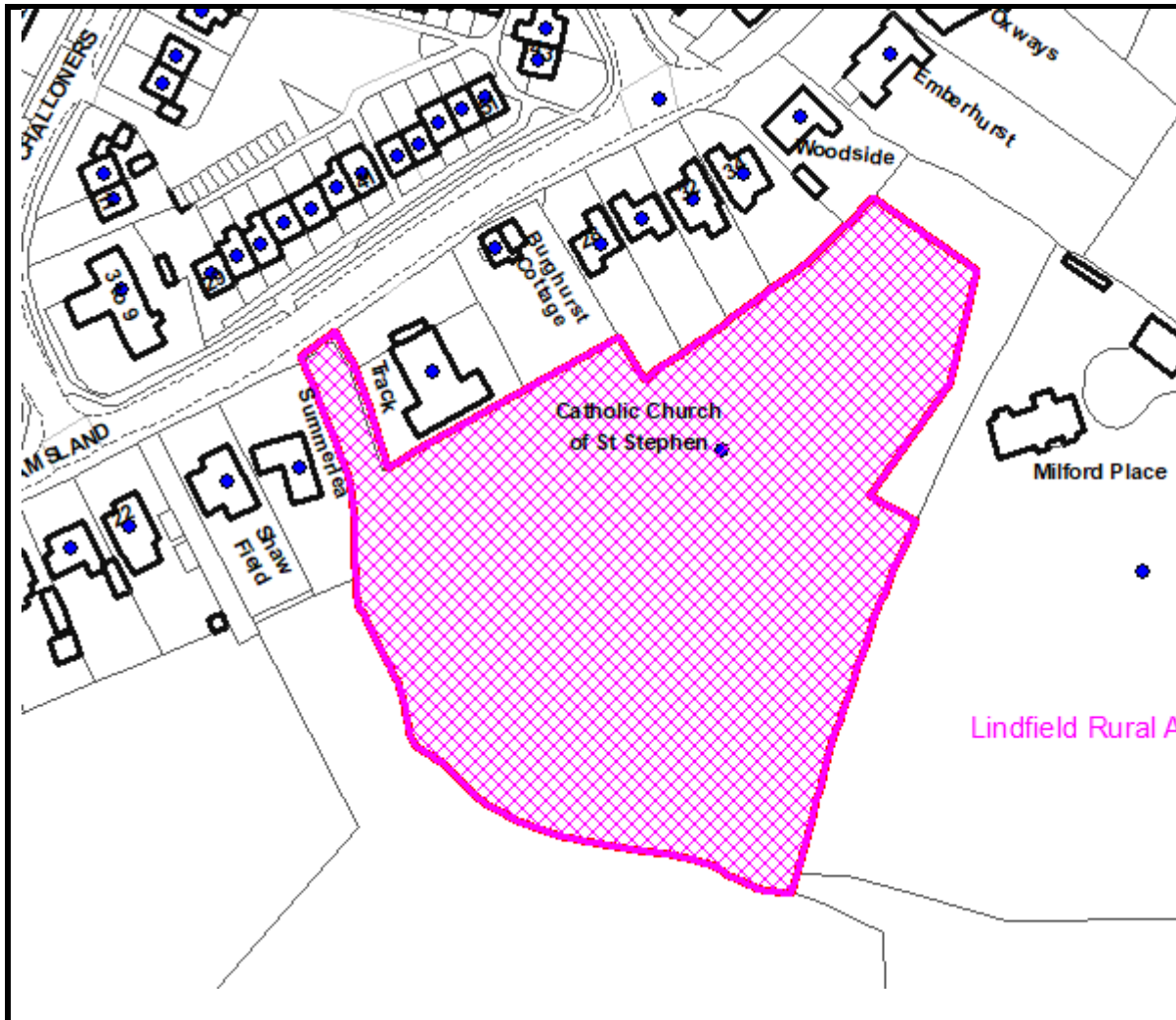


# Planning Committee

Recommended for Permission

6th July 2023

DM/20/4692



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<b>Site:</b>	Land South Of St Stephens Church Hamsland Horsted Keynes West Sussex
<b>Proposal:</b>	Proposed erection of 30 dwellings (30% affordable). There will be a mix of dwelling types including 1 bed apartments and 2, 3 and 4 bed houses. (Amended plans and additional submission received 27/4) (Further info and plans - Visibility and RSA 8/6, trees 9/6, drainage and FRA 18/6 and location plan 23/6) (Drainage Strategy and Highways Technical Note received 26/8/21 and additional highways, access and ownership information submitted 11/11/21) (Technical note and supporting letter received 14/9/22, Briefing Note on BNG and Reptile Mitigation received 6/2/23)

<b>Applicant:</b>	Rydon Homes Ltd
<b>Category:</b>	Smallscale Major Dwellings
<b>Target Date:</b>	14th July 2023
<b>Parish:</b>	Horsted Keynes
<b>Ward Members:</b>	Cllr Paul Brown / Cllr Lorraine Carvalho /
<b>Case Officer:</b>	Stuart Malcolm

**Link to Planning Documents:**

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QLQMHQKT04L00>

**Purpose of Report**

- 1.1 To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

**2.0 Executive Summary**

- 2.1 This application seeks full planning permission for the erection of 30 dwellings (30% affordable). There will be a mix of dwelling types including 1 bed apartments and 2, 3 and 4 bed houses.
- 2.2 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Horsted Keynes Neighbourhood Plan.
- 2.3 National policy (which is contained in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.
- 2.4 National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.
- 2.5 It is considered that the principle of development is acceptable. The Mid Sussex Site Allocations Development Plan Document was adopted by the Council as part of the Development Plan in June 2022. The application site, known as SA29, is allocated for 30 dwellings within the Site Allocations DPD. The built up area boundary of Horsted Keynes has been amended to include the site both within the Site Allocations DPD and the Horsted Keynes Neighbourhood Plan.
- 2.6 The detailed design and landscape impact are considered acceptable with a number of detailed elements being secured by condition to ensure the scheme is as

sympathetic to its surroundings as possible. Overall, the character and appearance of the High Weald Area of Outstanding Natural Beauty will be preserved.

- 2.7 Although the proposal will change the appearance of the site when viewed from the neighbouring properties the development will not result in unacceptable harm to neighbouring residential amenity whether through loss of light, loss of privacy, by being overbearing, noise or light pollution.
- 2.8 It is considered that the site can satisfactorily retain the important boundary trees although precise details of the construction methods of work within their Root Protection areas is to be secured. Detailed tree protection measures and additional planting, as well as a long term management plan for the landscaped areas, will also be secured. The ecological impacts of the development have been robustly assessed and considered acceptable, whilst biodiversity net gain will be secured through the legal agreement and planning condition to require a BNG plan. The legal agreement would also secure the required infrastructure contributions, the on-site affordable housing provision of 9 units and the requisite Ashdown Forest SAMM and SANG mitigation.
- 2.9 It is considered that the proposal will provide safe and convenient pedestrian and vehicular access to the site in accordance with the site allocation policy with the local highways authority confirming that the application would not result in a 'severe' detrimental impact to highway safety thereby ensuring compliance with the National Planning Policy Framework.
- 2.10 It is considered that the site could be satisfactorily drained and sustainable measures to be incorporated into the development can be secured via condition. The housing mix is considered appropriate. As such these matters are neutral in the planning balance.
- 2.11 The application therefore complies with policies DP4, DP6, DP13, DP16, DP17, DP20, DP21, DP22, DP26, DP27, DP28, DP29, DP30, DP31, DP35, DP37, DP38, DP39, DP41 and DP42 of the Mid Sussex District Plan, Policies SA GEN, SA10, SA11, SA29 and SA38 of the Mid Sussex Site Allocations DPD, Policies HK1, HK3, HK4, HK5, HK9, HK10, HK11, HK12, HK13 and HK17 of the Horsted Keynes Neighbourhood Plan, the Mid Sussex Design Guide, the High Weald AONB Management Plan, the High Weald Housing Design Guide and the NPPF.
- 2.12 A key consideration in this case is the impact on heritage assets. The proposed development is within the setting of nearby heritage assets that are affected by this application, these being:
- Horsted Keynes Conservation Area
  - Wyatts (Grade II listed),
- 2.13 In this case it is considered that the development will lead to less than substantial harm to the setting of Wyatts, this being towards the mid level on that scale. This means there is some conflict with Policy DP34 of the District Plan and Policy HK6 of the Neighbourhood Plan. In such cases, para 202 of the NPPF is clear on how the local planning authority needs to assess the application:

*“202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

- 2.14 Therefore, were there to be public benefits that outweighed the harm to the designated heritage asset, this would be a material planning consideration that could lead to an acceptance of the proposal, despite the harm to the heritage asset.
- 2.15 In this case, there would be clear social and economic benefits from the development of 30 houses on a site allocated for residential development in the Development Plan that includes 9 affordable homes. There would also be public benefits arising during the construction phase of the project and from the operational phase from additional spending in the local economy from the future residents.
- 2.16 Planning officers conclude therefore that the public benefits from this proposal will outweigh the identified less than substantial harm to the heritage asset.
- 2.17 Overall, planning officers consider that the scheme meets the key objective of the site allocation SA29 Policy which is:

*“To deliver a high quality, landscape led, sustainable extension to Horsted Keynes, which respects the character of the village and conserves and enhances the landscape and scenic beauty of the High Weald AONB, and which is comprehensively integrated with the settlement so residents can access existing facilities.”*

The application is therefore recommended for approval based on the following dual recommendation.

### **3.0 Recommendation**

#### **Recommendation A**

- 3.1 It is recommended that planning permission is granted subject to the conditions listed in Appendix A and the completion of a section 106 legal agreement to secure the required SAMM and SANG mitigation, the biodiversity net gain provisions, infrastructure contributions and the necessary affordable housing.

#### **Recommendation B**

- 3.2 If a satisfactory planning obligation has not been completed by 14th July 2023 it is recommended that the application be refused at the discretion of the Assistant Director for Planning and Sustainable Economy for the following reasons:

1. The proposal fails to provide the required affordable housing or infrastructure contributions. The application therefore conflicts with Policies DP20 and DP31 of the Mid Sussex District Plan, Policy SA GEN of the Mid Sussex Site Allocations DPD.

2. The application fails to mitigate its impact on the Ashdown Forest SPA and SAC, contrary to Policy DP17 of the Mid Sussex District Plan 2014-2031, Policy HK10 of the Neighbourhood Plan, Policy SA GEN of the Mid Sussex Site Allocations DPD and the provisions contained within the National Planning Policy Framework.

3. The proposal fails to make provisions for securing biodiversity net gain. The application therefore conflicts with Policy SA GEN of the Mid Sussex Site Allocations DPD and Policy HK10 of the Horsted Keynes Neighbourhood Plan.

## 4.0 Summary of Representations

4.1 A total of 268 representation documents have been received across the lifetime of this application with this including a number of re-consultation periods. The representations have raised a number of issues, which can be summarised as follows:

- Inaccuracies in applicant's supporting information on highways and access arrangements;
- Company debarred from Govts Help to Buy scheme and has failed to sign developer remediation contract so wrong to grant consent
- Transport review commissioned by Hamsland Action Group concludes that there is conflict with SA29 in providing safe and convenient pedestrian access, both along Hamsland and into the proposed development.
- Pedestrian visibility inadequate
- Inaccurate access drawings
- Radius measurements of bellmouth incorrect
- Swept path analyses for larger vehicles are inaccurate
- Delivery of access requires use of third party land.
- Insufficient forward visibility
- Conflicts with development plan policies
- When geometry of junction considered, along with habitual behaviours of highways users and the failure of the plans to conform to standards, the applicant's failure to rectify issues means the plans are not policy compliant
- Waste vehicles may be bigger in future making access issues more problematic
- Original Transport Statement deeply flawed
- Development will make problem of vehicles having to drive on verge and pavement along Hamsland even worse as Hamsland effectively single lane because of parked cars
- Pedestrian safety along Hamsland not addressed as per SA29 and the main modifications made by Planning Inspector
- Car parking surveys inaccurate along Hamsland and resident led surveys indicate higher numbers of parked cars
- Displacement of vehicles on street during construction of layby unacceptable;
- Multipoint manoeuvring of larger vehicles will be required at access
- Site access boundary inaccurate leading to wrong splay requirements
- Causes harm to the character of the AONB
- Should be classed as 'major' development in AONB for purposes of NPPF.
- Does not preserve the setting of Wyatts, a grade II listed building and such heritage assets are irreplaceable resources
- Housing numbers should be reduced
- Greater buffer zones to existing trees should be put in
- Could larger vehicles, including emergency vehicles access the site adequately
- Intrusion into the countryside and affects a large number of people
- Hamsland is effectively a large cul de sac of nearly 120 homes and often gets blocked by a larger vehicle and suffers congestion
- Construction impacts will be negative such as noise, dust, fumes, poor air etc
- Additional cars along Hamsland will be a hazard
- Light pollution
- Services to site not accurately established
- Scale inappropriate on the edge of village site
- Cramped layout and too dense

- Conflicts with NPPF
- Poor amenity for future residents
- Adversely affects rural character of site
- Inadequate protection of trees to satisfy SA29 requirements
- Construction will damage tree roots, reduce water supply and will result in branch removal and canopy raising that will harm trees and their appearance and stability
- Proposal for tree impact do not follow British Standard – BS5837:2012
- No details submitted on construction traffic impacts and proposals for mitigation
- Water supply limited to existing homes
- Biodiversity offsetting site not suitable given it is different habitat and soil type
- Can net gain even be achieved on the offsetting site?
- Development does not protect flora and fauna within the site itself
- Assessments of site habitats not detailed enough
- Conflict of interest for the Council to determine this application as they own land to the west and that may lead to future development
- Loss of a greenfield site
- Additional impact on already stretched utilities
- Additional traffic will adversely affect condition of local roads that are already damaged
- Harm caused to Ashdown Forest as within 7km
- Overlooking to neighbouring residential properties
- Loss of outlook from neighbouring properties and development is overbearing
- Design of houses is more suited to urban environments
- Economic benefits to village could be secured by less intrusive development
- Provision of a gas tank is not acceptable
- Not enough electric vehicle charging points
- Not enough car parking spaces
- Proposed gardens are too small
- Not enough communal outdoor areas
- Dimensions should be marked on plans
- Horsted Keynes is not very sustainable as it is only served by one bus route
- Other sites in Horsted Keynes more suitable for housing development
- Adverse impact on conservation area
- No local need and site not allocated in Neighbourhood Plan
- Lack of supporting infrastructure and increased pressure on existing
- Layout would not prevent future development on adjoining land
- Could lead to big retail facility in village
- Application submitted before Site Allocations DPD process was complete
- Local feeling against this site not taken into account
- Rebuttal statements from applicant not adequate or accurate
- Insufficient parking in development
- Badgers located in site
- Will drainage damage habitats for biodiversity
- School too small to take extra pupils
- Lack of information on existing archaeological potential
- Loss of views across countryside including Sussex Border Path
- Site should not be allocated for development
- Noise from houses should be contained
- Visible from long distance views
- Could impact Dark Skies of AONB
- Harms views from conservation area
- Scheme appears overdevelopment

- Conclusions of various supporting documents like the Landscape and Visual Impact Assessment and Flood Risk Assessment appear incorrect
- No benefits to the scheme
- Conflicts with settlement pattern of this small historic village
- Will cause drainage problems
- Sustainability statement makes very few commitments
- Pumping of sewage not sustainable
- Pedestrian visibility is not adequate and does not comply with advice on other local development
- Swept Path Analysis is not adequately shown for large refuse vehicles
- Radius dimensions shown on access plan are inaccurate and this will reduce footway width
- Third party land appears necessary in order to secure the pedestrian visibility splays
- The priority junction access does not conform to the required minimum standards on forward visibility. No relaxation of Design Standards have been submitted to justify departure and road safety compromised.
- Conflicts with Policy SA29 highways and access requirements and fails to meet recognised design standards
- WSCC and applicants latest rebuttal does not alter the findings.
- Parking issues on Hamsland could prevent access, including for emergency vehicles
- Additional pressure on traffic and existing parking issues
- Application fails to recognise that Hamsland is a cul de sac
- Safety issues at access
- No details on levels
- No details on sustainable travel improvements
- Stage 1 Safety Audit not carried out at appropriate time
- Predicted traffic flows a concern
- No construction details
- Representations made by residents under Site Allocations process suggest this application should be refused
- Amendments made to application and the additional submissions do not alter resident views
- Brownfield sites should be prioritised
- Removal of grass verge opposite will reduce safety
- Only need 1 and 2 bed houses in Horsted Keynes
- No homes proposed for disabled residents
- Affordable homes poorly located
- Wide variety of protected and non protected species use the site and will be affected

Sussex Badger Trust: Badgers are protected and a resident has provided evidence of badgers using the site and an image of a sett entrance. Recommend that a survey should be undertaken to establish badger activity.

2 letters of support were included in the representations

## 5.0 **Summary of Consultees**

5.1 **Urban Designer:** Improvements have been made to address comments, no objection subject to conditions

5.2 **MSDC Conservation Officer:** Proposal will cause less than substantial harm, around the mid level of that scale, to the setting of Grade II Wyatts, but will not adversely affect the setting of the Conservation Area.

- 5.3 **MSDC Archaeological Consultant:** No objections subject to condition
- 5.4 **MSDC Environmental Protection,** no objection subject to conditions
- 5.5 **MSDC Waste:** No objections
- 5.6 **MSDC Landscape Consultant:** Improvements have been made to address comments, no objection subject to conditions
- 5.7 **MSDC Ecological Consultant:** Applicant has adequately addressed comments and no objection subject to conditions
- 5.8 **MSDC Tree Officer:** Improvements have been made to address comments, no objection subject to conditions
- 5.9 **MSDC Leisure Officer:** Financial contributions towards infrastructure requested
- 5.10 **MSDC Housing Officer:** No objection subject to the proposed policy compliant level of affordable housing being secured
- 5.11 **MSDC Drainage Officer:** No objection subject to conditions
- 5.12 **MSDC Contaminated Land Officer:** No objection subject to conditions
- 5.13 **West Sussex Highways:** No objection subject to conditions
- 5.14 **West Sussex County Council Lead Local Flood Authority:** No objections
- 5.15 **West Sussex Fire and Rescue Service:** No objection subject to fire hydrants conditions
- 5.16 **West Sussex County Council Infrastructure:** Financial contributions towards infrastructure requested
- 5.17 **West Sussex County Council Waste and Minerals:** No objection
- 5.18 **High Weald AONB Unit:** Some concerns but no objections made and conditions are recommended
- 5.19 **Sussex Police:** Improvements have been made to address comments, no objection
- 5.20 **Southern Water:** No objections, applicant should be aware of requirements that need to be discussed directly
- 5.21 **Wealden District Council:** No objections
- 5.22 **Natural England:** No objections subject to securing appropriate mitigation for Ashdown Forest
  
- 6.0 Summary of Parish Council Observations**
- 6.1 The **full comments are contained at the end of Appendix B** but can be summarised here as follows:



The Parish Council **objects** to the scheme

Access – Not in compliance with Policy SA29:

- 1/. Site Entrance: drawings inaccurate and splays appear to be not within applicant's control. Requests confirmation the deliverables are accurate
- 2/. Swept Path Analysis: drawings appear to be inaccurate and not comprehensive so do not demonstrate satisfactory access for waste vehicles.
- 3/. Hamsland Access: Does not address pedestrian safety along Hamsland and car parking survey is deficient to properly show highways safety risks and a road safety audit should be included

Biodiversity – net gain needs to be demonstrated but concerned that the submissions show an illogical approach to the calculations from within the site. Regarding the offsetting site, would like appropriate legal protections to secure enforcement, management and financing of the site for 30 years

Housing Mix – Policy HK3 sets out the required mix but the applicant has not demonstrated that their mix, which differs, is not practical or viable.

Zero Carbon – Fails to comply with Neighbourhood Plan Policy HK11 and Government policy and applicant should be asked to provide evaluation of how it complies with the policy.

Electric Vehicle Charging - proposal fails to make adequate provision for electric car charging within the development and applicant should demonstrate compliance with WSCC guidance/strategy.

Lighting – Neighbourhood Plan, including HK13 and Mid Sussex Policy DP29 and Design Guide control lighting and as such request that no street lights should be approved and if external lighting is necessary, it should be Passive Infrared Ray.

Trees – Very significant concerns expressed by community about impact on western boundary trees and importance reflected in Policies SA29, DP37 and HK4. Not convinced current proposal demonstrate compliance with these policies and without harming the trees.

Construction Environmental Management Plan – Would want this to be subject of condition and would like to have sight of draft from applicant prior to submission.

## **7.0 Introduction**

- 7.1 The application seeks full planning permission for the erection of 30 dwellings (30% affordable). There will be a mix of dwelling types including 1 bed apartments and 2, 3 and 4 bed houses.

## **8.0 Relevant Planning History**

- 8.1 There is no directly relevant development management planning history on the application site.

## **9.0 Site and Surroundings**

- 9.1 The application site is located on the southern side of the village of Horsted Keynes and is a land parcel measuring 1.13 hectares in area. Horsted Keynes is classified as a Category 3 Settlement in the District Plan (Policy DP6 of the District Plan) which are "*medium sized villages providing essential services for the needs of their own residents and immediate surrounding communities.*"
- 9.2 Currently the site is rough grassland and appears largely unused although the applicant has stated it has been used for horse grazing in the past.
- 9.3 The existing access to the land is directly off Hamsland which is the highway immediately to the north. The existing access leads between a residential property and St Stephens Church before the site opens up to the south and wraps a round the rear of various properties.
- 9.4 There are a number of neighbouring properties that adjoin the site. These include properties along Hamsland called Summerlea (which is the property to the west of the access), Burghurst Cottage and 28-34 Hamsland. The site also has boundaries with Woodside on Bonfire Lane in the north as well as Milford Place to the south east.
- 9.5 In terms of non residential properties, St Stephens Church on the northern side of the application site closed some time ago. An area of land owned by Mid Sussex District Council is located to the south and there is access to another field in the far south east corner. There is a small substation beyond the western boundary towards the north of the site.
- 9.6 The site is largely level near the access with Hamsland but slopes down towards to the south east.
- 9.7 One of the key characteristics of the site are a number of trees around the perimeter. There are mature hedgerows and trees along both the western/south-western and the south-eastern boundary.
- 9.8 In terms of nearby heritage assets, these are described in more detail in the 'Heritage' assessment section of the report (12.4). The nearby heritage assets that are affected by this application are considered to be:
- Horsted Keynes Conservation Area
  - Wyatts (Grade II listed)
- 9.9 In planning policy designation terms, the site is located within the built up area of Horsted Keynes (with more details on this specific issue in the principle section 12.1.9 – 12.1.10) as well as the High Weald Area of Outstanding Natural Beauty.

