSDC Environmental Protection:**

No objection subject to conditions.

### **MSDC Ecology:**

No objection subject to conditions.

### **MSDC Housing:**

4 x 2 bed houses required, these to be - 3 for rent and 1 for shared ownership.

### **MSDC Contaminated Land:**

No objection subject to condition.

### **MSDC Policy:**

No objection.

### **MSDC Leisure:**

No objections subject to infrastructure contributions.

### **West Sussex Drainage:**

Agree with MSDC Drainage response and conditions.

### **WSCC Highways:**

No objections subject to conditions.

### **WSCC Infrastructure:**

No objections subject to infrastructure contributions.

## **Southern Water:**

No objection.

## **SUMMARY OF TOWN COUNCIL COMMENTS**

Recommend refusal, not supported by neighbourhood plan and outside built up area. Also concerns about flooding and access.

Updated Feb 2018: As flood plain should not be built on, not sustainable as per EG5, will exacerbate flooding to existing properties and render new ones vulnerable.

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## **Introduction**

Planning application DM/15/2830 seeks outline planning permission for the erection of 12 residential units.

## **Relevant Planning History**

12/00365/FUL - Land reprofiling to mitigate flood - Refused in May 2012 for following reason:

It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed works would mitigate flood risks. The proposed works would restrict the area of land for water to flow over and it has not been demonstrated where exceedance flows would go should larger storms than the design storm be encountered. The proposal may therefore increase the risk of flooding adjacent to the site. The proposal therefore conflicts with Policy CS13 of the Mid Sussex Local Plan and the technical guidance on flooding published alongside the NPPF.

13/4308/OUT - outline planning consent for the erection of 13 houses - Withdrawn in December 2014

## **Site and Surroundings**

The application site comprises a broadly rectangular area of open land on the edge of East Grinstead. The site area measures 0.67 hectares in area.

There is an existing watercourse that runs down the south west edge of the site with part of this also falling within the ownership of the applicant. A public footpath lies beyond this watercourse which itself flows from north to south. The site is to the north west of a recently constructed development now known as Sunnyside Close. To the north east, at a higher level, are the properties on Mill Close and The Meads. A number of prominent trees are found along this boundary with some of these being covered by a preservation order - GR/03/TPO/06. To the north west of the site there are a number of trees in the back gardens of properties along Southlands

In terms of planning policy the site lies within the countryside as defined in the Mid Sussex District Plan.



It should also be noted that the AONB boundary is located to the south west of the watercourse so the site does not fall inside this designated area.

## **Application Details**

The application seeks consent for the erection of 12 dwellings on the site (when first submitted the scheme was seeking consent for 13 units).

The application is in outline form with access and layout being the only matters currently being pursued. This means that it is just the principle of the development, the means of access and the layout that are being assessed at this stage although the applicant has to demonstrate that such a proposal is achievable on the site. The submitted plans, other than the site plans, are therefore illustrative at this stage.

It is worth confirming appearance, landscaping and scale are not matters to be assessed under this application.

The access to the site is shown through the development to the immediate south east of the site, Sunnyside Close, and this links directly to a junction with Dunnings Road. The layout shows a cul de sac form of development with the houses in a broadly linear form located off a single road to the south western side of the new dwellings. The rear gardens all back onto the tree lined north eastern boundary.

## **List of Policies**

### **District Plan**

The Mid Sussex District Plan (adopted March 2018) forms part of the development plan against which the application would be determined. The relevant policies are:

- DP4 - Housing
- DP6 - Settlement hierarchy
- DP12 - Protection of Countryside
- DP13 - Preventing coalescence
- DP15 - New homes in the countryside
- DP16 - AONB
- DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
- DP21 - Transport
- DP26 - Character and Design
- DP27 - Dwelling Space Standards
- DP28 - Accessibility
- DP31 - Affordable Housing
- DP37 - Trees, woodland and hedgerows
- DP38 - Biodiversity
- DP41 - Flood Risk and Drainage
- DP42 - Water Infrastructure

## **Neighbourhood Plan**

The East Grinstead Neighbourhood Plan was made in November 2016 so forms part of the development plan. In accordance with the Planning and Compulsory Purchase Act 2004 and the NPPF, an assessment has been undertaken of the neighbourhood Plan policies to identify if there are any in conflict with the adopted District Plan. Where there is conflict the weight to be afforded to the policy has been identified. The relevant policies are:

- EG2 - Areas of Development Constraint
- EG2a - Preventing Coalescence
- EG3 - Promoting Good Design
- EG5 - Housing Proposals
- EG7 - Housing Mix and Density
- EG11 - Mitigating Highway Impacts
- EG12 - Car Parking
- EG14 - Open Space
- EG16 - Ashdown Forest Protection

## **National Policy and Other Legislation**

### **National Planning Policy Framework (NPPF - 2012)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Para 12 states "This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

Paragraph 17 of the NPPF sets out 12 principles that the planning system should play that underpin both plan making and decision taking. This paragraph confirms that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. It also confirms that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

With specific reference to decision-taking the document provides the following advice:

Para 150 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 196 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

## **National Planning Policy Guidance**

### **Technical Housing Standards**

### **The High Weald Area of Outstanding Natural Beauty Management Plan 2014-2019**

#### **Assessment**

It is considered that the main issues needing consideration in the determination of this application are as follows;

- The Principle of Development;
- Impact on Visual Amenity including coalescence, effects on trees and impact on adjacent AONB;
- District Plan Spatial Strategy
- Accessibility of the Site;
- Drainage and Flooding;
- Residential Amenity;
- Highways, access and car parking;
- Ecology;
- Loss of Public Open Space;
- Affordable Housing;
- Infrastructure Requirements;
- Ashdown Forest;
- Other Planning Issues;
- Other Material Considerations

- Conclusion

## **Principle**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

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.

Using this as the starting point the development plan in Mid Sussex consists of the adopted District Plan (2018), the made East Grinstead Neighbourhood Plan (2016) and the Small Scale Housing Allocations Document (2008).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land.

As the proposed development is located within the countryside and is not one of the exceptions set out in policy DP15, the proposal is contrary to Policy DP12 of the District Plan.

The proposal does not comply with Policy DP6 of the District Plan as the proposal is for a development of more than ten units although the site is contiguous with the built up area of East Grinstead. Policy DP6 also identifies the settlement hierarchy for the District and allows for the growth of settlements in some circumstances and states that:

*"Outside defined built-up area boundaries, the expansion of settlements will be supported where:*

- 1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and*
- 2. The site is contiguous with an existing built up area of the settlement; and*

3. *The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.*

*The developer will need to satisfy the Council that:*

- *The proposal does not represent an underdevelopment of the site with regard to Policy DP26: Character and Design; or*
- *A large site is not brought forward in phases that individually meet the threshold but cumulatively does not."*

Policy EG2 of the Neighbourhood Plan applies a presumption in favour certain types of development in the areas of development constraint, namely: the sympathetic conversion of redundant rural buildings, limited small scale new development (agriculture and sports/recreation) and extensions to existing buildings. The policy does not obviously apply to proposals not falling within those specified types of development. At best, it might be said that Policy EG2 provides no support for the proposal; but equally, it does not weigh against the proposal.

Policy EG2a seeks to prevent coalescence between East Grinstead and Crawley Down, to prevent development which unacceptably erodes the perception of openness within the area or contributes to ad hoc or isolated development of dwellings outside the built up area.

The more relevant and overarching policy in respect of housing is EG5 of the Neighbourhood Plan. This policy states that:

*"The East Grinstead Neighbourhood Plan area is subject to significant environmental and infrastructure constraints and as a result new housing development on land defined as 'previously developed,' where the site is predominantly previously developed or is green infrastructure that can be demonstrated to be surplus to requirements will be supported subject to the criteria below and compliance with other policies within the plan.*

*Other proposals for new housing development will only be supported if:*

- a) *The proposed development contributes to sustainable development;*
- b) *An application is supported by robust assessment of the environmental and visual impact of the proposal and include as necessary appropriate mitigation measures.*
- c) *An application is supported by a robust assessment of the impact of the proposal upon the local highway network and it can be demonstrated that the proposal will not cause a severe cumulative impact in terms of road safety and increased congestion after proposed mitigation is taken into account;*
- d) *The proposal complies with design guidance contained in policy EG3 or a relevant Development Brief;*
- e) *The proposal provides a mix of tenure types including private, social rented and shared equity (intermediate);*
- f) *Contributions are made towards SANG and Strategic Access Management and Monitoring (SAMM); and*
- g) *The proposal meets its own infrastructure needs."*

Policy EG5 is permissive in nature and the principle of housing development is not constrained by the location of development (i.e. whether it is within or outside the built up area boundary). Policy DP12 of the District Plan has a more restrictive approach and there is therefore conflict with the adopted spatial strategy of the District Plan. It is important to take account of the law and section 38(5) of the Planning and Compulsory Purchase Act 2004 states that 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 - in this case the District Plan. Therefore only limited weight can be given to policy EG5 of the Neighbourhood Plan in support of the application.

### **Impact on Visual Amenity including Coalescence, Effects on Trees and Impact on Adjacent AONB**

One of the key issues is the visual impact on the character of the area. This is particularly important in this case given the site is within the countryside and potential coalescence issues need to be considered. The impact on the nearby AONB is also a consideration.

As the proposed development is located within the Countryside the proposal is contrary to Policy DP12 of the District Plan. However, it is important to understand the intention behind the policy. The principal aim of Policy DP12 of the District Plan states: *"The countryside will be protected in recognition of its intrinsic character and beauty."* The supporting text sets out the following:

*"The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside."*

This policy aim follows national policy with one of the core planning principles of the NPPF, at para 17, is to:

*"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."*

Paragraph 109 of the NPPF also refers to 'protecting and enhancing valued landscapes' and case law has suggested that land does not have to lie within a designated area to be 'valued' and that landscape value accrues separate to designated status and that such value is derived from some physical attributes, not mere popularity.

Given that the application site is currently an undeveloped parcel of land, there will inevitably be a degree of visual change as a result of the proposal due to the introduction of built form on an undeveloped rural site. In this case however the development is not isolated as it immediately adjoins the built up area of East Grinstead on three sides. In visual terms therefore the site relates well to the built up area boundary and to the urban grain of surrounding development.

The site is well contained by trees along the north western and north eastern boundaries which ensures that any public views of the site are somewhat limited.

In terms of layout the development broadly continues the linear arrangement of the houses immediately to the south east on Sunnyside Close. The Urban Designer has been consulted on the merits of the scheme and his comments are set out in full within Appendix A. The following advantages of the current layout have been identified:

- *"It opens up the attractive views of the tree-lined stream and the embankment on the other side, which gives a sense of the wider countryside beyond.*
- *It connects the open space to the public realm and provides natural surveillance over it. Access to the open space has been reinforced with a new footbridge.*
- *It creates a secure back-to-back arrangement with the rear gardens abutting the rear of the existing houses in the Mead and Mill Close. Conversely it avoids a less secure rear garden boundary inappropriately backing on to the open space where it provides minimal surveillance and risks looking imposed on its environs."*

Whilst the Urban Designer identifies a downside of the layout as being the loss of views of the north eastern boundary trees, reference is made to the fact these will still be seen over the houses and through the gaps between the properties as well as at the far (north western) end of the development.

The layout of the houses are acceptable and appropriate in this context. A number of other design elements would be assessed at reserved matters stage when appearance, scale and landscaping would all be matters for consideration.

The wider visual impact of the development is therefore deemed quite minimal in this case, despite the fact that part of an undeveloped site is to be built on. Officers consider therefore that there would be a limited adverse impact on the landscape as a result of the proposed development but this is an inevitable outcome of developing on any greenfield site on the edge of villages and towns and in that respect is not unique to this site.

In terms of the coalescence issue, policies DP13 and EG2a apply. DP13 states that:

*"The individual towns and villages in the District each have their own unique characteristics. It is important that their separate identity is maintained. When travelling between settlements people should have a sense that they have left one before arriving at the next."*

*"Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of*

*settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements."*

Policy EG2A meanwhile states that:

*"Planning permission will not normally be granted for development which:*

- 1) Results in the coalescence of East Grinstead with Crawley Down or Ashurst Wood;*
- 2) Results in the perception of openness being unacceptably eroded within this area; or*
- 3) Contributes towards the ad hoc or isolated development of dwellings outside the built up area, including infilling of built up frontages or linear development along roads."*

Reference has already been made above to the relationship of the proposed development with the existing urban grain with the built up area boundary located to the north west, north east and south east. The proposal will also effectively be a continuation of the existing linear development at Sunnyside Close to the south east and is well contained by vegetation. It should also be noted that the development of 12 houses is a relatively minor development considered in the context of the size of the adjoining East Grinstead.

In such proximity to the existing built development, and given the limited visual impact on the public realm and the minor scale, the proposal is deemed acceptable. It will not have a significant effect on the coalescence of the settlements of East Grinstead and Crawley Down as the proposal will not lead to an unacceptable erosion of the perception of openness or separate identity of these local settlements nor is the development isolated or ad hoc. There is not considered to be a breach of policies DP13 and EG2a.

The Council's tree officer has commented on the impact of the scheme on the trees around the site and has assessed the applicant's Arboricultural Impact Assessment and the Method Statement, both of which are available to view in full on the planning file. The tree officer has confirmed that:

*"The submitted AIA has correctly recorded and classified all of the trees on site in line with BS 5837. Although several trees on site are to be removed to facilitate the development (including: G18, T20 & T21) these trees are of a low category or in poor health and some of the removed trees are to be replaced in this area. Where the development has encroached in to the RPA of protected trees on site, (T7 Oak for example) suitable ground protection has been detailed within the report. Tree protection during development is also detailed on the site plan using CEZ's (as per BS 5837). Post development pressure on the TPO'd trees that run along the North Eastern boundary has been lessened by the new design, especially around T7 (Oak)."*

Planning officers have no reason to contradict this advice. Permitted development rights regarding extensions and outbuildings can be withdrawn to ensure the trees are protected in the future and a condition to this effect is set out in Appendix A. With such a condition in place, subject to the standard landscaping condition that will



secure tree protection measures and any additional planting, the impact of the development on the trees is considered acceptable.

As indicated earlier in the report, the High Weald Area of Outstanding Natural Beauty is located to the south west of the site where the public footpath runs in a north westerly direction.

DP16 of the District Plan states *"Development on land that contributes to the setting of the AONB will only be permitted where it does not detract from the visual qualities and essential characteristics of the AONB, and in particular should not adversely affect the views into and out of the AONB by virtue of its location or design."*

It is also worth highlighting that whilst there is an AONB policy within the East Grinstead Neighbourhood Plan, Policy EG1 refers specifically to development within the AONB and not adjacent to it like this site.

Whilst there will be some views of the development through the trees from within the AONB, these will not be significantly harmful given that the development would be seen with a backdrop of trees and clearly within the context of the existing town. Similarly the proposal will not adversely affect views of the AONB largely as a result of the application site being at a lower level than the adjoining land to the north east.

Overall on the issue of visual amenity, although there is some adverse impact on the character of the area, this is inevitable on an undeveloped site and the other detailed design requirements of district and neighbourhood policy are met.

### **District Plan Spatial Strategy**

The NPPF sets out the principles of sustainable development. The District Plan spatial strategy sets out a settlement hierarchy to deliver development to support their economic, infrastructure and social needs. The scale of growth at these settlements will be guided by the Settlement Hierarchy at DP6 of the District Plan.

East Grinstead is designated as a Category 1 settlement which is a: *"Settlement with a comprehensive range of employment, retail, health, education leisure services and facilities. These settlements will also benefit from good public transport provision and will act as a main service centre for the smaller settlements."*

The application site is thus, in principle, considered to be a suitable and sustainable location for residential development.

### **Accessibility of Site**

The accessibility of the site, or the sustainable location of it, is a key consideration. One of the core planning principles of the NPPF, as set out in para 17, is to:

*"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable."*

As noted above the site is immediately adjacent to the built up area of East Grinstead with the formal boundary adjoining the site on three sides; the north west, the north east and the south east. The site connects to the south east with Sunnyside Close within the built up area and offers good connectivity to a range of services within the town which will be accessible to future residents by means other than the private car.

Promoting sustainable development is about providing opportunities for alternative means of transport other than the private car and development in this location accords with this with opportunities to access local services by foot or bicycle. It can be concluded therefore that the site is within a sustainable location.

In this respect the application therefore complies with Policy DP21 of the District Plan, Policy EG5 of the Neighbourhood Plan and para 17 of the NPPF.

### **Drainage and Flooding**

This is the main issue associated with the application and there have been extensive discussions with the applicant on this matter since the application was first submitted. These discussions have been referenced within the MSDC Drainage response contained within Appendix B entitled 'summary of drainage discussions'. It is worth highlighting that the MSDC Drainage response within Appendix B has been written with the agreement of West Sussex Drainage officers so it is essentially a joint response from the two consultees who advise on such matters. Before setting out the assessment of the issue it is first of all necessary to set out the key policy background.

Within the District Plan, DP41 is the key policy and this states that:

*"Proposals for development will need to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. The District Council's Strategic Flood Risk Assessment (SFRA) should be used to identify areas at present and future flood risk from a range of sources including fluvial (rivers and streams), surface water (pluvial), groundwater, infrastructure and reservoirs.*

*Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates.*

*Sustainable Drainage Systems (SuDS) should be implemented in all new developments of 10 dwellings or more, or equivalent non-residential or mixed development<sup>23</sup> unless demonstrated to be inappropriate, to avoid any increase in flood risk and protect surface and ground water quality. Arrangements for the long term maintenance and management of SuDS should also be identified.*

- *For the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through SuDS following the remediation of any previously contaminated land.*

- *SuDS should be sensitively designed and located to promote improved biodiversity, an enhanced landscape and good quality spaces that improve public amenities in the area, where possible.*
- *The preferred hierarchy of managing surface water drainage from any development is:*
  1. *Infiltration Measures*
  2. *Attenuation and discharge to watercourses; and if these cannot be met,*
  3. *Discharge to surface water only sewers.*

*Land that is considered to be required for current and future flood management will be safeguarded from development and proposals will have regard to relevant flood risk plans and strategies.*

The most relevant parts of the NPPF are paragraphs 100 and 103 which state:

*"100/. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:*

- *applying the Sequential Test;*
- *if necessary, applying the Exception Test;*
- *safeguarding land from development that is required for current and future flood management;*
- *using opportunities offered by new development to reduce the causes and impacts of flooding; and*
- *where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations."*

*103/. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment<sup>20</sup> following the Sequential Test, and if required the Exception Test, it can be demonstrated that:*

- *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and*
- *development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems."*

The MSDC Drainage response has set out the following summary of the application proposals and the mitigation measures to address flood risk:

*"Historically this land formed part of the land and mill pond serving Dunnings Mill, which is now a pub. The site is currently at risk of flooding from surface water because the surrounding land to the west, north, and east is higher and overland runoff arrives on the site during heavy rain. Surface water can arrive on the site from the watercourse if the banks are overtopped during heavy rain and the watercourse is known to flood into gardens upstream of the site. A secondary watercourse arrives on the site at the northern corner and this takes water from Hurst Farm Pond and the surrounding areas but as it arrives on site the watercourse is not defined and it flows overland.*

*There is also a surface water sewer serving The Meads and Mill Close which currently discharges overland onto the site and this discharge has formed a pond. Proposals are to keep this pond and make it more formal with a dedicated pipe outfall into the watercourse. An additional pond has also formed on the site at a low spot but this is believed to be fed by rainwater only and this pond will be removed as part of the level changes that are necessary on the land. There is an area of trees in the northern corner where the land is often seen to be wet underfoot and water ponds in this area during heavy rain. This is also the first area to flood if the watercourse comes out of bank in the gardens upstream of the site.*

*Drawing number 21467-SK-92 shows the existing floodplain at the site and drawing number 21467-SK-90 shows the proposed floodplain including some proposed levels.*

*In order to overcome the flooding issues on site proposals consist of:*

- Constructing the houses on raised land running in a strip backing onto the north-eastern boundary*
- Raising the finished floor levels of the new properties above external ground levels allowing overland water to flow around buildings before draining into the watercourse*
- Locating the access road in front of the houses at a higher level than the adjacent floodplain and watercourse.*
- Carrying out works to lower land levels on the north-eastern side of the watercourse. The works to lower land levels are within the floodplain and are required to ensure that the same volume of flood water can be conveyed through the site, whilst keeping some of the land at a higher level to enable construction of properties.*

*In order to achieve the above it is necessary for the north eastern bank of the watercourse to be lowered along with some of the land adjacent. Proposals are that this work will keep the flooding on the site contained within a restricted area and the road and then the houses will be constructed on adjacent land that is higher and out of the floodplain. For guidance purposes this means lowering the land in the floodplain by a maximum of 1.1m, raising the land for the access road by a maximum of 1m and raising the land for the houses by a maximum of 1.2m.*

*To reduce the risk of flooding to the new development the removal of plot 13 from the application is important. This end plot is located in the northern area where water first enters the site if it is flowing out of bank in the gardens upstream. This plot area also contains the water running down from Hurst Farm Pond and Southlands which does not run in a defined channel. This plot does not have the safety of having the access road situated between it and the floodplain and its removal would give additional space for water to be channelled into the redefined floodplain area. The area that this plot is situated in also has a number of mature trees in it and residents have provided photographs of much of this area under water following heavy rain.*

*The applicants have also undertaken to provide a 3m maintenance strip alongside the access road to enable the floodplain to be maintained. It appears that some of this maintenance strip will be on land where the access road is located and due to level changes on the site there will be a steep section of embankment down to the floodplain."*

As Members will have noted the applicants have removed what was originally Plot 13 in the far north western part of the site in accordance with the Drainage Engineer's requirements. The applicant's will also need to provide further detailed information prior to the development commencing in order to satisfy any outstanding drainage issues on the site.