## **10.0 Application Details**

- 10.1 The application seeks full planning permission for the erection of 30 dwellings on the site. There are 24 houses and a block of 6 flats located centrally. This will consist of the following mix of units:
- 6 x 1 bed
  - 9 x 2 bed
  - 12 x 3 bed
  - 3 x 4 bed
- 10.2 Of these 30 units, 30% will be affordable with this equating to 9 units comprised of 6 x 1 bed flats and 3 x 2 bed houses.
- 10.3 The existing access point onto Hamsland will be utilised to create the permanent access to the site. This will be for pedestrians and vehicular access. The applicant also intends to provide a layby on the northern side of Hamsland, within the highway boundary, for approximately 10 cars that will have the effect of increasing the width of the road around the site access whilst maintaining the level of on street car parking.
- 10.4 The new access road, with a footpath on the eastern side, will lead south into the main part of the site with four detached houses located on the eastern side. The main access road then leads east into the site where detached and semi-detached houses are located on either side of the road and the block of six flats is located in a central position. A further spur access road leads south and broadly follows the western boundary as it leads to a further four detached houses.
- 10.5 This layout results in a number of houses along the northern boundary with Plots 1, 5 and 17 being side on and 14-16 being rear on to some of the adjoining properties along Hamsland.
- 10.6 In respect of the design of the dwellings, the applicant has stated that they have had reference to the High Weald Housing Design Guide which has informed their proposals. Features and materials incorporated into the design include half hipped, hipped and catslide roofs, simple porch canopies, clay tile roofs, hanging tile facades, brick ground floor elevations with tile hanging or weather boarding at first floor and tall chimney stacks.
- 10.7 Car parking is typically in individual spaces within the boundary of each plot which includes garages, or within small courtyard parking areas with two such areas to the west and east of the flats. 65 spaces are proposed in total.
- 10.8 The applicant has stated that their landscape strategy is integral to the proposal and includes ensuring the retention of existing trees, limiting the views of the site from the wider landscape and promoting ecology.

## **11.0 Legal Framework and List of Policies**

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

- 11.2 Using this as the starting point the Development Plan for this part of Mid Sussex consists of the District Plan, the Site Allocations Development Plan Document (SADPD) and the Horsted Keynes Neighbourhood Plan.
- 11.3 National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan but is an important material consideration.

### **Mid Sussex District Plan**

- 11.4 The District Plan was adopted in 2018. Relevant policies specific to this application include:

DP4 – Housing  
DP6 – Settlement Hierarchy  
DP13 - Coalescence  
DP16 - High Weald AONB  
DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
DP20 – Securing Infrastructure  
DP21 - Transport  
DP22 - Rights of Way and other Recreational Routes  
DP26 - Character and Design  
DP27 - Dwelling Space Standards  
DP28 - Accessibility  
DP29 - Noise and Light Pollution  
DP30 – Housing Mix  
DP31 – Affordable Housing  
DP34 - Listed Buildings and Other Heritage Assets  
DP35 – Conservation Areas  
DP37 - Trees, Woodland, Hedgerows  
DP38 - Biodiversity  
DP39 - Sustainable Design and Construction  
DP41 - Flood Risk and Drainage  
DP42 - Water Infrastructure and the Water Environment

### **Site Allocations DPD**

- 11.5 The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031. Relevant policies specific to this application include:

SA GEN - General Principles for Site Allocations  
SA10 - Housing  
SA11 – Additional Housing Allocations  
SA29 – Allocation of Land south of St. Stephens Church, Hamsland, Horsted Keynes  
SA38 – Air Quality

### **The Horsted Keynes Neighbourhood Plan**

- 11.6 The Horsted Keynes Neighbourhood Plan was adopted in May 2023. Relevant policies include:

- HK1 – Location of New Development
- HK3 – Dwelling Mix
- HK4 – Maintaining Local Character and Good Quality Design
- HK5 – Infill Development and Domestic Extensions
- HK6 – Conserving Local Heritage
- HK9 – The High Weald Area of Outstanding Natural Beauty
- HK10 – Protection and Improvement of Natural Habitats
- HK11 – Low Carbon design and renewable energy schemes
- HK12 – Sustainable Drainage System Design and Management
- HK13 – Light Pollution
- HK17 – Cycleways and Footways

### **Mid Sussex District Plan 2021-2039 Consultation Draft**

11.7 The District Council is now in the process of reviewing and updating the District Plan. The new District Plan 2021 - 2039 will replace the current adopted District Plan. The draft District Plan 2021-2039 was published for public consultation on 7th November and the Regulation 18 Consultation period ran to 19th December 2022. No weight can currently be given to the plan due to the very early stage that it is at in the review process.

### **Mid Sussex Design Guide Supplementary Planning Document (SPD)**

11.8 The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

### **National Planning Policy Framework (NPPF) (July 2021)**

11.9 The NPPF is a material consideration. Paragraphs 8 and 11 are considered to be particularly relevant to this application as are Chapters 5, 9, 15 and 16 generally.

### **National Planning Policy Guidance (NPPG)**

### **National Design Guide**

### **Listed Building and Conservation Area (LBCA) Act 1990**

### **The High Weald Area of Outstanding Natural Beauty Management Plan 2019-2024**

### **The High Weald Housing Design Guide**

### **MSDC Developer Infrastructure & Contributions SPD (2018)**

### **MSDC Affordable Housing SPD (2018)**

### **West Sussex County Council Guidance on Parking at Developments (May 2019)**

### **Report on the Examination of the Mid Sussex Site Allocations Development Plan Document (The Planning Inspectorate 30<sup>th</sup> May 2022)**

## 12.0 Assessment

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

- Principle of Development
- Design, Visual Impact and effects on High Weald Area of Outstanding Natural Beauty
- Highways, Access and Parking
- Impact on heritage assets
- Residential Amenity and Pollution
- Trees
- Ecology
- Ashdown Forest
- Infrastructure
- Affordable Housing
- Flood Risk and Drainage
- Sustainability
- Water Supply
- Housing Mix
- Other Issues

### Principle of Development

12.1.1 Policy DP4 of the District Plan refers to Housing supply and sets out what the objectively assessed need (OAN) for the District is and how that is intended to be met:

*“The District’s OAN is 14,892 dwellings over the Plan period. Provision is also made of 1,498 Area. There is a minimum District housing requirement of 16,390 dwellings between 2014 – 2031.*

*The Plan will deliver an average of 876 dwellings per annum (dpa) until 2023/24. Thereafter an average of 1,090 dpa will be delivered between 2024/25 and 2030/31, subject to there being no further harm to the integrity of European Habitat Sites in Ashdown Forest.*

*The Council commits to commencing preparation of a Site Allocations DPD in 2017 to be adopted in 2020. The DPD will identify further sites which have capacity of 5 or more residential units. The Council will review the District Plan, starting in 2021, with submission to the Secretary of State in 2023.”*

12.1.2 The commitment to a Site Allocations DPD is therefore a requirement of Policy DP4. The Site Allocations DPD was then prepared, consulted upon, independently examined and subsequently adopted by the Council as part of the Development Plan in June 2022.

12.1.3 Policy SA10 of the Site Allocations DPD refers to the DP4 housing requirements and updates the spatial distribution of housing requirement in order to meet the identified housing target for the District within the Plan period.

12.1.4 Policy SA11 (Additional Housing Allocations) states that:

*“In addition to the strategic site allocations set out in District Plan Policy DP4: Housing, development will be supported at the additional site allocations, through a comprehensive approach involving the community, local planning authority, developer and other stakeholders, where development meets the requirements set out within the Policy Requirements SA12 to 33, SA GEN: General Principles for Site Allocations and are in accordance with the Development Plan read as whole.”*

The application site, known as SA29 in the Site Allocations DPD is allocated for 30 dwellings, with the overall number allocated across the District in the document being 1704.

12.1.5 As noted at para 11.1, planning legislation requires that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the application site is allocated for housing development within the Mid Sussex Site Allocations Development Plan Document by virtue of Policy SA29. It is therefore development plan policy, subject to meeting various criteria, that this site be developed for housing.

12.1.6 Policy SA29 sets the number of dwellings for the site as 30 and states that the Objective is:

*“• To deliver a high quality, landscape led, sustainable extension to Horsted Keynes, which respects the character of the village and conserves and enhances the landscape and scenic beauty of the High Weald AONB, and which is comprehensively integrated with the settlement so residents can access existing facilities.”*

12.1.7 As well as this objective, Policy SA29 also sets out a number of other criteria that need to be met which fall under the following headings:

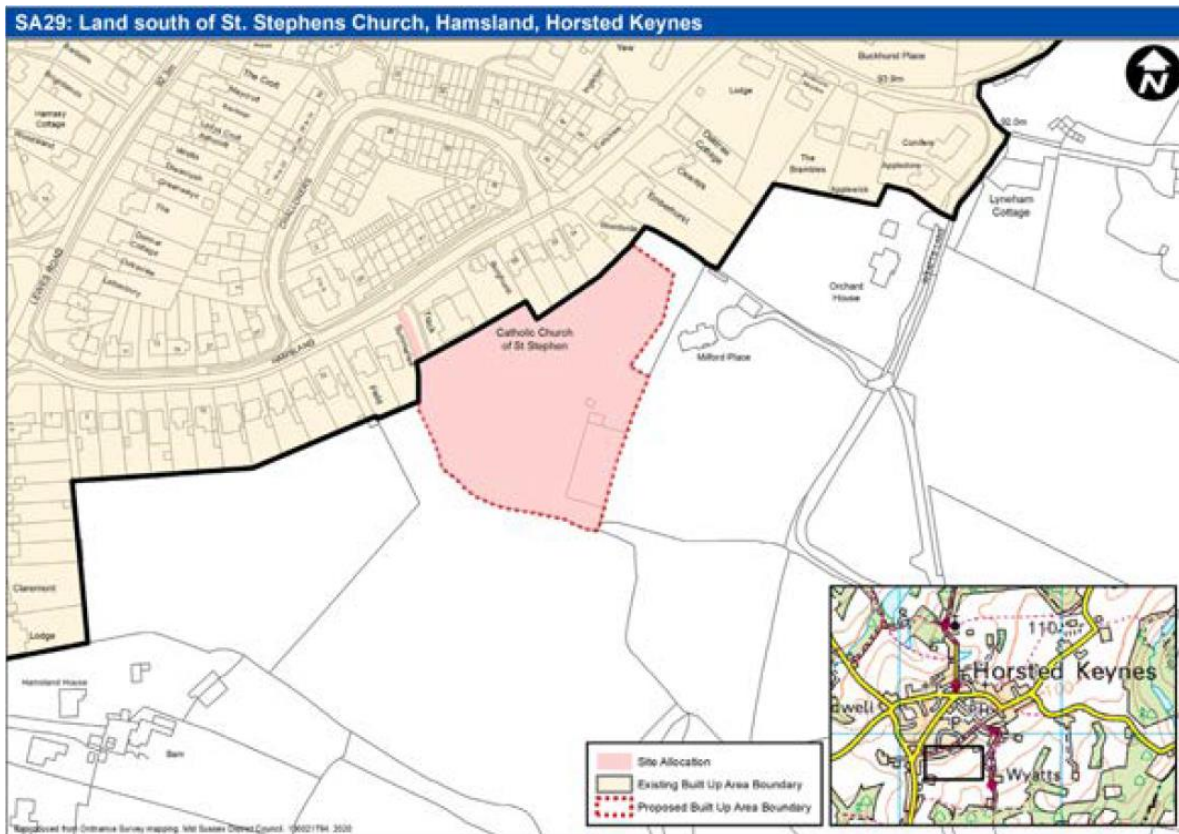
- *Urban Design Principles*
- *AONB*
- *Historic Environment and Cultural Heritage*
- *Biodiversity and Green Infrastructure*
- *Highways and Access*
- *Flood Risk and Drainage*
- *Contaminated Land*

These criteria are referenced in the relevant sub-sections of the report in the assessment section.

12.1.8 As well as these criteria specific to the Policy SA29 allocation, the Sites DPD also sets out a number of General Principles that are relevant to all allocated sites within the document. These are also referred to in more detail within the relevant sub-sections of the assessment section but fall within the following headings:

- *Key Objectives*
- *Urban Design Principles*
- *Landscape Considerations*
- *Social and Community*
- *Historic Environment and Cultural Heritage*
- *Air Quality, Light, Noise and Amenity*
- *Biodiversity and Green Infrastructure*
- *Access and Highways*
- *Flood Risk and Drainage*
- *Ashdown Forest*
- *Utilities*
- *Sustainability*
- *Contaminated Land*
- *Minerals Safeguarding*

12.1.9 An important point to note from the Policy Allocation is that SA29 amends the location of the built up area boundary to include the application site:



12.1.10 The site is also shown as within the built up area in the Horsted Keynes Neighbourhood Plan (Chapter 4: Location of Development and The Built-Up Area Boundary) that also forms part of the Development Plan.

12.1.11 Regarding Neighbourhood Plan site allocations, Chapter 9: Site allocations sets out at para 9.6 that:



*“The Neighbourhood Plan’s housing strategy is that no additional site allocations are proposed in this NDP, as the MSDC Site Allocations DPD, combined with existing completions and commitments, will meet the identified local housing requirement for the plan period in full, as set out in Table A below*

<b>Table A: Housing land supply position at 31 December 2021</b>	
Completions (1 April 2014 - 31 December 2021) and commitments at 1 November 2019	9 dwellings
Contribution from C2 residential institutions arising from completions and commitments at Westall House, based on the guidance in the DCLG Housing Delivery Test Measurement Rule Book (20 units at a ratio of 1.8)	11 dwellings
Allocations made in the MSDC Site Allocations DPD: SA28 land south of Old Police House (25) and SA29 land south of St. Stephen’s Church (30)	55 dwellings
<b>TOTAL</b>	<b>75 dwellings</b>

12.1.12 This strategy manifests itself into Neighbourhood Plan policy by virtue of HK1 (Location of new development) which states in part that:

*“New development in Horsted Keynes parish will be focused within the built-up area boundary (BUAB) of Horsted Keynes village as identified on the Policies Map, including allocations in the adopted Site Allocations DPD (sites SA 28 and SA 29). This is in order to promote sustainable development of the village and to safeguard the nationally important landscape of the High Weald AONB. Any infilling or redevelopment within the BUAB should be of an appropriate scale and nature and not harm the character and function of the village.”*

12.1.13 At national level, the NPPF makes clear the importance of significantly boosting the supply of homes. Para 60 of the NPPF states that:

*“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”*

12.1.14 Based on the above, it is clear that the proposal has support in principle both through development policy and material planning considerations.

### **Design, Visual Impact and effects on High Weald Area of Outstanding Natural Beauty**

12.2.1 As indicated, the application site is within the High Weald Area of Outstanding Natural Beauty. The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which at Section 82 reaffirms the primary purpose of AONBs: *‘to conserve and enhance natural beauty’*. Section 84 of the CRoW requires Local Planning Authorities to *‘take all such action as appears to them expedient for accomplishment of the purpose of conserving and enhancing the natural beauty of the AONB’*.

12.2.2 In this respect DP16 of the District Plan states that development within the High Weald Area of Outstanding Natural Beauty (AONB) will only be permitted where it

conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan. The policy states in part that:

*'Development within the High Weald Area of Outstanding Natural Beauty (AONB), as shown on the Policies Maps, will only be permitted where it conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan, in particular,*

- *the identified landscape features or components of natural beauty and to their setting,*
- *the traditional interaction of people with nature, and appropriate land management,*
- *character and local distinctiveness, settlement pattern, sense of place and setting of the*
- *AONB, and*
- *the conservation of wildlife and cultural heritage."*

12.2.3 There is a similar Policy at Neighbourhood Plan level with HK9 stating:

*"As appropriate to their scale, nature, and location, development proposals should conserve and enhance the following components of the landscape in the parish which, taken together, help to make it of national importance:*

- *take opportunities, where watercourses and water bodies are within or adjacent to the development site, to restore their natural function in order to improve water quality; prevent flooding and enhance wetland habitats;*
- *respect the settlement pattern of the parish and use local materials (see paragraph 5.29) that enhance the appearance of development and help to reconnect development with the landscape;*
- *relate well to historic routeways and do not divert them from their original course or damage their rural character by loss of banks, hedgerows, verges or other important features;*
- *do not result in the loss or degradation of Ancient Woodland or historic features within it and, where appropriate contribute to its ongoing management;*
- *conserve and enhance the ecology of fields, trees and hedgerows; retain and reinstate historic field systems and the boundaries which define them; and direct development away from medieval or earlier fields, especially where these form coherent field systems with other medieval features.*

*Residential development should utilise the guidance in the High Weald Housing Design Guide (2019) in order to meet the requirement for landscape-led designs which conserve and enhance the special character of the AONB and also comply with policies HK4 and HK5 of this plan.*

*Development proposals need to exercise particular care in protecting and enhancing the AONB by respecting the key features above, which are identified in the High Weald AONB Landscape Character Maps"*

12.2.4 Paragraph 176 of the NPPF states that "Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues."

12.2.5 In more general design and visual amenity terms, Policy DP26 of the District Plan states:

*'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- is of high quality design and layout and includes appropriate landscaping and greenspace,*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance,*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape*
- protects open spaces, trees and gardens that contribute to the character of the area,*
- protects valued townscapes and the separate identity and character of towns and villages,*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29),*
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible,*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed,*
- positively addresses sustainability considerations in the layout and the building design,*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre, larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element,*
- optimises the potential of the site to accommodate development."*

12.2.6 At Neighbourhood Plan level, Policy HK4 (Maintaining Local Character and Good Quality Design) and HK5 (Infill Development and Domestic Extensions) state that:

#### HK4

*"All development should maintain the distinct local character and demonstrate good quality design. This means recognising the significance of the village setting, responding to it, and integrating with local surroundings and landscape context as well as the existing built environment and in particular:*

- achieving high quality design that respects the scale, bulk and character of existing and surrounding buildings; and*
- ensuring proposals relate to established plot widths within streets where development is proposed, particularly where they establish a rhythm to the architecture in a street; and*
- using good quality materials that complement the existing palette of materials used within Horsted Keynes; and*
- demonstrating where possible innovation to achieve low carbon sustainable design (as per policy HK11); and*
- adopting the principles of sustainable urban drainage, where applicable (as per policy HK12); and*
- respecting the natural contours of the site and protecting and sensitively incorporating well-established natural features of the landscape including trees, species-rich hedgerows and ponds within the site; and*
- providing sufficient external amenity space, refuse and recycling storage and car and bicycle parking to ensure a high quality and well managed streetscape. New, improved utility infrastructure will be encouraged and supported in order to meet the identified needs of the community."*

## HK5

*“Proposals for infill development and domestic extensions within the built-up area boundary will be supported where they comply with the following criteria:*

- the spacing between buildings reflects the character of the street scene (in the case of domestic extensions, the scale, height and form must fit unobtrusively with and be subservient to the existing building); and*
- existing gaps between buildings which provide important views out of the village to the surrounding countryside (as referenced within paragraph 5.29 above) are retained; and*
- materials are compatible with materials of existing/surrounding buildings; and*
- suitable access and on-site parking is provided without detriment to neighbouring properties; and*
- there is no unacceptable harm to the amenity of adjoining residents in respect of access, noise, privacy, daylight, sunlight and outlook is retained.*
- Preserving and enhancing heritage assets and their wider settings, including conservation areas, listed buildings and areas of archaeological interest (see also policy HK6).*

*Development outside the built-up area boundary that complies with policy HK1, including small scale domestic extensions, should also meet the criteria listed above.”*

12.2.7 At site allocation level, and in respect of both ‘Urban Design Principles’ and the ‘AONB’, Policy SA29 requires:

### *“Urban Design Principles*

- Contribute towards the local character and local needs of Horsted Keynes village and the High Weald AONB by providing a mix of dwelling types and sizes, including a proportion of smaller terraces or flats, ensuring contextual architectural style and detailing in the design of the development.*
- Enhance the connectivity of the site with Horsted Keynes village by providing pedestrian and/or cycle links to Hamsland and adjacent networks.*
- Orientate development to provide a positive active frontage in relation to the existing settlement, open space and attractive tree belts.*
- Concentrate higher density development towards the northern part of the site, reflecting the existing settlement pattern, with a lower density around the edges to create a suitable transition with the countryside.*

### *AONB*

- Ensure that the site layout, capacity and landscape mitigation requirements are informed by the recommendations of a Landscape and Visual Impact Assessment (LVIA) in order to conserve and enhance the landscape of the High Weald AONB, as set out in the High Weald AONB Management Plan.*
- Identify and protect important views into and out of the site with proposals laid out so that views are retained and, where possible enhanced to both improve legibility and the setting of development.*
- Retain and enhance important landscape features, mature trees and hedgerows and incorporate these into the landscape structure and Green Infrastructure proposals for the development to limit impacts on the wider countryside. Open space is to be provided as an integral part of this landscape structure and should be prominent and accessible within the scheme.”*

12.2.8 Similarly, and again in respect of ‘Urban Design Principles’ and ‘Landscape Considerations’, Policy SA GEN requires:

*“Urban design principles*

- *Design new development in accordance with District Plan Policy DP26: Character and Design and with the design principles set out in the Mid Sussex Design Guide SPD.*
- *Sites within the High Weald AONB are to have regard to the High Weald Housing Design Guide.*
- *Provide a high degree of integration and connectivity between new and existing communities.*
- *Design new development at a density that is appropriate for the location.*
- *Make a positive contribution towards local character and distinctiveness.*
- *Create safe communities through appropriate design and layout that reduces the likelihood of crime and anti-social behaviour.*

*Landscape considerations*

- *Undertake Landscape and Visual Impact Assessment or Appraisal (LVIA) on any rural and edge of settlement sites. In the AONB the LVIA will utilise the AONB Management Plan components as landscape receptors. The LVIA will need to inform the site design, layout, capacity and any mitigation requirements.*
  - *Development in the High Weald AONB or within its setting will need to conserve and enhance the natural beauty of the High Weald, as set out in the High Weald Management Plan 2019- 2024 and District Plan Policy DP16: High Weald Area of Outstanding Natural Beauty.*
  - *Development within the setting of the South Downs National Park will need to be consistent with National Park purposes and special qualities, as set out in the South Downs Local Plan and South Downs Partnership Management Plan and with District Plan Policy DP 18: Setting of the South Downs National Park.*
  - *Provide a Landscape Strategy to identify how natural features on site have been retained and incorporated into the landscape structure and design of the site and informed the landscaping proposals for the site.*
  - *Where development is required to adopt a landscape led approach, including all developments within the AONB or its setting; this includes respecting the local character of the area in built form by utilising appropriate architectural design, site layout and density which complements and contributes to the overall character and appearance of the area.*
- Arboricultural Impact Assessment and Arboricultural Method Statements will be required for all sites where development will be within 5 metres of any trees.”*

12.2.9 The Mid Sussex Design Guide also contains a number of relevant principles with the following being particularly relevant to the application:

- Principle DG3 (Work with the site’s natural features and resources)
- Principle DG13 (Provide positive frontage to streets)
- Principle DG16 (Create a positive development edge)
- Principle DG38 (Design buildings with architectural integrity and a sense of place)
- Principle DG41 (Addressing sloping sites)

12.2.10 The detailed design and visual impacts of the proposal have been subject to comments from the Urban Designer. The full comments are set out in Appendix A, with the ‘further’ comments being of most relevance as they are in response to the latest drawings. This is because concerns with the originally submitted drawings

were expressed by the Urban Designer. These concerns related to the layout around the western boundary, the relationship of some plots with the slope and the details design of some of the properties.