The Drainage response makes clear the extensive discussions that have taken place on this matter and concludes that there is no sustainable planning reason to continue to object to the development on flood risk grounds. A number of planning conditions are however necessary to ensure that the development can be implemented without increasing flood risk on the site or elsewhere and these are listed in Appendix A and numbered 3 - 10. It has also been recommended that permitted developments rights are removed for this development as any future changes to the ground levels could affect the flood risk both on and off site and this condition, which will also help protect the trees in the future, is set out within Appendix A at number 27.

It is clear from the assessment within this section that there has been a particularly detailed and thorough analysis of the potential drainage and flood risk implications for this proposal and the fact that no objection is being raised is a not a decision that has been taken lightly. It is nevertheless the case however that there is no technical evidence to suggest this application should be refused and drainage and flood risk grounds given the assessment work that has been carried out to date and the requirement for more detailed information to follow under conditions.

In this respect the application therefore complies with Policy DP41 of the District Plan and the NPPF requirements.

### **Residential Amenity**

One of the key issues to assess under this application is the potential impact on neighbouring residential amenity.

District Plan Policy DP26 is applicable and this states, in part where relevant, that:

*"All applicants will be required to demonstrate 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 DP27)."*

Criteria b of Policy EG3 also applies with this stating that: *"planning permission will normally be granted where development proposals meet the following criteria ... The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity."*

At this juncture it is again relevant to take into account the law, namely section 38(5) of the Planning and Compulsory Purchase Act 2004. As noted in the 'principle' section, this states that 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 - so in this case the District Plan which requires there to be 'significant harm' to residential amenity to conflict with the policy. Therefore only limited weight can be given to criteria (b) of EG3 of the Neighbourhood Plan which requires there to be only 'harm' to residential amenity.

The test of an application in residential amenity terms is therefore whether or not a proposal causes significant harm.

The neighbours most likely to be affected are those that border the site to the north east on Mill Close and The Meads, those to the south east on Sunnyside Close and those to the north west on Southlands.

The nearest of the dwellings to the site are on Sunnyside Close with no. 32 being side on to the south eastern boundary. In this location the linear arrangement of the dwellings means that Plot 1 does not extend substantially further forward or behind the front or rear building line of the neighbour. There are no side windows in the facing façade of Plot 1. This means that the new dwelling will not have a significant impact on the amenities of 32 Sunnyside Close although further consideration would be given to this relationship at the reserved matters stage when the appearance and scale of the dwellings would be considered.

The nearest properties on The Meads, Mill Close and Southlands are sited approximately 35, 37 and 60 metres away respectively from the new dwellings. The dwellings are also at a lower level and separated from these neighbours by extensive vegetation along the tree lined boundaries.

These distances are well in excess of the 21 metre gap which is the generally accepted minimum back to back distance between windows of properties to ensure that significant harm from overlooking does not occur, albeit this is within the built environment. Despite being in a more rural setting the distances in excess of 35 metres indicate that significant harm to residential amenity would not occur in this instance, even in winter months when the trees will not provide as dense a screen as at other times of the year. The dwellings are also far away enough from the neighbouring properties so that loss of light or a sense of being overbearing are not significant factors.

Other neighbours will not be significantly affected by the proposals due to the substantial distances involved and the amount of boundary screening.

Any increase in noise or disturbance caused by additional traffic from just 12 houses would be minimal and would certainly not amount to significant harm in amenity terms for any local residents, with particular regard to those on Sunnyside Close.

No objections have been raised to the scheme by Environmental Protection officers although they have suggested some conditions aimed at minimising the impact on the neighbours.

Construction will be limited to normal working hours via a condition and will help prevent other forms of inconvenience such as noise during construction. Delivery hours will also be restricted by a condition as will dust control measures

Environmental Protection has however requested two conditions that do not meet the conditions tests as they are matters covered by other legislation (in this case environmental protection laws). These relate to the burning of materials on site and the need for formal soundproofing.

In light of the above points there will be no significant harm to neighbouring amenity meaning the proposal accords with Policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

## **Highways, Access and Parking**

Policy DP21 in the District Plan states

*"Development will be required to support the objectives of the West Sussex Transport Plan 2011 - 2026, which are:*

- *A high quality transport network that promotes a competitive and prosperous economy;*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- *Access to services, employment and housing; and*
- *A transport network that feels, and is, safer and healthier to use.*

*To meet these objectives, decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*

- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

*Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*

*Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so."*

The reference to development not causing a severe cumulative impact reflects the advice in paragraph 32 of the NPPF, which states:

*"Plans and decisions should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature of the site, to reduce the need for major transport infrastructure;*
- *Safe and suitable to the site can be achieved for all people; and*
- *Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*

West Sussex County Council has been consulted on the merits of the application and their comments are set out in full within Appendix B. The applicant's full Transport Statement can be found on the planning file.

Regarding the access and visibility onto Dunnings Road the highways authority has confirmed the following:

*"The access was reviewed as part of a Stage One Road Safety Audit as part of 08/3694/OUT. This junction is also used in association with the Old Dunnings Mill public house, and has previously been used in connection with the former leisure*



centre. The latest WSCC Road Safety Audit Policy does not require Audits to be provided for accesses within residential street layouts. As the current proposal seeks an extension to the existing residential carriageway, the RSA Policy is not applicable. A further Stage One RSA would not be required in support of this proposal.

Visibility splays of 2.4 by 70 metres have previously been demonstrated as achievable onto Dunnings Road. Current highway guidance uses Manual for Streets for urban locations with recorded speeds of less than 37mph. It is against this guidance that the adequacies of the Dunnings Hill junction should be assessed. As stated it has been previously demonstrated that sightlines of 2.4 by 70 metres can be achieved in each direction onto Dunnings Hill. These sightlines significantly exceed the requirements set out within Manual for Streets given the posted speed limit and recorded speeds. As such, this junction is considered to be adequate to accommodate the additional movements arising from this proposal.

Since the previous application in 2013, the LHA have reviewed data supplied to WSCC by Sussex Police over a period of the last 3 years. There have been no recorded injury accidents at the junction with the public highway, Dunnings Road. There is no evidence to suggest that the junction is operating unsafely, or that the proposal would exacerbate an existing safety concern."

The highways authority has also commented on the proposed trip generation as referenced in the applicant's Transport Statement:

"The TS provided in support of this application does estimate potential vehicular trip generation arising from this proposal. These estimates are based upon TRICS data. The sites used are still considered to be comparable in terms of planning use class and location to that proposed. As such the trip rate generated still provides an indication to the likely trip generation from the new dwellings. It is recognised that this proposal would give rise to a more intensive use of Sunnyside Close and the junction of Dunnings Road. However this proposal is not anticipated to result in any highway capacity concerns."

Issues surrounding the internal layout, swept path analysis for refuse collection and parking have also been addressed by the highways authority:

"The internal road is indicated as a shared surface route. The principle of a shared surface would be acceptable given the low speed/lightly trafficked nature of the development. Given that Sunnyside Close has footways consideration will need to be given through the detailed design as to how the shared surface and carriageway/footway will tie in.

Refuse collection will take place from within the site. The waste collection authority should be consulted to obtain their views on the suitability of this arrangement from their point of view. Within the appendices there has been a swept path analysis provided showing how a larger vehicle including a refuse vehicle can safely turn within the site.

The parking provision is noted. It has not been confirmed however that the parking demands are being considered against the WSCC Parking Demand Calculator. Print

*outs of the PDC should be provided as part of a Reserved Matters application. As part of the proposals the applicant has stated that 1 garage space and 1 off-street parking space will be provided for each property, 4 additional visitor off-street spaces will be provided in a layby on the northwest side of the access road."*

The highways authority conclude their comments by stating that based on the above points, the previous history and from observations on site of the proposed access which provides visibility in accordance with the stated speed limits, it is not considered that there sufficient grounds to raise an objection. Conditions are though recommended in respect of the access, car parking, cycle parking and a construction management plan.

Taking into account the above points it can be reasonably concluded that there are no sustainable reasons to refuse the scheme on highways, access or parking grounds as the proposal complies with Policy DP21 of the District Plan and Policies EG11 and EG12 of the Neighbourhood Plan.

## **Ecology**

The applicant has submitted an Ecological Assessment that is available to view in full on the planning file. This assessment concludes that:

- *"there are not considered to be any significant adverse effects on any statutory and non-statutory sites of nature conservation interest from the development proposals.*
- *the retention of the wooded belt, trees and stream habitats within the site and new native tree / shrub planting will provide enhanced opportunities for birds and bats, while the erection of bat boxes within the site will also provide new nesting opportunities for bats.*
- *further recommendations have been made to safeguard other protected and notable species present within the site, including nesting birds and Badgers. Recommendations have also been made to achieve ecological enhancements for such protected/notable species wherever possible."*

This document has been subject to consultation with the Council's ecological consultant who has confirmed that the application accords with local and national biodiversity requirements, subject to the submission of specific information at the reserved matters stage. The consultant has stated that:

*"The plans and particulars submitted in support of the reserved matters application shall include the following ecological details:*

- *a wildlife protection and mitigation plan and method statement setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;*
- *pollution prevention details sufficient to demonstrate that there will be no adverse impacts from construction activities on pond or stream ecology;*
- *a detailed lighting plan showing measures to be used to minimise light spill, particularly along the stream corridor and around the pond;*

- *a habitat enhancement and management plan (including measures to remove Himalayan balsam) to ensure a long-term contribution towards conserving the biodiversity of the local area."*

It is evident from the submitted information and from the comments of the consultee that the proposal will not have a negative impact on important wildlife habitats or on a protected species. This is subject however to the imposition of an appropriate condition as referenced above. With such a condition in place the application accords with Policy DP38 of the District Plan.

### **Loss of Public Open Space**

Members will recall that the report for Committee on March 1st included a substantial section on addressing the loss of the open space. This was due to the site being allocated as Informal Public Open Space by virtue of Policy EG18 of the Mid Sussex Local Plan. However, the land is not now formally classed as informal open space because the District Plan has been adopted meaning there is no longer a formal designation within the development plan.

So that the development could still provide some of the accessibility benefits of public open space the proposal includes;

- the possibility for pedestrian access into Mid Sussex Land to the north, which links to Southlands and Hurst Farm Pond beyond.
- a pedestrian footbridge across the watercourse towards the south of the site
- an area of open space to the south western side of the watercourse
- this area of open space adjoins an existing public right of way.

These benefits have the support of the planning policy and leisure departments and will be secured through the legal agreement.

### **Affordable Housing**

The provision of 12 residential units gives rise for the requirement for affordable housing provision. The Housing Officer has stated there is a requirement for 30% affordable housing so 4 units are required in line with Policy DP31 of the District Plan. These units are required to be 4 x 2 bed houses, 3 of which should be for rent and 1 for shared ownership.

The applicant has indicated their acceptance of such a provision and this will be secured via the legal agreement.

### **Infrastructure Contributions**

Contributions are requested in accordance with the councils adopted Supplementary Planning Document "Development and Infrastructure" and are requested in accordance with Policy DP20 of the District Plan, Policy EG5 of the Neighbourhood Plan and the NPPF.

The contributions also accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

The applicant has indicated a willingness to make these contributions. The payments that will be required are set out as follows:

Formal Sport: £13,214 (improvements towards pitch drainage at King Georges Field)

Playspace: £10,972 (improvements at Sunnyside Recreation Ground)

Kickabout: £3,109 (improvements at Sunnyside Recreation Ground)

Community Buildings £5,740 (improvements to Meridian Hall)

Local Community £6,601 (towards roadside signs to promote the AONB)

Education Primary: £ 39,292 (to be used towards additional equipment at The Meads Primary School) (based on currently suggested mix although exact amount determined by formula in legal agreement as application is in outline form)

Education Secondary: £ 42,287 (to be used towards additional equipment at Sackville School) (based on currently suggested mix although exact amount determined by formula in legal agreement as application is in outline form)

Education Sixth Form: £ 9,907 (to be used towards additional equipment at Sackville School sixth-form department) (based on currently suggested mix although exact amount determined by formula in legal agreement as application is in outline form)

Library: £ 3,535 (to be used towards additional stock at East Grinstead Library) (based on currently suggested mix although exact amount determined by formula in legal agreement as application is in outline form)

TAD: £ 32,154 (to be used towards the Scheme) (based on currently suggested mix although exact amount determined by formula in legal agreement as application is in outline form)

In accordance with the Recommendation in the Executive Summary it is recommended that permission not be granted until such time as these contributions have been secured within a signed legal agreement.

### **Ashdown Forest**

The Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) is a European Site of Nature Conservation Importance, which lies adjacent to the north-east boundary of Mid Sussex and within the District of Wealden. The area is protected by the European Habitats Directive and by Government Planning Policy.

Under the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations"), the competent authority, in this case Mid Sussex District Council, has

a duty to ensure that any plans or projects that they regulate will have no adverse effect on the integrity of Ashdown Forest. Regulation 61 of the Habitats Regulations requires the Council to assess the possible effects of plans or projects, i.e. planning applications, on Ashdown Forest.

If the proposed development will not have a likely significant effect on the Forest, either alone or in combination with other proposed developments in the area, the Council may proceed to determine the application. However, if a significant effect is likely, either alone or in combination with other plans and projects, an appropriate assessment must be undertaken to establish whether the proposed development will have an adverse effect on the integrity of the European site. If the appropriate assessment concludes that there will not be an adverse effect on the integrity of the European site, the Council may proceed to determine the application.

There may be likely significant effects on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the protected bird species. Within 7km of the Ashdown Forest SPA, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. There are two parts to the mitigation. By providing an alternative option, Suitable Alternative Natural Greenspace (SANG) is the name given to greenspace that is of a quality and type suitable to be used as mitigation. A SANG site could either be provided on the development site itself or through a financial contribution towards a strategic SANG. The East Court and Ashplats Wood SANG Strategy has been agreed by the District Council.

The second part of the mitigation is to provide a financial contribution towards Strategic Access Management and Monitoring (SAMM) measures. The Council has produced an interim SAMM Strategy that sets out measures to protect the Ashdown Forest SPA from new recreational pressures through managing access (visitor) behaviour and monitoring both birds and visitors. The projects that form the mitigation measures have been discussed and agreed in collaboration with the Conservators of Ashdown Forest and Natural England. The interim SAMM Strategy will be superseded by a Joint SAMM Strategy which is currently being prepared with the other affected local authorities.

This proposed development site lies within 7km of the Ashdown Forest SPA and as such, mitigation is required. In this case, the SAMM Strategy would require a contribution of £27,288 and if the approved scheme provides for a strategic SANG contribution, this would be £18,970.

The applicants have agreed that they would be prepared to make a financial contribution towards the SAMM Strategy and (if the approved scheme provides for a strategic SANG contribution), the SANG Strategy. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

The financial contribution to SAMM has been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation") whilst the mitigation in relation to SANG would be secured through a

planning condition and informative ("SANG Condition"). The District Council has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition. The proposed SANG Condition provides for a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the payment of a financial sum towards a SANG managed by the District Council. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (Paragraph 206 of the National Planning Policy Framework). All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions as set out in National Planning Policy Guidance (NPPG). In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition. Furthermore, the mitigation is required in order to ensure compliance under the Habitats Regulations.

The NPPG (Paragraph 005 Reference ID 21a-005-20140306) allows for the use of a negatively worded condition to: "prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure)". It is considered, therefore, in the circumstances of this case and in the light of the guidance on the use of planning conditions set out in the NPPG, that the use of a negatively worded condition is an appropriate approach to securing the necessary mitigation in relation to SANG in order to mitigate any likely significant effect on the Ashdown Forest SPA required by the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

The NPPG (Paragraph 010 Reference ID 21a-010-20140306) addresses the use of a condition requiring an applicant to enter into a planning obligation or an agreement under other powers. The guidance states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.

2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.

3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.

4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

Natural England has also confirmed it is content with the SANG Condition approach to secure mitigation in terms of SANG.

Subject to a Planning Obligation securing the SAMM contribution being completed and subject to the imposition of an appropriate planning condition in relation to SANG being secured, it is considered that the mitigation of the recreational impact to the Ashdown Forest can be secured. The proposal therefore accords with Policy DP17 of the District Plan and EG16 of the Neighbourhood Plan.

### **Ashdown Forest - Atmospheric pollution**

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as windfall development (taking into account the previous use of the site), such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall

impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

It is considered that the proposal would not result in any significant amount of vehicular movements across the Ashdown Forest and the proposed development has in any case been incorporated into the overall results of Mid Sussex Transport work. It is therefore logical and reasonable to conclude that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

### **Other Planning Issues**

All the other issues raised during the consultation period have been taken into account and these other issues are either considered not to warrant a refusal of permission, are items that could be dealt with effectively by planning conditions or other legislation or are not even material planning considerations.

In terms of the dwelling mix, the submitted site plan shows 11 x 3 bed units and 1 x 4 bed unit. However, the affordable housing requirement will ensure that 4 x 2 bed units will need to be provided. This will provide an appropriate mix of units throughout the scheme but is a matter to be confirmed at the reserved matters stage.

Refuse and recycling provision will be secured via condition with the highways authority having confirmed that the swept path shows refuse vehicles can turn adequately within the site.

Details of what sustainable features might be incorporated into the design of the dwellings will be secured via condition.

The national space standards will need to be met but this again will be a consideration at reserved matters stage. All occupiers will have good access to outdoor space, both private garden and the open space.

The Council's Contaminated Land Officer has stated that works should be subject of a condition requiring works to stop if any previously unidentified contamination is encountered and should only proceed once an assessment has been made together with the identification of appropriate mitigation measures.

Any damage caused to a private road would be a matter to be resolved between the affected parties and is not a planning consideration.

The ability to obtain insurance is not a planning matter.

### **Other Material Considerations**

Turning to other relevant material considerations, all aspects of the development must be weighed up in the planning balance, as set out in the NPPF as a whole. In particular, this development must be assessed against the 3 limbed definition of



sustainable development at paragraph 7, in which the planning system should perform an economic, social and environmental role.

### **The Economic Role**

Part 6 of the Localism Act was enacted on 16th January 2012. This requires the LPA to have regard to local finance considerations (so far as material to the application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and will match fund the additional council tax raised for new homes and empty properties brought back into use, with an additional amount for affordable homes, for the following six years. The New Homes Bonus is now a material planning consideration and if permitted the LPA would receive a New Homes Bonus for each of the units proposed.

The proposal would also result in financial contributions towards school infrastructure for The Meads Primary School and Sackville School, increased stock provision at East Grinstead Library and transport contributions for improving accessibility and sustainability in the vicinity (TAD).

In addition, there would be leisure contributions towards formal sport for pitch drainage at King Georges Field, towards improvements at Sunnyside Recreation Ground, community buildings improvements at Meridian Hall and contributions towards roadside signs to promote the nearby AONB.

The economic dimension is met by this proposal owing to the New Homes Bonus, the provision of construction jobs and an increased population likely to spend in the community.

### **The Social Role**

The NPPF seeks to promote a *"strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports its health, social and cultural well-being"*.

The dwellings will make a positive contribution to additional housing in the district, including the provision of 30% affordable housing as part of the scheme (4 units on site). In addition there will be infrastructure contributions to provide school infrastructure for the nearby primary and secondary schools, transport and leisure contributions.

Due to the location of the site on the settlement edge, immediately adjacent to a category 1 settlement where there is a comprehensive range of employment, retail, health, education leisure services and facilities, it is considered that the location of the site is sustainable.

The proposal also has accessibility benefits due to pedestrian linkages with the footpath to the south west and potential links to the north.

These matters are given positive weight in the planning balance.

However, the Council can demonstrate a five-year housing land supply. National planning policy states that planning should be genuinely plan led. As the application site falls within the countryside outside of the development boundary of East Grinstead, the principle of housing for this number of units in this location (12 units proposed when DP6 would only allow for less than 10 in this location) is considered to be contrary to the District Plan. This weighs against the proposal.

### **The Environmental Role**

The environmental role as set out in para 7 of the NPPF requires developments to contribute *"to protecting and enhancing our natural, built, and historic environment."*

There is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural, built and historic environment. In this case it is considered that the proposal would result in a suitable extension to the settlement of East Grinstead and is well related to the existing built up area boundary and the surrounding urban grain.

It is considered that the impact on the character of the area will be acceptable and that the environmental role as set out in the NPPF is satisfied.

### **Conclusion**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan consists of the District Plan and the made East Grinstead Neighbourhood Plan. The application site lies in the countryside, outside the built up area of East Grinstead, and thus would be contrary to policy DP12 of the District Plan as the proposals are not necessary for the purposes of agriculture and are not supported by other policies in the Plan. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty.

Policy DP15 of the District Plan provides for exceptions to the presumption against new homes in the countryside where special justification exists. The proposals do not accord with DP15.

The proposal does not comply with policy DP6 of the District Plan as the proposal, although it is contiguous with the built up area, is for a development of twelve units when the policy allows for only less than ten units.

Whilst the proposals conflict with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely EG5 that does not restrict the location of new developments. 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 - in this case the District Plan. Only limited weight can therefore be given to policy EG5 of the Neighbourhood Plan in support of the application.