12.2.11 The applicant sought to address these comments and presented further information during the planning process that was subject to re-consultation.

12.2.12 The Urban Designer assessed these submissions and provided his 'further' comments on the scheme and confirmed that the following matters had been addressed:

- Amendments to western boundary layout to provide active street frontage to address SA29 and Principle DG16 (Create a positive development edge) of the Mid Sussex design Guide.
- Plot 18 being moved away from a tree and re-designed
- Amendments to a number of plots to better respond to the natural slope of the land
- Amendments to the detailed design and application of materials

12.2.13 The Urban Designer concludes his comments by providing the following overall assessment:

*“In conclusion, the revised drawings satisfactorily address my previous issues in respect of the layout and elevations. The proposal successfully integrates parking and is generally well landscaped with good street enclosure. While it is a shame that no usable open space is included, the size of the scheme does not require it. Consequently, the scheme now sufficiently accords with policy DP26 of the District Plan and the principles in the Council’s Design Guide. I therefore raise no objections to this application but to secure the quality of the design, I would recommend conditions requiring the further approval of the facing materials and the details of the hard/soft landscaping including the boundary treatment and the details of the pumping station.”*

12.2.14 The scheme therefore receives support from the Urban Designer and the requested conditions are set out in Appendix A.

12.2.15 Regarding the wider landscape impact, both the Council's Landscape Consultant and the High Weald AONB Unit have commented on the proposals with their full comments set out in Appendix B.

12.2.16 The applicant has submitted a Landscape and Visual Appraisal which is one of the local requirements of both SA29 and SA GEN. This supporting document concludes that:

*“In conclusion overall, the proposed development is acceptable in terms of effect on the visual amenity and views experienced by users of the local landscape and the wider landscape beyond the site boundary and the development will benefit the character of the settlement edge.”*

12.2.17 The Council's Landscape Consultant has stated that this conclusion is not disputed and that the report has provided an accurate description of the baseline landscape and visual context for the site and surrounding area. The consultant did however identify some issues with the originally submitted plans that were similar to the same point raised by both the Urban Designer and Tree Officer about the layout in respect

of the boundary trees. As noted, in the SA29 and SA GEN policies, the retention of the boundary trees is required.

12.2.18 The applicant's resubmissions sought to address these comments as further information and amended plans were provided. Upon re-consultation, the Council's Landscape Consultant has raised no objections and concluded that:

*“With regard to your request for comments on the revised scheme I can confirm that the revisions do address my previous concerns. I recommend that the application can be supported subject to the conditions outlined in my comments dated 3.2.21.”*

12.2.19 In their recommendations, the Landscape Consultant has suggested conditions securing:

- Soft Landscaping Scheme to reinforce the tree belt
- Hard Landscaping Scheme for boundaries and surfaces that reflects High Weald Design Guide
- Long Term Management Plan for landscaped areas

12.2.20 The High Weald AONB Unit has commended the reference to the High Weald Housing Design Guide and, like the Landscape Consultant, also makes reference to the importance of the tree belt, with this element considered in more detail in the tree sub-section 12.6. There are some criticisms of the design in that open SuDS is not in the design and some of the open space areas appear quite small. The reference to gas provision on site is a matter that the updated Sustainability Statement, (see sub-section 12.12), can address but the provision of gas cannot be prevented. So, whilst these are relatively minor criticisms of the scheme, no objection is raised and officers do not consider that they would constitute reasonable grounds to resist the application. The drainage condition in Appendix A will in any event need the applicant to provide SuDS in the southern part of the site to accord with the specific wording of Policy SA29 (see sub-section 12.11).

12.2.21 The HWAONB Unit has recommended a number of conditions as follows:

- Use of High weald Colour Study for facing materials
- Local habitats and species should be protected
- Native and locally sourced planting for landscaping
- Lighting controls

12.2.22 These matters are secured through the conditions listed in Appendix B.

12.2.23 When assessing the visual impact, it is important to make clear that planning officers do not consider this development to be 'major' for the purposes of para 177 of the NPPF. Para 177 of the NPPF states that:

“When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development (60) other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy,
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way, and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

12.2.24 Footnote (60) to the NPPF states that:

“For the purposes of paragraphs 176 and 177, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.”

12.2.25 The reason for planning officers not considering this to be major development as per para 177 is because in this case:

- by its nature; it is the development of an allocated site that is located within the built up area boundary (as amended by the Site Allocations DPD and Neighbourhood Plan);
- by its scale; it is a development of 30 residential units on the immediate edge of an existing medium sized village (as defined by Policy DP6 of the Mid Sussex District Plan which classifies Horsted Keynes as a Category 3 settlement) so is modest in scale in this context; and
- by its setting; it is immediately adjacent to the existing settlement.

In light of the nature, scale and setting of the proposal, it is not considered that the development will have a significant adverse impact on the High Weald AONB.

12.2.26 The location and scale of the proposal immediately adjacent to the settlement of Horsted Keynes will also ensure that the coalescence of settlements does not occur as per the requirements of Policy DP13 of the District Plan.

12.2.27 It is also worth noting the Planning Inspector’s conclusion in his Site Allocations report at para 211:

*“From my site visit, I consider that the proposed development would sit well within the landscape and as a minor development it would not conflict with national AONB policy.”*

12.2.28 Under this design subsection, it is also relevant to draw Members attention to the Sussex Police comments that are set out in full in Appendix B. The applicant has been able to address a number of the recommendations made by Sussex Police in their initial comments and no objections are raised by Sussex Police in respect of crime prevention:

“The amended site plan shows improved levels of active frontage over the street layout along with good levels of surveillance across the site and has removed vulnerable rear garden pathways. I do not have any concerns from a crime prevention perspective to the amended application.”

12.2.29 As noted at para 12.2.6 Policy HK4 requires development to respect the natural contours of a site. The sloping nature of the site here means that it is important to impose a levels condition to establish precisely how this will be achieved and ensure that the visual prominence of the development is as minimal as it can be. This will also satisfy Principle DG41 of the Mid Sussex Design Guide.



12.2.30 To conclude on the landscape issues, it is acknowledged that the site is sensitive and prominent but it is also considered that the scheme has been adequately designed to respond to its unique characteristics. No objections have been raised by the Council's Urban Designer, the Landscape Consultant nor the High Weald AONB Unit. A number of comprehensive conditions will give further control over the scheme to ensure that a number of detailed elements are wholly compatible with the site and surroundings. Officers consider that the character and appearance of the High Weald Area of Outstanding Natural Beauty will be preserved.

12.2.31 As such it is considered that the application complies with Policies DP13, DP16 and DP26 of the District Plan, Policies SA29 and SA GEN of the Site Allocations DPD, Policies HK4, HK5 and HK9 of the Neighbourhood Plan, the Mid Sussex Design Guide, the NPPF, the High Weald AONB Management Plan and the High Weald Housing Design Guide.

### **Highways, Access and Parking**

12.3.1 Policy DP21 in the District Plan states that:

*“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.”*

12.3.2 At Neighbourhood Plan level, Policy HK17 (Cycleways and footways) states that:

*“New developments shall include publicly accessible footways and, where possible, cycleways to link the site to the wider footway and road network, linking them to community facilities in the village such as the primary school, church, pre-school nursery, the shop, pubs, and meeting rooms.*

*New developments shall provide footways, which may include shared surfaces, that are of sufficient width to accommodate at least two persons walking abreast and are suitable for wheelchairs, prams, pushchairs and mobility scooters, except where a narrower footway may exceptionally be justified by an overriding need to maintain the existing character or appearance of a street or lane.”*

12.3.3 At site allocation level, and in respect of the Highways and Access, Policy SA29 requires:

- *“Safe and convenient pedestrian and vehicular access needs to be secured, in accordance with Manual for Streets (MfS) to enable (a) satisfactory access by waste collection vehicles and emergency services vehicles; and (b) safe and convenient pedestrian access, both along Hamsland and into the proposed development.*
- *Investigate opportunities to set the access away from the trees on the site boundary to protect the existing trees.*
- *Improve local traffic conditions by setting back the existing on-street parking spaces in Hamsland into the verge opposite the site.*
- *Provide a sustainable transport strategy to identify sustainable transport infrastructure improvements and how the development will integrate with the existing network, providing safe and convenient routes for walking, cycling and public transport through the development and linking with existing networks.”*

12.3.4 Similarly, and again in respect of Access and Highways, Policy SA GEN requires:

- *“Ensure development contributes towards delivering sustainable development and appropriate infrastructure in accordance with District Plan Policy DP21: Transport and the objectives of the West Sussex Transport Plan 2011 – 2026.*
- *Provide a Transport Assessment and Sustainable Transport Strategy to identify appropriate mitigation and demonstrate how development will be accompanied by the necessary sustainable infrastructure to support it.*

- *Highway infrastructure mitigation is only considered once all relevant sustainable travel interventions (for the relevant local network) have been fully explored and have been taken into account in terms of their level of mitigation.*
- *Identify how the development will provide safe and convenient routes for walking and cycling through the development and linking with existing networks beyond. Create a permeable road network within the site with clearly defined route hierarchies.*
- *Safeguard Public Rights of Way (PRoW) and protect their amenity.*
- *Provide adequate car parking in accordance with District Plan Policy DP21: Transport.”*

12.3.5 The highways issues with this proposal are a key consideration and a number of representations highlight concerns around the proposals. The Hamsland Action Group commissioned their own technical review of the application and the Parish Council comments also highlight a number of highways related issues. As noted previously in this report, access to the site will be via the existing field access onto Hamsland that is present in the northern part of the site. The applicant also proposes to provide a layby on the northern side of Hamsland, within the highway boundary, for approximately 10 cars and a dropped kerb pedestrian crossing a little to the west of the site access.

12.3.6 West Sussex County Council as the highways authority have been consulted on the merits of the application and their comments are set out within Appendix B. WSCC has commented on the merits of the scheme and commented specifically on some of the points raised by third parties and the Parish Council.

12.3.7 Concerns have been expressed in the representations that the applicant cannot deliver the access as submitted because they do not own all of the land required to deliver the access and visibility splays that are not within the highways boundary. Whilst land ownership is not a material consideration in its own right and is not therefore a matter for the committee, it does affect the ability to deliver the access, footway and pedestrian splay as demonstrated on the submitted plans and it does mean the correct ownership certificates need to be submitted with a planning application. The applicant's submissions (Location Plan, Title Plan, signed ownership certificates) indicate that they have control of the land required to provide the access shown on their own plans, or that it falls within the adopted highways boundary (where work is permitted to be carried out to facilitate the development). Planning and legal officers have looked at this matter and consider that the correct notice has been served and that the access, footway and splays can therefore be delivered in accordance with the submitted plans.

12.3.8 The Local Highway Authority (WSCC) has confirmed that the proposed access arrangements are acceptable, subject to them being delivered in accordance with the submitted plans.

12.3.9 Some representations have also highlighted inaccuracies in the submitted plans which West Sussex highways has addressed as follows:

*“In terms of measurements inaccuracies, the access plan does not appear to scale off correctly and some measurements such as access width and kerb radii are marginally incorrect. For example, the access road is stated in the applicants plans as being 5.5m but objectors state they scale the plans at 5.4m. These minor inaccuracies would not alter the overall LHA view on the fundamentals of the*

*application. The access proposals are still considered to provide an acceptable means of access and these measurement inaccuracies do not warrant a reason to refuse planning permission. With regards to a tighter kerb radii, this is likely to reduce vehicle speeds.”*

12.3.10 West Sussex highways had requested some further information from the applicant on the pedestrian visibility splays and has concluded that adequate visibility splays specific to this site can be achieved:

*“The LHA previously stated that they would accept a 1m x 2m envelope of pedestrian visibility which has been demonstrated on drawing JNY10084-33 Rev A. This has been drawn from the position of driver to the inner edge of a pedestrian waiting at the tactile paved area. The Road Safety Audit (RSA) addendum shows that this plan has been reviewed by an independent auditor. The RSA addendum raises that existing vegetation may obstruct this splay and advise that such splay should not be obstructed and should be compliant. Any vegetation overhanging public highway or developer land can be cleared by LHA and developer respectively.”*

12.3.11 West Sussex highways has also confirmed that the swept path tracking is in accordance with the specific requirements of Policy SA29:

*“MSDC Site Allocation policy SA29 requires that satisfactory access by waste collection vehicles is provided. MSDC are the local waste authority and raised no objections from a waste collection point of view in comments made in 2021, which referred to carriageway width being acceptable.*

*The RSA auditor has reviewed the tracking plans and raised no additional issues. It is noted that some manoeuvres in and out of the access do appear restrictive in terms of the set back on-street parking opposite the proposed access. Nevertheless, this would be the chassis and wing mirror tracking which is above carriageway level. The Pelham Transport Group Technical Review has carried out its own swept path tracking exercise and notes that there is "no room for error" and that a "driver would need to reverse and then move in a forward motion" to make the left turn egress and similar for the right turn egress. The LHA acknowledge that a multipoint manoeuvre may be required, if refuse collection is to be within the site, although this would not give rise to a highway safety objection from the LHA.”*

12.3.12 It was recommended by WSCC Highways that the Council's Waste department also commented on the tracking plans with no objection being raised:

*“The swept path analysis provided for waste and storage was good and showed adequate turning space for the refuse freighter. Additionally the distances between proposed bin stores and the roadside appear to be <10m which is good and in line with the latest version for government's manual for streets.”*

12.3.13 Based on the above independent and expert comments from the highways authority it is considered that, as per the terms of SA29, the first criteria has been met with this reading as follows:

*“Safe and convenient pedestrian and vehicular access needs to be secured, in accordance with Manual for Streets (MfS) to enable (a) satisfactory access by waste collection vehicles and emergency services vehicles; and (b) safe and convenient pedestrian access, both along Hamsland and into the proposed development.”*

12.3.14 As noted, SA29 also requires the development/application to satisfy the second and third criteria as follows:

- *“Investigate opportunities to set the access away from the trees on the site boundary to protect the existing trees.*
- *Improve local traffic conditions by setting back the existing on-street parking spaces in Hamsland into the verge opposite the site.”*

12.3.15 The second of these criteria has been met, with reference made to this at para 12.6.12 with the changes to the layout being made in response to the existing trees assessed in more detail under the tree sub-section of the assessment.

12.3.16 Regarding the third criteria, the application does propose to provide a layby on the northern side of Hamsland, within the highway boundary, for approximately 10 cars. This will have the effect of increasing the width of the road around the site access whilst maintaining the level of on street car parking. The third criteria of SA29 is therefore met.

12.3.17 The fourth criteria under the Highway and Access section of SA29 is to:

*“Provide a sustainable transport strategy to identify sustainable transport infrastructure improvements and how the development will integrate with the existing network, providing safe and convenient routes for walking, cycling and public transport through the development and linking with existing networks.”*

12.3.18 The applicant has included an ‘Accessibility’ Section in their Transport Statement which addresses the location of the site in respect of sustainable travel. It identifies pedestrian routes, bus routes and distances to local services which demonstrates the site is sustainably located. The scheme integrates into the network by providing footpath connectivity to the existing footpath along the southern side of Hamsland. In addition, a condition is proposed that will secure a Travel Plan pack for future residents that will be aimed at promoting sustainable travel options. It is concluded that the application accords with the fourth criteria of SA29 as well as the terms of HK17 of the Neighbourhood Plan.

12.3.19 It is concluded therefore that the application accords with the highways and access requirements of Policy SA29 of the Site Allocations DPD.

12.3.20 SA GEN (see para 12.3.4) is the more general highways policy applying to all allocated sites in the DPD. Compliance with SA29, as concluded above, means that the same conclusion can also reasonably be reached on a number of the criteria from SA Gen as well. This includes the criteria about sustainable development, a sustainable transport strategy, highway infrastructure and safe and convenient routes for walking and cycling.

12.3.21 Of those SA GEN criteria not specifically mentioned at para 12.3.19, the application also accords with them. For example, 65 car parking spaces are proposed and no objections have been raised by the highways authority to this provision which can be secured by condition. Additionally, the proposal does not adversely affect any public rights of way.

12.3.22 Based on the above points and the independent view of West Sussex Highways Authority, planning officers consider that the application accords with both SA GEN Policy SA29 of the Site Allocations DPD in respect of highways and access matters.

12.3.23 West Sussex highways was asked to provide comments on the highways matters that have been raised by the Parish Council (their full comments at end of Appendix B). It is useful to provide the full response here from WSCC:

*“HKPC request that swept path analysis is provided to demonstrate safe access and legal access for all types of parked vehicles.*

WSCC: Access designs are reviewed in accordance with MfS as provided for the majority of traffic - there is no formal requirement to demonstrate all types of vehicles that may park on-street. The onus is on the driver to park in a manner that doesn't obstruct the highway and, as referred to previously, if a refuse collection vehicle is to enter/egress the site a multipoint manoeuvre may be required.

*HKPC: Policy SA29...“safe and convenient pedestrian access, both along Hamsland and into the proposed development”...The Applicant has only provided material in the review of policy SA29 related to the access into the proposed development. The Applicant’s letter and Technical Note are silent on the issue of safety of pedestrians along Hamsland.*

WSCC: The anticipated level of additional pedestrian movements on Hamsland are not considered to be 'severe'. Furthermore, the application does provide for improvement in terms of the dropped kerb tactile paved crossing of Hamsland.

*HKPC: Deficiencies in the Applicant’s car parking survey....Failure by the Applicant to address the increased highway safety risks caused by more frequent head-to-head vehicle conflicts along the constricted western section of Hamsland as a result of additional traffic with development.*

WSCC: The LHA does not consider the additional traffic movements to be 'severe'. Furthermore, the applicant is setting back on street parking which will provide a wider carriageway on this section, allowing two cars to pass and improving the existing situation. There is no recorded accident data along Hamsland that would suggest a highway safety issue although the LHA acknowledge the existing on-street parking may cause inconvenience.”

12.3.24 West Sussex Highways has also provided a response to the Technical Review that was conducted by Pelham Transport Group on behalf of the Hamsland Action Group and the full comments are contained within Appendix B. Concerns raised about matters like land ownership and the swept path analysis have been covered by other paragraphs within this sub-section. Other matters have however also been raised:

- Concern on the adequate size of pedestrian splays; WSCC has addressed this in part at para 12.3.10. WSCC has also confirmed that *“the LHA does not hold a formal policy/requirement for pedestrian splays. Whilst it is acknowledged that some pedestrians may be set back further it is considered that the design of the clearly delineated access with no continuous footway and dropped kerbs/tactile paving would make it conspicuous to pedestrians and vehicles alike.”*
- WSCC has confirmed that Manual For Streets will apply with this stating that there will be situations in locations with design speeds of less than 60kph where it is desirable and appropriate to restrict forward visibility to control traffic speed".
- Concern about the kerb radii; This has also been partly addressed at para 12.3.9 and WSCC has confirmed that *“discrepancies in kerb radii would not*

*alter LHA assessment of the principle of application. In respect to the impact on internal footway width, the LHA considers that a shared surface with no segregated footway could be appropriate for the level of traffic movements being under 100 per hour.”*

A rebuttal was made on behalf of Hamsland Action Group to this WSCC Highways response. But further comments from WSCC Highways confirmed that the additional submissions did not change the previous conclusions.

12.3.25 West Sussex highways has concluded their comments by confirming that:

*“As per previous comments the vehicle visibility from the site access is considered acceptable and in accordance with guidance, especially considering that a reduced 'x' distance of 2m would be acceptable in this location. Furthermore, the original RSA points were previously addressed. The information provided by residents, Parish Council and consultants representing the Hamsland Action Group does not present information that changes the overall recommendation and view of the Highway Authority on the acceptability of the proposals from a planning perspective. From the highways point of view it is considered that the application would not result in a 'severe' detrimental impact to highway safety and is therefore compliant with para. 110 and 111 of National Planning Policy Framework.”*

12.3.26 There are therefore no technical objections to the access or parking arrangements from the local highways authority. Conditions are recommended, and are included in Appendix A, to secure the following matters:

- the vehicular access, footway and dropped kerb/tactile paved crossings
- visibility splays
- vehicle parking and turning
- construction management plan
- cycle parking
- travel information pack

13.2.27 It is also worth drawing Members attention to some of the comments made by the Planning Inspector in his site allocations report because some of the representations suggest the amendments made by the Inspector, that then became the final wording of SA29, have not been met. The Planning Inspector, at para 212, acknowledged parked cars are found along Hamsland but this does not alter the acceptability of the principle of development:

*“Vehicular access would be via Hamsland. The principle of development on the site has been accepted by WSCC as local highways authority both in relation to highway safety and capacity, including the adequacy of the Hamsland carriageway width to accommodate the additional traffic. Although Hamsland is characterised by parked vehicles along one side of the road, this does not lead me to a different conclusion to that made by the local highway authority.”*

12.3.28 At para 214 of his report the Inspector also commented that as a result of concerns being expressed at Examination stage about the adequacy and safety of pedestrian access, the wording of Policy SA29 should be amended to include:

*“require safe and convenient vehicular access, including for emergency services vehicles; to ensure satisfactory pedestrian access both along Hamsland and into the proposed development;”*

As is made clear in this sub-section of the assessment, West Sussex County Council, as the highways authority providing independent, expert advice, conclude that terms of this policy are met insofar as the proposal will provide safe and convenient vehicular access and ensures that there is satisfactory pedestrian access both along Hamsland and into the proposed development. The application is therefore considered acceptable as submitted with no further modifications requested by the highways authority to meet the terms of this policy.

12.3.29 Accordingly, in light of the comments provided by the highways authority confirming no technical objections, it can be concluded that the application complies with Policy DP21 of the District Plan, Policies SA29 and SA GEN of the Site Allocations DPD, Policy HK17 of the Neighbourhood Plan and the NPPF.