In accordance with the law, whilst this breach of district plan policy is the starting point for decision making, the Council also must have regard to other material considerations. It is considered that there are other material considerations, specific to this site, that are relevant to the application. These include:

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. In this case the site is not isolated or in open countryside as it immediately adjoins the built up area of East Grinstead on three sides and the development relates well to the urban grain of surrounding development. The site is also well contained by trees along the north western and north eastern boundaries which ensures that any public views of the site are somewhat limited. Views of the development from the footpath and AONB to the south west will be seen in the context of the existing built up area. It would not therefore be contrary to the aims of Policy DP12.

Whilst the development lies outside of the built up area of East Grinstead, it is situated directly adjacent to the development boundary bordering on three sides, a category 1 settlement which is a sustainable location providing a comprehensive range of employment, retail, health, education leisure services and facilities.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In addition the scheme would secure the delivery of 30% affordable housing equating to 4 units on site, and infrastructure payments. The development will provide a positive economic benefit through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

The applicant's fallback position is also a material consideration. In this case the applicant has indicated that, were this application to be unsuccessful, an application for nine units would be submitted (so as not to conflict with the DP6 restriction to less than ten units) and this would not trigger the need for affordable housing as long as the combined floorspace was less than 1000m<sup>2</sup>.

The proposal will result in a neutral impact in respect of a number of issues such as drainage and flooding, highway safety, parking, residential amenity, the open space drainage and the Ashdown Forest impact.

The proposal is therefore deemed to comply with the requirements of Policies DP4, DP13, DP16, DP17, DP21, DP26, DP27, DP31, DP37, DP38, DP41 and DP42 of the District Plan 2014-31 and Policies EG2a, EG3, EG5, EG7, EG11, EG12, EG14 and EG16 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

Your officers have reviewed the planning application in the context of the adopted District Plan and other material planning considerations and recommend that planning permission is granted.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

### **Time Limit**

1. Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.

### **Pre-commencement**

2. The development hereby permitted shall not commence unless and until a schedule of materials and finishes to be used for external walls / roofs / fenestration of the proposed buildings have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

3. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a modified version of the baseline hydraulic model that describes the effects of the proposed development (when ground levels have been fixed throughout the site) both

without and with the inclusion of mitigation measures. The model shall include the provision of a set of results for the defined flood events including climate change. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the Submission District Plan.

4. Based on the results of the assessment of flood risk required for condition 3, a detailed fluvial mitigation scheme shall be submitted to and approved in writing by the local planning authority. The details of the scheme shall include:
  - a. Detailed drawings showing the plan, layout and extent of all mitigation measures;
  - b. Detailed drawings showing the cross-section, levels and finish of all works;
  - c. Detailed drawings describing all structures and hydraulic controls;
  - d. Full technical details showing how the volume of the floodplain is to be maintained in conjunction with the conveyance capacity of the watercourse;
  - e. Full technical details of the maintenance and management requirements and evidence these will provide for the scheme meeting the intended performance and serviceability standards for the lifetime of the development;
  - f. Full details of the management arrangements to be put in place for the maintenance of the scheme for the lifetime of the development;
  - g. Full details of the timetable for the installation and maintenance of the mitigation measures.

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

5. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the control of surface water runoff from the proposed development. The detailed scheme shall describe:
  - a. Details of the rainfall intensities and storm durations used to demonstrate that the proposals are appropriate for the lifetime of the development;
  - b. The methods used to determine the existing runoff volumes and flows from the site in its natural condition and estimates of the flows and volumes generated by the existing and the developed site using these methods and showing that the 1 in 1 year Greenfield runoff rate will be

matched and the maximum discharge rate from the site will not exceed  $Q_{Bar}$  ;

- c. Detailed drawings showing the location, size and construction details for all the measures included in the proposed Sustainable Drainage Systems together with calculations that provide clear evidence on the capacities of all measures to accommodate the flows and volumes for the lifetime of the development;
- d. Details of the measures used to prevent pollution of ground and surface water;
- e. Detailed proposals describing the requirements for management and maintenance of the Sustainable Drainage Systems for the lifetime of the development and evidence showing how the serviceability of the measures will be maintained for the lifetime of the development;
- f. A programme describing when the Sustainable Drainage systems will be installed.

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

6. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the control of surface water runoff from the existing surface water drain in order to protect the surface water drainage serving neighbouring properties. The detailed scheme shall describe:
  - a. Detailed proposals of how the flow from the surface water drain to the northeast is to be maintained across the site;
  - b. An undertaking that this flow is maintained across the site and no house should be located in the way of this flow route.

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

7. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a detailed management and maintenance plan for the watercourses running through the site. The detailed scheme shall describe:
  - a. The works that will be carried out within the site to ensure the conveyance capacity of the main watercourse is maintained;

- b. The works that will be carried out within the site to ensure that the watercourse originating off the site (Hurst Farm Pond) will flow in a defined channel;
- c. How the watercourse(s) will be strengthened and protected from scour where the banks of the watercourse are steep and may become unstable in the future;
- d. How the watercourses running through the site will be maintained in the future to ensure that their conveyance capacity is not reduced;
- e. The route of vehicular access to the watercourses

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

- 8. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a detailed management and maintenance plan for the flood plain area on the site. The detailed scheme shall describe:
  - a. The conveyance capacity of the flood plain on the site in terms of plan area and volume;
  - b. How free flowing access will be maintained to enable flood water to ebb and flow into and out of the flood plain and watercourse during and after a flood event without obstruction;
  - c. How the flood plain will be protected and maintained in the future to ensure that its capacity is not reduced;
  - d. The details of the 3 metre buffer adjacent to the flood plain and watercourse to ensure that it can be accessed for future maintenance and that land in the flood plain will not be altered in anyway in the future without planning permission;
  - e. The route of vehicular access to the flood plain.

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

- 9. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the construction of the access road. The detailed scheme shall describe:
  - a. The details of the work necessary to ensure that the access road will have invert protection and be structurally supported and not subject to the effects of scour for the lifetime of the development.

The development shall be carried out in accordance with the approved details with any physical works/mitigation to thereafter be retained permanently.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan and Policy DP41 of the Submission District Plan.

10. No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority, in conjunction with Southern Water, a detailed scheme for the control of foul water from the proposed development. The detailed scheme shall describe:
  - a. Detailed drawings showing the location, size and construction details for all the measures included in the proposed foul drainage system together with calculations that provide clear evidence on the capacities of all systems to accommodate the flows and volumes for the lifetime of the development;
  - b. The details of future maintenance and responsibility (such as will they be adopted) for the future maintenance of the foul drainage systems.

The development shall be carried out in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

11. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which 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 and these works shall be carried out as approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policies DP26 and DP37 of the District Plan and Policy EG3 of the Neighbourhood Plan.

12. No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the



Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2010.

13. No development shall take place unless and until the applicant has provided a sustainability statement to be submitted to and approved in writing by the local planning authority setting out what sustainable measures will be incorporated into the proposals in order to improve energy efficiency. The development shall only proceed in accordance with the approved details.

Reason: In the interests of sustainability and to accord with Policies DP39 and DP41 of the District Plan.

14. The plans and particulars submitted in support of the reserved matters application shall include the following ecological details:

- a wildlife protection and mitigation plan and method statement setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;
- pollution prevention details sufficient to demonstrate that there will be no adverse impacts from construction activities on pond or stream ecology;
- a detailed lighting plan showing measures to be used to minimise light spill, particularly along the stream corridor and around the pond;
- a habitat enhancement and management plan (including measures to remove Himalayan balsam) to ensure a long-term contribution towards conserving the biodiversity of the local area.

The details shall be informed by the recommendations given in the Ecological Assessment report by Ecology Solutions Ltd, dated July 2014. If there is a delay of greater than 24 months between the submission of a reserved matters application and the date of the ecological surveys submitted in support of this application, an updated survey report shall be submitted to support the reserved matters application.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with 109 and 118 of the NPPF and Policy DP38 of the District Plan.

15. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period.

The Plan shall provide details as appropriate but not necessarily be restricted to the following matters;

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- measures to control the emission of dust and dirt during demolition and construction, lighting for construction and security,
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area and to accord with Policy DP21 of the District Plan.

16. Demolition/Construction work shall not commence until a scheme for the protection of the existing neighbouring properties from dust has been submitted to, and approved in writing by, the local planning authority. The scheme as approved shall be operated at all times during the demolition/construction phases of the development.

Reason: To protect the amenity of local residents from dust emissions and to accord with Policy DP26 of the District Plan

17. 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.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

### **Construction**

18. Works of construction or demolition and the use of plant and machinery, necessary for implementation of this consent, shall be limited to the following times:
- Monday to Friday: 08:00 - 18:00 Hours
  - Saturday: 09:00 - 13:00 Hours
  - Sundays and Bank/Public Holidays: no work permitted

Reason: To protect the amenity of local residents and to comply with Policy DP26 of the District Plan.

19. Deliveries or collection of plant, equipment or materials for use during the construction phase shall be limited to the following times:

Monday to Friday: 09:00 - 16:00 hrs;

Saturday: 09:00 - 12:00 hrs

Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents and to comply with Policy DP26 of the District Plan.

20. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified, unless otherwise agreed in writing with the Local Planning Authority. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings along with details of any remedial action required (including timing provision for implementation), has been submitted to and approved in writing by the Local Planning Authority. The development shall not be completed other than in accordance with the approved details.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants and to accord with Policy DP29 of the District Plan.

### **Pre-occupation**

21. No part of the development shall be first occupied until such time as the vehicular access has been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety and to accord with Policy DP21 of the District Plan and Policy EG11 of the Neighbourhood Plan.

22. No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces, including the garages, shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and to accord with Policy DP21 of the District Plan and Policy EG12 of the Neighbourhood Plan.

23. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with Policy DP21 of the District Plan and Policy EG12 of the Neighbourhood Plan.

24. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the 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.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policies DP12 and DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

25. The residential units hereby permitted shall not be occupied until provision for bin and recycling storage has been made within the site in accordance with plans to be submitted to and approved in writing by the local planning authority. Such provision shall thereafter be retained permanently.

Reason: In the interests of sustainability and visual amenity and to accord with Policy DP26 of the District Plan.

26. No dwelling shall be occupied unless and until the open space has been provided in accordance with the approved plans and further details to be agreed in writing with the local planning authority that shall include the submission of a timetable for completion and future management and maintenance. The approved open space shall thereafter be permanently retained as such.

Reason: To ensure satisfactory provision of the open space and to accord with Policy DP24 of the District Plan and Policy EG14 of the Neighbourhood Plan.

### **Post-occupation and management conditions**

27. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended in the future, no enlargement, improvement or other alteration of the dwelling house, whether or not consisting of an addition or alteration to its roof, nor any other alteration to its roof, shall be carried out, (nor shall any area of hard surfacing, building or enclosure, swimming or other pool be provided or altered within the curtilage of the dwelling house) without the specific grant of planning permission from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of drainage and of visual amenity by protecting trees

and to accord with Policies DP12, DP26, DP37 and DP41 of the Submission District Plan and Policy EG3 of the Neighbourhood Plan.

28. 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 Applications".

Reason: For the avoidance of doubt and in the interest of proper planning.

#### INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. Due to the narrowness and close proximity of existing residential properties in Sunnyside Close, East Grinstead, which is the access road to the site, the developer is asked to establish a communication system so that drivers wanting access to the site to collect or deliver can park up away from the development and can be notified when they are free to enter the site. This is to prevent a build-up of traffic and to make sure that vehicles awaiting access to the development site do not park up in Sunnyside Close and cause a noise disturbance or an inconvenience to the residents of Sunnyside Close
3. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from:  
<https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £116 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
4. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.
5. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the

Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

6. You are advised to comply with the requirements of Policy DP26 under the reserved matters application.
7. The applicant is advised that to satisfy condition 12 above there are likely to be two options.

The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended.

The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.

8. Application(s) for Ordinary Watercourse Consent will need to be made for the surface water discharge(s) into the watercourse. Details of how to make such an application and the appropriate fees can be found on the website and applications should be sent electronically with a location plan to [drainage@midsussex.gov.uk](mailto:drainage@midsussex.gov.uk)
9. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

## Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

| Plan Type     | Reference   | Version | Submitted Date |
|---------------|-------------|---------|----------------|
| Location Plan | S101        |         | 09.07.2015     |
| Survey        | S102        |         | 09.07.2015     |
| Site Plan     | 1367/C201   | A       | 19.01.2018     |
| Site Plan     | 1367/SK201  | A       | 19.01.2018     |
| Levels        | 21467/SK/60 | P1      | 16.02.2016     |

## APPENDIX B – CONSULTATIONS

### MSDC Drainage

Recommendation: No objection subject to conditions, removal of Plot 13 and further information on drainage and flood risk at the reserve matters stage.

#### Summary of drainage discussions

The application was validated 9th July 2015 with the original Drainage Consultation Response made on 19th November 2015 from MSDC Drainage Engineers. The original drainage consultation response consisted of an objection to this development on flooding grounds and requested that further information be provided by the applicant. WSCC as Lead Local Flood Authority also objected due to a very high level of flood risk and this consultation response was dated 25th September 2015. WSCC were the relevant authority on flood risk for this application as the Environment Agency transferred the responsibility for surface water flood risk to the Lead Local Flood Authorities in April 2015 so it was no longer necessary to consult with the Environment Agency.

Drainage discussions continued between the applicants and MSDC Drainage Engineers and an Additional Drainage Consultation Response was made by the Drainage Engineers on 4th February 2016. Further discussions then ensued between all parties with WSCC confirming that they were maintaining their objection on 26th May 2016.

Having reached a position of disagreement relating to flood risk with the applicant's engineers and the application likely to go to public inquiry MSDC Drainage Engineers carried out a summary review of the application on 26th May 2016, highlighting continued areas of concern. Within this document it was suggested that an independent review of the flood risk aspects of the application could be carried out to assist the LPA in making a decision on this application. It was also detailed in this document that the proposed swale to the rear of the properties would not be accepted by MSDC as it would be located in private lands with very poor access for maintenance and with no way to control the swale in the future or ensure that it remains in place an increase in flood risk could result.

On 1st June 2016 an agreement was reached between all stakeholders to share in the cost of an independent technical review of the flood risk aspects of the application. The purpose of this review was to ensure the technical information was sound and that the existing flood risk had been appropriately represented on the site. This review was commissioned on 21st July 2016 and JBA Consulting was appointed. JBA's initial response was received by the LPA on 6th September 2016 and the result was that there were serious issues with the modelling undertaken by the developer and that at present JBA would not consider it to be acceptable for the purpose of a flood risk assessment.

Following JBA's assessment, correspondence continued and to assist this negotiation process a meeting was held at MSDC offices on 1st March 2017 between MSDC, the developer and JBA. As a consequence of this meeting a joint site visit was undertaken on 15th June 2017 so that the nature and constraints of the site could be fully understood by everyone. It was then later during August that the correct extent of landownership was finally agreed so the full extent of works to the watercourse and floodplain could be identified. At this point a revised hydraulic model of the stream and catchment area was produced which accurately represented the current and proposed conditions both on the site and up and downstream.

On 2nd August 2017 MSDC Drainage Engineers expressed concern regarding proposed plot 13 and stated the following in an email to the Planning Officer; "In addition to the above concerns the revised flood plain maps show that the proposed floodplain will be within 3 metres of plot 13. The other plots have the comfort factor that the access road will be between the dwelling and the floodplain but this is not the case for plot 13. I am concerned that if there are errors in the modelling this plot is in a very risky position. Could the development remove this plot and therefore reduce the risk in this area?" The applicants agent replied by email the following day and stated; "Whilst we reserve our position on this, the loss of one unit to achieve a decision could well be acceptable to my client?"

The modelling was then finally agreed on 3rd August 2017 with further information regarding site cross-sections submitted by the applicants on 16th October 2017. WSCC also removed their objection to the development on the 2nd November 2017 subject to further information and appropriate planning conditions.

### Summary of application proposals

It is proposed to build 13 houses on the higher land to the east of the site with an access road continuing from the existing road (Sunnyside Close) to the south. The access road will be positioned at the front of the properties for plots 1 to 12 providing separation of the properties from the watercourse and floodplain. The properties will face the access road with the rear property boundary being the tree line to the northwest behind the existing dwellings in Mill Close and The Meads.

Historically this land formed part of the land and mill pond serving Dunnings Mill, which is now a pub. The site is currently at risk of flooding from surface water because the surrounding land to the west, north, and east is higher and overland runoff arrives on the site during heavy rain. Surface water can arrive on the site from



the watercourse if the banks are overtopped during heavy rain and the watercourse is known to flood into gardens upstream of the site. A secondary watercourse arrives on the site at the northern corner and this takes water from Hurst Farm Pond and the surrounding areas but as it arrives on site the watercourse is not defined and it flows overland.

There is also a surface water sewer serving The Meads and Mill Close which currently discharges overland onto the site and this discharge has formed a pond. Proposals are to keep this pond and make it more formal with a dedicated pipe outfall into the watercourse. An additional pond has also formed on the site at a low spot but this is believed to be fed by rainwater only and this pond will be removed as part of the level changes that are necessary on the land. There is an area of trees in the northern corner where the land is often seen to be wet underfoot and water ponds in this area during heavy rain. This is also the first area to flood if the watercourse comes out of bank in the gardens upstream of the site.

Drawing number 21467-SK-92 shows the existing floodplain at the site and drawing number 21467-SK-90 shows the proposed floodplain including some proposed levels.

In order to overcome the flooding issues on site proposals consist of:

- Constructing the houses on raised land running in a strip backing onto the north-eastern boundary
- Raising the finished floor levels of the new properties above external ground levels allowing overland water to flow around buildings before draining into the watercourse
- Locating the access road in front of the houses at a higher level than the adjacent floodplain and watercourse.
- Carrying out works to lower land levels on the north-eastern side of the watercourse. The works to lower land levels are within the floodplain and are required to ensure that the same volume of flood water can be conveyed through the site, whilst keeping some of the land at a higher level to enable construction of properties.

In order to achieve the above it is necessary for the north eastern bank of the watercourse to be lowered along with some of the land adjacent. Proposals are that this work will keep the flooding on the site contained within a restricted area and the road and then the houses will be constructed on adjacent land that is higher and out of the floodplain. For guidance purposes this means lowering the land in the floodplain by a maximum of 1.1m, raising the land for the access road by a maximum of 1m and raising the land for the houses by a maximum of 1.2m.

To reduce the risk of flooding to the new development the removal of plot 13 from the application is important. This end plot is located in the northern area where water first enters the site if it is flowing out of bank in the gardens upstream. This plot area also contains the water running down from Hurst Farm Pond and Southlands which does not run in a defined channel. This plot does not have the safety of having the access road situated between it and the floodplain and its removal would give additional space for water to be channelled into the redefined floodplain area. The

area that this plot is situated in also has a number of mature trees in it and residents have provided photographs of much of this area under water following heavy rain.

The applicants have also undertaken to provide a 3m maintenance strip alongside the access road to enable the floodplain to be maintained. It appears that some of this maintenance strip will be on land where the access road is located and due to level changes on the site there will be a steep section of embankment down to the floodplain.

Requirements for further information:

I have included in the recommended conditions below details of information required but have provided further explanation at this point to clarify the need for the conditions.

- No details of how the houses will be drained have been provided apart from keeping to existing Greenfield runoff rates. Permeable paving has been mentioned for the access road but due to the raised levels and support needed from surrounding land this may not be possible.
- An access onto the floodplain area should be provided for future maintenance of both the floodplain and the watercourse. Without this maintenance on the site there is an increased risk of flooding to upstream off site areas.
- Future scour of the watercourse could be an issue as high velocities and changes of direction can cause erosion of the watercourse banks. There are areas of the site where the stream bed is only 2.5m away from the edge of the access road which is set 2.3m higher. Some form of invert protection should be incorporated into the design to ensure that the road will be stable in the future.
- Application(s) for Ordinary Watercourse Consent will need to be made for the surface water discharge(s) into the watercourse. Details of how to make such an application and the appropriate fees can be found [here](#) and applications should be sent electronically with a location plan to [drainage@midsussex.gov.uk](mailto:drainage@midsussex.gov.uk)

### Recommended Conditions

The above report sets out the extensive discussions that have taken place regarding flood risk at this site. As a result of these extensive discussions there is no sustainable planning reason to continue to object to the development on flood risk grounds; however, the following planning conditions are necessary to ensure that the development can be implemented without increasing flood risk on the site or elsewhere. I also recommend that permitted developments rights are removed for this development as any future changes to the ground levels could affect the flood risk both on and off site.

1. Assessment of the effect of proposed development on fluvial flood risk:  
Prepare a modified version of the baseline hydraulic model that describes the effects of the proposed development (when ground levels have been fixed throughout the

site) both without and with the inclusion of mitigation measures. Provide a set of results for the defined flood events including climate change.

## 2. Scheme for mitigating fluvial flood risk:

Based on the results of the assessment of flood risk a detailed fluvial mitigation scheme shall be prepared. The details of the scheme shall be submitted to Mid Sussex District Council for approval and shall include:

- a. Detailed drawings showing the plan, layout and extent of all mitigation measures;
- b. Detailed drawings showing the cross-section, levels and finish of all works;
- c. Detailed drawings describing all structures and hydraulic controls;
- d. Full technical details showing how the volume of the floodplain is to be maintained in conjunction with the conveyance capacity of the watercourse;
- e. Full technical details of the maintenance and management requirements and evidence these will provide for the scheme meeting the intended performance and serviceability standards for the lifetime of the development;
- f. Full details of the management arrangements to be put in place for the maintenance of the scheme for the lifetime of the development;
- g. Full details of the timetable for the installation and maintenance of the mitigation measures.