### **Impact on Heritage Assets**

12.4.1 As confirmed by the Council's Conservation Officer having assessed the Heritage Statement, it is considered that the site is within the setting of two heritage assets :

- Wyatts - a Grade II listed 17th century (or earlier) house approximately 200 m to the south east of the application site
- Horsted Keynes Conservation Area – located to the north east of the application site

12.4.2 The LPA is under a duty by virtue of s.66 of the Listed Building and Conservation Area (LBCA) Act 1990 (General duty as respects listed buildings in exercise of planning functions):

*"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

12.4.3 The LPA is also under a duty by virtue of s.72 of the Listed Building and Conservation Area (LBCA) Act 1990 (General duty as respects conservation areas in exercise of planning functions): *"In the exercise, with respect to any buildings or other land in a conservation area....special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*

12.4.4 Case law has stated that:

*"As the Court of Appeal has made absolutely clear in its recent decision in Barnwell, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."*

12.4.5 The Courts further stated on this point:

*"This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning"*



*judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.”*

12.4.5 The statutory duties set out in the (LBCA) Act 1990 are reflected in the District Plan

12.4.6 Policy DP34 of the District Plan states in relation to the setting of listed buildings and other heritage assets:

*“Listed Buildings*

*Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:*

- *A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal,.....*
- *Special regard is given to protecting the setting of a listed building;....*

*Other Heritage Assets*

*The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic. Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.”*

12.4.7 Policy DP35 of the District Plan states in part that:

*“Development will ... protect the setting of the conservation area and in particular views into and out of the area.”*

12.4.8 Similarly, at Neighbourhood Plan level, Policy HK6 (Conserving Local Heritage) states:

*“Development proposals should preserve or enhance the special character and setting of the Horsted Keynes and Birch Grove Conservation Areas, and preserve or enhance the special architectural or historic interest of listed buildings and their settings, and will be assessed against policies DP 34 and DP35 of the Mid Sussex District Plan.*

*All planning applications which affect a heritage asset or its setting, should be accompanied by a Heritage Statement, which demonstrates a clear understanding of the heritage significance of the assets affected and which then informs the development of sensitive proposals which meet the statutory requirements for their preservation and enhancement.*

*In particular, development proposals should have regard to the following special features of the two conservation areas:*

#### *Horsted Keynes*

- *the spacious character of The Green, the attractive groupings of buildings around The Green and the sense of enclosure created by both buildings and landscaping*
- *the variety of age and style of buildings, several of which are listed buildings*
- *the use of traditional and natural building materials*
- *the extensive views of the countryside from within the Conservation Area, especially around St Giles Church and the views of the church from within the village • the hedgerows, trees and banked verges, including those in Church Lane, Bonfire Lane and Wyatts Lane*

#### *Birch Grove*

- *the small triangular green, around which the majority of the buildings are clustered, away from the highway;*
- *the absence of through traffic resulting in a peaceful and attractive environment.*

*Development proposals should demonstrate that they have taken into account the potential impact on above and below ground archaeological deposits and to avoid or minimise impacts to sites that may be identified as previously unidentified heritage assets.*

*Potential impacts should be identified in a supporting Heritage Statement as part of any planning application and any harm or loss of significance will require robust justification in terms of the delivery of public benefits that could not otherwise be provided.”*

12.4.7 At site allocation level, and in respect of the Historic Environment and Cultural Heritage, Policy SA29 requires:

- *“Provide appropriate mitigation to protect the rural setting of the Grade II listed Wyatts to the south of the site by enhancing the boundary tree belt at the south western corner, and ensuring that development is not dominant in views from the listed building. The mitigation strategy is to be informed by a Heritage Impact Assessment.*
- *The site is located near the crest of a sandstone ridge in the High Weald, a favourable location for archaeological sites, requiring Archaeological Assessment and appropriate mitigation arising from the results..”*

12.4.8 Similarly, and again in respect of the Historic Environment and Cultural Heritage, Policy SA GEN requires:

- *“Undertake pre-determination evaluation of potential archaeological features on the site prior to any planning application being submitted, unless it can be demonstrated that such an evaluation is not appropriate for this site. Appropriate mitigation may be required depending on the outcome of that evaluation.*
- *Respect listed buildings, conservation areas, scheduled monuments, the historic landscape, registered parks and gardens and their settings and look for opportunities to enhance or better reveal their significance. All heritage assets, including those that are undesignated, will need to be conserved and enhanced.*

- *Provide Heritage Impact Assessments, where appropriate, to establish the significance of heritage assets and their settings, the impact of development on this significance and, if appropriate, mitigation strategies in accordance with District Plan policies DP34: Listed Buildings and other Heritage assets, DP35: Conservation Areas and DP36: Historic Parks and Gardens.”*

12.4.9 The NPPF, Chapter 16 Conserving and enhancing the historic environment, also contains a number of relevant paragraphs:

*“194. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.*

*195. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.*

*197. In determining applications, local planning authorities should take account of:*  
*a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation,*  
*b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and*  
*c) the desirability of new development making a positive contribution to local character and distinctiveness.*

*199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

*202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

12.4.10 Principle DG11 of the Mid Sussex Design Guide (Respond to the existing townscape, heritage assets and historic landscapes) states in part that:

*“Heritage assets and historic landscapes should be celebrated, enhanced and preserved where appropriate, for the enjoyment of existing and future residents. Where appropriate and providing it does not cause harm to the heritage assets or their setting, they should be carefully integrated into development proposals as they help to reinforce a sense of place and local identity.”*

12.4.11 To consider the impact of the development on the affected heritage assets, the Council's Conservation Officer has been consulted on the proposals and their comments are set out in full within Appendix B.

12.4.12 Regarding the impact on the Conservation Area, the key features are as set out in both the Conservation Officer comments and within HK6 as set out above. The expert view of the Conservation Officer is that the impact that the application site makes to the setting of the Conservation Area is limited due to the impact of existing development and intervening planting. She concludes that:

*“Subject to a suitable soft landscaping scheme to enhance the native species planting to the boundaries of the north east corner of the site where it is closest to Bonfire Lane and properties within the Conservation Area, the proposal is not considered to adversely affect the setting of the Area, meeting the requirements of District Plan Policy DP35.”*

12.4.13 As noted above Wyatts is a Grade II listed building that is recorded as a historic farmstead with it being noted by the Conservation Officer that it is a good example of a Sussex farmhouse of its type and period as well as possessing aesthetic value based in part on the use of vernacular materials viewed within the landscape from which they were drawn, and group value with the associated former farm buildings.

12.4.14 The Conservation Officer has confirmed that:

*“The impact on the setting of Wyatts is considered to be more pronounced (than the impact on the Conservation Area), due to the prominence of the site in views looking north west from the building and its immediate setting. Although appropriate enhanced planting with native species to the relevant boundary of the site could partially mitigate the impact that the development will have on these views, it is unlikely to entirely remove this impact due to the scale of the proposed development, the seasonal nature of most native species leaf coverage, and the potentially ephemeral nature of the planting. Given the positive contribution which the site makes to the setting and hence special interest of the listed building the proposal will therefore result in a degree of less than substantial harm Wyatts and the associated historic farmstead, contrary to the requirements of District Plan Policy DP34. In terms of the NPPF the proposal would be considered to cause less than substantial harm around the mid level of that scale, such that paragraph 202 will apply.”*

12.4.15 The Conservation Officer has suggested a full soft landscaping scheme be submitted via condition that would seek to provide additional planting along the southern and north eastern boundaries. Such planting is supported by the terms of Policy SA29.

12.4.16 Planning officers agree with the overall conclusions being that the development will lead to less than substantial harm, at the mid level of that scale, to the heritage asset. The less than substantial harm does mean however that there is some conflict with Policy DP34 of the District Plan and Policy HK6 of the Neighbourhood Plan. In such cases, and as outlined above, para 202 of the NPPF is clear on how the local planning authority needs to assess the application:

*“202. Where a development proposal will lead to less than substantial harm to the significance of a **designated heritage asset**, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

- 12.4.17 Therefore, were there to be significant public benefits that outweighed the less than substantial harm to the designated heritage asset, this would be a material planning consideration that could lead to an acceptance of the proposal, despite the less than substantial harm to the heritage assets.
- 12.4.18 In this case, there would be clear social and economic benefits from the development of 30 houses on an allocated site that includes 9 affordable homes. There would also be public benefits arising during the construction phase of the project and from the operational phase from additional spending in the local economy from the future residents.
- 12.4.19 Planning officers conclude therefore that the public benefits from this proposal will outweigh the identified less than substantial harm to the heritage asset.
- 12.4.20 Regarding the archaeological impact, the applicant submitted an Archaeological Desk Based Assessment and this has been assessed by the Council's Archaeological Consultant whose comments are set out in full within Appendix B. The Council's Consultant has confirmed that the Assessment conforms to industry standards and concludes that the site is considered to have a low potential for archaeological remains of any date, with the site considered to be part of the rural hinterland surrounding the medieval (and later) settlement of Horsted Keynes.
- 12.4.21 The Consultant has however stated that there are relatively few archaeological recorded archaeological assets in the vicinity of the site but this is in part due to the absence of systematic archaeological investigation, rather than necessarily reflecting a true absence of archaeological activity.
- 12.4.22 As such the Council's Consultant has recommended a condition that will secure the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation. This will ensure that the site's potential archaeological value will become known - thus ensuring compliance with Policy DP34 of the District Plan, Policy HK6 of the Neighbourhood Plan and the NPPF.

### **Residential Amenity and Pollution**

- 12.5.1 As noted elsewhere in this report, a number of concerns have been raised by local residents about the impacts on their amenity.
- 12.5.2 District Plan Policy DP26 is applicable and this states, 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 DP29).'*
- 12.5.3 Policy HK5 however refers to: *'there is no unacceptable harm to the amenity of adjoining residents in respect of access, noise, privacy, daylight, sunlight and outlook is retained.'*
- 12.5.4 In residential amenity terms, the test of development here is whether or not it causes *{i 'unacceptable harm'}* to neighbouring amenity as per Policy HK5. 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. The ‘*unacceptable harm*’ test of the Neighbourhood Plan adopted in 2023 is therefore the correct test to apply in this case.

12.5.5 The test of an application in residential amenity terms is therefore whether or not a proposal causes unacceptable harm. It is accepted that a number of existing neighbours will clearly be able to see the new development and it will be a change to the appearance of the site as they see it currently, but this does in itself not constitute unacceptable harm.

12.5.6 In addition to DP26 and HK5, Policy DP29 applies in respect of noise and light pollution. This states that development will only be permitted where:

*Noise pollution:*

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- *If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

*Light pollution:*

- *The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- *The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;”*

12.5.7 The previous air pollution element of DP29 has been superseded by Policy SA38 from the site allocations DPD. This policy states in part that:

*“The Council will require applicants to demonstrate that there is not unacceptable impact on air quality. The development should minimise any air quality impacts, including cumulative impacts from committed developments, both during the construction process and lifetime of the completed development, either through a redesign of the development proposal or, where this is not possible or sufficient, through appropriate mitigation.”*

12.5.8. Similarly, at Neighbourhood Plan level, Policy HK13 (Light Pollution) states:

*“New development will be required to demonstrate how it has minimised light pollution created through its proposed use. Where external lighting is proposed it must be demonstrated that:*

- a) it is needed for operational reasons, or to ensure public safety or security.*
- b) any light spillage beyond the application site is eliminated, or reduced, by measures such as timing and proximity controls, orientation, screening, shielding or glazing.*
- c) there is no adverse impact on any nearby residential properties.”*

12.5.9 In respect of Air Quality, Light, Noise and Amenity, Policy SA GEN requires:

*“Investigate any potential adverse air, light and noise pollution impacts from the development itself and from neighbouring uses, ensuring that these are avoided, or appropriately mitigated, in accordance with District Plan Policy DP29: Noise, Air and Light Pollution and SA38 relating to Air Quality as set out in this Site Allocations DPD.”*

*In respect of overlooking and loss of privacy, the generally accepted minimum back to back distances between dwellings to ensure that significant harm could not occur is 21 metres. Principle DG45 from the Mid Sussex Design Guide is also a relevant consideration as this looks to protect the privacy of both existing and future residents.*

12.5.10 In respect of future amenity, Policy DP27 of the District Plan states:

*“Minimum nationally described space standards for internal floor space and storage space will be applied to all new residential development. These standards are applicable to:*

- *Open market dwellings and affordable housing;*
- *The full range of dwelling types; and*
- *Dwellings created through subdivision or conversion.*

*All dwellings will be required to meet these 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.”*

12.5.11 The neighbouring properties most likely to be affected by the proposals are those along Hamsland that share a border with the application site so include Summerlea, Burghurst Cottage, 28-34 Hamsland and Woodside on Bonfire Lane as well as Milford Place to the south east. Other properties will also have views of the site, such as those along the northern side of Hamsland and other properties on the southern side of Hamsland to the west.

12.5.12 Summerlea fronts north onto Hamsland to the north western side of the site and is next to the new access point. The nearest dwelling in the new development to Summerlea is Plot 1 which is orientated to face west and is set approximately 17 metres away. Given this separation distance, the different orientation of the properties, the access road being located in between as well as the extensive boundary vegetation, the proposal will not cause unacceptable harm to Summerlea – whether that be in terms of being overbearing, causing loss of light or a loss of privacy/overlooking.

12.5.13 Burghurst Cottage to the eastern side of the church is set quite far forward in its plot and this results in a depth of approximately 24m between the back of house and the boundary of rear southern garden with application site. Just beyond the boundary in the new development the nearest dwelling is Plot 5 which is orientated to be west facing so is side on to the rear garden of Burghurst Cottage. There are no ground floor or first floor side (north) facing windows in Plot 5. Given this substantial distance and the design which ensures there are no facing windows, the proposal will not cause unacceptable harm to Burghurst Cottage – whether that be in terms of being overbearing, causing loss of light or a loss of privacy/overlooking.

12.5.14 28, 30, 32 and 34 Hamsland are set slightly further back in their plots than Burghurst Cottage, but their southern rear gardens tend to extend further to the south than the garden of Burghurst Cottage does. To the rear in the new development, there are four detached houses that border these neighbouring properties, three of which (plots 14-16) are orientated to face south with rear gardens bordering the neighbours. The resultant separation distances are approximately 34 m (Plot 14 to no. 28), 33 metres (Plt 15 to no.30) and 29 m (Plot 16 to no. 32). Plot 17 is the fourth detached dwelling bordering the neighbours and this is located in the northern corner of the site. This house is to the rear of no.34 Hamsland and is located approximately 23 m away. 21

metres is the widely accepted minimum separation distance in a back to back distance between properties to ensure that unacceptable harm through overlooking does not occur. The distances proposed by this development are in excess of the 21 m figure. Given these separation distances, the proposal will not cause unacceptable harm to 28, 20, 32 or 34 Hamsland – whether that be in terms of being overbearing, causing loss of light or a loss of privacy/overlooking.

12.5.15 Woodside is located to the north east of 34 Hamsland and shares a boundary with the northern corner of the application site. Like no.34, the nearest new dwelling is Plot 17 and this is approximately 24 metres with the two properties at oblique angles to one another. Given this separation distance and the orientation of the properties, the proposal will not cause unacceptable harm to Woodside in terms of being overbearing, causing loss of light or a loss of privacy/overlooking.

12.5.16 Milford Place is a detached house to the south east of the application which sits in a large plot so shares a long boundary with the application site. The property here has recently been replaced (planning application ref DM/19/4136) and now sits more centrally in its plot where it was previously closer to the north west corner and the boundary with the application site. The new house is approximately 40 metres away from the boundary, where there are good levels of tree screening too. As such the proposal will not cause unacceptable harm to Milford Place in terms of being overbearing, causing loss of light or a loss of privacy/overlooking.

12.5.17 Regarding privacy to the gardens of neighbouring properties, it is acknowledged that the orientation, height and proximity of the new dwellings may result in some additional loss of privacy to some rear garden areas. However, these rear gardens are not necessarily wholly private now as views are possible from the rear of a number of properties along Hamsland. Some degree of overlooking is also a reasonable expectation in a setting like this where there is established residential use at present. As such, the limited loss of privacy in the rear parts of some neighbouring gardens will not cause unacceptable harm as per the policy test. The boundary treatments condition in Appendix A can be used to minimise potential overlooking at ground floor level, and from the rear gardens of the new houses where they adjoin existing properties. However it is still reasonable to employ a permitted development restriction on new openings on the ground floor of the north west side of Plot 5. It is not necessary to restrict openings at first floor level in these side elevations as permitted development legislation is designed to protect residential amenity.

12.5.18 No other neighbours are likely to be affected more than these noted above in paras 12.5.11 – 12.5.16 meaning that the proposal will not cause unacceptable harm to any of the neighbouring properties in respect of loss of light, loss of privacy, by being overbearing or through overlooking. For example, Emberhurst on Bonfire Lane, 24 Hamsland and those properties opposite the access point on the northern side of Hamsland are all a sufficient distance away, including their private gardens, to ensure that unacceptable harm cannot be demonstrated. This is particularly the case when the intervening boundary vegetation is taken into account on the two former properties and the presence of the highway for the latter properties.

12.5.19 The new vehicular access to serve the 30 units is unlikely to cause unacceptable harm through noise or disturbance. New access roads being located next to existing houses like this to serve new housing developments is not an uncommon feature of new residential development, and often of a much greater scale than 30 units. It is also important to highlight that the site is allocated for 30 dwellings and utilising the existing access point onto Hamsland is the only way of connecting directly with the highway.



- 12.5.20 The Council's Environmental Protection Officer has been consulted to help inform the assessment in respect of the impact on neighbouring amenity and their comments are set out in full within Appendix B.
- 12.5.21 It is acknowledged by planning officers that there would be some degree of disruption during construction work but this would not merit a refusal of the application as they would be temporary in nature and are necessary to facilitate the development. The Environmental Protection Officer has suggested a Construction Management Plan condition that will be aimed at minimising construction impacts by securing details on matters such as site set up, contractor parking and other mitigation measures. Both a working hours and a construction delivery times condition will also be used.
- 12.5.22 In addition, given that this development proposes the provision of 30 residential units, a condition is recommended requiring the submission of a scheme of mitigation measures to improve air quality relating to the development. This will ensure compliance with Policy SA38 of the Site Allocations DPD.
- 12.5.23 The applicant has submitted a high level Lighting Statement and no objections have been raised by the Environmental Protection Officer on lighting issues. However further details are going to be requested through a lighting condition as set out in Appendix A. Other consultees have all suggested the need for a lighting condition to cover matters like dark skies and biodiversity- these being the HWAONB Unit and the Ecological consultant respectively. A condition will be used to secure the submission of a comprehensive lighting scheme that will need to satisfy all these consultees who will each be assessing the submissions from a slightly different technical perspective as well as ensuring that there is no unacceptable harm to residential amenity. But with a condition in place, securing further lighting details, it can be concluded the proposal will not cause unacceptable harm to neighbouring residential amenity and the application complies with the above mentioned development plan policies.
- 12.5.24 In respect of future amenity, all of the proposed dwellings have access to outdoor amenity space, either private or communal, and the applicant has confirmed that all of the dwellings meet or exceed the National Floor Space Standards referenced by Policy DP27.
- 12.5.25 To summarise, neighbouring residents will clearly be able to see the new development and it will be a change to the appearance of the undeveloped site, but unacceptable harm as per HK5 of the Neighbourhood Plan is a relatively high bar and planning officers do not consider that threshold has been reached.
- 12.5.26 The proposal therefore complies with the Development Plan in respect of the effects on neighbouring residential amenity issues as unacceptable harm cannot be demonstrated.

## **Trees**

- 12.6.1 Policy DP37 of the District Plan states:

*“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. Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of*

*a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.*

*Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose.*

*Trees, woodland and hedgerows will be protected and enhanced by ensuring development:*

- incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme, and*
- prevents damage to root systems and takes account of expected future growth, and*
- where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management, and*
- has appropriate protection measures throughout the development process, and*
- takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change, and*
- does not sever ecological corridors created by these assets.”*

12.6.2 At Neighbourhood Plan level Policy HK4 requires in part that development be:

*“respecting the natural contours of the site and protecting and sensitively incorporating well-established natural features of the landscape including trees, species-rich hedgerows and ponds within the site;”*

12.6.3 At site allocation level, trees are referenced within the AONB, Biodiversity and Highways and Access sub-sections of Policy SA29:

*“AONB - Retain and enhance important landscape features, mature trees and hedgerows and incorporate these into the landscape structure and Green Infrastructure proposals for the development to limit impacts on the wider countryside*

*Biodiversity - Ensure adequate protection of the existing trees along the site boundary.*

*Highways - Investigate opportunities to set the access away from the trees on the site boundary to protect the existing trees.”*

12.6.4 Policy SA GEN requires arboricultural information under the landscape considerations:

*“Arboricultural Impact Assessment and Arboricultural Method Statements will be required for all sites where development will be within 5 metres of any trees.*

12.6.5 The applicant's arboricultural submissions indicate that a small group of Category C/U trees (hawthorn and dying holly) are to be removed and there is no arboricultural objection to this. The main arboricultural issue with this application is the impact of the proposed development, both the access, road and houses themselves, on the boundary trees where a number of large mature specimens are located. This is

reflected in Policy SA29 (para 12.6.2) and the importance of the existing tree lined boundaries is recognised by officers. It is also a key point made by the Parish and local residents.

12.6.6 The Planning Inspector also noted the trees are an important feature. At para 214 of his report on the Site Allocations DPD the Planning Inspector commented that as a result of concerns being expressed at Examination stage the wording of Policy SA29 should be amended:

*“to afford adequate protection of the existing trees along the site boundary.”*

12.6.7 To inform the assessment of the impact of the development, the expert view of the Council’s Tree Officer has been sought and their comments (original, further and a response to an objection) are set out in full within Appendix B.

12.6.8 As is evident from their original comments, the Tree Officer expressed some concerns about the impact of the access on the Root Protection Areas (RPAs) of the trees along the western boundary and it was recommended that investigations be carried out into the presence of roots to ascertain the best construction option prior to the application being determined. This was just in regard to the access as it was found that the houses, garages and parking areas were outside of the RPAs. The applicant produced a Technical Note (dated 24/5/21 that provides detail of proposed road construction for the access road which itself was informed by a report on site investigations for root presence along the proposed access road.

12.6.9 The Tree Officer assessed these submissions and has confirmed that (see further comments Appendix B):

*“An investigation into the extent of the roots within this area has been carried out. As a result, it has been established that a hybrid construction for the access road is required. Conventional construction (permeable) will be possible for the first 6 meters but the remaining access road of approximately 47.5 meters will need engineering input to provide a method of construction that will minimise the impact on the existing tree roots. Beyond this section the road can be of conventional construction as RPAs are not impacted.”*

And

*“The long term impact on the health of the boundary trees along the western boundary is of utmost importance and it is imperative that a satisfactory engineering solution is adopted for the construction of the access road alongside stringent tree protection measures being followed throughout construction.”*

12.6.10 Planning officers are satisfied therefore that a solution can be achieved and a condition will be used to ensure that the detailed design stage will confirm which engineering solution will be utilised to minimise the impact on the boundary trees as far as possible.

12.6.11 Concerns have been expressed that the solution will conflict with British Standard BS5837 (2012) (Trees in relation to design, demolition and construction – Recommendations) but the Tree Officer has made clear that: ....