## 3. Surface Water Management Measures:

Prepare a detailed scheme for the control of surface water runoff from the proposed development. A detailed scheme shall be submitted to Mid Sussex District Council for approval and the submission shall describe:

- a. Details of the rainfall intensities and storm durations used to demonstrate that the proposals are appropriate for the lifetime of the development;
- b. The methods used to determine the existing runoff volumes and flows from the site in its natural condition and estimates of the flows and volumes generated by the existing and the developed site using these methods and showing that the 1 in 1 year Greenfield runoff rate will be matched and the maximum discharge rate from the site will not exceed  $Q_{Bar}$  ;
- c. Detailed drawings showing the location, size and construction details for all the measures included in the proposed Sustainable Drainage Systems together with calculations that provide clear evidence on the capacities of all measures to accommodate the flows and volumes for the lifetime of the development;
- d. Details of the measures used to prevent pollution of ground and surface water;
- e. Detailed proposals describing the requirements for management and maintenance of the Sustainable Drainage Systems for the lifetime of the development and evidence showing how the serviceability of the measures will be maintained for the lifetime of the development;
- f. A programme describing when the Sustainable Drainage systems will be installed.

## 4. Maintenance of existing surface water flow route:

Prepare a detailed scheme for the control of surface water runoff from the existing surface water drain in order to protect the surface water drainage serving neighbouring properties. A detailed scheme shall be submitted to Mid Sussex District Council for approval and the submission shall describe:

- a. Detailed proposals of how the flow from the surface water drain to the northeast is to be maintained across the site;
- b. An undertaking that this flow is maintained across the site and no house should be located in the way of this flow route and that no future development can be completed in the vicinity of this drain without a planning application being made (removal of permitted development rights).

5. Watercourse management and maintenance:

Prepare a detailed management and maintenance plan for the watercourses running through the site. A detailed scheme shall be submitted to Mid Sussex District Council for approval and the submission shall describe:

- a. The works that will be carried out within the site to ensure the conveyance capacity of the main watercourse is maintained;
- b. The works that will be carried out within the site to ensure that the watercourse originating off the site (Hurst Farm Pond) will flow in a defined channel;
- c. How the watercourse(s) will be strengthened and protected from scour where the banks of the watercourse are steep and may become unstable in the future;
- d. How the watercourses running through the site will be maintained in the future to ensure that their conveyance capacity is not reduced;
- e. The route of vehicular access to the watercourses

6. Flood plain management and maintenance:

Prepare a detailed management and maintenance plan for the flood plain area on the site. A detailed scheme shall be submitted to Mid Sussex District Council for approval and the submission shall describe:

- a. The conveyance capacity of the flood plain on the site in terms of plan area and volume;
- b. How free flowing access will be maintained to enable flood water to ebb and flow into and out of the flood plain and watercourse during and after a flood event without obstruction;
- c. How the flood plain will be protected and maintained in the future to ensure that its capacity is not reduced;
- d. The details of the 3 metre buffer adjacent to the flood plain and watercourse to ensure that it can be accessed for future maintenance and that land in the flood plain will not be altered in anyway in the future without planning permission;
- e. The route of vehicular access to the flood plain.

7. Protection of the new access road from scour and undermining:

Prepare a detailed scheme for the construction of the access road. A detailed scheme shall be submitted to Mid Sussex District Council for approval and the submission shall describe:

- a. The details of the work necessary to ensure that the access road will have invert protection and be structurally supported and not subject to the effects of scour for the lifetime of the development.

## 8. Foul drainage:

Prepare a detailed scheme for the control of foul water from the proposed development. A detailed scheme shall be submitted to Mid Sussex District Council for approval in conjunction with Southern Water Authority and the submission shall describe:

- a. Detailed drawings showing the location, size and construction details for all the measures included in the proposed foul drainage system together with calculations that provide clear evidence on the capacities of all systems to accommodate the flows and volumes for the lifetime of the development;
- b. The details of future maintenance and responsibility (such as will they be adopted) for the future maintenance of the foul drainage systems.

## **MSDC Urban Designer**

This is an outline scheme, in which appearance, design, landscaping and scale are reserved matters. These observations are therefore initial comments.

In line with my pre-application advice, the layout of the scheme has been re-orientated so the access road and building frontages now face south-westwards towards the stream. This has the following advantages:

- It opens up the attractive views of the tree-lined stream and the embankment on the other side, which gives a sense of the wider countryside beyond.
- It connects the open space to the public realm and provides natural surveillance over it. Access to the open space has been reinforced with a new footbridge.
- It creates a secure back-to-back arrangement with the rear gardens abutting the rear of the existing houses in the Mead and Mill Close. Conversely it avoids a less secure rear garden boundary inappropriately backing on to the open space where it provides minimal surveillance and risks looking imposed on its environs.

The downside of this arrangement is that the tree belt on the north east boundary is partly screened by the houses. However this tree belt is on higher land and will be apparent above the roof tops and between the gaps. Furthermore the layout has been designed with a larger gap between houses 4 and 5 to provide a clear view from the public realm, of the finest / largest tree in this grouping.

The snaked configuration of the road and houses has been refined to echo the topography and run approximately parallel with the river (while also accommodating an awkwardly positioned telegraph pole).

Setting back plot 13 at the far end of the development also allow some of the existing trees on the north western boundary to be retained and revealed, while the chamfered garden boundary helps open up a new footpath to Southlands.

Little information has been supplied on the buildings, except for a street elevation covering plots 5-14. This shows reasonably well-mannered, but nevertheless ubiquitous-looking, frontages. The full hipped semi-detached pairing (9/10) is a more elegant arrangement than the semi-hipped neighbours and also reveals more of the attractive trees at the rear. House 13's gabled bay needs to be better integrated (so

that it accords with the roof plan) within the main façade (i.e. with consistent eaves line); the dormer also looks rather squeezed. The asymmetric arrangement of garages on plots 5-10 appears clumsy, and would benefit from being addressed.

## **MSDC Trees**

I've reviewed the accompanying tree report with this application, please find comments below.

The proposed site is not within a conservation area but several trees on site are covered by TPO orders.

The submitted AIA has correctly recorded and classified all of the trees on site in line with BS 5837.

Although several trees on site are to be removed to facilitate the development (including: G18, T20 & T21) these trees are of a low category or in poor health and some of the removed trees are to be replaced in this area.

Where the development has encroached in to the RPA of protected trees on site, (T7 Oak for example) suitable ground protection has been detailed within the report. Tree protection during development is also detailed on the site plan using CEZ's (as per BS 5837).

Post development pressure on the TPO'd trees that run along the North Eastern boundary has been lessened by the new design, especially around T7 (Oak).

Accordingly, no objection.

## **MSDC Environmental Protection**

Conditions:

- Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted.

Reason: To protect the amenity of local residents.

- Minimise dust emissions: Demolition/Construction work shall not commence until a scheme for the protection of the existing neighbouring properties from dust has been submitted to, and approved in writing by, the local planning authority. The scheme as approved shall be operated at all times during the demolition/construction phases of the development.

Reason: To protect the amenity of local residents from dust emissions.

- No burning materials: No burning of demolition/construction waste materials shall take place on site.

Reason: To protect the amenity of local residents from smoke, ash, odour and fume.

- Soundproofing (Plant & Machinery): No operational use of the plant & machinery (including ventilation and/or wind turbines if implemented) shall commence until measures have been implemented in accordance with a scheme first submitted to, and approved in writing by, the Local Planning Authority, to prevent air-borne and structure-borne noise from the operational activities of the plant & machinery from adversely affecting neighbouring residents including those on the new development. The applicant shall submit evidence, in writing, and agreed by the Local Planning Authority before operational use commences, that the plant & machinery will obtain a sound level of 10dB below the minimum ambient background sound level (LA90) during the operation of the plant & machinery, as measured one metre from the boundary of any nearby residential dwellings.

Reason: To protect the amenity of neighbouring residents.

- Construction deliveries: Deliveries or collection of plant, equipment or materials for use during the construction phase shall be limited to the following times:

Monday to Friday: 09:00 - 16:00 hrs;

Saturday: 09:00 - 12:00 hrs

Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents.

Informative:

- Due to the narrowness and close proximity of existing residential properties in Sunnyside Close, East Grinstead, which is the access road to the site, the developer is asked to establish a communication system so that drivers wanting access to the site to collect or deliver can park up away from the development and can be notified when they are free to enter the site. This is to prevent a build-up of traffic and to make sure that vehicles awaiting access to the development site do not park up in Sunnyside Close and cause a noise disturbance or an inconvenience to the residents of Sunnyside Close

## **MSDC Ecology**

Subject to the following condition, I am of the view that a reserved matters application is capable of meeting the requirements of the NPPF and saved local plan policies in respect of biodiversity conservation.

The plans and particulars submitted in support of the reserved matters application shall include the following ecological details:

- a wildlife protection and mitigation plan and method statement setting out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction;
- pollution prevention details sufficient to demonstrate that there will be no adverse impacts from construction activities on pond or stream ecology;
- a detailed lighting plan showing measures to be used to minimise light spill, particularly along the stream corridor and around the pond;
- a habitat enhancement and management plan (including measures to remove Himalayan balsam) to ensure a long-term contribution towards conserving the biodiversity of the local area.

The details shall be informed by the recommendations given in the Ecological Assessment report by Ecology Solutions Ltd, dated July 2014. If there is a delay of greater than 24 months between the submission of a reserved matters application and the date of the ecological surveys submitted in support of this application, an updated survey report shall be submitted to support the reserved matters application.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with 109 and 118 of the NPPF.

### **MSDC Housing**

There is a requirement for 30% affordable housing so 4 units in line with policy H4 of the Local Plan. We will require these units to be 4 x 2 bed houses. 3 of these houses should be for rent and 1 for shared ownership.

The affordable housing requirement is based on the site being in excess of 0.5 hectare. Furthermore, under the emerging plan, developments with a GIA of more than 1000sqm would also trigger the requirement of 30% affordable. We are also happy with the scheme proposed in relation to size of units and tenure mix.

### **MSDC Contaminated Land**

Our records do not show any historical or current potentially contaminative land use on this land. However, due to the sensitive end use of the proposal it is recommended that, subject to approval, the following condition be applied.

Condition.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

### **MSDC Policy**

I have no objections from a Planning Policy position to this revised scheme.



The site is allocated in the Local Plan (2004) for informal open space. The PPG17 Assessment stated that there is an opportunity to develop a riverside walk. The scheme makes provision for improved access to the brook and incorporate area of open space. Whilst a large part of the site will now be developed, the scheme will enable part of the site to be retained as open space and facilitate improved access to the brook.

## **MSDC Leisure**

Thank you for the opportunity to comment on the plans for the development of 13 residential dwellings on Land At Dunnings Mill, Dunnings Road, East Grinstead on behalf of the Head of Leisure and Sustainability. The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the Local Plan policy and SPD which require contributions for developments of over 5 units.

### **CHILDRENS PLAYING SPACE**

Sunnyside Recreation Ground, owned and managed by the Council, is the nearest locally equipped play area, approximately 300m from the development site. This facility will face increased demand from the new development and a contribution of £14,081 is required to make improvements to play equipment (£10,972) and kickabout provision (£3,109).

The Design and Access Statement makes reference to a play area but there are no details and we would not expect the developer to make on site provision for a development of this scale. The Open Space Assessment states that 'equipped play areas or allotments would not be appropriate on this site due, respectively the lack of surveillance and small site area.'

### **FORMAL SPORT**

In the case of this development, a financial contribution of £13,214 is required toward pitch drainage at King Georges Field, East Grinstead as detailed in the Council's draft Infrastructure Development Plan.

### **COMMUNITY BUILDINGS**

The provision of community facilities is an essential part of the infrastructure required to service new developments to ensure that sustainable communities are created. In the case of this development, a financial contribution of £5,740 is required to make improvements to Meridian Hall in East Grinstead.

In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the number of units proposed and average occupancy (as laid out in the Council's Development and Infrastructure SPD) and therefore is commensurate in scale to the development. The Council maintains that the contributions sought as set out are in full accordance with the requirements set out in Circular 05/2005 and in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

It should be noted that this site is allocated as informal open space (Local Plan Policy EG18). The PPG17 Assessment reviewed Local Plan allocations and stated

that although the site has limited value as a public open space the area 'offers the opportunity to develop a riverside walk'. We are keen therefore to secure better access to the public footpath to the west of the development site and are pleased that the developer intends to provide two new footpath links, a bridge over the brook and 'a large area of open space along the watercourse' to be secured via a Section 106 agreement. Full details regarding on-going management and maintenance will need to be agreed by condition.

### **West Sussex Drainage**

Agree with the MSDC Drainage response.

### **WSCC Highways**

#### Summary and Background

It is noted that outline planning permission is being sought with access and layout only to be approved at this stage.

The site is to form an extension of Sunnyside Close, which is a private/un-adopted road, serving 32 dwellings. This private/un-adopted road was constructed as part of planning permission 08/3694/OUT and 09/3450/REM. This proposal relates to vacant land to the north 32 dwelling application. On the land in question there was a previous Outline application 13/04308/OUT which proposed 13 houses. This was withdrawn from consideration in 2014. It should be noted that WSCC in its role as Local Highway Authority (LHA) raised no objections to this application from the highway point of view.

This application is comparable to the previous application therefore in summary there are no in concerns in principle. The current application is supported by way of a Transport Statement (TS). This includes estimated vehicular trip generation, which has been based upon TRICS.

#### Access and Visibility

The access was reviewed as part of a Stage One Road Safety Audit as part of 08/3694/OUT. This junction is also used in association with the Old Dunnings Mill public house, and has previously been used in connection with the former leisure centre. The latest WSCC Road Safety Audit Policy does not require Audits to be provided for accesses within residential street layouts. As the current proposal seeks an extension to the existing residential carriageway, the RSA Policy is not applicable. A further Stage One RSA would not be required in support of this proposal.

Visibility splays of 2.4 by 70 metres have previously been demonstrated as achievable onto Dunnings Road. Current highway guidance uses Manual for Streets for urban locations with recorded speeds of less than 37mph. It is against this guidance that the adequacies of the Dunnings Hill junction should be assessed. As stated it has been previously demonstrated that sightlines of 2.4 by 70 metres can be achieved in each direction onto Dunnings Hill. These sightlines significantly exceed the requirements set out within Manual for Streets given the posted speed limit and recorded speeds. As such, this junction is considered to be adequate to accommodate the additional movements arising from this proposal.

Since the previous application in 2013, the LHA have reviewed data supplied to WSCC by Sussex Police over a period of the last 3 years. There have been no recorded injury accidents at the junction with the public highway, Dunnings Road. There is no evidence to suggest that the junction is operating unsafely, or that the proposal would exacerbate an existing safety concern.

#### Construction

Matters relating to access during the construction of the proposed would need to be agreed prior to any works commencing. Vehicular access to the site is possible only from Dunnings Road. A comprehensive construction management plan should be submitted. This should set out the controls to be implemented throughout the construction project to ensure that safety of users of the public highway, as well as its operation, is not detrimentally affected. The construction management plan should amongst other things set out how deliveries are to be managed along Smock Alley in light of the carriageway width and presence of other vulnerable road users.

#### Internal Layout and Parking

The internal road is indicated as a shared surface route. The principle of a shared surface would be acceptable given the low speed/lightly trafficked nature of the development. Given that Sunnyside Close has footways consideration will need to be given through the detailed design as to how the shared surface and carriageway/footway will tie in.

Refuse collection will take place from within the site. The waste collection authority should be consulted to obtain their views on the suitability of this arrangement from their point of view. Within the appendices there has been a swept path analysis provided showing how a larger vehicle including a refuse vehicle can safely turn within the site.

The parking provision is noted. It has not been confirmed however that the parking demands are being considered against the WSCC Parking Demand Calculator. Print outs of the PDC should be provided as part of a Reserved Matters application. As part of the proposals the applicant has stated that 1 garage space and 1 off-street parking space will be provided for each property, 4 additional visitor off-street spaces will be provided in a layby on the northeast side of the access road.

#### Trip Generation

The TS provided in support of this application does estimate potential vehicular trip generation arising from this proposal. These estimates are based upon TRICS data. The sites used are still considered to be comparable in terms of planning use class and location to that proposed. As such the trip rate generated still provides an indication to the likely trip generation from the new dwellings. It is recognised that this proposal would give rise to a more intensive use of Sunnyside Close and the junction of Dunnings Road. However this proposal is not anticipated to result in any highway capacity concerns.

#### Sustainability

The accessibility of the site by sustainable modes (walking, cycling, passenger transport) is considered in the TS. These matters were also considered as part of the approved 08/3694/OUT, for which no concerns were raised. In principle, the site

lies within reasonable walking (2km (taken from the CIHT Providing for Journeys on Foot)) and cycling distance (5km (taken from LTN 1/04)) respectively of East Grinstead town centre. The local topography is noted, but this would not pose a significant barrier for all users.

#### Conclusion

Mindful of the data above, the previous history and from observations on site of the proposed access which provides visibility in accordance with the stated speed limits, it is not considered that there sufficient grounds to raise an objection when considered against NPPF Paragraph 32.

In the event that planning consent is granted, the following conditions are recommended,

#### Access

No part of the development shall be first occupied until such time as the vehicular access has been constructed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety

#### Car parking space

No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use

#### Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters;

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- measures to control the emission of dust and dirt during demolition and construction, lighting for construction and security,
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area.

### Cycle parking

No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

### **WSSC Highways - Final comments on revised plans**

WSSC in its capacity of Local Highway Authority (LHA) did not raise an objection to the original proposals in our response from the 2nd October 2015. The proposals are now seeking consent for 12 houses as opposed to the 13 originally planned. The access arrangements are to remain as proposed as part of the original consultation. In terms of capacity data the previous application did not raise concerns with the number of vehicular movements 13 dwellings would generate, therefore the reduction from 13 to 12 units would not cause any concerns from the LHA's perspective. The LHA has assessed the parking requirements against the latest outputs from the Parking Demand Calculator (PDC) and the proposals would be in accordance with the PDC. In principle no other changes to the original comments are required and no concerns would be raised to the latest application from the LHA's point of view.

### **WSSC Infrastructure**

As this is an outline application we would be asking for a formula to be inserted into the agreement so the schemes will remain the same. The figures based on the housing mix provided currently would be:

Primary - £39,292

Secondary - £42,287

Further Secondary - £9,907

Libraries - £3,535

TAD - £32,154

### **Southern Water - Original**

Please find attached a plan of the sewer records showing the approximate position of a public foul and surface water sewers within the site. The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

It might be possible to divert the public sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

Please note:

No development or new tree planting should be located within 3 metres either side of the centreline of the public foul and surface water sewers;

All existing infrastructure should be protected during the course of construction works;

No new soakaways should be located within 5 metres of a public sewer.

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)

In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to protect/divert the public sewers, prior to the commencement of the development."

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

We request that should this application receive planning approval, the following informative is attached to the consent:

"A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme
- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The application details for this development indicate that the proposed means of surface water drainage for the site is via a watercourse. The Council's technical staff and the relevant authority for the land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction for the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

### **Southern Water - final**

Firstly I would like to highlight that the exact location, diameter and depth of these sewers needs to be confirmed/ surveyed by the applicant.

From the proposals the lowering of the ground by 250mm to 500mm resulting in reducing the cover over sewers might be acceptable depending on the confirmed depth of these sewers.

Our records indicate depth of 1.6-1.8m and 1.5-2.1m respectively. If the cover over sewers is to be kept in accordance with Sewers for Adoption standards, it will be acceptable to us.

The lowering of manhole covers will require the applicant to go through Section 185 of the Water Industry Act process.

I believe also that the applicant is proposing to divert the sewer between manholes presumably between manholes 0102 and 1002. The applicant's statement is that the 375 mm sewer will be able to accommodate the flows from this sewer, not from the proposed development.

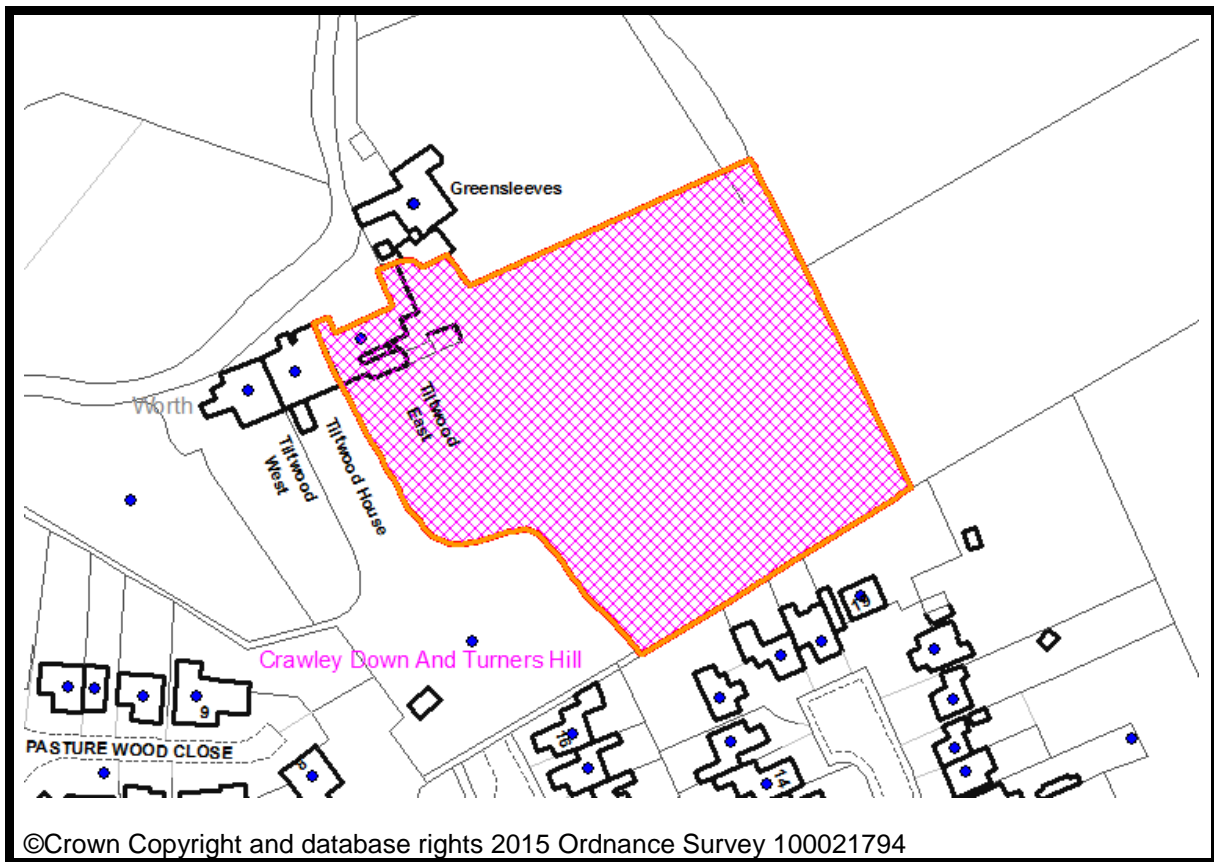
The matter of endangering the sewers to be located even in greater depth of water during the times of flood, unfortunately cannot be commented on by us and we shall not be rejecting against these proposals.

At the same time the permanent line of the existing watercourse run shall not encroach public sewers in less than 5 metres. Design of suitable floodplain area, we shall leave for comments to appropriate consultation bodies.

Please do not hesitate to contact me if any more comments would be required on our end.

**Worth**

**2. DM/17/0402**



**TILTWOOD EAST HOPHURST LANE CRAWLEY DOWN CRAWLEY  
DEMOLISH EXISTING ATTACHED GARAGE. PROPOSED 2 NO. FIVE  
BEDROOM DETACHED DWELLINGS AND DETACHED GARAGES.  
MR CHRISTOPHER GRAHAM  
GRID REF: EAST 535293 NORTH 138193**

POLICY: Areas of Special Control for Adverts / Ashdown Forest SPA/SAC /  
Built Up Areas / Countryside Area of Dev. Restraint / Methane Gas  
Safeguarding / Planning Agreement / Planning Obligation /  
Aerodrome Safeguarding (CAA) / Strategic Gaps / Trees subject to  
a planning condition /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 27th April 2018

WARD MEMBERS: Cllr Phillip Coote / Cllr Bruce Forbes / Cllr Neville  
Walker /

CASE OFFICER: Ms Susan Dubberley



## **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader Planning and Economy on the application for planning permission as detailed above.

## **EXECUTIVE SUMMARY**

This application seeks full planning permission for the construction of two new 5 bedroom dwellings each with detached garage on land at Tiltwood East, Hophurst Lane.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise.

The planning application was considered by planning committee on the 14th December 2017. The Committee resolved to grant planning permission subject to the completion of SAMM planning obligation. The legal agreement is waiting to be finalised.

Since the resolution by Members to approve the application, the District Plan has been adopted and the Council can now demonstrate a 5 year supply of deliverable housing land. This results in a significant change in circumstances since the application was considered by Committee and is material to how the Council considers the proposals. The Council previously applied the 'presumption in favour of sustainable development' test within para.14 of the NPPF as the Council could not demonstrate a 5 year supply of housing land in its assessment of the proposals at that point. It is therefore necessary to review the application in light of the changed planning policy position for the application site.

The application site lies in the countryside, however in this case the site is contiguous with the built up area of boundary of Crawley Down and proposes less than ten units and thus would be compliant with policies DP6, DP12 and DP15 of the District Plan. The development is also considered to be compliant with policy CDNP05 of the Crawley Down Neighbourhood Plan although limited weight can be given to this policy.

Other material considerations are also relevant and all aspects of the development must be weighed up in the planning balance, as set out in the NPPF:

Weighing in favour of the scheme is that the development will provide up to 2 new dwellings and is sustainable location in terms of its location to a Category 2 settlement. The development will provide positive economic and social benefits through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. The proposed layout, scale and appearance are considered to be in keeping with the character of the existing development, and will

not harm the landscape character of the area.

There will be a neutral impact in respect of a number of issues such as the design, highways, landscaping, drainage, sustainability and on the Ashdown Forest.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP6, DP12, DP13, DP15, DP21, DP26, DP27, DP37, DP38 and DP41 of the emerging District Plan, Policies CDNP04.2, CDNP05, CDNP08, CDNP11 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

### **Recommendation A**

Recommend that planning permission be granted subject to the completion of a section 106 legal agreement to secure the necessary SAMM contributions and the conditions listed in the appendix.

### **Recommendation B**

Recommend that if the applicants have not entered into a satisfactory section 106 agreement to secure the necessary SAMM payments by 19th July 2018 then the application should be refused at the discretion of Divisional Lead for Planning and Economy for the following reason:

The proposal does not adequately mitigate the potential impact on the Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC) and would therefore be contrary to the Conservation and Habitats and Species Regulations 2010, policy DP17 of the District Plan and Paragraph 118 of the National Planning Policy Framework.

## **SUMMARY OF REPRESENTATIONS**

2 letters of representation has been received objecting to this application for the following reasons:

- Increase in traffic using access onto Hophurst Lane single track drive unsuitable for two way traffic.
- Access has restricted visibility.
- A large area of the garden will remain undeveloped and could be the subject of future planning applications.
- Neighbourhood plan does not recommend the approval of further 5 bedroom houses.
- Great Crested newt is a protected species and is present in pond of 19 Aviary Way and is close enough to the application site to endanger the newt and a survey is essential to minimize the impact of the proposed development.

1 letter of support has been received:

- Design is well thought out and in keeping with the 'small hamlet' feel pursued by the previous designs for the estate.

## **Worth Parish Council**

**STRONGLY OBJECT** with a request that the application be decided by a Planning Committee

The Council considers that the piecemeal development of the overall Tiltwood House site through a series of separate applications for 1, 2 and 5 units is contrary to the vision, objectives and policies of the Crawley Down Neighbourhood Plan and that this approach has resulted in a failure to provide the appropriate element of affordable housing of which there is a significant shortage at both District and National level. The Council notes that the application site lies outside the village boundary and therefore conflicts with Policies C1 and C2 of the Local Plan, Policy DP10 of the submitted District Plan (which has been described as 'sound' by the Inspector appointed to examine the Plan) and Policies 05 and 08 of the made Crawley Down Neighbourhood Plan. The Council further considers that development of this site would only be justified if the proposed development made a significant contribution to the local housing need through the provision of one and two bed single storey market housing.

The proposed site is in the Crawley Down Neighbourhood Plan (CDHP) Area. The CDNP is now part of the local development plan and its policies carry full weight. If its policies cannot be considered to be up-to-date then Planning Officers and Councillors should still consider all its policies when conducting the balancing exercise demanded by para14 of the NPPF and give them full or very significant weight. The NPPG mandates that the balancing exercise must be fully documented and available for public inspection. WPC are the authors of the CDNP and as such are best placed to judge whether a planning application is in accordance with its vision, policies and definitions. Planning Officers should not contradict the assessment set out above without discussion with WPC.

## **SUMMARY OF CONSULTATIONS**

### **MSDC Street Naming and Numbering Officer**

Request informative is added to any decision notice granting approval.

### **Ecologist**

No objection.

### **WSCC Highways:**

No objection subject to conditions.

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## **INTRODUCTION**

Full planning permission is sought for the erection of a two 5 bedroom detached dwelling with side attached single garage.

## **RELEVANT PLANNING HISTORY**

There have also been numerous approved planning applications on the Tiltwood Estate including:

Planning permission was granted for a 2 storey 4 bedroom detached dwelling with side attached single garage on 5 October 2017 at Tiltwood House. (DM/17/3021).

Planning permission was granted for a 3 Bedroom detached chalet bungalow with attached double garage at Tiltwood Coach House East (DM/16/5620).

Planning permission was granted for a detached 4 bedroom house on 4 January 2016 (DM/15/4482).

Planning permission was granted in May 2015 for 2 new dwellings within the rear garden of Tiltwood Coach House for - Rebuild and extend outbuilding to form a single storey 2 bedroom cottage. Karen's Cottage - Convert and extend workshop/store to form a single storey 1 bedroom cottage" (14/04424/FUL).

Planning permission was allowed on appeal for 5 new dwellings and ancillary storage accommodation within the rear garden of Tiltwood House. (DM/15/2734).

Planning permission was granted for the erection of 2 new dwellings on adjoining land to the west of ownership of Tiltwood House (DM/15/4482 and DM/15/4478).

Planning permission was granted for erection of one 4 bedroom detached house on land to the southwest of Tiltwood House (DM/16/2544).

Planning permission was granted for the erection of a 4-bed detached house and detached garage arranged over 2-storeys to the north west of Tiltwood West in Crawley Down. (DM/16/2552).

## **SITE AND SURROUNDINGS**

The site comprises part of the garden of Tiltwood East a 1930s end of terrace property dwelling adjoined by Tiltwood House and Tiltwood West and located on the Tiltwood Estate accessed off Hophurst Lane.

To the south are residential properties in Aviary Way, to the north is Greensleeves and its garden, a detached property on the estate and to the east is open countryside.

The application site is designated within the countryside in the District Plan and the site is within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The application site is contiguous with the defined built up area boundary of Crawley Down which runs along the southern edge of the site.

## **APPLICATION DETAILS**

Full planning permission is sought for the erection of a two 5 bedroom detached dwellings with detached garages located in what is currently the garden of Tiltwood East. Tiltwood East would retain a rear garden and the houses would be site to the south east. An existing garage would be demolished in order to provide access onto the site and a new driveway. Access onto Hophurst Lane would be from the existing shared driveway to the Tiltwood properties.

The two houses would have the same design and have an L-shaped footprint with a two storey element and a single storey wing with a pitched roof. The two storey wing is set at a right angle to a single storey section and would have a cat slide roof that integrates with the single storey wing.

The proposed roof materials are plain red/brown roof tiles. The walls to the two storey wings are to be a mix of a single course of a mellow yellow stock and a soldier course of a mellow multi stock. The single storey wings, the garage, car ports and refurbished attached outbuildings to Tiltwood East would be clad with horizontal black stained boarding with a minimal brick plinth base. The windows and doors are to be gun metal coloured, aluminium framed, double glazing set back in the recessed openings with metal cills.

## **LIST OF POLICIES**

### **Mid Sussex District Plan**

The District Plan (adopted March 2018) and forms part of the development plan against which this application would be determined.

The most relevant policies are:

Policy DP1: Sustainable Economic Development  
Policy DP4: Housing  
Policy DP6: Settlement Hierarchy  
Policy DP12: Protection and Enhancement of Countryside  
Policy DP13: Preventing Coalescence  
Policy DP15: New Homes in the Countryside  
Policy DP17: Ashdown Forest SPA and SAC  
Policy DP21: Transport  
Policy DP26: Character and Design  
Policy DP27: Space Standards  
Policy DP37: Trees, Woodland and Hedgerows  
Policy DP39: Sustainable Design and Construction  
Policy DP38: Biodiversity  
Policy DP41: Flood Risk and Drainage

### **Worth - Crawley Down Neighbourhood Plan**

The CDNP was 'made' in January 2016 and so forms part of the development plan. In accordance with the Planning and Compulsory Purchase Act 2004 and the NPPF,

an assessment has been undertaken of the CDNP policies to identify if there are any in conflict with the District Plan. Where there is a conflict the weight to the policy has been identified.

The most relevant policies are:

Policy CDNP04.2: Infill Housing

Policy CDNP05: Control of New Developments

Policy CDNP06: Sustainable Drainage Systems

Policy CDNP08: Prevention of Coalescence

Policy CDNP09: Protect and Enhance Biodiversity

Policy CDNP10: Promoting Sustainable Transport

Policy CDNP11: Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)

## **National Policy**

National Planning Policy Framework (NPPF) (March 2012)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Paragraph 12 of the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 17 of the NPPF sets out 12 principles that the planning system should play that underpin both plan making and decision taking. This paragraph confirms that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. It also confirms that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

With specific reference to decision-taking the document provides the following advice:

Para 150 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work

proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 196 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

## **Planning Practice Guidance**

Technical Housing Standards

### **ASSESSMENT (Consideration of Key Issues)**

#### **Principle of development**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,
- b) And local finance considerations, so far as material to the application, and
- c) Any other material considerations."

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

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.

Using this as the starting point the development plan in Mid Sussex consists of the District Plan and the Crawley Down Neighbourhood Plan.

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land.

Policy DP12 of the District Plan states:

*The countryside will be protected in recognition of its intrinsic character and beauty.. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:*

- it is necessary for the purposes of agriculture; or
- it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.

Policy DP6 of the District Plan relates to Settlement Hierarchy and designates Crawley Down as a Category 2 Settlement, it states:

*"The growth of settlements will be supported where this meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements will be supported where:*

1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings, and
2. The site is contiguous with an existing settlement edge, and
3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy."

As the application site is contiguous with the built-up area of boundary of Crawley Down and proposes only two dwellings then this application complies with both policies DP6 and DP12.

Policy DP15 of the District Plan relates to new homes in the countryside and allows for development as exceptions to the policy of restraint where there is special justification. It states in part:

*Provided that they would not be in conflict with Policy DP12: Protection and Enhancement of the Countryside, new homes in the countryside will be permitted where special justification exists. Special justification is defined as:*

- Where accommodation is essential to enable agricultural, forestry and certain other full time rural workers to live at, or in the immediate vicinity of, their place of work; or
- In the case of new isolated homes in the countryside, where the design of the dwelling is of exceptional quality and it enhances its immediate setting and is sensitive to the character of the area; or
- Affordable housing in accordance with Policy DP32: Rural Exception Sites; or



- The proposed development meets the requirements of Policy DP6: Settlement Hierarchy.

The application is therefore also in compliance with Policy DP15 as the development meets the requirements of Policy DP6.

The proposal must also be assessed against the Crawley Down Neighbourhood Plan Policy CDNP05 states:

*Policy CDNP05: Control of New Developments Subject to the other policies of this Neighbourhood Plan, Within the Crawley Down Neighbourhood Plan Area, planning permission will be granted for residential development subject to the following criteria:*

- a) The scale height and form fit unobtrusively with the surrounding buildings and the character of the area or street scene and where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character.
- b) Individual developments will not comprise more than 30 dwellings in total, with a maximum density of 25 per Ha and spacing between buildings to reflect the character of the area.
- c) Amenities such as access, noise, privacy, daylight, sunlight and outlook of adjoining residents are safeguarded.
- d) The individual plot sizes are proportionate to the scale of the dwelling.
- e) Open green spaces are provided in accordance with the Local Plan standard provisions. Where practical open spaces should provide linkage/connection to elements of the local footpath network.
- f) Construction materials are compatible with the materials of the general area and are locally sourced where practical.
- g) The traditional boundary treatment of the area is provided and where feasible reinforced.
- h) Suitable access and on-site parking is provided without detriment to neighbouring properties.
- i) The development is arranged such that it integrates with the village.
- j) Housing need is justified.
- k) The development does not impact unacceptably on the local highway network.
- l) Issues raised in the local housing supply document site assessment are satisfactorily addressed.

m) Has a range of dwelling sizes and in particular provides dwellings that are suited to the needs of both young families and older residents.

n) Includes affordable homes as required by District policy.

o) Proposals for new housing developments must meet the standards set out in Appendix 1

p) Developments of 6 or more dwellings should provide a mix of dwelling sizes (market and affordable) that fall within the following ranges: Market Housing At least 75% 2-3 bedroom houses and up to 25% other sizes Affordable Housing At least 80% 2-3 bedroom houses and Up to 20% other sizes.

It is considered that the proposal would comply with criteria a), b), c), f), g), h), k) and o). Due to the small scale nature of the proposal, criteria d), e,) i), j), l), m) n) and p) are not considered to apply, so overall, it is considered that the application would comply with this policy.

Policy CDNP05 is considered to be a permissive in nature and the principle of housing is not constrained by the location of development (i.e. whether it is located within or outside the built up area. Policy DP12 of the District Plan has a more restrictive approach and thus CDNP05 is in conflict with the adopted spatial strategy of the District Plan. It is important to take account of the law and section 38(5) of the Planning and Compulsory Purchase Act 2004 states that if a policy contained in a development plan for an area conflicts with another policy in 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 -in this case the District Plan. Only limited weight can thus be given to policy CDNP05 in support of the application.

However, given the above it is considered that the principle of development is acceptable.

### Material considerations

Turning to other relevant material considerations, all aspects of the development must be weighed up in the planning balance, as set out in the NPPF as a whole. In particular, this development must be assessed against the 3 limbed definition of sustainable development at paragraph 7, in which the planning system should perform an economic, social and environmental role.

### **The Economic Role**

Part 6 of the Localism Act was enacted on 16th January 2012. This requires the Local Planning Authority to have regard to local finance considerations (so far as material to the application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and will match fund the additional council tax raised for new homes and empty properties brought back into use, with an additional amount for affordable homes, for the following six years. The New Homes Bonus is a material planning consideration

and if permitted the Local Planning Authority would receive a New Homes Bonus for the unit proposed.

The economic dimension is met by this proposal owing to the New Homes Bonus, the provision of construction jobs and an increased population likely to spend in the community.

### **The Social Role**

The NPPF seeks to promote a "strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports its health, social and cultural well-being". The provision of one dwelling on the site will make a minor but positive contribution to the district's housing supply.

The provision of 2 new dwellings on the site will make a minor but positive contribution to the district's housing supply, and this should be afforded some weight.

Due to the location of the site adjacent to the built-up edge of Crawley Down where there are a number of services, it is considered that the location of the site is sustainable. Overall it is considered that the proposal would satisfy the social role of sustainable development.

It is therefore considered that the development meets the social role of sustainable development.

### **The Environmental Role**

The proposed development is on land that is free from national designations, i.e. Area of Outstanding Natural Beauty or National Park, which cover 60 per cent of the district. There is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural, built and historic environment. Given the fact that there is existing development adjacent to the site and the proposed layout, scale and appearance is considered to be in keeping with the character of the existing development, it is not considered that in this case there would be a significant adverse impact on the wider countryside. The proposal would not result in any highway safety problems.

It is considered that the impact on the character of the area will be acceptable and that the environmental role as set out in the NPPF is satisfied.

### **Design and visual impact**

Policy DP26 in the District Plan seeks to ensure a high standard of design in all new development and requires new development to demonstrate a sensitive approach to urban design by respecting the character of the locality in which they take place. These requirements are also reflected by the aims of the NPPF which states:

*"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." (Para 56).*

Neighbourhood Plan policy CDNP05 (a) requires developments to fit unobtrusively with the surrounding character of the area.

The design of the dwelling is considered to be appropriate to its semi-rural setting. The design is also in keeping with other recent planning approvals for residential development on the Tiltwood estate. As such, it is considered that the proposal would meet the above policies and guidance.

Policy DP13 of the District Plan seeks to prevent coalescence of settlements. This follows national policy at para. 17 of the NPPF. It is necessary to consider whether the proposal would have any impact on the issue of coalescence. The proposed dwellings would be seen in the context of the recent planning approval and development in the area, therefore it is not considered to impact on the gaps between neighbouring settlements.

As such, it is considered that no harmful impact would be caused to the visual amenities of the area and accordingly the application would comply with the Policies DP13 and DP26 of the District Plan, policies CDNP05(a) and CDNP08 of the Neighbourhood Plan and the requirements of the NPPF.

### **Standard of accommodation**

Policy DP27 requires all new dwellings to meet minimum nationally described space standards, other than in exceptional circumstances, where clear evidence will need to be provided to show that the internal form or special features prevent some of the requirements being met.

The government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents.

The dwellings have been designed in accordance with these standards with each having a gross internal floor area measuring 218.4m<sup>2</sup> and would thereby meet the above policies and guidance.

### **Impact on neighbouring amenity**

Policies DP26 of the District Plan aims to protect amenity. A similar ethos is found within CDNP04.2 (f) of the Neighbourhood Plan.

To the north of the site, the rear garden of the single storey property, 'Greensleeves', is separated by a substantial 1.8 to 2 metre high brick wall. An annexe to 'Greensleeves' abuts the angled wall in the area just to the east of the garage.

Further to the east a tree and shrub screen, beyond the wall, provides a layered screen to the adjacent property.

The proposed western boundary between the retained area of garden for 'Tiltwood East' and the proposed development site is substantially screened by trees and shrubs, including evergreen shrubs.

Due to these distances and orientations it is not considered that the proposed dwelling would be overbearing or result in any significantly harmful loss of privacy to this property.