*“...this British Standard makes it perfectly clear that it takes the form of guidance and recommendations and it should not be quoted as if it were a specification.*

*Furthermore it points out that although constraints imposed by trees both above and below ground should inform the site layout design, it recognises that the competing needs of development mean trees are only one factor requiring consideration. It goes on to say care should be taken to avoid misplaced tree retention and attempts to retain too many or unsuitable trees which can result in excessive pressure on the trees both during and after completion of a project.”*

12.6.12 In their original comments, the Tree Officer had also expressed some concern about the layout of the development and the impact this would have on future pressure by virtue of residents wanting to carry out works to the important boundary trees. The Tree Officer has since confirmed that the latest layout addresses this issue:

*“The amended road layout has addressed my concerns regarding the possible pressure from future residents to heavily prune or fell boundary trees.”*

12.6.13 The amended layout is an acceptable solution that addresses that specific area of concern whilst also addressing the requirement of Policy SA29 that is to “Investigate opportunities to set the access away from the trees on the site boundary to protect the existing trees.”

12.6.14 The Tree Officer concluded their original comments by stating that a detailed landscape plan would be required to reinforce the existing tree belt, mitigate for the loss of wildlife habitat and provide a long term management plan for the trees. It was noted that the submitted Tree Protection Plan is suitable.

12.6.15 An appropriate condition is therefore set out in Appendix A that will address all the matters that the tree officer still wishes to have detail on. This will include the tree protection measures, access road construction details, planting and a long term management plan.

12.6.16 With such a condition in place, that will secure policy compliant replanting and landscaping, the application accords with Policy DP37 of the District Plan, Policies SA29 and SA GEN of the Site Allocations DPD, Policy HK4 of the Neighbourhood Plan and the NPPF.

## **Ecology**

12.7.1 Policy DP38 of the District Plan states:

*“Biodiversity will be protected and enhanced by ensuring development:*

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments, and*
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances), and*
- Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience, and*

- Promotes the restoration, management and expansion of priority habitats in the District, and
- Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation, nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty, and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.

*Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.*

*Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution.*

*Geodiversity will be protected by ensuring development prevents harm to geological conservation interests, and where possible, enhances such interests. Geological conservation interests include Regionally Important Geological and Geomorphological Sites.”*

12.7.2 At Neighbourhood Plan level Policy HK10 requires:

*“New developments should safeguard key features of the natural environment and demonstrate how they will provide for the protection and enhancement of existing habitats of any flora and fauna on the development site and, where possible, utilise opportunities to restore, enhance, or extend them.*

*The following statutory \* and non-statutory \*\* features of the natural environment are of particular importance and any development proposals affecting them should be informed by a detailed ecological assessment:*

- *Ashdown Forest Special Area for Conservation\**
- *Ashdown Forest Special Protection Area\**
- *Sites of Special Scientific Interest at Ashdown Forest\* and Freshfield Lane\**
- *Local Wildlife Sites at Horsted House Farm Marsh\*\*, Birch Grove FishPonds\*\* and Costells, Henfield and Nashgill Woods\*\**
- *Local Geological Site at Freshfield Brick Works\*\**
- *Road verges at Chilling Street and Treemans Road/Monteswood Lane\*\**
- *Priority habitats in the parish\*\**

*Where damage to natural habitats cannot reasonably be avoided, measures shall be taken which will ensure that damage is minimised, and the habitat affected can continue to thrive.*

*Where loss of, or damage to, natural habitat cannot reasonably be avoided, the development shall provide suitable mitigation measures or, in the last resort, compensation measures that allow for the creation of new habitats off-site.*

*Development proposals should deliver a net gain in biodiversity, in addition to any mitigation or compensation required, in accordance with District Plan*

*policy DP38.”*

12.7.3 At site allocation level, and in respect of Biodiversity and Green Infrastructure, Policy SA29 requires:

- *“Undertake an holistic approach to Green Infrastructure provision through biodiversity and landscape enhancements within the site connecting to the surrounding area.*
- *Conserve and enhance areas of wildlife value and ensure there is a net gain to biodiversity overall. Avoid any loss of biodiversity through ecological protection and enhancement, and good design. Where this is not possible, mitigate and as a last resort, compensate for any loss.*
- *Incorporate SuDS within the Green Infrastructure to improve biodiversity and water quality.*
- *Ensure adequate protection of the existing trees along the site boundary.”*

12.7.4 Similarly, and again in respect of Biodiversity and Green Infrastructure, Policy SA GEN requires:

- *“Carry out and submit habitat and species surveys at the earliest opportunity in order to inform the design and conserve important ecological assets from negative direct and indirect effects.*
- *Conserve and enhance areas of wildlife value and ensure there is a net gain to biodiversity, using the most up-to-date version of the Biodiversity Metric. Avoid an loss of biodiversity through ecological protection and enhancement, and good design. Where it is not possible, mitigate and as a last resort compensate for any loss. Achieve a net gain in biodiversity (measured in accordance with Government guidance and legislation), for example, by incorporating new natural habitats, appropriate to the context of the site, into development and designing buildings with integral bat boxes and bird nesting opportunities, green/brown roofs and green walling, in appropriate circumstances in accordance with District Plan Policy DP38: Biodiversity.*
- *Protect and enhance Green Infrastructure (GI) and corridors by ensuring built development avoids and integrates existing GI into the layout of the scheme, reinforcing and providing new connections to existing corridors to develop a connected network of multi-functional greenspace, including incorporating opportunities to contribute to strategic GI.*
- *Improve access to, and understanding of natural greenspace and nature conservation features, including recognising the importance and role of green infrastructure to the ecosystem, biodiversity, public rights of way, health and well-being, the water environment, community facilities and climate change. Green Infrastructure is to be incorporated with SuDS, where possible, to improve biodiversity and water quality.”*

12.7.5 At national level, the NPPF states at paragraph 180 that:

*“When determining planning applications, local planning authorities should apply the following principles:*

*a) if significant harm to biodiversity 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,*

*b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest,*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>63</sup> and a suitable compensation strategy exists, and*

*d) development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”*

- 12.7.6 The application is supported by a number of ecological reports, assessments and surveys, updated where appropriate, and the full ecological supporting submissions are available in full on the planning file.
- 12.7.7 The Council’s Ecological Consultant has reviewed all the submissions, including those updated submissions that were submitted directly in response to previous requests. The Consultant’s full comments are set out in Appendix B, with the most relevant being the ‘final comments’ as these cover the submission of all the requested information.
- 12.7.8 The Ecological Consultant has confirmed that no further bat surveys are required given the low roost potential and that Great Crested Newt Precautionary Method statement should be secured through condition. Similarly, given the presence of populations of Slow Worm, Grass Snake and Common Lizard, a Reptile Mitigation Strategy will need to be secured via condition.
- 12.7.9 During the application process, representations were made including from the Badger Trust about the presence of badgers on the application site and this issue was raised with the Council’s Ecological Consultant who commented that:
- “I note that representations have been made by a local resident due to concerns about badgers using the site with a photograph of a possible badger sett entrance submitted (location unknown and not confirmed as a badger sett). A single entrance without extensive mounds of excavated earth would suggest an occasionally used outlying sett of less importance to a clan than the main sett. A licence from Natural England would still be required to permit any operations that would damage an active sett or disturb badgers whilst occupying a sett, but licences are normally granted subject to mitigation measures. I note that no evidence of a sett was found by the applicant’s consultants and that the agent pointed this out in response to the local representations. Badgers can create new setts in a relatively short space of time so the situation could have changed. However, it could change further between granting consent and ground works commencing. Therefore, a requirement for an update check within 3 months of development commencing is good practice and recommended in this case if MSDC grants consent.”*
- 12.7.10 As such, and to ensure that the presence or absence of badgers is established prior to development commencing, the Biodiversity Enhancement condition will include a

provision for such survey work to be undertaken within 3 months of commencement of development. If badgers are found to be on the site then any works would need to be carried out under Licence from Natural England.

12.7.11 In respect of the of the impact on Priority Species, the Ecological Consultant has concluded that:

*“We are now satisfied that there is sufficient ecological information available for determination and the application can be made acceptable by condition. This provides certainty for the LPA of the likely impacts on protected and Priority species and, with appropriate mitigation measures secured, the development can be made acceptable. This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.”*

12.7.12 Whilst Policy DP38 requires that there is no net loss of biodiversity on the site, Policy SA GEN requires sites allocated in the Site Allocations DPD to provide a net gain to biodiversity. Policy HK10 of the Neighbourhood Plan also states that development proposals should deliver a net gain in biodiversity. It is worth noting that the provision of Biodiversity Net Gain through these planning policies is not the same as the mandatory requirement that will come into force with the Environment Act legislation later in 2023. There is thus no specific BNG figure that must be achieved currently.

12.7.13 The applicant has made submissions that indicate that it will not be possible to achieve Biodiversity Net Gain onsite but that offsite provision will be made in this case. The offsite location identified by the applicant is a 1.29 hectare area of grassland located within the Wealden District Council area. The applicant has commented that:

*“Following calculations undertaken using DEFRA Biodiversity Metric 3.1 Calculation Tool, it can be seen that a net loss of habitat units will be delivered onsite as a result of the proposed development. Specifically, a loss in habitat units from 4.51 units to 1.87 units (which equates to a 58.43% decrease). However, with the proposed offsite enhancements, it can be seen that an overall net gain of 0.98 habitat units (which equates to 21.73%) will be generated as part of the proposed scheme. The proposals will also result in an increase in hedgerow units from 1.93 units to 2.15 units (which equates to a 11.73% increase).”*

12.7.14 It is important to make clear that utilising offsite locations to deliver biodiversity net gain for a development is an acceptable approach in principle.

12.7.15 In respect of the technical assessment of the biodiversity net gain proposals, the Council's Ecological Consultant is satisfied with the submissions subject to a design stage net gain report being secured along with a Landscape and Ecological Management Plan:

*“We welcome the 21.73% BNG increase in habitat units indicated in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) and the additional information on habitat condition assessments in the Briefing Note: Ecology Response (Ecology Solutions, May 2023)). We note that the Defra Metric 3.1 spreadsheet and a Biodiversity Net Gain Design Stage Report have not been submitted as part of this application. However, the LPA will need a Design Stage BNG report in the form recommended by CIEEM (BNG Report and Audit Template Version 1 (July 2021)) in order to fully assess the final Metric*



*results. We recommend that this design stage BNG report is secured by a condition of any consent.*

*The proposed habitats, including the planting of wildflower grassland mix and management of tussocky grassland, creation of species-rich grassland, planting of trees and hedgerows, and creation of reptile hibernacula, should be subject to a long-term Landscape and Ecological Management Plan (LEMP) to ensure they are managed to benefit wildlife and deliver the promised net gain for biodiversity.”*

12.7.16 In terms of securing the offsite Biodiversity Net Gain, this will be done through the Section 106 Legal Agreement. The Agreement has not yet been completed, see Recommendation A, but the broad principles of the obligation contained within the 106 Agreement on the net gain issue will likely include:

- To provide an appropriate Biodiversity Net Gain Management Plan to cover 30 years (to incorporate same requirements as a LEMP)
- Demonstrate what level of biodiversity net gain is to be delivered
- Demonstrate both where and how it will be provided.
- Demonstrate through the provision of an appropriate signed legal agreement that what the applicant is committing to deliver on biodiversity net gain, is both secured and deliverable and provides an appropriate level of monitoring and enforcement with a local planning authority
- Will also allow for an alternative of purchasing biodiversity credits if required as this is also an option in principle for delivering biodiversity net gain offsite.

12.7.17 The applicant will need to adhere to the obligations within the 106 Agreement and will not be able to commence development until the Biodiversity Net Gain obligations are met.

12.7.18 The Ecological consultant has concluded their comments by confirming the ecological impacts will be minimised such that the proposal is acceptable and in terms of biodiversity net gain, the enhancements proposed will contribute to this aim. A number of conditions are recommended, with these all found listed in Appendix A and summarised as follows:

- Ecological appraisal recommendations
- Great Crested Newt Precautionary Method Statement
- Construction environmental management plan for biodiversity
- Biodiversity Net Gain Design Stage Report
- Biodiversity Enhancement Layout (to include updated badger survey)
- Landscape and ecological management plan
- Wildlife sensitive lighting design scheme

12.7.19 Given the comments from the Council's Ecological consultant, and because the mitigation and enhancement measures can be secured via condition, with the biodiversity net gain requirements also secured via the legal agreement, it can be concluded the application complies with Policy DP38 of the District Plan, Policies SA GEN and SA29 of the Site Allocations DPD, Policy HK10 of the Neighbourhood Plan and the NPPF.

## **Ashdown Forest**

- 12.8.1 Under the Conservation of Habitats and Species Regulations 2017 (as amended) (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 (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).
- 12.8.2 The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.
- 12.8.3 A Habitats Regulations Assessment has been undertaken for the proposed development in this planning application.

### **Recreational disturbance**

- 12.8.4 Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.
- 12.8.5 In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. Policy HK10 of the Neighbourhood Plan also requires protection of the Ashdown Forest.
- 12.8.6 Policy SA GEN of the Site Allocations DPD sets out that *“Developments resulting in a net increase in dwellings within the 7km zone of influence around the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) will require mitigation in order to prevent adverse effects on the Forest and shall accord with District Plan Policy DP17: Ashdown Forest SPA and SAC.”*
- 12.8.7 A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.
- 12.8.8 This planning application is within the 7km zone of influence and generates a net increase of 30 dwellings, and as such, **mitigation is required**.
- 12.8.9 An appropriate scale of SAMM mitigation for the proposed development is £35,100, and as the approved scheme provides for a strategic SANG contribution, this would be £43,182.
- 12.8.10 The applicants have agreed that they would be prepared to make a financial contribution towards the SAMM Strategy and strategic SANG mitigation. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.
- 12.8.11 Given that this site is allocated for housing in the Site Allocations Development Plan Document, the strategic SANG for its mitigation located at East Court & Ashplats Wood in East Grinstead and Natural England has confirmed that it is suitable mitigation for

development in Mid Sussex. The SANG is managed in accordance with the Management Plan and this document sets out the management objectives for the site and the management activities. Financial contributions for the strategic SANG will be spent in accordance with the Management Plan.

- 12.8.12 The financial contributions for SAMM and SANG mitigation have been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (“Planning Obligation”).
- 12.8.13 The Planning Obligation securing the SAMM and SANG contributions has been completed so 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 Mid Sussex District Plan.
- 12.8.14 Natural England has been consulted on the appropriate assessment of this proposed development and concluded that they have no objection subject to securing the appropriate mitigation.

### **Atmospheric pollution**

- 12.8.15 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.
- 12.8.16 The proposed development was modelled in the Mid Sussex Transport Study as a **development allocated through the Site Allocations DPD** 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.

### **Conclusion of the Habitats Regulations Assessment**

- 12.8.17 The Habitats Regulations Assessment concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.
- 12.8.18 The provision of mitigation in the form of both SANG and SAMM is essential to the proposals within the planning application to ensure the Ashdown Forest SPA is protected from any potential recreational disturbance impact arising from this proposed new development. The development proposed provides sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA.
- 12.8.19 No mitigation is required in relation to the Ashdown Forest SAC.
- 12.8.20 Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site’s conservation objectives, and having consulted Natural England and fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development. The application complies with Policy DP17 of the District Plan, HK10 of the Neighbourhood Plan and SA GEN of the Site Allocations DPD.

## Infrastructure

- 12.9.1 Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure. This includes securing affordable housing which is dealt with under Policy DP31 of the District Plan (see sub section 12:10). Policy DP20 sets out that infrastructure will be secured through the use of planning obligations.
- 12.9.2 Policy SA GEN of the Site Allocations DPD sets out one of the Key Objectives that requires allocated sites to: *“Contribute towards necessary infrastructure provision, including transport, education, health, community and leisure facilities as required by District Plan Policy DP20: Securing Infrastructure, the Mid Sussex Infrastructure Delivery Plan (IDP) and the Mid Sussex Development Infrastructure and Contributions Supplementary Planning Document (SPD).”*
- 12.9.3 The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:
- a) A Development Infrastructure and Contributions SPD which sets out the overall framework for planning obligations
  - b) An Affordable Housing SPD
  - c) A Development Viability SPD
- 12.9.4 The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 55 and 57 which state:
- “55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*
- 57. Planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.”*

12.9.5 These tests reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

12.9.6 The additional population from this development will impose additional burdens on existing infrastructure and the monies identified will mitigate these impacts. As Members will know, developers are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

12.9.7 In this case, the following contributions are sought:

### West Sussex County Council Contributions

Library provision: £11,554 (Additional facilities at Haywards Heath Library)  
Education Primary: £109,282 (Additional facilities at St Giles Primary)  
Education Secondary: £117,613 (Additional facilities at Oathall College)  
TAD: £89,098 (traffic calming, pedestrian and cycle improvements to promote sustainable travel within the village of Horsted Keynes)

## Mid Sussex District Council Contributions

Children's play space: £25,612 (Improvements at HK Recreation Ground)

Kickabout: £21,514 (Improvements at HK Recreation Ground)

Formal sport: £29,332 (Improvements at HK Recreation Ground and/or cricket ground)

Community buildings: £18,453 (Improvements to Memorial Pavilion at HK Recreation Ground)

Local community infrastructure: £20,925 (the refurbishment of toilet facilities at the Memorial Pavilion at Horsted Keynes Recreation Ground and/or the installation of a footpath enabling disabled access from the car park across Horsted Keynes Recreation Ground to the Play Area and Memorial Pavilion.)

- 12.9.8 It is considered that the above infrastructure obligations would meet policy requirements and statutory tests contained in the CIL Regulations. A section 106 legal agreement would need to be completed to secure these contributions and as such the application accords with Policy DP20 of the District Plan and Policy SA GEN of the Site Allocations DPD.

## Affordable housing

- 12.10.1 Policy DP31 of the District Plan makes clear that:

*“The Council will seek:*

- 1. The provision of a minimum of 30% on-site affordable housing for all residential developments providing 11 dwellings or more, or a maximum combined gross floorspace of more than 1,000m<sup>2</sup>;*
- 2. For residential developments in the High Weald Area of Outstanding Natural Beauty providing 6 – 10 dwellings, a commuted payment towards off-site provision, equivalent to providing 30% on-site affordable housing;*
- 3. On sites where the most recent use has been affordable housing, as a minimum, the same number of affordable homes should be re-provided, in accordance with current mix and tenure requirements;*
- 4. A mix of tenure of affordable housing, normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix; and*
- 5. Free serviced land for the affordable housing.*

*All affordable housing should be integrated with market housing and meet national technical standards for housing including “optional requirements” set out in this District Plan (Policies DP27: Dwelling Space Standards; DP28: Accessibility and DP42: Water Infrastructure and the Water Environment); or any other such standard which supersedes these.”*

- 12.10.2 Policy SA GEN of the Site Allocations DPD sets out one of the Key Objectives that requires allocated sites to: *“Provide 30% affordable housing and a suitable mix of housing in line with District Plan Policies DP30: Housing Mix and DP31: Affordable Housing and the Mid Sussex Affordable Housing SPD.”*

- 12.10.3 As indicated previously in this report, the applicant is proposing 30% affordable housing on site which equates to:

9 units (6 x 1 bed flats and 3 x 2 bed houses)

- 12.10.4 The Housing Enabling Team Leader supports the scheme due to this provision and has commented that: *“The applicant is proposing a development of 30 residential*

*dwelling which gives rise to an onsite affordable housing requirement of 30% (9 units) in line with District Plan Policy DP31. The development will comprise a mix of 1 bed flats and 2, 3 and 4 bed houses including 6 x 1 bed affordable flats and 3 x 2 bed affordable houses. These affordable housing units will help meet the needs identified by the Horsted Keynes Housing Needs Survey and the Council's Common Housing Register and the units will need to meet our occupancy and minimum floor area requirements of 50m<sup>2</sup> for a 1b/2p flat and 79m<sup>2</sup> for a 2b/4p house. It is proposed that 6 of the flats and 1 house (75%) will be for affordable rent and the remaining 2 houses (25%) will be for shared ownership, which will meet our policy requirements regarding tenure."*

12.10.5 This level of affordable housing, including the mix and tenure, will be secured through the legal agreement. As such the application accords with Policy DP31 of the District Plan and Policy SA GEN of the Site Allocations DPD.

### **Flood Risk and Drainage**

12.11.1 Policy DP41 of the District Plan states in part:

*"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 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.

SuDS should be sensitively designed and located to promote improved biodiversity and 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."

12.11.2 At Neighbourhood Plan level Policy HK12 requires:

*"Where applicable, development proposals creating significant new drainage requirements should demonstrate that effective Sustainable Drainage Systems are incorporated where practicable, and a long term management plan must be prepared to secure future maintenance of the drainage system. New and improved water and waste water utility infrastructure will be encouraged and supported in order to meet the identified needs of the community."*

12.11.3 At site allocation level, and in respect of Flood Risk and Drainage, Policy SA29 requires:

- *Design Surface Water Drainage to minimise run off, to incorporate SuDS and to ensure that Flood Risk is not increased.*
- *Provide SuDS in the southern part of the site as an integral part of the Green Infrastructure proposals to improve biodiversity and water quality.*

12.11.4 Similarly, and again in respect of Flood Risk and Drainage, Policy SA GEN requires:

- *“ Provide a site-specific Flood Risk Assessment (FRA)/surface water drainage strategy in areas at risk from fluvial or surface water flooding to inform the site layout and any appropriate mitigation measures that may be necessary. Areas at risk of flooding should be avoided in the first instance.*
- *Undertake a sequential approach to site layout by avoid developing areas at risk of flooding including climate change allowance.*
- *Priority will be given to use of Sustainable Urban Drainage Systems (SuDS) principles and methods where possible to drain the surface water from the development. SuDS features shall be designed and managed to provide, where possible, an ecological and water quality enhancement, providing areas for amenity and recreation, in accordance with District Plan Policy DP41: Flood Risk and Drainage and the West Sussex Lead Local Flood Authority (LLFA) Policy for the Management of Surface Water and the Mid Sussex Drainage Advice for Developers.”*

12.11.5 The Council's Drainage Officer has been consulted on the merits of this application and assessed the submitted Flood Risk Assessment (FRA) and Drainage Strategy. and other supporting submissions. Regarding the flood risk, the drainage officer has confirmed that the Assessment is acceptable and no further information is required. The foul water proposals, via a pumped network to the public foul sewer located beneath Hamsland, is also considered acceptable.

12.11.6 Regarding the surface water drainage, the officer has confirmed that the principle of the drainage strategy is acceptable with surface water being attenuated and discharged into an adjacent watercourse at the Greenfield QBar rate, in line with sustainable drainage principles. The drainage system has been designed to cater for the 1 in 100-year storm event with allowances for climate change and urban creep. At detailed design stage (i.e. via condition) the attenuation tanks will need to be located within the public realm as shown on the latest drainage strategy plan. The condition will also require the delivery of SuDS in the southern part of the site to ensure compliance with Policy SA29.

12.11.7 The Drainage officer concludes by requesting a condition securing the detailed design of the foul and surface water drainage as is standard when the principles are deemed acceptable. No objections have been received by West Sussex in their capacity as the Lead Local Flood Authority or by Southern Water.

12.11.8 With such a condition in place as recommended by the Council's Drainage Officer, it can be concluded that the application therefore accords with Policy DP41 of the District Plan, Policy HK12 of the Neighbourhood Plan and Policies SA GEN and SA29 of the Site Allocations DPD.

## Sustainability

12.12.1 Policy DP39 (Sustainable Design and Construction) states that:

*'All development proposals must seek to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate the following measures:*

- *Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation;*
- *Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible;*
- *Use renewable sources of energy,*
- *Maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation,*
- *Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment,*
- *Demonstrate how the risks associated with future climate change have been planned for as part of the layout of the scheme and design of its buildings to ensure its longer term resilience.'*

12.12.2 At site allocation level, and in respect of Flood Risk and Drainage, Policy SA GEN requires:

*“• Design development to be resilient to climate change, minimise energy and water consumption and mitigate against flood risk in line with DP39: Sustainable Design and Construction, DP41: Flood Risk and Drainage and DP42: Water Infrastructure and the Water Environment.*

- *Address sustainability at the conception stage of development proposals to exploit the benefits of passive design and orientation, fabric performance, energy efficiency measures and low carbon solutions; and wherever possible include on-site low or zero carbon technologies in accordance with District Plan policies DP39: Sustainable Design and Construction and DP40: Renewable Energy Schemes.”*

12.12.3 At Neighbourhood Plan level Policy HK11 states that:

*“As appropriate to their scale, nature and location, development proposals should be ‘zero carbon ready’ by design to minimise the amount of energy needed to heat and cool buildings through landform, layout, building orientation, massing and landscaping. Consideration should be given to resource efficiency at the outset and whether existing buildings can be re-used as part of the scheme to capture their embodied carbon. Residential design proposals that include low energy and renewable technologies will be strongly supported.”*

12.12.4 The applicant has provided a Site Waste Management Plan and a Sustainability Assessment with the application. This latter document identifies a fabric first approach is adopted because of the sensitive location within the High Weald AONB. Measures to be incorporated into the scheme include the following:

- Water efficiency measures
- Electric vehicle charging points
- Sustainable drainage
- Energy reduction measures to meet Building Regulations



12.12.5 The proposal will also have to meet Building Regulations and this will include energy reduction measures and the provision of electric vehicle charging points. The submitted Sustainability Statement is however somewhat non-committal about what measures 'will' be put into place and instead suggests what measures 'could' be put in place. It is therefore reasonable to use a condition that will ensure the development proceeds in accordance with the details to be submitted in a new Sustainability Statement that will need to make firm commitments to demonstrate policy compliance. With this condition in place, the application complies with Policy DP39 of the District Plan, Policy SA GEN of the Site Allocations DPD and Policy HK11 of the Neighbourhood Plan.

### **Water Supply**

12.13.1 Policy DP42 of the District Plan states in part that:

*“Development proposals which increase the demand for off-site service infrastructure will be permitted where the applicant can demonstrate that sufficient capacity already exists off-site for foul and surface water provision. Where capacity off-site is not available, plans must set out how appropriate infrastructure improvements approved by the statutory undertaker will be completed ahead of the development's occupation, and that there is adequate water supply to serve the development.”*

12.13.2 Policy SAGEN requires:

*“Demonstrate that there is adequate water supply capacity and/or waste water capacity both on and off the site to serve the development and that it would not lead to problems for existing or new users in accordance with District Plan policy DP42: Water Infrastructure and the Water Environment.”*

12.13.3 In response to meeting this policy requirement the applicant has provided a response that confirms correspondence has taken place with South Eastern Water who provide potable water to the area around the application site.

12.13.4 This response, which confirms that no objections have been made to the principle of a connection by the potable water supplier, ensure that the application complies with Policy DP42 of the District Plan and Policy SA GEN.

### **Housing Mix**

12.14.1 Policy DP30 (Housing Mix) states in part that housing development will:

*“provide a mix of dwelling types and sizes from new development (including affordable housing) that reflects current and future local housing needs;”*

12.14.2 Policy HK3 of the Neighbourhood Plan states that:

*“New residential development of multiple dwellings should seek to include in their housing mix a majority of 1-bedroom and 2-bedroom dwellings. Where practicable and commercially viable, development proposals should deliver the following housing mix:*

- 40%- 1 bed; and
- 40%- 2 bed; and
- 20%- 3 bed”

12.14.3 Both SA29 and SA GEN also require the provision of a mix of dwelling types and sizes The mix proposed here is

- 6 x 1 bed (20%)
- 9 x 2 bed (30%)
- 12 x 3 bed (40%)
- 3 x 4 bed (10%)

12.14.2 Whilst the proposal may not strictly comply with the % requirements of the Neighbourhood Plan, an exact % figure is quite prescriptive. The Parish comments are noted on this issue but the proposal provides a good mix of units with a high proportion being small/medium units with only 3 of the 30 being larger 4 bed houses. The proposed mix is therefore considered adequate to comply with Policy DP30 of the District Plan.

### **Other Issues**

12.15.1 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.

12.14.2 The Council's Contaminated Land Officer has not raised any objection and suggested the use of conditions to deal with the risks associated with contamination of the site. This ensures compliance with the NPPF and Policies SAGEN and SA29, the latter of which states that:

“The land may be contaminated due to present or historical on site or adjacent land uses. Provide a detailed investigation into possible sources of on-site contamination together with any remedial works that are required.”

12.14.3 The West Sussex Water and Access Officer has requested conditions to secure the provision of fire hydrants for the development.

12.14.4 SA GEN also refers to Minerals Safeguarding and provides a requirement to:

*“Consult with West Sussex County Council regarding any applications for development in a Minerals Safeguarding Zone or Consultation Area and address the requirements of Policy M9 West Sussex Joint Minerals Local Plan – 2018.”*

12.14.5 West Sussex MWPA has though confirmed there is no objection to the proposed development because the application site is not within an identified mineral safeguarding area, and there are no identified waste operators within the vicinity of the proposed development. There is therefore no conflict with SA GEN or M9.

12.14.6 A condition will be used to ensure that the proposal provides appropriate accessible dwellings in accordance with Policy DP28.

12.14.7 There is a requirement of Policy SA GEN of the Site Allocations DPD (Utilities) to *“Liaise with water, gas and electricity providers to ensure that appropriate works are carried out if needed.”* The applicant has provided a Utilities statement with the application and based on this planning officers have no reason to believe that a suitable connection cannot be made where necessary. Water Supply has been

discussed in more detail within sub-section 12.13. The application therefore accords with this element of SA GEN.

### **13.0 Planning Balance and Conclusion**

- 13.1 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Horsted Keynes Neighbourhood Plan.
- 13.2 National policy (which is contained in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.
- 13.3 National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.
- 13.4 It is considered that the principle of development is acceptable. The Mid Sussex Site Allocations Development Plan Document was adopted by the Council as part of the Development Plan in June 2022. The application site, known as SA29, is allocated for 30 dwellings within the Site Allocations DPD. The built up area boundary of Horsted Keynes has been amended to include the site both within the Site Allocations DPD and the Horsted Keynes Neighbourhood Plan.
- 13.5 The detailed design and landscape impact are considered acceptable with a number of detailed elements being secured by condition to ensure the scheme is as sympathetic to its surroundings as possible. Overall, the character and appearance of the High Weald Area of Outstanding Natural Beauty will be preserved.
- 13.6 Although the proposal will change the appearance of the site from the neighbouring properties the development will not result in unacceptable harm to neighbouring residential amenity whether through loss of light, loss of privacy, by being overbearing, noise or light pollution.
- 13.7 It is considered that the site can satisfactorily retain the important boundary trees although precise details of the construction methods of work within their Root Protection areas is secured. Detailed tree protection measures and additional planting, as well as a long term management plan for the landscaped areas, will also be secured. The ecological impacts of the development have been robustly assessed and considered acceptable whilst biodiversity net gain will be secured through the legal agreement. The legal agreement would also secure the required infrastructure contributions, the on-site affordable housing provision of 9 units and the requisite Ashdown Forest SAMM and SANG mitigation.
- 13.8 It is considered that the proposal will provide safe and convenient pedestrian and vehicular access to the site in accordance with the site allocation policy with the local highways authority confirming that the application would not result in a 'severe' detrimental impact to highway safety thereby ensuring compliance with the National Planning Policy Framework.
- 13.9 It is considered that the site could be satisfactorily drained and sustainable measures to be incorporated into the development can be secured via condition.

The housing mix is considered appropriate. As such these matters are neutral in the planning balance.

- 13.10 The application therefore complies with policies DP4, DP6, DP13, DP16, DP17, DP20, DP21, DP22, DP26, DP27, DP28, DP29, DP30, DP31, DP35, DP37, DP38, DP39, DP41 and DP42 of the Mid Sussex District Plan, Policies SA GEN, SA10, SA11, SA29 and SA38 of the Mid Sussex Site Allocations DPD, Policies HK1, HK3, HK4, HK5, HK9, HK10, HK11, HK12, HK13 and HK17 of the Horsted Keynes Neighbourhood Plan, the Mid Sussex Design Guide, the High Weald AONB Management Plan, the High Weald Housing Design Guide and the NPPF.
- 13.11 A key consideration in this case is the impact on heritage assets. The proposed development is within the setting of nearby heritage assets that are affected by this application, these being:
- Horsted Keynes Conservation Area
  - Wyatts (Grade II listed),
- 13.12 In this case it is considered that the development will lead to less than substantial harm to the setting of Wyatts, this being towards the mid level on that scale. This means there is some conflict with Policy DP34 of the District Plan and Policy HK6 of the Neighbourhood Plan. In such cases, para 202 of the NPPF is clear on how the local planning authority needs to assess the application:
- “202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”
- 13.13 Therefore, were there to be public benefits that outweighed the harm to the designated heritage asset, this would be a material planning consideration that could lead to an acceptance of the proposal, despite the harm to the heritage asset.
- 13.14 In this case, there would be clear social and economic benefits from the development of 30 houses on an allocated site that includes 9 affordable homes. There would also be public benefits arising during the construction phase of the project and from the operational phase from additional spending in the local economy from the future residents.
- 13.15 Planning officers conclude therefore that the public benefits from this proposal will outweigh the identified harm to the heritage asset.
- 13.16 Overall, planning officers consider that the scheme meets the key objective of the site allocation SA29 Policy which is:

“To deliver a high quality, landscape led, sustainable extension to Horsted Keynes, which respects the character of the village and conserves and enhances the landscape and scenic beauty of the High Weald AONB, and which is comprehensively integrated with the settlement so residents can access existing facilities.”

The application is therefore recommended for approval, subject to the suggested conditions and securing the legal agreement.

## APPENDIX A – RECOMMENDED CONDITIONS

### 1. 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.

### 2. Pre-development

Prior to the commencement of any development above ground/slab level a schedule of materials and finishes to be used for the external facings of the proposed buildings shall have been submitted to and approved by the Local Planning Authority. The materials should be based on the High Weald Colour Study and High Weald Design Guide, should reflect those used in the local area and be locally sourced where possible.

The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16 and DP26 of the Mid Sussex District Plan and Policy HK4 of the Neighbourhood Plan.

### 3. Prior to the commencement of any development above ground/slab level a scheme of soft landscaping for the site drawn to a scale of not less than 1:200 shall have been submitted to and approved in writing by the Local Planning Authority. The soft landscaping details shall include additional planting along the boundaries of the site, planting plans using native species - in particular to replace ash trees lost to dieback disease - that are locally sourced where possible, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant sizes and proposed numbers/ densities and details of a long term management plan for the trees and hedgerows as well as any other soft landscaped area within the application site that does not fall within private gardens and that accords with the provisions of the LEMP.

The approved scheme of soft landscaping works shall be implemented not later than the first planting season following commencement of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority). Any planting removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy HK4 of the Neighbourhood Plan.

4. Prior to the commencement of any development above ground/slab level a scheme a hard landscaping scheme for the site shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include all hard surfacing materials, means of enclosure and other boundary treatments, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (for example the pumping station, refuse and / or other storage units, lighting and similar features, any retaining structures). The scheme shall also have reference to the High Weald Design Guide and ensure that close board fences are not used as garden boundaries where they would be viewed from public areas.

The scheme shall be implemented prior to the occupation of any part of the development (or within such extended period as may first be agreed in writing with the Local Planning Authority).

Reason: To achieve a development of visual quality in the AONB, to protect neighbouring residential amenity and to accord with Policies DP16 and DP26 of the Mid Sussex District Plan and Policy HK4 of the Neighbourhood Plan.

5. Prior to commencement of development (including any demolition, groundworks and site clearance) an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement should include details of the following:
  - a. Measures for the protection of those trees and hedges on the application site that are to be retained;
  - b. Details of all construction measures within the 'Root Protection Area' of those trees on the application site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstanding, roads and footpaths;
  - c. A schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

The development shall be carried out in accordance with the approved Method Statement unless agreed in writing by the Local Planning Authority.

Reason: To achieve a development of visual quality in the AONB and to accord with Policies DP16, DP26 and DP37 of the Mid Sussex District Plan and Policy HK4 of the Neighbourhood Plan.

6. Prior to the commencement of any development above ground/slab level details of the proposed foul and surface water drainage and means of disposal shall have been submitted to and approved in writing by the local planning authority. The details shall include the delivery of SuDS in the southern part of the site, 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.

No building shall 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 Policy DP41 of the District Plan Policy HK12 of the Neighbourhood Plan and the NPPF.

7. No development shall take place until the applicant, or their agents or successors in title, 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. The development shall proceed in accordance with the agreed details.

Reason: In the interests of archaeology and heritage assets and to accord with Policy DP34 of the District Plan and the NPPF.

8. Prior to the commencement of the development a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of:
  - measures to control noise or vibration affecting nearby residents;
  - artificial illumination;
  - dust control measures;
  - pollution incident control and site contact details in case of complaints.
  - 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),
  - details of public engagement both prior to and during construction works.

The construction works shall thereafter be carried out at all times in accordance with the approved Construction Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: in the interests of highways safety and to protect the amenity of local residents and to accord with Policies DP21 and DP26 of the District Plan and Policy HK5 of the Neighbourhood Plan.

9. Prior to the commencement of any development above ground/slab level details, a scheme of mitigation measures to improve air quality relating to the development shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be in accordance with, and to a value derived in accordance with, the "Air Quality and Emissions Mitigation Guidance for Sussex" which is current at the time of the application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: to preserve the amenity of local residents regarding air quality and emissions and to accord with Policy DP26 of the District Plan and Policy HK5 of the Neighbourhood Plan

10. Prior to the commencement of the development a Non-Licensed Great Crested Newt Precautionary Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species) and to accord with Policy DP38 of the District Plan and HK10 of the Neighbourhood Plan.

11. The development hereby permitted shall not commence unless and until a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

Reason: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan and HK10 of the Neighbourhood Plan.

12. Prior to the commencement of any development above ground/slab level details a Biodiversity Net Gain Design Stage Report, shall be submitted to and approved in writing by the local planning authority, which provides measurable biodiversity net gain detailed in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) Briefing Note: Ecology Response (Ecology Solutions, May 2023), using the DEFRA Biodiversity Metric 3.1 or any successor.

The content of the Biodiversity Net Gain report should include the following:

- Baseline data collection and assessment of current conditions on site;



- A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;
- Provision of the full BNG calculations, with plans for pre and post development and detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;
- Details of the implementation measures and management of proposals;
- Details of any off-site provision to be secured by a planning obligation ;
- Details of the monitoring and auditing measures.

The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter."

Reason: In order to demonstrate measurable biodiversity net gains and allow the LPA to discharge its duties under the NPPF (2021) and to accord with Policy DP38 of the District Plan, Policy SA GEN of the Site Allocations DPD and HK10 of the Neighbourhood Plan.

13. Prior to the commencement of any development above ground/slab level details a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Offsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022)) and Ecological Assessment (Ecology Solutions, December 2020) shall be submitted to and approved in writing by the local planning authority.

The plan shall include provisions for, and results of, an updated badger survey to be undertaken within the 3 months prior to the commencement of development and a licence to be obtained if there is any evidence that development would damage or destroy a sett or disturb badgers whilst occupying a sett (including noise and vibration from earth moving machinery).

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species) and to accord with Policy DP38 of the District Plan, Policy SA GEN of the Site Allocations DPD and HK10 of the Neighbourhood Plan.

14. Prior to the commencement of any development above ground/slab level, a Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details and prior to the occupation of any dwellings.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats and species) and to accord with Policy DP38 of the District Plan and HK10 of the Neighbourhood Plan.

15. Prior to the commencement of any development above ground/slab level details showing the proposed location of one fire hydrant or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Reason: In the interests of amenity and in accordance with The Fire and Rescue Service Act 2004.

16. No development shall take place above slab level unless and until the applicant has submitted a Sustainability Statement that sets out clearly what sustainable measures will be incorporated into the development aimed at minimising the amount of energy that the buildings will use.

Reason: In the interests of sustainability and to accord with Policy DP39 of the District Plan, Policy SA GEN of the Site Allocations DPD and Policy HK11 of the Neighbourhood Plan.

17. No development shall take place unless and until full details of the existing and proposed site levels (to include finished floor 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 or amenities of existing or future residents and to accord with Policy DP26 of the District Plan and HK4 of the Neighbourhood Plan.

18. Construction

Construction work on the site, including the use of plant and machinery, necessary for implementation of this consent shall, unless otherwise agreed in writing, 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 and to accord with Policy DP26 of the District Plan and HK5 of the Neighbourhood Plan.

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

Monday to Friday: 08:00 - 18:00 hours;

Saturday: 09:00 - 13:00 hours

Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the District Plan and HK5 of the Neighbourhood Plan.

20. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Ecology Response (Ecology Solutions, May 2023), Ecological Assessment (Ecology Solutions, December 2020) and the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022)), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and to accord with Policy DP38 of the District Plan and HK10 of the Neighbourhood Plan.

21. The development shall be constructed in accordance with the applicant's Site Waste Management Plan (November 2020).

Reason: In the interests of sustainability and to accord with Policy DP39 of the District Plan, Policy SA GEN of the Site Allocations DPD and Policy HK11 of the Neighbourhood Plan.

22. Pre-Occupation/Use of buildings

A minimum of 20 percent of the dwellings shall be built to meet national standards for accessibility and adaptability (Category M4(2) of the Building Regulations). These shall be fully implemented prior to completion of the development and thereafter be so maintained and retained. No dwelling shall be occupied until a verification report confirming compliance with category M4(2) has been submitted to and agreed with the Local Planning Authority. Unless an exception is otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development provides a range of house types to meet accessibility and adaptability needs to comply with Policy DP28 of the Mid Sussex District 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 in writing 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.

24. A lighting design scheme for biodiversity and protecting the dark skies of the AONB (Institute of Lighting Professionals recommended light control zone E1) shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats and species), to protect neighbouring residential amenity and the AONB and to accord with Policies DP16, DP26 and DP38 of the District Plan.

25. Prior to the first occupation of any dwelling/residential unit forming part of the proposed development that they will at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

Reason: In the interests of amenity and in accordance with The Fire & Rescue Service Act 2004.

26. Before the development hereby permitted is occupied, details of the refuse and recycling shall be provided as part of the development in accordance with elevational drawings of any enclosures where relevant to first be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the development and to accord with Policy DP26 of the District Plan and HK4 of the Neighbourhood Plan.

27. The development hereby permitted shall not be occupied/brought into use until the following components of a scheme to deal with the risks associated with contamination of the site have each been submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

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

and unless otherwise agreed in writing by the LPA,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

and, unless otherwise agreed in writing by the LPA,

c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;

and, unless otherwise agreed in writing by the LPA,

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with the NPPF.

28. No part of the development shall be first occupied until such time as the vehicular access, footway and dropped kerb/tactile paved crossings serving the development have been constructed in accordance with the details shown on the drawing titled Proposed Site Access and Visibility Splay and numbered JNY1008403 Rev G.

Reason: In the interests of road safety and to accord with Policy DP21 of the District Plan and SA GEN and SA29 of the Site Allocations DPD.

29. No part of the development shall be first occupied until visibility splays of 2.4 metres by 35 metres east and 2.4 metres by 36.1m west have been provided at the proposed site vehicular access onto Hamsland in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and to accord with Policy DP21 of the District Plan and SA GEN and SA29 of the Site Allocations DPD.

30. 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 and to accord with Policy DP21 of the District Plan and SA GEN and SA29 of the Site Allocations DPD.

31. No part of the development shall be first occupied until such time as the Travel Information Pack has been submitted to and approved in writing by the Local Planning Authority.

Reason: To encourage and promote sustainable transport and to accord with Policy DP21 of the District Plan and SA GEN and SA29 of the Site Allocations DPD.

32. Post-occupation / management

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended in the future no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the ground floor of the north west elevation of Plot 5 (as shown on the approved plan) without the prior specific grant of planning permission by the Local Planning Authority.

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the District Plan and HK5 of the Neighbourhood Plan.

33. 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. 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.
2. No burning of demolition/construction waste materials shall take place on site.
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. You are advised to consult with the Parish Council to discuss with them the draft Construction Management Plan, prior to this being formally submitted to the District Council for approval.
5. The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
6. The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.
7. 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.