The proposal is therefore considered to comply with policy DP26 of the District Plan.

### **Access, parking and impact on highway safety**

Policy DP21 the District Plan requires development to: be sustainably located to minimise the need for travel, promote alternative means of transport to the private car, including provision of suitable facilities for secure and safe cycle parking, not cause a severe cumulative impact in terms of road safety and increased traffic congestion, be designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages, and provide adequate car parking in accordance with parking standards as agreed by the Local Planning Authority or in accordance with the relevant Neighbourhood Plan.

The concerns raised regarding the increased usage of the existing access onto Hophurst Lane are noted however the WSCC Highways Engineer has raised no objections commenting:

*If the application is approved a total of 12 dwellings will be served by the existing two access points from Hophurst Hill. The LHA do not anticipate that two additional dwellings will give rise to a 'severe' level of additional vehicular movements at the site. The accesses have been serving a number of existing dwellings without apparent evidence of highway safety concern and visibility from the western access was observed to be sufficient on site.*

The proposal is therefore considered to comply with policy DP21 of the District Plan.

### **Drainage**

Policy DP41 of the District Plan requires development proposals to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. In areas that have experienced flooding in the past, use of Sustainable Drainage Systems should be implemented unless demonstrated to be inappropriate.

While the Drainage Engineer has not commented on the application no concerns have been raised on previous applications on the estate subject to an appropriate condition forming part of any approval. The proposal is therefore considered to comply with the above policy.

## **Impact on trees**

Policy DP37 of the Mid Sussex District Plan states that: *"The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected."*

The site has been cleared and many of the trees and shrubs with the garden removed however all the boundary trees remain and would be retained. The proposals include significant soft landscaping including grassed areas with shrub planting to the north east area adjacent to the existing garden wall that abuts the annexe to 'Greensleeves'. New trees are proposed adjacent to the wall and parallel to the new drive. A landscaping condition forms part of the recommendation.

It is therefore considered that the proposal would comply with the above policy.

## **Ashdown Forest**

Under the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to satisfy itself that any plans or projects that they regulate (including plan making and determining planning applications) is not likely to have a significant effect on a European site of nature conservation importance. For most developments in Mid Sussex, the European sites of focus are the Ashdown Forest Special Protection Area (SPA) and Ashdown Forest Special Area of Conservation (SAC). Planning permission cannot be granted by the District Council where the likelihood of significant effects exists. The main issues are recreational disturbance on the SPA and atmospheric pollution on the SAC, particularly arising from traffic emissions.

This application has been screened for its potential effects on the SPA and SAC. This exercise has indicated that there is no likelihood of a significant effect on the SAC. However, as this proposed development site lies within 7km of the Ashdown Forest SPA, mitigation is required. In this case, the SAMM Strategy would require the payment of £6,280 and the SANG contribution would be £4,066.

The District Council now has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition. The proposed SANG Condition provides for a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the

payment of a financial sum towards a SANG managed by the District Council. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (Paragraph 206 of the National Planning Policy Framework). All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions as set out in National Planning Policy Guidance (NPPG). In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition. Furthermore, the mitigation is required in order to ensure compliance under the Habitats Regulations.

The NPPG (Paragraph 005 Reference ID 21a-005-20140306) allows for the use of a negatively worded condition to: "prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure)". It is considered, therefore, in the circumstances of this case and in the light of the guidance on the use of planning conditions set out in the NPPG, that the use of a negatively worded condition is an appropriate approach to securing the necessary mitigation in relation to SANG in order to mitigate any likely significant effect on the Ashdown Forest SPA required by the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

The NPPG (Paragraph 010 Reference ID 21a-010-20140306) addresses the use of a condition requiring an applicant to enter into a planning obligation or an agreement under other powers. The guidance states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.
2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.
3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the

funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.

4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

Natural England has also confirmed it is content with the SANG Condition approach to secure mitigation in terms of SANG.

In this case, the applicant has agreed to enter into a legal agreement securing the necessary SAMM mitigation and a condition can be used securing the SANG mitigation. The proposal therefore accords with Policy DP17 of the District Plan.

### Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study (Updated Transport Analysis) as a committed scheme such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

### **Ecology**

Para 109 of the NPPF highlights that the planning system should contribute to and enhance the natural and local environment by, amongst other things protecting and enhancing valued landscapes and minimising impacts on biodiversity and providing net gains where possible. In determining planning applications, para 118 sets out a number of principles that local planning authorities should apply in trying to conserve and enhance biodiversity, which include the following;

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- Opportunities to incorporate biodiversity in and around developments should be encouraged.



Policy DP38 of the District Plan also seeks to ensure that biodiversity will be protected and enhanced.

A neighbour raised an issue of the great crested newts being present in a pond at 19 Aviary Way in regard to other applications on the Tiltwood Estate and this application lies within a 250m protection zone.

The applicant has produced an Ecology report which has been assessed by the Ecologist who has raised no objections and has commented:

*In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions:*

The recommendations set out in the revised bat survey report (revised\_Tiltwood East\_Bat Survey V2) by AEW Ltd shall be implemented in full unless otherwise agreed in writing by the local planning authority.

It is therefore considered that the proposal would comply with the above policies.

## **Conclusions**

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise.

The application site lies in the countryside, however in this case the site is contiguous with the built up area of boundary of Crawley Down and proposes less than ten units and thus would be compliant with policies DP6, DP12 and DP15 of the District Plan. The development is also considered to be compliant with policy CDNP05 of the Crawley Down Neighbourhood Plan although limited weight can be given to this policy.

Other material considerations are also relevant and all aspects of the development must be weighed up in the planning balance, as set out in the NPPF:

Weighing in favour of the scheme is that the development will provide up to 2 new dwellings and is a sustainable location in terms of its location to a Category 2 settlement. The development will provide positive economic and social benefits through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. The proposed layout, scale and appearance are considered to be in keeping with the character of the existing development, and will not harm the landscape character of the area.

There will be a neutral impact in respect of a number of issues such as the design, highways, landscaping, drainage, sustainability and on the Ashdown Forest.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP6, DP12, DP13, DP15, DP21, DP26, DP27, DP37, DP38 and DP41 of the emerging District Plan, Policies CDNP04.2, CDNP05, CDNP08, CDNP11 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2010.

### **Pre-commencement conditions**

3. No development shall commence until a schedule and/or samples of materials and finishes to be used for the external walls, windows and roofs of the proposed dwelling have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the District Plan and Policy CDNP05.02 of the Neighbourhood Plan.

4. No development shall commence until details of proposed boundary screen walls/fences/hedges have been submitted to and approved in writing by the Local Planning Authority and the dwelling hereby permitted shall not be occupied until such boundary screen walls/fences/hedges associated with it have been erected or planted. The boundary treatments approved shall remain in place in perpetuity or unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the appearance of the area and protect the amenities of adjacent residents and to accord with Policy DP26 of the Sussex District Plan and Policies CDNP04.2 and CDNP05 of the Neighbourhood Plan.

5. No development shall commence unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which 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, and these works shall be carried out as approved.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policies DP26 of the District Plan and Policies CDNP04.2 and CDNP05 of the Neighbourhood Plan.

6. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which, within a period of 5 years from the completion of the 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.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policies DP26 and DP37 of the District Plan and Policies CDNP04.2 and CDNP05 of the Neighbourhood Plan.

7. The development hereby permitted shall not commence 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. The building shall not be occupied until all the approved drainage works have been carried out in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CDNP06 of the Neighbourhood Plan and Policy DP41 of the District Plan.

## Pre-occupation conditions

8. No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policies DP26 and DP37 of the District Plan and Policies CDNP04.2 and CDNP05 of the Neighbourhood Plan.

## INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. The applicant is advised that to satisfy condition 2 above there are likely to be two options.

The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended.

The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.

3. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.

4. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

Hours of construction/demolition on site are restricted only to:  
Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs;  
No construction/demolition work on Sundays or Public Holidays.

Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.

No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

### **Plans Referred to in Consideration of this Application**

The following plans and documents were considered when making the above decision:

| <b>Plan Type</b>                   | <b>Reference</b> | <b>Version</b> | <b>Submitted Date</b> |
|------------------------------------|------------------|----------------|-----------------------|
| Location Plan                      | 1                | -              | 25.01.2017            |
| Survey                             | 2                | -              | 25.01.2017            |
| Block Plan                         | 3                | -              | 25.01.2017            |
| Survey                             | 4                | -              | 25.01.2017            |
| Proposed Floor Plans               | 5                | -              | 25.01.2017            |
| Proposed Elevations                | 6                | -              | 25.01.2017            |
| Proposed Sections                  | 7                | -              | 25.01.2017            |
| Proposed Floor and Elevations Plan | 8                | -              | 25.01.2017            |
| Street Scene                       | 9                | -              | 25.01.2017            |
| Existing Floor and Elevations Plan | 10               | -              | 25.01.2017            |
| Planning Layout                    | 11               | -              | 25.01.2017            |

### **APPENDIX B – CONSULTATIONS**

#### **Worth Parish Council**

**STRONGLY OBJECT** with a request that the application be decided by a Planning Committee

The Council considers that the piecemeal development of the overall Tiltwood House site through a series of separate applications for 1, 2 and 5 units is contrary to the vision, objectives and policies of the Crawley Down Neighbourhood Plan and that

this approach has resulted in a failure to provide the appropriate element of affordable housing of which there is a significant shortage at both District and National level. The Council notes that the application site lies outside the village boundary and therefore conflicts with Policies C1 and C2 of the Local Plan, Policy DP10 of the submitted District Plan (which has been described as 'sound' by the Inspector appointed to examine the Plan) and Policies 05 and 08 of the made Crawley Down Neighbourhood Plan. The Council further considers that development of this site would only be justified if the proposed development made a significant contribution to the local housing need through the provision of one and two bed single storey market housing.

The proposed site is in the Crawley Down Neighbourhood Plan (CDHP) Area. The CDNP is now part of the local development plan and its policies carry full weight. If its policies cannot be considered to be up-to-date then Planning Officers and Councillors should still consider all its policies when conducting the balancing exercise demanded by para14 of the NPPF and give them full or very significant weight. The NPPG mandates that the balancing exercise must be fully documented and available for public inspection. WPC are the authors of the CDNP and as such are best placed to judge whether a planning application is in accordance with its vision, policies and definitions. Planning Officers should not contradict the assessment set out above without discussion with WPC.

## **Ecologist**

In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions:

The recommendations set out in the revised bat survey report (revised\_Tiltwood East\_Bat Survey V2) by AEWL Ltd shall be implemented in full unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with 109 and 118 of the NPPF.

## **Summary**

West Sussex County Council, as the Local Highway Authority (LHA), was consulted previously on Highway matters for various residential developments at the site including DM/16/2544 and DM/16/2552 to which a site visit was carried out and no objections raised.

The current proposal is for 2 x 5-bedroom dwellings south east of 'Tiltwood East' with demolition of existing garage to provide for a new access spur off the existing private drive. New garages/carports and parking spaces will be provided for the existing dwelling and the 2 x new dwellings. The LHA do not wish to raise any highways safety or capacity reason for resisting the proposal subject to advice and conditions set out in the report below.

### Access and Visibility

Previous comments should be referred to regards access to the site from the public highway:

The private drive has two access points on to Hophurst Lane. The western most access would provide a more direct route of ingress to the site; however there are no restrictions on which access can be used. On site it was observed that a vehicle exiting from the western access would have sufficient visibility and be able to see to the maximum extent possible in both north east and south west directions. Speeds observed were in line with the posted limit and the uphill approach to the 30 mph zone, approximately 80 metres south west, appeared to slow approaching traffic down. The LHA do not wish to raise any highways concerns with the use of the existing accesses.

It would be difficult to substantiate that two additional dwellings on the site would cause an unacceptable level of increase in traffic generation. The internal access drive is sufficient in width to allow two cars to pass in opposing directions.

### Parking and Turning

Each new dwelling is provided with a car port for two cars per dwelling. An additional two off street car parking spaces per dwelling are provided to the south of the turning area to house no. 2. The LHA are satisfied that sufficient parking provision has been demonstrated and that the existing dwelling 'Tiltwood East' has been provided with off street parking also. The new garage for the existing dwelling should measure 6m by 6m internally.

The turning areas demonstrated are sufficient to enable a car to turn on site and exit onto the main private access drive in a forward gear and thus on to the public highway in a forward gear.

### Sustainability

As per previous applications at the site the following comments in regards to sustainability would be made:

Although there is no direct footway link adjacent to the site, the nearest bus stop is approximately 20 m south of the western access with services on to Crawley. Crawley Down village provides a limited range of retail, services and amenities. Cycling would be an attractive and sustainable mode of transport in this location.

Bicycle storage within the car ports should be secured and covered, details of which can be secured via condition

### Conclusion

If the application is approved a total of 12 dwellings will be served by the existing two access points from Hophurst Hill. The LHA do not anticipate that two additional dwellings will give rise to a 'severe' level of additional vehicular movements at the site. The accesses have been serving a number of existing dwellings without apparent evidence of highway safety concern and visibility from the western access was observed to be sufficient on site.

If the LPA are minded to approve the application the following conditions should be secured:

Vehicle parking and turning

No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development.

Cycle parking

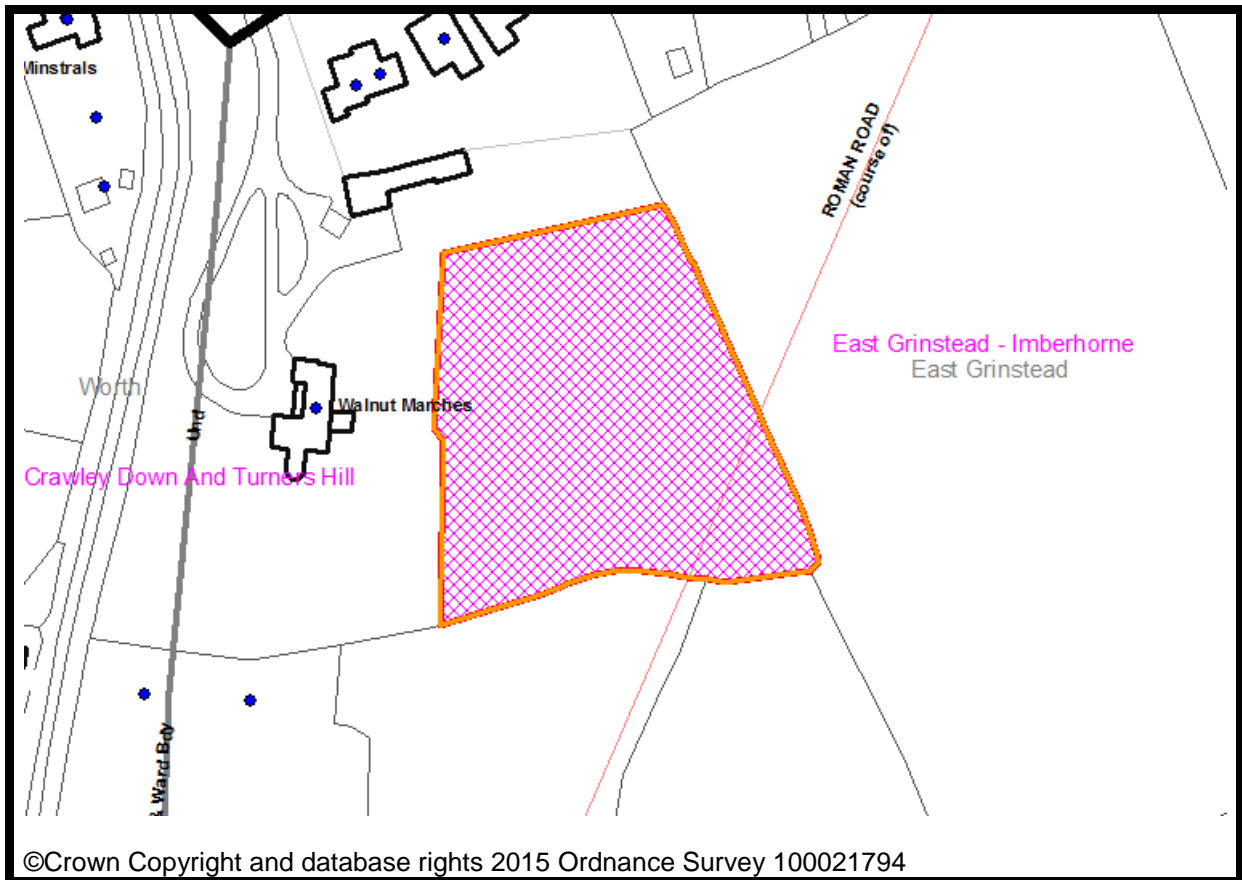
No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.



## East Grinstead

### 3. DM/17/4280



**LAND TO THE EAST OF WALNUT MARCHES CRAWLEY DOWN ROAD  
FELBRIDGE EAST GRINSTEAD  
DEVELOPMENT OF 3 NO. FIVE BEDROOM DETACHED HOUSES.  
DETACHED CAR PORTS AND ACCESS ROAD WITHIN FORMER  
GARDEN AREA EAST OF WALNUT MARCHES.  
MR AND MRS TIMOTHY FULLER  
GRID REF: EAST 536097 NORTH 139220**

POLICY: Areas of Special Control for Adverts / Ashdown Forest SPA/SAC /  
Countryside Area of Dev. Restraint / Aerodrome Safeguarding  
(CAA) / Strategic Gaps / Archaeological Notification Area (WSSC) /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 10th May 2018

WARD MEMBERS: Cllr Heidi Brunsdon /

CASE OFFICER: Mr Stuart Malcolm

## **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader for Planning and Economy on the application for planning permission as detailed above.

## **EXECUTIVE SUMMARY**

The application seeks full planning consent for the development of 3 No. five bedroom detached houses, detached car ports and an access road to the east of Walnut Marches.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. As the proposed scheme does not comply with certain aspects of the Development Plan, other material considerations need to be considered in determining the application, including the National Planning Policy Framework (NPPF).

The planning application was considered by Planning Committee A on the 1st February 2018. The Committee resolved to grant planning permission subject to the completion of a S106 legal agreement to secure the necessary financial contributions towards SAMM mitigation. The legal agreement is awaiting to be finalised.

Since the resolution by Members to approve the application, the District Plan has been adopted and the Council can now demonstrate a 5 year supply of deliverable housing land. This results in a significant change in circumstances since the application was considered by Committee and is material to how the Council considers the proposals. The Council previously applied the 'presumption in favour of sustainable development' test within para.14 of the NPPF as the Council could not demonstrate a 5 year supply of housing land in its assessment of the proposals at that point.

It is therefore necessary to review the application in light of the changed planning policy position for the application.

The Development Plan consists of the District Plan and the made East Grinstead Neighbourhood Plan. The application site lies in the countryside, outside the built up area of Felbridge, and thus would be contrary to policy DP12 of the District Plan as the proposals are not necessary for the purposes of agriculture and are not supported by other policies in the Plan. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty.

Policy DP15 provides for exceptions to to the presumption against new homes in the countryside in the where special justification exists. The proposals do not accord with DP15.

Policy DP6 of the District Plan is not a relevant policy as the proposal is on an

application site that is not contiguous with the built up area.

Whilst the proposal conflicts with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely EG5 that does not restrict the location of new developments. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that 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 - in this case the District Plan. Only limited weight can thus be given to this policy in support of the application.

In accordance with the law, whilst this breach of district plan policy is the starting point for decision making, the Council also must have regard to other material considerations. It is considered that there are other material considerations, specific to this site, that are relevant to the application. These include:

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. In this case however the development is not isolated or in open countryside as it is in close proximity to the built up area of Felbridge to the north east and other development to the north, west and south west. In visual terms therefore the site relates well to the built up area boundary and to the urban grain of both historic and more recent development. The site itself is quite well contained by trees along the boundaries with the fields to the south and east. The proposal would not therefore be contrary to the aims of Policy DP12.

Whilst the development lies outside of the built up area of Felbridge, it is situated in close proximity to this settlement and as such services within the village of will be accessible to future residents by means other than the private car. The site is therefore relatively sustainably located.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. The development will provide a positive economic benefit through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

The proposal will result in a neutral impact in respect of the residential amenity impact, highway safety, parking, drainage and nature conservation including the Ashdown Forest impact.

The proposal is therefore deemed to comply with the requirements of Policies DP4, DP13, DP17, DP21, DP26, DP27, DP37, DP38 and DP41 of the District Plan 2014-31 and Policies EG2a, EG3, EG5, EG7, EG11, EG12 and EG16 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

Your officers have reviewed the planning application in the context of the adopted District Plan and other material planning considerations and recommend that planning permission is granted.

## RECOMMENDATIONS

**Recommendation A** It is recommended that permission be granted, subject to the completion of a section 106 legal agreement to secure the necessary financial contributions towards SAMM mitigation and to the conditions listed at Appendix A.

**Recommendation B** It is recommended that if the applicants have not completed a satisfactory signed planning obligation securing the necessary infrastructure payments and affordable housing by the 26th July 2018, then it is recommended that permission be refused, at the discretion of the Divisional Leader for Planning and Economy, for the following reason:

'In the absence of a signed legal agreement the application fails to deliver the necessary Ashdown Forest mitigation and as such conflicts with Policy DP17 of the Mid Sussex District Plan and Policy EG16 of the Neighbourhood Plan.'