### **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	1044-FA-01	A	23.06.2021
Proposed Site Plan	1044-FA-02	Rev B	27.04.2021
Site Plan	1044-FA-03	Rev B	27.04.2021
Planning Layout	1044-FA-04	Rev B	27.04.2021
Parking Layout	1044-FA-05	Rev B	27.04.2021
General	1044-FA-06	Rev B	27.04.2021
General	1044-FA-07	Rev B	27.04.2021
Tree Survey	1044-FA-08	Rev B	27.04.2021
Street Scene	1044-FA-100		21.12.2020
Survey	HHK/1760/1 of 3a		21.12.2020
Survey	HHK/1760/2 of 3a		21.12.2020
Survey	HHK/1760/3 of 3a		21.12.2020
Proposed Floor Plans	1044-FA-10B	Rev B	27.04.2021
Proposed Floor Plans	1044-FA-10		21.12.2020
Proposed Elevations	1044-FA-11A	Rev B	27.04.2021
Proposed Elevations	1044-FA-11B	Rev B	27.04.2021
Proposed Floor Plans	1044-FA-12	Rev A	27.04.2021
Proposed Elevations	1044-FA-13	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-14		21.12.2020
Proposed Elevations	1044-FA-15	Rev B	27.04.2021

Proposed Floor Plans	1044-FA-16	Rev A	27.04.2021
Proposed Elevations	1044-FA-17	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-18	Rev A	27.04.2021
Proposed Elevations	1044-FA-19	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-20		21.12.2020
Proposed Elevations	1044-FA-21		21.12.2020
Proposed Floor Plans	1044-FA-22	Rev A	27.04.2021
Proposed Elevations	1044-FA-23	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-24		21.12.2020
Proposed Elevations	1044-FA-25		21.12.2020
Proposed Floor Plans	1044-FA-26	Rev A	27.04.2021
Proposed Elevations	1044-FA-27	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-28A	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-28B	Rev A	27.04.2021
Proposed Elevations	1044-FA-29A	Rev A	27.04.2021
Proposed Elevations	1044-FA-29B	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-30	Rev A	27.04.2021
Proposed Elevations	1044-FA-31	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-32	Rev A	27.04.2021
Proposed Elevations	1044-FA-33	Rev B	27.04.2021
Proposed Floor Plans	1044-FA-34A	Rev A	27.04.2021
Proposed Elevations	1044-FA-35	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-36	Rev A	27.04.2021
Proposed Elevations	1044-FA-37	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-38	Rev A	27.04.2021
Proposed Elevations	1044-FA-39	Rev A	27.04.2021
Proposed Floor and Elevations Plan	1044-FA-40	A	04.01.2021
Proposed Floor Plans	1044-FA-34B	Rev A	27.04.2021
General	1044-FA-201		27.04.2021
Proposed Floor Plans	1044-FA-34A	Rev A	27.04.2021
Proposed Floor Plans	1044-FA-34B	Rev A	27.04.2021
Access Plan	JNY10084/03	G	14.09.2022
Access Plan	JNY10084/33	A	14.09.2022
Access Plan	JNY10084/30	B	14.09.2022
Access Plan	JNY10084/04	F	14.09.2022
Access Plan	JNY10084/32		14.09.2022
Access Plan	JNY10084/31		14.09.2022

## APPENDIX B – CONSULTATIONS

### MSDC Urban Designer - Final

The revised drawings have incorporated the following improvements:

- The layout adjacent to the western boundary has been reconfigured and the development now provides a positive active frontage in relation to the attractive tree belt that straddles this boundary and avoids the edge being unattractively defined by rear garden boundaries. This arrangement also safeguards the trees by incorporating them outside the private realm avoiding potential overshadowing of rear gardens.
- The house on plot 18 has been pulled away from the evergreen tree on the east boundary allowing more natural light into both the garden and the interior of the house. The redesigned house also more satisfactorily integrates the garage and makes it a less dominant element.



- The houses at the entrance to the site on plots 1-4 and the ones behind on plots 5-7 have all been redesigned so they address the slope. This has been achieved by reconfiguring plots 1-4 as four gable-fronted detached houses, and the terraced houses on plots 5-7 now incorporate a regularly stepped roofline and frontage. The re-design has also given these frontages underlying rhythm and order (that replaces the previously untidy/poorly-resolved facades).
- The façade of plots 21/22 now incorporate a double gable that sits more comfortably with the vertically proportioned gabled fronted houses of plots 23/28/29.
- The block of flats now benefits from a more consistent application of facing materials and more consistently proportioned windows.

In conclusion, the revised drawings satisfactorily address my previous issues in respect of the layout and elevations. The proposal successfully integrates parking and is generally well landscaped with good street enclosure. While it is a shame that no usable open space is included, the size of the scheme does not require it. Consequently, the scheme now sufficiently accords with policy DP26 of the District Plan and the principles in the Council's Design Guide. I therefore raise no objections to this application but to secure the quality of the design, I would recommend conditions requiring the further approval of the facing materials and the details of the hard/soft landscaping including the boundary treatment and the details of the pumping station.

### **MSDC Urban Designer - Original**

As discussed this scheme would have benefited from pre-application consideration.

I have a particular issue about the layout around the western boundary because the houses and rear gardens on plots 26, 27 back on to the western boundary and the attractive tree belt plus open countryside beyond. This arrangement does not accord with the urban design principles set out in the draft DPD and the adopted Design Guide SPD:

SA29 of the draft Site Allocations DPD states: Orientate development to provide a positive active frontage in relation to the existing settlement, open space and attractive tree belts.

DG16 of the adopted Design Guide SPD states: Properties should not back onto the settlement edge, and the edge should not be defined by rear garden fences. This can create security problems and over time the quality of the environment can become degraded as fences are replaced or fall into disrepair. When viewed from the countryside this creates an unresolved and untidy edge that diminishes the quality of the environment

While I note that a buffer strip has been provided between the rear garden boundaries and the trees which should provide some separation from the existing field boundary, DG16 also states:

Developments should normally be designed with building frontages facing site boundaries served by new access roads that run adjacent to the site edge. This arrangement also enables existing tree-lined boundaries and hedgerows to be:

- Revealed to the public realm; and
- Safeguarded by incorporating them outside the private realm and avoiding potential overshadowing of rear gardens.

With respect to the second bullet point, Sarah (tree officer) has also advised that trees and hedges within (or on the boundary of) gardens are likely to become vulnerable to the pressures of future residents. I share these concerns especially in respect of the continuous tree belt along the western boundary. For these reasons the layout on this side of the site

needs to be changed so that it safeguards the trees and allows the development to provide a positive edge with the countryside. This can be achieved by rotating the houses on plots 26 and 27 so they front on to the tree belt/boundary (and the gardens on the east side) which is enabled by re-positioning the access road so that it runs adjacent and parallel to the tree belt. Sarah will need to advise on the separation distance required between the trees and the road, but with a permeable surface and no-dig arrangement this can hopefully limit the land-take. This will also require reorganising the plots surrounding 26+27 including moving plots 28-30 (which is also uncomfortably close to the trees) eastwards to facilitate the access road. One plot (24) may need to be lost but this could be compensated for by making a semi from one of the detached houses.

On the east side of the site, plot 18's long south east elevation (which incorporates most of the fenestration at the rear) will be significantly overshadowed by the adjacent evergreen tree. Also the façade is unduly dominated by the double garage. I feel the design and layout of house and garage would benefit from further review.

The semi on plot 2/3 fails to address the slope properly with one side incongruously accommodating dormers to address the higher floor level required to negotiate the higher ground. This would work better if all 4 houses (which have the same standard plan) were detached and configured with gable fronts as per plots 1 and 4 separated by single width garages (and this would create a harmonious rhythm).

For the same reason, the three house terrace on plots 5-7 also does not comfortably address the slope and do not take the opportunity to give the frontage underlying rhythm. This can be addressed by consistently stepping the roofline (with breaks between each plot) and handing plot 7 will deliver a replicated arrangement and rhythm which can be further reinforced if rwp's are also employed to divide each plot – refer to DG41 and DG42 of the Design Guide. This façade would also benefit from a secondary facing material to help avoid it looking unduly bland and to help offset the hard edged threshold of the adjacent car park.

The horizontal proportions dominate the façade of plot 21/22 because of its long frontage and double canopy, and together with its higher ridge line it does not sit comfortably in the wider street frontage. It would sit better adjacent to the vertically proportioned 23/28/29 if plot 22 employed a full gable to match plot 21 and thus allowing a consistent run of vertically proportioned gabled frontages.

The block of flats is clumsily organised but at least the unsightly flat-roofed stairwell and bin store is largely hidden from view at the rear and overall the design benefits from a domestic scale. The secondary facing materials though appear to incongruously peel away which is unacceptable. To provide some order/symmetry, the cill heights of the living room windows on the SE elevation /front hipped bay would be worth raising so they match the kitchen windows (as the living rooms benefit from plenty of sunlight from the windows in the NE elevation).

While I am prepared to accept it on the larger block of flats as it helps to break down the scale of the façade, mixing 3 facing materials on the same house results in a busy looking façade.

### **MSDC Conservation**

The application site is an open field to the rear of the Church of St Stephen and the adjacent houses on Hamsland, which is a continuation of Bonfire Lane, to the southern side of the village. The boundary of the Horsted Keynes Conservation Area, which includes Bonfire Lane, lies a short distance to the north east of the site. A listed building, Wyatts, is located

two fields away to the south east, towards the bottom of the hill to the top of which the site is located.

Although there is not an adopted character appraisal for the Horsted Keynes Conservation Area, the Council's document Conservation Areas in Mid Sussex includes a brief high level analysis of the key features of the Area:

'The following features contribute to the particular character of the Conservation Area:

- the spacious character of The Green, the attractive groupings of buildings around The Green and the sense of enclosure created by both buildings and landscaping;
- the variety of age and style of buildings, several of which are Listed Buildings;
- the use of traditional and natural building materials;
- the extensive views of the countryside from within the Conservation Area, especially around St Giles Church;
- the hedgerows, trees and banked verges, including those in Church Lane, Bonfire Lane and Wyatts Lane; and
- the views of the church from within the village.'

Although the site is located in close proximity to the boundary of the Conservation Area, it is screened in views from the end of Bonfire Lane by the existing development to the southern side of Hamsland. Views from the properties to the southern side of Bonfire Lane towards the Conservation Area will be restricted by existing intervening planting. The impact that the site makes to the setting of the Conservation Area is therefore limited.

Wyatts is Grade II listed, and dates from the list description, from the 17th century or earlier. The house, appears to be a former farmhouse, and there a small number of surviving outbuildings which may be regarded as curtilage listed. The farmstead is recorded in the West Sussex Historic Farmsteads and Landscape Character Assessment as a historic farmstead of the medieval period.

Wyatts would be considered to possess historic evidential and illustrative value as a good example of a Sussex farmhouse of its type and period, as well as aesthetic value based in part on the use of vernacular materials viewed within the landscape from which they were drawn, and group value with the associated former farm buildings. As such, the surviving rural setting of the house and farmstead, which is currently largely interrupted by other visible development, makes a strong positive contribution to the special interest of the listed and curtilage listed buildings and how this is appreciated. The application site forms part of this rural setting, and although at a short distance from the farmstead is relatively prominent within it due to the intervening topography and the orientation of the house which faces in this direction.

The current proposal is for the construction of 30 dwellings on the site with associated works including access, parking and hard and soft landscaping. This will have a fundamental impact on the character of the site, which will become suburbanised.

Due to the intervening development and planting, the site as above is considered to have only a limited impact on the setting of the Conservation Area. Subject to a suitable soft landscaping scheme to enhance the native species planting to the boundaries of the north east corner of the site where it is closest to Bonfire Lane and properties within the Conservation Area, the proposal is not considered to adversely affect the setting of the Area, meeting the requirements of District Plan Policy DP35.

The impact on the setting of Wyatts is considered to be more pronounced, due to the prominence of the site in views looking north west from the building and its immediate setting. Although appropriate enhanced planting with native species to the relevant boundary of the site could partially mitigate the impact that the development will have on these views,

it is unlikely to entirely remove this impact due to the scale of the proposed development, the seasonal nature of most native species leaf coverage, and the potentially ephemeral nature of the planting. Given the positive contribution which the site makes to the setting and hence special interest of the listed building the proposal will therefore result in a degree of less than substantial harm Wyatts and the associated historic farmstead, contrary to the requirements of District Plan Policy DP34. In terms of the NPPF the proposal would be considered to cause less than substantial harm around the mid level of that scale, such that paragraph 202 will apply.

If on the basis of the balancing exercise required by the NPPF it is decided to recommend approval of the application I would suggest a condition requiring a full soft landscaping scheme including the above mentioned additional planting to the southern and north eastern sides of the site.

### **MSDC Archaeological Consultant**

Comments:

Having reviewed the updated and amended information submitted in respect of this application, I confirm I have no change to make to my comments dated 25/01/2021, copied below for reference:

Recommend Archaeological Condition:

The Heritage Conservation Team, Surrey County Council provides advice to Mid Sussex District Council in accordance with the Mid Sussex Local Plan and the National Planning Policy Framework. The district council is located within the County Council of West Sussex.

The National Planning Policy Framework (Revised 2018 – Section 16) places the conservation of archaeological interest as a material consideration in the planning process. Paragraph 189 of the NPPF says that: 'Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.' This information should be supplied to inform the planning decision.

The application site covers a sizeable area of previously undeveloped land, and as such has an enhanced potential to contain either known or previously unknown below ground Heritage Assets. Therefore I am pleased to note that an Archaeological Desk Based Assessment (produced by Orion, Nov 2020) has been produced. The Assessment provides a useful archaeological background to the site and conforms to industry standards. The Assessment concludes that "the site is considered to have a low potential for archaeological remains of any date", with the site considered to be part of the rural hinterland surrounding the medieval (and later) settlement of Horsted Keynes.

Nonetheless this conclusion is reached on the basis of data compiled from the West Sussex Historic Environment Record. It is observed that there are relatively few recorded archaeological assets in the vicinity of the site but this is in part due to the absence of systematic archaeological investigation (para 4.3), rather than necessarily reflecting a true absence of archaeological activity. Given this point and the currently undeveloped nature of the site it is disappointing that the Assessment did not consider or analyse wider sources such as Aerial Photography and LiDAR to build a fuller picture of the archaeological potential of the site. The archaeological potential of the site as it is currently understood could therefore be more accurately described as 'unknown'.

Given the unknown archaeological potential of the site, and that the proposed development will result in the destruction of any archaeological assets which are present, I recommend that further archaeological work is required in relation to this proposal. The Orion Desk Based Assessment recommends that this could take place as a condition of any planning permission granted, and given that the Assessment has not identified anything to suggest that known or suspected remains of a significance to warrant preservation in situ are present, I agree that this approach is appropriate (although it is of course better that the work be carried out at the earliest opportunity).

In the first instance, further work should take the form of an archaeological trial trench evaluation which will involve the excavation of a number of trial trenches across the site, and would aim to establish, as far as is possible; the location, extent, date, character, condition, significance and quality of any Archaeological Assets that may be present on the site, and enable decisions to be made regarding the need for and scope of subsequent mitigation measures.

To ensure the required archaeological work is secured satisfactorily, the following condition is appropriate and I would recommend that it be attached to any planning permission that may be granted:

“No development shall take place until the applicant, or their agents or successors in title, 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.”

Please do not hesitate to contact the Historic Environment Planning, Surrey County Council should you require further information.

Please note this response relates solely to archaeological issues, and the views of the relevant Conservation Officer should also be sought.

### **MSDC Environmental Protection**

Given the proximity of existing housing, Environmental Protection recommends conditions be applied to any permission granted to protect residents from dust and noise during the construction phase. In addition, given that this development proposes the provision of 30 residential units, a condition is recommended requiring the submission of a scheme of mitigation measures to improve air quality relating to the development.

Conditions:

Construction hours: Works of construction, including 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.

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: 08:00 - 18:00 hours;

Saturday: 09:00 - 13:00 hours

Sunday & Public/Bank holidays: None permitted

Reason: to protect the amenity of local residents

Construction Environmental Management Plan: Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: measures to control noise or vibration affecting nearby residents; artificial illumination; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: to protect the amenity of local residents

Air Quality: Prior to the commencement of any residential part of the development hereby permitted, a scheme of mitigation measures to improve air quality relating to the development shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be in accordance with, and to a value derived in accordance with, the "Air Quality and Emissions Mitigation Guidance for Sussex" which is current at the time of the application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Informative – In order to ensure approval, we strongly recommend that the above scheme is agreed in advance with the Council's Air Quality Officer.

Reason: to preserve the amenity of local residents regarding air quality and emissions

### **MSDC Waste**

I've asked for comments from MSDCs Waste Contractors, Serco, their reply is as follows:

*As I understand it they are looking to widen the road to allow wider vehicles to park whilst not obstructing the access for existing traffic. I can only assume this is for larger residential vehicles or traffic associated with a construction site.*

*As long as the existing width is maintained and vehicles will not be parked on entrances, corners or junctions, there should be no issues for Serco's access.*

### **MSDC Landscape Consultant – Final**

With regard to your request for comments on the revised scheme I can confirm that the revisions do address my previous concerns.

I recommend that the application can be supported subject to the conditions outlined in my comments dated 3.2.21

### **MSDC Landscape Consultant – Original**

Summary Recommendation: Recommend for approval in principle subject to the imposition of conditions The proposed development could have an acceptable impact on local landscape character and views. It is recommended that the development can be supported in principle subject to consideration of the detailed landscape enhancement and mitigation measures outlined below.

Reason for Recommendation

1.0 The NPPF Section 15 provides policies for conserving and enhancing the natural environment. Paragraph 170 states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

2.0 Further to the above paragraph 172 requires that:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited.

3.0 The NPPF Section 12, Paragraph 130 requires that:

‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents’.

4.0 If permitted the proposed development would need to incorporate suitable landscape mitigation measures to ensure that it would meet the requirements of the NPPF. This would include appropriate design details for external hard works and planting.

5.0 A Landscape and Visual Appraisal (LVA) has been submitted to support the application. This report provides an accurate description of the baseline landscape and visual context for the site and surrounding area. The LVA also sets out the policy context for the site.

6.0 The LVA conclusion is as follows:

‘In conclusion overall, the proposed development is acceptable in terms of effect on the visual amenity and views experienced by users of the local landscape and the wider landscape beyond the site boundary and the development will benefit the character of the settlement edge’.

7.0 This conclusion with regard to the wider landscape is not disputed, however there are elements of the detailed design within the site that need further consideration.

8.0 With reference to the draft Site Allocations Development Plan Document policy SA29 relating to the site. It is not clear how some elements of the following policy objective would be delivered by the proposed site layout:

‘Retain and enhance important landscape features, mature trees and hedgerows and incorporate these into the landscape structure and Green Infrastructure proposals for the development to limit impacts on the wider countryside. Open space is to be provided as an integral part of this landscape structure and should be prominent and accessible within the scheme’.

9.0 The key landscape feature of the boundary trees would be retained and protected by the proposed layout. Whilst the western boundary trees would be retained and managed as part of the public realm it is not clear whether the trees and hedges adjacent to units 5, 16, 17, 18, 19 and 25 will be as they would form the boundary to private gardens. These features may be vulnerable to change by future residents and the long-term retention and management would need to be secured to ensure conservation of the AONB landscape.

10.0 New trees would appear to provide the landscape buffer between units 14 and 15 and the houses on Hamsland. As these trees would not be in the public realm it would be difficult to secure their retention in the long term.

11.0 The amount of open space provided within the layout is minimal and appears to be limited to the habitat areas. The proposed landscape buffer to the rear of units 26, 27 and 30 would be accessible and would provide a security risk for the residents of the houses. There would also be a tendency for residents to use it as a dumping ground for garden and other waste. Further consideration is required as to how the open spaces and green linkages can provide multifunctional green infrastructure as habitat areas and open space

12.0 If the planning authority is minded to permit the development it is recommended that the following are required by condition:

- a) Detailed proposals for hard landscape materials for boundaries and surfaces. The High Weald Design Guide advises that close board fences are not used as garden boundaries where they would be viewed from public areas.
- b) Detailed landscape plans to include proposals for planting to reinforce the existing tree belt and in particular to replace ash trees lost to dieback disease.
- c) A long-term management plan to ensure the successful establishment and care of the landscaped areas.

13.0 The proposed development could have an acceptable impact on local landscape character and views. It is recommended that the development can be supported in principle subject to consideration of the detailed landscape enhancement and mitigation measures outlined above.

### **MSDC Ecological Consultant – Final**

Thank you for re-consulting Place Services on the above application.

Temporary Holding Objection	
No ecological objections	
Recommended Approval subject to attached conditions	Yes
Recommended Discharge of condition	

### **Summary**

We have reviewed the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Offsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Ecology Response (Ecology Solutions, May 2023), Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) and Ecological Assessment (Ecology Solutions, December 2020) supplied by the applicant, relating to the likely impacts of development on protected & Priority habitats and species, and identification of proportionate mitigation.

We appreciate that update surveys/information have been submitted for habitats, Great Crested Newt, bat roost potential in trees, reptiles and Biodiversity Net Gain.

We note that the bat roost potential for oak tree T1 is low and therefore agree that the tree can be removed without the need for further surveys (Briefing Note: Ecology Response (Ecology Solutions, May 2023)). We understand that Beech tree T2 also has low bat roost potential and is to be retained during the works (Briefing Note: Ecology Response (Ecology Solutions, May 2023)). We therefore agree that no further bat surveys are required.



We support the implementation of a non-licensed Great Crested Newt (GCN) Precautionary Method Statement (Briefing Note: Ecology Response (Ecology Solutions, May 2023)). This is because access could not be obtained for offsite ponds P1 and P2 and it is likely that pond P1 supports a population of GCN (Briefing Note: Ecology Response (Ecology Solutions, May 2023)). This precautionary method statement should be secured by a condition of any consent and implemented in full.

We also support the Reptile Mitigation Strategy set out in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022). This is because the Briefing Note: Ecology Response (Ecology Solutions, May 2023) confirms the presence of populations of Slow Worm, Grass Snake and Common Lizard. The Reptile Mitigation Strategy should be secured by a condition of any consent and implemented in full.

We welcome the 21.73% BNG increase in habitat units indicated in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) and the additional information on habitat condition assessments in the Briefing Note: Ecology Response (Ecology Solutions, May 2023)). We note that the Defra Metric 3.1 spreadsheet and a Biodiversity Net Gain Design Stage Report have not been submitted as part of this application. However, the LPA will need a Design Stage BNG report in the form recommended by CIEEM (BNG Report and Audit Template Version 1 (July 2021)) in order to fully assess the final Metric results. We recommend that this design stage BNG report is secured by a condition of any consent.

We are now satisfied that there is sufficient ecological information available for determination and the application can be made acceptable by condition.

This provides certainty for the LPA of the likely impacts on protected and Priority species and, with appropriate mitigation measures secured, the development can be made acceptable.

This will enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

The mitigation and enhancement measures identified in the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Offsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Ecology Response (Ecology Solutions, May 2023), Ecological Assessment (Ecology Solutions, December 2020) and Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species. The finalised measures should be provided in a Construction and Environmental Management Plan – Biodiversity, to be secured as a pre-commencement condition of any consent.

The proposed habitats, including the planting of wildflower grassland mix and management of tussocky grassland, creation of species-rich grassland, planting of trees and hedgerows, and creation of reptile hibernacula, should be subject to a long-term Landscape and Ecological Management Plan (LEMP) to ensure they are managed to benefit wildlife and deliver the promised net gain for biodiversity. This LEMP should be secured by a condition of any consent and implemented in full.

We also support the recommendation that a Wildlife Friendly Lighting Strategy is implemented for this application (Ecological Assessment (Ecology Solutions, December 2020)). Therefore, technical specification should be submitted prior to occupation, which

demonstrates measures to avoid lighting impacts to foraging / commuting bats, which are likely to be present within the local area. This should summarise the following measures will be implemented:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Warm White lights should be used at <2700k. This is necessary as lighting which emits an ultraviolet component or that has a blue spectral content has a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- The provision of motion sensors or timers to avoid the amount of 'lit-time' of the proposed lighting.
- Lights should be designed to prevent horizontal spill e.g. cowls, hoods, reflector skirts or shields.