## SUMMARY OF REPRESENTATIONS

1 resident has objected:

- Bought neighbouring house on understanding that policies of development constraint apply but various developments in vicinity have had an impact;
- additional noise and disruption;
- Japanese knotweed on site;
- wildlife inhabits site and will be affected; can local infrastructure cope with three additional dwellings; tree cut down before permission granted.

**East Grinstead Society:** We are concerned about this further creep into open land and yet more traffic affecting the Crawley Down Road and A264 junction in Felbridge.

## SUMMARY OF CONSULTATIONS

### MSDC Trees:

Objection.

### MSDC Drainage:

No objection subject to conditions.

### MSDC Ecology:

No objection subject to conditions.

### WSCC Highways:

No objections subject to conditions.

**Tandridge District Council:**

No objection.

**Surrey County Council:**

No objection.

**SUMMARY OF TOWN COUNCIL OBSERVATIONS**

Recommend refusal: Needs traffic assessment and erodes boundaries between settlements.

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**Introduction**

Planning application DM/17/4280 seeks full planning permission consent for the development of 3 No. five bedroom detached houses, detached car ports and an access road.

**Relevant Planning History**

There is no directly relevant planning history on the application site itself.

There are though examples of new developments in the immediate vicinity including:

14/03966/OUT - 5 new dwellings built to north (Crawley Down Road)  
DM/16/1966 - 2 new dwellings (to west of access road opposite Ascotts)  
DM/17/0360 - 2 new dwellings to south west (north of Ascotts)  
DM/17/0641 - 3 dwellings to north west (2 net) (Minstrals)  
DM/17/3647 - 1 dwelling proposed to south west (south west of Ascotts) to be determined by Planning Committee B on the 12th April 2018.

**Site and Surroundings**

The site measures 0.4754 hectares in area and is located to the south of Crawley Down Road, Felbridge

The site has an access directly onto Crawley Down Road although this is somewhat overgrown. Some former stables are located to the north beyond which is the 5 house development approved on appeal under reference 14/03966/OUT.

The site itself appears largely unused grassland with the applicant suggesting it was originally the garden of Walnut Marches which is the dwellinghouse located immediately to the west.

Fields are located to the east and south beyond the tree lined boundaries. There are also a number of trees within the site.

Although the Tandridge/Surrey boundary is close to the north, and within other land within the ownership of the applicant, no part of the application site falls outside of the Mid Sussex boundary.

In planning policy terms the site is located within the countryside.

### **Application Details**

The proposal seeks consent to construct three new dwellings on the land in a small cul de sac arrangement.

Each of the properties is to be a detached 5 bedroom house with detached car ports also being proposed.

Plot 1 in the northern part of the site is orientated to front west with Plots 2 and 3, located in the southern part of the site, orientated to the north.

The applicant's tree report suggests two of the centrally located oaks in the site are to be removed along with another oak along the northern boundary of the site near where the new access road will be constructed. Three other trees are indicated for removal although these fall outside of the application site and on other land owned by the applicant. The site perimeter trees are largely being retained.

The three dwellings are all two storey and will be constructed of facing brickwork and render with clay plain tiles or slate on the roof.

### **List of Policies**

#### **District Plan**

The Mid Sussex District Plan was adopted in March 2018 and forms part of the development plan against which this application should be determined. The relevant policies are:

DP4 - Housing

DP6 - Settlement hierarchy

DP12 - Protection of Countryside

DP13 - Preventing coalescence

DP15 - New homes in the countryside

DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

DP21 - Transport

DP26 - Character and Design

DP27 - Dwelling Space Standards

DP37 - Trees, woodland and hedgerows

DP38 - Biodiversity

## **Neighbourhood Plan**

The East Grinstead Neighbourhood Plan was made in November 2016 so forms part of the development plan. In accordance with the Planning & Compulsory Purchase Act 2004 and the NPPF, an assessment has been undertaken of the Neighbourhood Plan policies to identify if any are in conflict with the adopted District Plan. Where there is conflict the weight to be afforded to the policy has been identified. The most relevant policies are:

- EG2 - Areas of Development Constraint
- EG2a - Preventing Coalescence
- EG3 - Promoting Good Design
- EG5 - Housing Proposals
- EG7 - Housing Mix and Density
- EG11 - Mitigating Highway Impacts
- EG12 - Car Parking
- EG16 - Ashdown Forest Protection

## **National Policy and Other Legislation**

### **National Planning Policy Framework (NPPF)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Para 12 states "This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise."

Paragraph 17 of the NPPF sets out 12 principles that the planning system should play that underpin both plan making and decision taking. This paragraph confirms that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. It also confirms that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

With specific reference to decision-taking the document provides the following advice:

Para 150 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 196 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

## **National Planning Policy Guidance**

### **Technical Housing Standards**

#### **Assessment**

It is considered that the main issues needing consideration in the determination of this application are as follows;

- The principle of development;
- Impact on visual amenity including coalescence and effects on trees;
- District plan spatial strategy;
- Accessibility of the site;
- Residential amenity;
- Highways, access and car parking;
- Ecology;
- Ashdown forest;
- Other Planning Issues;
- Other Material Considerations
- Conclusion

#### **Principle of development**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*



- a) The provisions of the development plan, so far as material to application,
- b) And local finance considerations, so far as material to the application, and
- c) Any other material considerations."

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

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.

Using this as the starting point the development plan in Mid Sussex consists of the adopted District Plan (2018), the made East Grinstead Neighbourhood Plan (2016) and the Small Scale Housing Allocations Document (2008).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land.

As the proposed development is located within the countryside the proposal is contrary to Policy DP12. It is not one of the exceptions set out in DP15 of the District Plan.

Policy DP6 of the District Plan is not a relevant policy in as much as the proposal is on an application site that is not contiguous with the built up area boundary. It is relevant in respect of the identification of the settlement hierarchy for the District.

Policy EG2 of the Neighbourhood Plan applies a presumption in favour of certain types of development in the areas of development constraint, namely: the sympathetic conversion of redundant rural buildings, limited small scale new development (agriculture and sports/recreation) and extensions to existing buildings. The policy does not obviously apply to proposals not falling within those specified types of development. At best, it might be said that Policy EG2 provides no support for the proposal; but equally, it does not weigh against the proposal.

Policy EG2a seeks to prevent coalescence between East Grinstead and Crawley Down, to prevent development which unacceptably erodes the perception of openness within the area or contributes to the ad hoc or isolated development of dwellings outside the built up area.

The most relevant and overarching policy in respect of housing is EG5 of the Neighbourhood Plan. This policy states that:

*"The East Grinstead Neighbourhood Plan area is subject to significant environmental and infrastructure constraints and as a result new housing development on land defined as 'previously developed,' where the site is predominantly previously developed or is green infrastructure that can be demonstrated to be surplus to*

*requirements will be supported subject to the criteria below and compliance with other policies within the plan.*

Other proposals for new housing development will only be supported if:

- a) The proposed development contributes to sustainable development;
- b) An application is supported by robust assessment of the environmental and visual impact of the proposal and include as necessary appropriate mitigation measures.
- c) An application is supported by a robust assessment of the impact of the proposal upon the local highway network and it can be demonstrated that the proposal will not cause a severe cumulative impact in terms of road safety and increased congestion after proposed mitigation is taken into account;
- d) The proposal complies with design guidance contained in policy EG3 or a relevant Development Brief;
- e) The proposal provides a mix of tenure types including private, social rented and shared equity (intermediate);
- f) Contributions are made towards SANG and Strategic Access Management and Monitoring (SAMM); and
- g) The proposal meets its own infrastructure needs."

Policy EG5 is permissive in nature and the principle of housing development is not constrained by the location of development (i.e. whether it is within or outside the built up area boundary). Policy DP12 of the District Plan has a more restrictive approach and there is therefore conflict with the adopted spatial strategy of the District Plan. It is important to take account of the law and Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that 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 - in this case the District Plan. Therefore only limited weight can thus be given to policy EG5 in support of the application.

### **Impact on Visual Amenity including coalescence and effects on trees**

One of the key issues is the visual impact on the character of the area. This is particularly important in this case given the site is within the countryside and potential coalescence issues need to be considered.

As the proposed development is located within the Countryside the proposal is contrary to Policy DP12 of the District Plan. However, it is important to understand the intention behind the policy. The principal aim of Policy DP12 of the District Plan states: *"The countryside will be protected in recognition of its intrinsic character and beauty."* The supporting text sets out the following:

*"The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural*

*environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside."*

This policy aim follows national policy with one of the core planning principles of the NPPF, at para 17, is to:

*"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."*

Paragraph 109 of the NPPF also refers to 'protecting and enhancing valued landscapes' and case law has suggested that land does not have to lie within a designated area to be 'valued' and that landscape value accrues separate to designated status and that such value is derived from some physical attributes, not mere popularity.

Given that the application site is currently an undeveloped parcel of land, there will inevitably be a degree of visual change as a result of the proposal due to the introduction of built form on an undeveloped rural site. In this case however the development is not isolated as it is in close proximity to the built up area of Felbridge to the north east and other development to the north, west and south west. In visual terms therefore the site relates well to the built up area boundary and to the urban grain of both historic and more recent development.

The site itself is quite well contained by trees along the boundaries with the fields to the south and east and where this is sparse additional planting can be secured. For example, such additional planting could be secured along part of the western boundary adjacent to Walnut Marches. The site is however not particularly open to public views owing to its location and screening.

The designs and layout of the houses themselves are acceptable and appropriate in this context with the palette of materials to be used on all the external finishes of the development (including house materials and hard surfaces) able to be controlled via condition.

The wider visual impact of the development is therefore deemed quite minimal in this case, despite the fact that part of an undeveloped site is to be built on. Officers consider therefore that there would be a limited adverse impact on the landscape as a result of the proposed development but this is an inevitable outcome of developing on any greenfield site on the edge of villages and towns and in that respect is not unique to this site.

In terms of the coalescence issue, Policies DP13 and EG2a apply. DP13 states that:

*"The individual towns and villages in the District each have their own unique characteristics. It is important that their separate identity is maintained. When travelling between settlements people should have a sense that they have left one before arriving at the next."*

*"Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements."*

Policy EG2A meanwhile states that:

*"Planning permission will not normally be granted for development which:*

- 1) Results in the coalescence of East Grinstead with Crawley Down or Ashurst Wood;
- 2) Results in the perception of openness being unacceptably eroded within this area; or
- 3) Contributes towards the ad hoc or isolated development of dwellings outside the built up area, including infilling of built up frontages or linear development along roads."

In this case the development is adjacent to new development to the north, a more established dwelling to the west and is nearby to other approved small scale development in the immediate vicinity as referred to in the earlier section. Furthermore the site is located behind development that fronts on to the highway and is well contained by natural screening. The proposal will therefore have a limited visual impact on the public realm particularly when viewed from Crawley Down Road. It should also be noted that the development of just three houses is a relatively minor development considered in the context of the size of Felbridge.

In such proximity to the existing urban grain, and given the limited visual impact on the public realm and the minor scale, the proposal is deemed acceptable as it will not have a significant effect on the coalescence of the settlements of East Grinstead and Crawley as the proposal will not lead to a lessening of the distinctiveness of these local settlements. The proposal is not considered to be isolated or ad hoc and the requirements of DP13 and EG2A are therefore met.

As Members will have noted, an objection has been received from the tree officer who is concerned about the loss of 2 of the central oaks within the site (although there is less concern for the removal of the other 4 trees marked for removal) and the proximity of the remaining trees to the dwellings.

These concerns are noted and not disputed by planning officers. However, the trees within the site are not protected by preservation orders. While the trees are attractive they would be unlikely to be considered for formal preservation orders given the limited public amenity value as the site is set well back from the public realm.

In this case the applicant has submitted details of how the trees will be protected and has stated that:

*"The three sites take the existing trees to the heart of their layout and careful consideration has been given the layout. Retention of the trees was an important aspect in the design, as we are looking to have a mature site that has trees as the main feature of the development. The site could have easily been cleared of these*

*trees, but instead we are looking to maintain them for future generations, as they provide great interest in their maturity and context to the setting."*

Planning officers consider that the most appropriate course of action to protect the remaining trees going forward is to approve the scheme subject to the protective measures outlined in the submissions. Permitted development rights regarding extensions and outbuildings can be withdrawn to ensure the trees are protected in the future and a condition to this effect is set out in Appendix A.

Overall, although there is some adverse impact on the character of the area this is inevitable on an undeveloped site and the other detailed design requirements of local and neighbourhood policy are met.

### **District Plan Spatial Strategy**

The NPPF sets out the principles of sustainable development. The District Plan spatial strategy sets out a settlement hierarchy to deliver development to support their economic, infrastructure and social needs. The scale of growth at these settlements will be guided by the Settlement Hierarchy using DP6 of the District Plan. The nearby settlement of Felbridge is not however wholly within the jurisdiction of Mid Sussex (it is largely within Tandridge) and as such is not included within the Settlement Hierarchy of DP6.

### **Accessibility of Site**

The accessibility of the site, or the sustainable location of it, is a key consideration. One of the core planning principles of the NPPF, as set out in para 17, is to:

*"actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable."*

The site is in close proximity to the built up area boundary of Felbridge which is located to the north east and includes those properties that front directly onto Felbridge Road. From where the existing access to the application site joins the highway the distance to the built up area boundary is approximately 65 metres. The speed limit on this part of the road is 30 mph (the 40 mph zone is a little further west) and there is a footpath on the north side of the highway.

This means that services within the village of Felbridge will be accessible to future residents by means other than the private car.

Promoting sustainable development is about providing opportunities for alternative means of transport other than the private car and development in this location accords with this.

It should also be noted that developments in the vicinity (such as those highlighted in the relevant planning history section) and developments further to the west (such as Felbridge Nursey and Gibbshaven Farm) have been found to be in sustainable locations.

In this respect the application therefore complies with Policy DP20 of the District Plan, Policy EG5 of the Neighbourhood Plan and para 17 of the NPPF.

### **Residential Amenity**

One of the key issues to assess under this application is the potential impact on neighbouring residential amenity.

District Plan Policy DP26 is applicable and this states, in part where relevant, that:

*"All applicants will be required to demonstrate 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 DP27)."*

The test of an application in residential amenity terms is therefore whether or not a proposal causes significant harm.

Criteria b of Policy EG3 also applies with this stating that: *"planning permission will normally be granted where development proposals meet the following criteria ... The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity."*

The neighbours most likely to be affected are those that border the site to the north in the recent development originally permitted under application 14/03966/OUT and the neighbouring dwelling to the immediate west at Walnut Marches.

The nearest of the dwellings to the north is located approximately 40 metres from the north façade of Plot 1. The only facing windows at first floor level in the north elevation serve a bedroom and an ensuite.

The distance between Walnut Marches and the nearest part of Plot 2 is 27 metres. There are no first floor windows in the nearest flank wall but there is one in the western flank of the rear projecting element of Plot 2 and this is approximately 35 metres from the nearest part of the dwelling at Walnut Marches.

These distances are well in excess of the 21 metre gap which is the generally accepted minimum back to back distance between windows of properties to ensure that significant harm from overlooking does not occur, albeit this is within the built environment. Despite being in a more rural setting the distances of 40 metres and 35 metres indicate that significant harm to residential amenity would not occur in this instance. The dwellings are also far away enough from the neighbouring properties so that loss of light or a sense of being overbearing are not significant factors. It should also be noted that a condition can be used to ensure that any proposed boundary treatment and landscaping are acceptable to the Council. For example some medium level planting may be appropriate down the western boundary with Walnut Marches to help screen the scheme from the neighbour as the existing fence is low level.

Other neighbours will not be significantly affected by the proposals due to the substantial distances involved and the amount of boundary screening.

Any increase in noise or disturbance caused by additional traffic would be minimal and would certainly not amount to significant harm in amenity terms for any local residents.

Construction noise will be limited to normal working hours via a condition and will help prevent other forms of inconvenience during construction.

In light of the above points there will be no significant harm to neighbouring amenity meaning the proposal accords with Policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

### **Highways, Access and Parking**

Policy DP21 in the District Plan states

*"Development will be required to support the objectives of the West Sussex Transport Plan 2011 - 2026, which are:*

- A high quality transport network that promotes a competitive and prosperous economy;
- A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;
- Access to services, employment and housing; and
- A transport network that feels, and is, safer and healthier to use.

*To meet these objectives, decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*

- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

*Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*

*Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so."*

The reference to development not causing a severe cumulative impact reflects the advice in paragraph 32 of the NPPF, which states:

*"Plans and decisions should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature of the site, to reduce the need for major transport infrastructure;*
- *Safe and suitable to the site can be achieved for all people; and*
- *Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*

West Sussex County Council has been consulted on the merits of the application and their comments are set out in full within Appendix B.

In terms of car parking each unit has a double car port with additional hardstanding in front so this is a sufficient provision for each of the houses.

In their initial consultation response West Sussex requested that swept path details were submitted to demonstrate tracking for a fire tender and refuse vehicle. Such details were subsequently submitted and deemed acceptable by highways officers and the fire access and safety officer.

The applicant's trip generation assessment has also been deemed reasonable and not considered to give rise to a capacity issue for the maintained highway network for which West Sussex County Council is responsible.

The point of access onto the highway is though within Surrey County Council but as Members will have noted no objections have been raised by this neighbouring highway authority:



*"The county highway authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway requirements."*

It should be noted that cycle parking can be secured via planning condition.

The comments of East Grinstead Town Council are noted with an objection being raised citing the EG11 requirement of all new property proposals to include a traffic assessment. However, no request for additional technical information other than trip generation information and the swept paths has been made by highways officers from either West Sussex or Surrey County Councils. It should also be noted the trip generation submission was made after the East Grinstead Town Council comments. In the absence of a formal request for more information from either highways authority there are no reasonable grounds to demand further information particularly given that a transport statement would not normally be required for developments of less than 50 units.

Taking into account the above points it can be reasonably concluded that there are no sustainable reasons to refuse the scheme on highways, access or parking grounds as the proposal complies with Policy DP21 of the Submission District Plan and Policy EG12 of the Neighbourhood Plan.

## **Ecology**

The Council's Ecologist originally requested further justification from the applicant regarding the impact on species and habitat. Once this was provided the Council's ecologist has confirmed they are happy that the proposal can proceed with an appropriate condition:

*"In principle, I am satisfied that it will be possible to implement an adequate scheme of reptile mitigation / compensation so that any significant effects on local populations can be avoided. However, in my view a more detailed set of proposals is required, informed by survey work to ensure that the amount of habitat created / enhanced for them will be adequate or, as a last resort, that a translocation option is in place. Given the feasibility of this, I don't consider the absence of information to be grounds for refusal, but I would consider it reasonable to require this as a condition on any consent."*

Precautions are also warranted in respect of badgers to ensure that there is no disturbance during construction and that access to the putative secondary sett is unhindered in the long term."

It is evident from the submitted information and from the comments of the consultee that the proposal will not have a negative impact on important wildlife habitats or on a protected species. This is subject however to the imposition of an appropriate condition regarding a wildlife mitigation plan and details of habitat enhancement. With such a condition in place the application accords with Policy DP38 of the District Plan.

## **Ashdown Forest**

The Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) is a European Site of Nature Conservation Importance, which lies adjacent to the north-east boundary of Mid Sussex and within the District of Wealden. The area is protected by the European Habitats Directive and by Government Planning Policy.

Under the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations"), the competent authority, in this case Mid Sussex District Council, has a duty to ensure that any plans or projects that they regulate will have no adverse effect on the integrity of Ashdown Forest. Regulation 61 of the Habitats Regulations requires the Council to assess the possible effects of plans or projects, i.e. planning applications, on Ashdown Forest.

If the proposed development will not have a likely significant effect on the Forest, either alone or in combination with other proposed developments in the area, the Council may proceed to determine the application. However, if a significant effect is likely, either alone or in combination with other plans and projects, an appropriate assessment must be undertaken to establish whether the proposed development will have an adverse effect on the integrity of the European site. If the appropriate assessment concludes that there will not be an adverse effect on the integrity of the European site, the Council may proceed to determine the application.

There may be likely significant effects on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the protected bird species. Within 7km of the Ashdown Forest SPA, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. There are two parts to the mitigation. By providing an alternative option, Suitable Alternative Natural Greenspace (SANG) is the name given to greenspace that is of a quality and type suitable to be used as mitigation. A SANG site could either be provided on the development site itself or through a financial contribution towards a strategic SANG. The East Court and Ashplats Wood SANG Strategy has been agreed by the District Council.

The second part of the mitigation is to provide a financial contribution towards Strategic Access Management and Monitoring (SAMM) measures. The Council has produced an interim SAMM Strategy that sets out measures to protect the Ashdown Forest SPA from new recreational pressures through managing access (visitor) behaviour and monitoring both birds and visitors. The projects that form the mitigation measures have been discussed and agreed in collaboration with the Conservators of Ashdown Forest and Natural England. The interim SAMM Strategy will be superseded by a Joint SAMM Strategy which is currently being prepared with the other affected local authorities.

This proposed development site lies within 7km of the Ashdown Forest SPA and as such, mitigation is required. In this case, the SAMM Strategy would require a contribution of £9,420 and if the approved scheme provides for a strategic SANG contribution, this would be £6,099.

The applicants have agreed that they would be prepared to make a financial contribution towards the SAMM Strategy and (if the approved scheme provides for a strategic SANG contribution), the SANG Strategy. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

The financial contribution to SAMM has been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation") whilst the mitigation in relation to SANG would be secured through a planning condition and informative ("SANG Condition"). The District Council has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition. The proposed SANG Condition provides for a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the payment of a financial sum towards a SANG managed by the District Council. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (Paragraph 206 of the National Planning Policy Framework). All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions as set out in National Planning Policy Guidance (NPPG). In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition. Furthermore, the mitigation is required in order to ensure compliance under the Habitats Regulations.

The NPPG (Paragraph 005 Reference ID 21a-005-20140306) allows for the use of a negatively worded condition to: "prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure)". It is considered, therefore, in the circumstances of this case and in the light of the guidance on the use of planning conditions set out in the NPPG, that the use of a negatively worded condition is an appropriate approach to securing the necessary mitigation in relation to SANG in order to mitigate any likely significant effect on the Ashdown Forest SPA required by the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

The NPPG (Paragraph 010 Reference ID 21a-010-20140306) addresses the use of a condition requiring an applicant to enter into a planning obligation or an agreement under other powers. The guidance states that in exceptional circumstances a

negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.

2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.

3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.

4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

Natural England has also confirmed it is content with the SANG Condition approach to secure mitigation in terms of SANG.

Subject to a Planning Obligation securing the SAMM contribution being completed and subject to the imposition of an appropriate planning condition in relation to SANG being secured, it is considered that the mitigation of the recreational impact to the Ashdown Forest can be secured. The proposal therefore accords with Policy DP17 of the District Plan and EG16 of the Neighbourhood Plan.

### **Ashdown Forest - Atmospheric pollution**

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen

may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as windfall development (taking into account the previous use of the site), such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

It is considered that the proposal would not result in any significant amount of vehicular movements across the Ashdown Forest and the proposed development has in any case been incorporated into the overall results of Mid Sussex Transport work. It is therefore logical and reasonable to conclude that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

### **Other Planning Issues**

All the other issues raised during the consultation period have been taken into account and these other issues are either considered not to warrant a refusal of permission, are items that could be dealt with effectively by planning conditions or other legislation or are not even material planning considerations.

For example the Council's Drainage Engineer has confirmed that drainage matters can be dealt with adequately at condition stage and as such there is an appropriately worded condition set out within Appendix A.

Refuse vehicle tracking has been deemed acceptable by the highways authority although a condition will be needed to secure the provision of recycling/refuse locations for each plot.

The applicant has alluded to what sustainable features might be incorporated into the design of the dwellings without being specific so these can be secured via condition.

The disposal of Japanese Knotweed (as alleged by the neighbour) on site is a matter for the applicant under environmental regulations and not planning control.

The national space standards are met and there is good access to outdoor space whilst future occupiers will receive enough light despite the proximity of some of the trees.

### **Other Material Considerations**

Turning to other relevant material considerations, all aspects of the development must be weighed up in the planning balance, as set out in the NPPF as a whole. In particular, this development must be assessed against the 3 limbed definition of

sustainable development at paragraph 7, in which the planning system should perform an economic, social and environmental role.

### **The Economic Role**

Part 6 of the Localism Act was enacted on 16th January 2012. This requires the LPA to have regard to local finance considerations (so far as material to the application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and will match fund the additional council tax raised for new homes and empty properties brought back into use, with an additional amount for affordable homes, for the following six years. The New Homes Bonus is now a material planning consideration and if permitted the LPA would receive a New Homes Bonus for each of the units proposed.

The economic dimension is met by this proposal owing to the New Homes Bonus, the provision of construction jobs and an increased population likely to spend in the community.

### **The Social Role**

The NPPF seeks to promote a *"strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports its health, social and cultural well-being"*.

The provision of residential units on the site will make a positive contribution to meeting housing need whilst the site is also within a relatively sustainable location being in close proximity to the settlement edge of Felbridge.

These matters are given positive weight in the planning balance.

However, the Council can demonstrate a five-year housing land supply. National planning policy states that planning should be genuinely plan led. As the application site falls within the countryside outside of the development boundary of Felbridge, the principle of housing on this application site that is not contiguous with an existing built up area of the settlement (although the gap between the application site and the settlement boundary is only 15 metres) is considered to be contrary to the District Plan. This weighs against the proposal.

### **The Environmental Role**

The environmental role as set out in para 7 of the NPPF requires developments to contribute *"to protecting and enhancing our natural, built, and historic environment."*

There is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural, built and historic environment. In this case it is considered that the proposal would result in a visually acceptable development that is well related to the existing built up area boundary and the surrounding urban grain,

particularly when taking into account the recent planning history of approved dwellings in the vicinity.

It is considered that the impact on the character of the area will be acceptable and that the environmental role as set out in the NPPF is satisfied.

## **Conclusion**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan consists of the District Plan and the made East Grinstead Neighbourhood Plan. The application site lies in the countryside, outside the built up area of Felbridge, and thus would be contrary to policy DP12 of the District Plan as the proposals are not necessary for the purposes of agriculture and are not supported by other policies in the Plan. The aim of the policy is to protect the countryside in recognition of its intrinsic character and beauty.

Policy DP15 provides for exceptions to the presumption against new homes in the countryside in the where special justification exists. The proposals do not accord with DP15.

Policy DP6 of the District Plan is not a relevant policy as the proposal is on an application site that is not contiguous with the built up area.

Whilst the proposal conflicts with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely EG5 that does not restrict the location of new developments. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that 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 - in this case the District Plan. Only limited weight can thus be given to this policy in support of the application.

In accordance with the law, whilst this breach of district plan policy is the starting point for decision making, the Council also must have regard to other material considerations. It is considered that there are other material considerations, specific to this site, that are relevant to the application. These include:

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. In this case however the development is not

isolated or in open countryside as it is in close proximity to the built up area of Felbridge to the north east and other development to the north, west and south west. In visual terms therefore the site relates well to the built up area boundary and to the urban grain of both historic and more recent development. The site itself is quite well contained by trees along the boundaries with the fields to the south and east. The proposal would not therefore be contrary to the aims of Policy DP12.

Whilst the development lies outside of the built up area of Felbridge, it is situated in close proximity to this settlement and as such services within the village of will be accessible to future residents by means other than the private car. The site is therefore relatively sustainably located.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. The development will provide a positive economic benefit through the New Homes Bonus, construction jobs and an increased population likely to spend in the community.

The proposal will result in a neutral impact in respect of the residential amenity impact, highway safety, parking, drainage and nature conservation including the Ashdown Forest impact.

The proposal is therefore deemed to comply with the requirements of Policies DP4, DP13, DP17, DP21, DP26, DP27, DP37, DP38 and DP41 of the District Plan 2014-31 and Policies EG2a, EG3, EG5, EG7, EG11, EG12 and EG16 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

Your officers have reviewed the planning application in the context of the adopted District Plan and other material planning considerations and recommend that planning permission is granted.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

### **Time Limit**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

### **Pre-commencement**

2. The development hereby permitted shall not commence unless and until samples of materials and finishes to be used for external walls / roofs / fenestration of the proposed buildings have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.



Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

3. The development hereby permitted shall not commence 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.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan.

4. The development hereby permitted shall not commence unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include boundary treatments, and these works shall be carried out as approved.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policies DP12 and DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

5. No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2010.

6. No development shall take place unless and until the applicant has provided a sustainability statement to be submitted to and approved in writing by the local planning authority setting out what sustainable measures will be incorporated into the proposals in order to improve energy efficiency. The development shall only proceed in accordance with the approved details.

Reason: In the interests of sustainability and to accord with Policy DP39 of the District Plan.

7. No development shall commence until the following details have been submitted to, and approved by, the local planning authority:
- A wildlife mitigation plan including measures to protect, inter alia, reptiles and badgers, supported by up-to-date survey information;
  - Details of habitat enhancements including provision for long-term management.

The approved details shall be implemented in full unless otherwise approved in writing by the local planning authority.

Reason: to ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with 109 and 118 of the NPPF and Policy DP38 of the District Plan.

8. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority.

Reason: In the interests of archaeological interest and to accord with Policy DP34 of the District Plan.

### **Construction**

9. Works of construction or demolition, including deliveries and the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:
- Monday to Friday: 08:00 - 18:00 Hours
  - Saturday: 09:00 - 13:00 Hours
  - Sundays and Bank/Public Holidays: no work permitted

Reason: To protect the amenity of local residents and to comply with Policy DP26 of the District Plan.

10. The development hereby approved shall be carried out in full accordance with the tree protection measures set out within the Arboricultural Report compiled by Johnston Tree Consultancy (October 2017) and submitted with the application.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policy DP37 of the District Plan and Policy EG3 of the Neighbourhood Plan.

### **Pre-occupation**

11. No part of the development shall be first occupied until the turning areas and car parking space (including the garages) have been constructed in accordance with the approved site plan. These turning areas and car parking spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and to accord with Policy DP21 of the District Plan and Policy EG12 of the Neighbourhood Plan.

12. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with Policy DP21 of the District Plan and Policy EG12 of the Neighbourhood Plan.

13. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the 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.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity and to accord with Policies DP12 and DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

14. The residential units hereby permitted shall not be occupied until provision for bin and recycling storage has been made within the site in accordance with plans to be submitted to and approved in writing by the local planning authority. Such provision shall thereafter be retained permanently.

Reason: In the interests of sustainability and visual amenity and to accord with Policy DP26 of the District Plan.

### **Post-occupation and management conditions**

15. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended in the future, no enlargement, improvement or other alteration of the dwelling house, whether or not consisting of an addition or alteration to its roof, nor any other

alteration to its roof, shall be carried out, (nor shall any building or enclosure, swimming or other pool be provided within the curtilage of the dwelling house) without the specific grant of planning permission from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of visual amenity by protecting trees and to accord with Policies DP12, DP26 and DP37 of the District Plan and Policy EG3 of the Neighbourhood Plan.

16. 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 Applications".

Reason: For the avoidance of doubt and in the interest of proper planning.

#### INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £116 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
3. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.

4. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
5. The applicant is advised that to satisfy condition 5 above there are likely to be two options.

The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended.

The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.

6. Please be advised of the following comments from Tandridge District Council:

Further to our letter dated 4 December 2017, it appears that to facilitate the development, a new access needs to be formed and a planning application would need to be submitted to Tandridge District Council for this.

### **Plans Referred to in Consideration of this Application**

The following plans and documents were considered when making the above decision:

| <b>Plan Type</b>                   | <b>Reference</b> | <b>Version</b> | <b>Submitted Date</b> |
|------------------------------------|------------------|----------------|-----------------------|
| Location and Block Plan            | 17-1167 - PL 501 |                | 18.10.2017            |
| Proposed Site Plan                 | 17-1167 - PL 502 | A              | 22.11.2017            |
| Proposed Site Plan                 | 17-1167          |                | 18.10.2017            |
| Proposed Floor and Elevations Plan | 17-1167 - PL 503 |                | 18.10.2017            |

|                                    |                    |            |
|------------------------------------|--------------------|------------|
| Proposed Floor and Elevations Plan | 17-1167 - PL 503.1 | 18.10.2017 |
| Proposed Floor and Elevations Plan | 17-1167 - PL 504   | 18.10.2017 |
| Proposed Floor and Elevations Plan | 17-1167 - PL 504.1 | 18.10.2017 |
| Proposed Floor and Elevations Plan | 17-1167 - PL 505   | 18.10.2017 |
| Proposed Floor and Elevations Plan | 17-1167 - PL 505.1 | 18.10.2017 |
| Topographical Survey               | 17-1167 - PL 500   | 18.10.2017 |
| Other                              | 2017-3397-001      | 22.11.2017 |
| Other                              | 2017-3397-002      | 22.11.2017 |
| Other                              | 2017-3397-003      | 22.11.2017 |
| Highways Plans                     | 2017-3397-004      | 11.12.2017 |

## **APPENDIX B – CONSULTATIONS**

### **East Grinstead Town Council**

As per the committee of 13th November: Recommend Refusal. The EGNP EG11 requires ALL new properties proposals to include a traffic assessment. Until this is provided this application is invalid and cannot be determined.

The Application is not in compliance with EG2a as it further represents erosion of the boundaries between settlements. Paragraphs 4.9 and 4.10 of the EGNP specifically refer to this area as being unsuitable as coalescence.

### **MSDC Trees**

Having reviewed the submitted documents and undertaken a site visit, I must raise some concerns with the current proposals in relation to the existing trees on site...

All plots are sited far too close to existing trees, Plot 1 to the eastern row of trees and Plots 2/3 to the southern/south western (in the case of Plot 2). All trees within and on the edge of the site are of considerable size and I would anticipate heavy shading being cast over large proportions of the day. My site visit was undertaken at approximately 13:00pm on a sunny day and the majority of the site was in darkness. Seasonal nuisance, fear of failure (due to proximity) and actual or perceived damage to property are all likely to contribute to excessive pressure to fell and/or heavy prune the existing trees.

I am also unhappy with the removal of any of the central five Oak trees (T7, 16, 17, 21 & 22), as removing one or two specimens out of the group is likely to have an impact on the remaining specimens. These will be vulnerable to wind throw and will have unbalanced crowns, given that they have grown together since a very young age and have therefore adapted their crowns and root systems to suit.

Three dwellings on this site does seem unrealistic when taking the existing constraints (trees in this case) into account. Plot has a very, very poor relationship with existing trees and plot three and plot one would need to exhibit a larger space between the trees and the dwellings.

I must therefore object to this application.

## **MSDC Drainage**

Recommendation: No objection subject to conditions

### Summary and overall assessment

This proposed development will need to fully consider how it will manage surface water run-off. Guidance is provided at the end of this consultation response for the various possible methods. However, the hierarchy of surface water disposal will need to be followed and full consideration will need to be made towards the development catering for the 1 in 100 year storm event plus extra capacity for climate change. As this is for multiple dwellings, we will need to see a maintenance and management plan that identifies how the various drainage systems will be managed for the lifetime of the development, who will undertake this work and how it will be funded.

The proposed development drainage will need to:

- Follow the hierarchy of surface water disposal.
- Protect people and property on the site from the risk of flooding
- Avoid creating and/or exacerbating flood risk to others beyond the boundary of the site.
- Match existing greenfield rates and follow natural drainage routes as far as possible.
- Calculate greenfield rates using IH124 or a similar approved method. SAAR and any other rainfall data used in run-off storage calculations should be based upon FEH rainfall values.
- Seek to reduce existing flood risk.
- Fully consider the likely impacts of climate change and changes to impermeable areas over the lifetime of the development.
- Consider a sustainable approach to drainage design considering managing surface water at source and surface.
- Consider the ability to remove pollutants and improve water quality.
- Consider opportunities for biodiversity enhancement.

### Flood Risk

The proposed development is within flood zone 1 and is deemed as low fluvial flood risk.

The proposed development is within an area identified as having possible pluvial flood risk.

There are not any historic records of flooding occurring on this site and in this area. This does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

### Surface Water Drainage Proposals

It is proposed that the development will employ a system of SuDS to ensure roof rainwater is dispersed into the soil via a modern Aquacell drainage system or equal. The planning application also states that additional water storage from the roofs can

be accommodated within the gardens. We advise that the ground conditions within the area may be clay rich and therefore have poor percolation properties.

#### Foul Water Drainage Proposals

No details into how the development shall address foul water drainage have been submitted. However, the planning application suggests foul sewage shall be discharged to main sewers.

#### Suggested Conditions

##### C18F - Multiple Dwellings

The development hereby permitted shall not commence 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.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

#### **MSDC Ecology - Original**

Their ecologist needs to provide better justification for the proposed reptile mitigation in my view. Discouraging them from the site by habitat manipulation may be acceptable if the potential is limited and suitable habitat a fairly recent development within the site (e.g. following cessation of grazing) but not if the site has the potential to support established breeding populations because no alternative habitat is being offered for them to move to.

#### **MSDC Ecology - Further**

##### Recommendation

As the site is within 7km of the Ashdown Forest European sites, MSDC must be satisfied that significant effects can be avoided, in accordance with advice from, or following procedures agreed with, Natural England. Subject to this, then, in my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions.

Subject to the above then, in my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions:



No development shall commence until the following details have been submitted to, and approved by, the local planning authority:

- A wildlife mitigation plan including measures to protect, inter alia, reptiles and badgers, supported by up-to-date survey information;
- Details of habitat enhancements including provision for long-term management.

The approved details shall be implemented in full unless otherwise approved in writing by the local planning authority.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with 109 and 118 of the NPPF.

#### Comments

In principle, I am satisfied that it will be possible to implement an adequate scheme of reptile mitigation / compensation so that any significant effects on local populations can be avoided. However, in my view a more detailed set of proposals is required, informed by survey work to ensure that the amount of habitat created / enhanced for them will be adequate or, as a last resort, that a translocation option is in place. Given the feasibility of this, I don't consider the absence of information to be grounds for refusal, but I would consider it reasonable to require this as a condition on any consent.

Precautions are also warranted in respect of badgers to ensure that there is no disturbance during construction and that access to the putative secondary sett is unhindered in the long term.

### **WSSC Highways**

#### **Final Comments**

##### Context

West Sussex County Council was consulted previously on Highway Matters for this application and provided comments dated 07/12/2017. Additional details pertaining to swept path tracking for a fire tender and refuse vehicle were requested to ensure appropriate emergency access and refuse collection can take place from within the confines of the site. Subsequently a set of tracking plans and Trip Generation Assessment prepared by RGP have been submitted.

##### Tracking Plan

As previously identified the proposed dwellings are located circa 100 metres from the public highway. The access way is not straight in alignment. As a result there will likely be a requirement under building regulations for emergency access and refuse collection to take place from within the site.

The tracking plans provided demonstrate how a refuse vehicle can negotiate the access way and turn within the confines of the site layout. These details would be considered acceptable to the Local Highways Authority. The turning head has been widened to allow easier manoeuvring of a large vehicle.

No tracking plans have been provided detailing fire tender access. I will raise this with the WSCC Fire Access officer and provide additional comments in due course.

Tracking plans have been provided for a car and refuse vehicle at the site access point onto Crawley Down Road. Surrey County Council is the Local Highway Authority (LHA) for this part of Crawley Down Road and should therefore be consulted to comment on these particular tracking plans.

#### Trip Generation

A trip generation assessment has been prepared by Russel Giles Partnership. After review the conclusion of this assessment summarises that the proposal will generate 12 daily vehicle trips per day. This would be considered reasonable and not considered to give rise to a capacity issue for the maintained highway network for which West Sussex County Council is responsible.

#### Conclusion

The LPA should consult with Surrey County Council for comments pertaining to the adequacies of the access point onto the maintained network.

The proposed parking arrangements would be considered appropriate and should be secured via an appropriately worded planning condition. Similarly a cycle parking provision for each dwelling should be secured via an appropriately worded planning condition.

Additional comments pertaining to emergency access will be provided in due course.

#### **Fire Safety Officer Comments**

The plans submitted demonstrating refuse vehicle tracking would be considered acceptable for Fire Access Purposes.

#### **Original Comments**

##### Context

This application seeks the development of 3 x 5 bedroom detached houses on land east of Walnut Marches. Access is to be achieved via an existing point of access onto Crawley Down Road which currently serves Walnut Marches.

##### Access

This section of Crawley Down Road is within Surrey County for which Surrey County Council are the Local Highway Authority (LHA). The Local Planning Authority (LPA) would therefore be advised to consult with Surrey County Council for comments pertaining to the adequacies of this access point.

The dwellings themselves are located within the County of West Sussex; I will therefore provide comments pertaining to the anticipated parking requirements of the dwellings and internal access arrangements.

## Parking

Each dwelling will be provided a double bay open parking barn and additional frontage hardstanding. Having assessed this parking provision against the WSCC Car Parking Demand Calculator I can confirm that an adequate quantity of parking provision is proposed for the dwellings proposed.

Each dwelling should be provided a secure and covered cycle parking area in the interest of suitability. These facilities should be secured in perpetuity with plans and details to be submitted to and approved by the LPA.

## Other Matters

The proposed dwellings are located circa 100 metres from the public highway. The access way is not straight in alignment. As a result there will likely be a requirement under building regulations for emergency access and refuse collection to take place from within the site. While I appreciate a formalised turning head has been provided swept path tracking plans for a fire tender and appropriate refuse collection vehicle should be provided to support the proposed internal layout.

## Conclusions

The LPA should consult with Surrey County Council for comments pertaining to the adequacies of the access point onto the maintained network.

Additional details pertaining to swept path tracking for a fire tender and refuse vehicle should be provided by the applicant to ensure appropriate emergency access and refuse collection can take place from within the confines of the site.

The proposed parking arrangements would be considered appropriate and should be secured via an appropriately worded planning condition. Similarly a cycle parking provision for each dwelling should be secured via an appropriately worded planning condition.

## **Tandridge District Council**

I can confirm that Tandridge District Council does NOT OBJECT to the above planning application.

We would however like to remind Mid Sussex District Council to carefully consider the impact the proposed development would have on the Ashdown Forest Special Protection Area (SPA).

## **Surrey County Council**

Informative Note to the LPA & Mid-Sussex District Council:

The CHA notes that this is a cross-border application with direct access via an existing private access onto Crawley Down Road. However, given the level of proposed development (5 dwellings) it is unlikely to cause a significant intensification at the access onto Crawley Down Road and the CHA does not consider that there would be any road safety issues associated with the proposed development should it

receive planning permission. Additionally, the access arrangement is adequate to accommodate the increased level of traffic.

The CHA is responding to a direct request from Mid-Sussex District Council for application (DM/17/4280) and that Tandridge District Council has previously responded with no objections to raise.

Recommendation:

THE COUNTY HIGHWAY AUTHORITY has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway requirements.