We also support the proposed reasonable biodiversity enhancements, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 174[d] of the National Planning Policy Framework 2021. The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Strategy and should be secured by a condition of any consent for discharge prior to slab level.

Please note that the site is within the adopted 7 km Zone of Influence for Ashdown Forest SPA and, therefore, as this is a residential application, this will trigger a financial contribution to new SANG contribution. This is in accordance with the current Strategic Access Management and Monitoring (SAMM) Strategy tariff to deliver new SANG as an avoidance measure for predicted recreational impacts. This will need to be secured by a legal agreement and the LPA record its decision in a project level HRA.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013. In terms of biodiversity net gain, the enhancements proposed will contribute to this aim.

Submission for approval and implementation of the details below should be a condition of any planning consent:

### **Recommended conditions**

#### **1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS**

*"All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Offsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Ecology Response (Ecology Solutions, May 2023), Ecological Assessment (Ecology Solutions, December 2020) and the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022)), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.*

*This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."*

**Reason:** To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

## **2. PRIOR TO COMMENCEMENT: GREAT CRESTED NEWT PRECAUTIONARY METHOD STATEMENT**

*“A Non-Licensed Great Crested Newt Precautionary Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newt during the construction phase. The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.”*

**Reason:** To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **3. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY**

*“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.*

*The CEMP (Biodiversity) shall include the following.*

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of “biodiversity protection zones”.*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- d) The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) Use of protective fences, exclusion barriers and warning signs.*

*The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”*

**Reason:** To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## **4. PRIOR TO COMMENCEMENT: BIODIVERSITY NET GAIN DESIGN STAGE REPORT**

*“A Biodiversity Net Gain Design Stage Report, shall be submitted to and approved in writing by the local planning authority, which provides measurable biodiversity net gain detailed in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) Briefing Note: Ecology Response (Ecology Solutions, May 2023), using the DEFRA Biodiversity Metric 3.1 or any successor.*

*The content of the Biodiversity Net Gain report should include the following:*

- Baseline data collection and assessment of current conditions on site;*
- A commitment to measures in line with the mitigation hierarchy and evidence of how BNG Principles have been applied to maximise benefits to biodiversity;*
- Provision of the full BNG calculations, with plans for pre and post development and detailed justifications for the choice of habitat types, distinctiveness and condition, connectivity and ecological functionality;*

- *Details of the implementation measures and management of proposals;*
- *Details of any off-site provision to be secured by a planning obligation ;*
- *Details of the monitoring and auditing measures.*

*The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”*

**Reason:** In order to demonstrate measurable biodiversity net gains and allow the LPA to discharge its duties under the NPPF (2021)

## **5. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT LAYOUT**

*“A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Briefing Note: Onsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Offsite Habitat Management Measures (Ecology Solutions, May 2023), Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022)) and Ecological Assessment (Ecology Solutions, December 2020) shall be submitted to and approved in writing by the local planning authority.*

*The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.”*

**Reason:** To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

## **6. PRIOR TO OCCUPATION: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN**

*“A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to commencement of the development.*

*The content of the LEMP shall include the following:*

- a) Description and evaluation of features to be managed.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options for achieving aims and objectives.*
- e) Prescriptions for management actions.*
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
- g) Details of the body or organisation responsible for implementation of the plan.*
- h) Ongoing monitoring and remedial measures.*

*The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”*

**Reason:** To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

## 7. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME

*“A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.*

*All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.”*

**Reason:** To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species).

### **MSDC Ecological Consultant – Further**

Thank you for consulting Place Services on the above application.

Temporary Holding Objection (European Protected Species – bats and Great Crested Newt and BNG Design Stage Report )	Yes
No ecological objections	
Recommended Approval subject to attached conditions	
Recommended Discharge of condition	

### **Summary**

We have reviewed the Ecological Assessment (Ecology Solutions, December 2020) and the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022) supplied by the applicant, relating to the likely impacts of development on protected & Priority habitats and species, and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application as we note that the Ecological Assessment (Ecology Solutions, December 2020) is over two years old. According to the Chartered Institute for Ecology and Environmental Management (CIEEM) Advice Note ‘On the Lifespan of Ecological Reports and Surveys’ (April 2019), reports between 18 months and 3 years old will need to be updated following a site visit and the validity of the report reviewed, together with identification of any surveys that need to be updated.

In particular, the Ecological Assessment (Ecology Solutions, December 2020) concluded that the offsite Pond P1 offers excellent habitat for Great Crested Newt (GCN) and that there is potential terrestrial GCN habitat within the site. Since the surveys are now out of date and GCN are mobile animals, a suitability qualified ecologist must visit the site and identify any further mitigation measures or surveys which are needed to protect this European Protected Species. If it is not possible to access Pond P1, we support the implementation of a non-licensed GCN method statement.

In addition, the Ecological Assessment (Ecology Solutions, December 2020) concluded that no trees within the site had the potential, at that time, to support roosting bats. However, the Arboricultural Implications Assessment (Broadoak Tree Consultants Ltd., December 2020)

refers to three ash trees which are scheduled for removal and all of which have dieback and deadwood. Since the surveys are now out of date, these trees (and any others due to be removed) need to be subject to Preliminary Roost Assessments prior to determination and the results submitted to the LPA, including any mitigation measures to support a lawful decision, according to Government Standing Advice.

As a competent authority, the Local Planning Authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage (based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

Therefore, we recommend a suitability qualified ecologist should submit an updated report on Protected & Priority species and habitats following a site visit, together with details of any further mitigation measures or surveys which are required.

This information is necessary, prior to determination, as paragraph 99 of the ODPM Circular 06/2005 highlights that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*

Without this information we are currently unable to provide full comments on this planning application.

In general, we support the Reptile Mitigation Strategy set out in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022). However, as the site is not currently suitable for reptiles, a timetable must be provided to ensure that sufficient time is given to preparing the habitat so that it is suitable and ready for the translocation of reptiles including Slow worms and Common Lizards.

We welcome the 21.73% BNG increase in habitat units indicated in the Briefing Note: Biodiversity Net Gain Assessment and Reptile Mitigation Strategy (Ecology Solutions, July 2022). However, we recommend that a Biodiversity Net Gain Design Stage Report, in line with Table 2 of the CIEEM Biodiversity Net Gain report and audit templates (July 2021) should be submitted to the LPA together with the full Defra Metric 3.1 spreadsheet. This is in line with Government advice and will enable us to fully assess the BNG report. This should include details, for example, of how the Mitigation Hierarchy has been applied and how management of the offsite habitat will be achieved, together with the funding mechanism, for the required 30 years.

Please note that the site is within the adopted 7 km Zone of Influence for Ashdown Forest SAC and, as this is a residential application, this will trigger a financial contribution to new SANG.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our temporary holding objection.

### **MSDC Ecological Consultant - Original**

As the site is within 7km of the Ashdown Forest European sites, MSDC must be satisfied that significant effects can be avoided following a Habitat Regulations Assessment and in accordance policy DP17 of the Mid Sussex District Plan.

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:

No development shall commence until the following details have been submitted to, and approved by, the local planning authority:

A wildlife mitigation plan to cover pre-development vegetation clearance, construction operations and lighting (construction security lighting and permanent street lighting). The plan shall include provisions for an update badger survey to be undertaken within the 3 months prior to the commencement of development and a licence to be obtained if there is any evidence that development would damage or destroy a sett or disturb badgers whilst occupying a sett (including noise and vibration from earth moving machinery).

Details of habitats to be incorporated / created within the development and how they will be managed in the long term.

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 DP38 of the District Plan and 175 of the NPPF.

### **Comments**

I note that representations have been made by a local resident due to concerns about badgers using the site with a photograph of a possible badger sett entrance submitted (location unknown and not confirmed as a badger sett). A single entrance without extensive mounds of excavated earth would suggest an occasionally used outlying sett of less importance to a clan than the main sett. A licence from Natural England would still be required to permit any operations that would damage an active sett or disturb badgers whilst occupying a sett, but licences are normally granted subject to mitigation measures. I note that no evidence of a sett was found by the applicant's consultants and that the agent pointed this out in response to the local representations. Badgers can create new setts in a relatively short space of time so the situation could have changed. However, it could change further between granting consent and ground works commencing. Therefore, a requirement for an update check within 3 months of development commencing is good practice and recommended in this case if MSDC grants consent.

### **MSDC Trees – Further**

Following the submission of the amended plans for the above development, I have the following comments to add to my previous comments dated 9/2/21:

The amended road layout has addressed my concerns regarding the possible pressure from future residents to heavily prune or fell boundary trees.

As previously discussed, the impact on the trees bordering the access road has been of concern. An investigation into the extent of the roots within this area has been carried out. As a result, it has been established that a hybrid construction for the access road is required. Conventional construction (permeable) will be possible for the first 6 meters but the remaining access road of approximately 47.5 meters will need engineering input to provide a

method of construction that will minimise the impact on the existing tree roots. Beyond this section the road can be of conventional construction as RPAs are not impacted.

Examples of methods of construction have been shown in the Technical Note dated 24 May 21. However as detailed within the root investigation report this section would need engineering input that satisfies the relevant standards and guidance as shown below:

Extract from report:

With the majority of the key roots adjoining the Hornbeams being in the upper soils and at relatively high densities a standard road formation would cause extensive root damage. This would likely affect tree stability and condition unless the Hornbeam elements were returned to the original hedge dimensions.

For the Hornbeams forming G3 and T4 at their current dimensions any road structure would have to be set above existing ground level in the form of piles and interconnecting concrete slabs or a no dig, porous built up structure to avoid extensive root damage.

The most appropriate design of an at/above ground access road would be subject to engineering input. Any cellular built up design would need to meet the requirements of BS5837:2012 "Trees in Relation to Design, Demolition and Construction - Recommendations" Section 7.4 "Permanent hard surfacing within the RPA". The design would also need to incorporate the principles of Arboricultural Association Guidance Note 12: The use of Cellular Confinement Systems near Trees.

The long term impact on the health of the boundary trees along the western boundary is of utmost importance and it is imperative that a satisfactory engineering solution is adopted for the construction of the access road alongside stringent tree protection measures being followed throughout construction.

### **MSDC Trees – Response to objections**

I note the points highlighted within the objection (6/1/22) and agree some valid points have been made and that the development may not comply 100% with BS5837:2012. I would point out however, that this British Standard makes it perfectly clear that it takes the form of guidance and recommendations and it should not be quoted as if it were a specification.

Furthermore it points out that although constraints imposed by trees both above and below ground should inform the site layout design, it recognises that the competing needs of development mean trees are only one factor requiring consideration. It goes on to say care should be taken to avoid misplaced tree retention and attempts to retain too many or unsuitable trees which can result in excessive pressure on the trees both during and after completion of a project.

I noted originally I had concerns for the trees along the access route and requested (as recommended within the tree report) that further investigations into the presence of roots along the access road was carried out to determine a suitable construction method for the access road. (The objector) also requested (Feb 21) that detailed site investigations of the location of root system should be carried out. This was carried out in March 2021. Criticism was received from neighbours of the site regarding the method of investigation despite the works being supervised by a suitably qualified and experienced arboriculturist. As pointed out by Rydon homes this was considered disrespectful and questions the professional ability of the consultant. The report determines the most appropriate road construction method to be utilised to maintain the integrity of the associated trees, both during the construction phase and post development for the longer term. This is considered appropriate and aims to mitigate as far as possible the impact on the trees.



The extracts of the British Standard referred to within the objection letter point out recommendations in isolation, however the document assumes the execution of its provisions is entrusted to appropriately qualified and experienced people, for whose use it has been produced. It must be recognised that a balance needs to be struck between the competing factors of such a development. The British Standard therefore provides professional people the guidance to make informed decisions regarding trees in relation to design, demolition and construction.

### **MSDC Trees – Original**

I have reviewed the above documents and have the following informal comments:

Trees for removal:

- A small group of Category C / U trees (hawthorn and dying holly) are to be removed. This is not considered a constraint on the development.

Access:

- I have concerns over the impact the access road will have on the trees along the western boundary (T2 – G7). The access is narrow, which will involve constructing the access road very close to the trunks. My concerns relate to both the significant impact this is likely to have on the RPA of these trees, and also the proposed tree surgery that will need to be undertaken, which will be an ongoing commitment. Heavy reduction is likely to promote excessive regrowth which will increase the need for further pruning and consequently ongoing stress to these trees.
- There is significant encroachment into the RPAs of the trees along the access road. It is proposed that investigations into the presence of roots along the access should be carried out to ascertain the best construction option. A pre-commencement condition is suggested within the report, however if a suitable solution for the access road cannot be found, it would seem preferable to ascertain this in the early stages of the application.

Boundary trees:

- The boundary trees are a key landscape feature that need to be retained and protected both during the construction process and in the long term.
- None of the proposed houses, garages or parking spaces encroach into the RPAs of any trees to be retained which is positive, however this does take account of the future impact on trees and hedges within (or on the boundary of) gardens which are likely to become vulnerable to the pressures of future residents.
- During discussions with the MSDC Urban Designer, alternative suggestions for the road layouts were put forward. I would welcome any revised plans that reduced the future pressure on any boundary trees.

Further documents:

- A detailed landscape plan to reinforce the existing tree belt and mitigate for the loss of wildlife habitat would need to be submitted and agreed, accompanied by a long term management plan for the establishment and long term care of the trees.
- The Tree Protection Plan for the application as it stands is suitable.

These are informal comments based on the application as it stands. My main concern is the impact of the access road on the boundary trees and the future pressure from future residents to heavily prune or fell boundary trees. Providing there is a solution for these concerns, in principle I would be unlikely to object to the application on arboricultural grounds.

## **MSDC Leisure**

Thank you for the opportunity to comment on the plans for the development of 30 residential dwellings on Land South Of St Stephens Church, Hamsland, Horsted Keynes on behalf of the Head of Corporate Resources. The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the District Plan policy and SPD which require contributions for developments of five or more dwellings.

### **CHILDRENS PLAYING SPACE**

Horsted Keynes Recreation Ground, owned and managed by the Parish Council, is the nearest locally equipped play area less than 200m from the development site. This facility will face increased demand from the new development and a contribution of £47,125 is required to make improvements to play equipment (£25,612) and kickabout provision (£21,514). These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

### **FORMAL SPORT**

In the case of this development, a financial contribution of £29,332 is required to enhance sports facilities at the recreation ground and / or cricket ground.

### **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 £18,453 is required to make improvements to the Memorial Pavilion at Horsted Keynes Recreation Ground to develop a community hub.

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 Infrastructure and Contributions 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.

## **MSDC Housing**

The applicant is proposing a development of 30 residential dwellings which gives rise to an onsite affordable housing requirement of 30% (9 units) in line with District Plan Policy DP31. The development will comprise a mix of 1 bed flats and 2, 3 and 4 bed houses including 6 x 1 bed affordable flats and 3 x 2 bed affordable houses. These affordable housing units will help meet the needs identified by the Horsted Keynes Housing Needs Survey and the Council's Common Housing Register and the units will need to meet our occupancy and minimum floor area requirements of 50m<sup>2</sup> for a 1b/2p flat and 79m<sup>2</sup> for a 2b/4p house. It is proposed that 6 of the flats and 1 house (75%) will be for affordable rent and the remaining 2 houses (25%) will be for shared ownership, which will meet our policy requirements regarding tenure.

## **MSDC Drainage**

### **FLOOD RISK**

The site is within flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The site is not within an area identified as having possible surface water (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.

The site is over 1 hectare in size, a Flood Risk Assessment (FRA) is therefore a requirement of the planning application. An FRA and Drainage Strategy report was been submitted in support of the application. In terms of flood risk this report is considered acceptable.

#### **SURFACE WATER DRAINAGE**

An FRA and Drainage Strategy report was been submitted in support of the application. The drainage strategy suggests that surface water shall be attenuated and discharged into an adjacent watercourse at the Greenfield QBar rate. The drainage system has been designed to cater for the 1 in 100-year storm event with allowances for climate change and urban creep.

The principle of the proposed drainage strategy is acceptable. However, the drainage layout plan shows a large attenuation tank located beneath several private rear gardens. This would not be considered acceptable as this would impact development and usage potential within the gardens and pose a significant challenge to maintenance and management. All attenuation tanks will need to be located within public realm as part of the detailed drainage design.

#### **FOUL WATER DRAINAGE**

It is proposed that the development will discharge foul water drainage, via a pumped network, to the public foul sewer located beneath Hamsland.

The principle of foul water drainage is acceptable. Further information into our general requirements for foul water drainage is included within the 'General Drainage Requirement Guidance' section.

#### **SUGGESTED CONDITIONS**

##### **C18F - MULTIPLE DWELLINGS/UNITS**

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 DP41 of the District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

#### **MSDC Drainage – updated**

Thanks for highlighting this new drainage strategy plan. It doesn't impact our overall recommendation for approval subject to condition. It does however, address our comment about needing to modify the location of the attenuation into public realm.

## **MSDC Contaminated Land**

Agricultural land can be subject to contamination risks arising from storage of equipment, buried materials, including carcasses and asbestos, and pesticides. Given that the applicant wishes to introduce residential units to this land, which is considered as a sensitive end-user, the potential contamination risks should be investigated.

Paragraph 178 of the National Planning Policy Framework clearly states that planning decisions should be based on adequate site investigation information, prepared by a competent person, which demonstrates suitability for use.

Having regard to this, if you are minded to approve the application, it is necessary to limit the future liability of the Council and to ensure the site is suitable for the residential use. Accordingly, the following conditions should therefore be applied:

1) The development hereby permitted shall not be occupied/brought into use until the following components of a scheme to deal with the risks associated with contamination of the site have each been submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

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

and unless otherwise agreed in writing by the LPA,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

and, unless otherwise agreed in writing by the LPA,

c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;

and, unless otherwise agreed in writing by the LPA,

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason (common to all): To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## **West Sussex County Council Highways – final**

Introduction/ Context

West Sussex County Council, in its capacity as Local Highway Authority (LHA), have been re-consulted on proposals for 30 x dwellings on land south of St Stephens Church with new vehicle and pedestrian access taken from Hamsland.

The LHA have previously provided numerous detailed responses on the proposals including advised conditions, if the Local Planning Authority (LPA), were minded to permit the application.

The latest discussions between the Transport Consultant and LHA in August/September 2022 focused on pedestrian visibility. Following this the applicant has produced a Technical Note (TN) dated August 2022 which the LHA have now been consulted on. The Local Planning Authority (LPA) - Mid Sussex District Council (MSDC) - have also asked the LHA to comment on local objections including a Proposed Access Technical Review undertaken by third party Transport Consultant and representations by Horsted Keynes Parish Council.

#### Land Ownership & Access Plan Inaccuracies

It has come to the attention of the LHA that, according to the County Council's records, the triangle of land under MSDC ownership appears to extend further across the proposed access point than previously thought. The applicant and MSDC are advised to liaise with Land Registry to determine exact ownership extents. The LHA comments are made irrespective of land ownership issues, which is not a planning matter for the LHA to comment upon. It is reiterated that without the land across the frontage being acquired by the developer, the access, footway, and pedestrian splay as demonstrated would not be deliverable within land owned or controlled by the applicant.

In terms of measurements inaccuracies, the access plan does not appear to scale off correctly and some measurements such as access width and kerb radii are marginally incorrect. For example, the access road is stated in the applicants plans as being 5.5m but objectors state they scale the plans at 5.4m. These minor inaccuracies would not alter the overall LHA view on the fundamentals of the application. The access proposals are still considered to provide an acceptable means of access and these measurement inaccuracies do not warrant a reason to refuse planning permission. With regards to a tighter kerb radii, this is likely to reduce vehicle speeds.

#### Pedestrian Visibility

The TN refers to pedestrian sight lines, the requirements of which vary between local authority. Whilst the LHA has secured pedestrian visibility of 2m by 2m either side of a vehicle access abutting a footway for other sites, each site is considered on its own merits and what is achievable will depend on the context of the site. The 2m by 2m envelope is not a policy requirement, especially when considered against Manual for Streets (MfS) which would be appropriate considering the anticipated traffic levels and speeds. Para. 10.6.1 of MfS2 states that "Vehicle exits at the back edge of the footway mean that emerging drivers will have to take account of people on the footway. The absence of wide visibility splays at minor accesses will encourage drivers to emerge more cautiously - similarly to how vehicles pull out when visibility along the carriageway is restricted".

The LHA previously stated that they would accept a 1m x 2m envelope of pedestrian visibility which has been demonstrated on drawing JNY10084-33 Rev A. This has been drawn from the position of driver to the inner edge of a pedestrian waiting at the tactile paved area. The Road Safety Audit (RSA) addendum shows that this plan has been reviewed by an independent auditor. The RSA addendum raises that existing vegetation may obstruct this splay and advise that such splay should not be obstructed and should be compliant. Any vegetation overhanging public highway or developer land can be cleared by LHA and developer respectively.

The LHA are mindful that the access position has been slightly adjusted to allow for this splay and that local objections have queried whether the access plans are accurate. From an inspection of the latest plan it does appear the access position has moved further east. As per comments above it does appear that to deliver these works and the pedestrian visibility splay, MSDC land would be required. This would be a matter for the developer and MSDC to resolve. The comments above are made on the basis that access and visibility could reasonably be delivered.

### Swept Path Tracking

MSDC Site Allocation policy SA29 requires that satisfactory access by waste collection vehicles is provided. MSDC are the local waste authority and raised no objections from a waste collection point of view in comments made in 2021, which referred to carriageway width being acceptable.

The RSA auditor has reviewed the tracking plans and raised no additional issues. It is noted that some manoeuvres in and out of the access do appear restrictive in terms of the set back on-street parking opposite the proposed access. Nevertheless, this would be the chassis and wing mirror tracking which is above carriageway level. The Pelham Transport Group Technical Review has carried out its own swept path tracking exercise and notes that there is "no room for error" and that a "driver would need to reverse and then move in a forward motion" to make the left turn egress and similar for the right turn egress. The LHA acknowledge that a multipoint manoeuvre may be required, if refuse collection is to be within the site, although this would not give rise to a highway safety objection from the LHA. MSDC, as the local waste authority, are advised to provide more detailed comment on the tracking shown. It is understood that MSDC refuse collection vehicles may be smaller than the vehicle tracked (10.5m length instead of the 11.9m tracked) as stated in Waste Storage and Collection Guidance for new Developments dated May 2015.

### Pelham Transport Group Technical Review for Hamsland Action Group (HAG)

Residents and Horsted Keynes Parish Council have objected to the proposals and HAG have commissioned a Technical Review. The LHA provide response to the review below, as this encapsulates (although is not limited to) most of the residents concerns in regards to highways matters.

2.6 - The example given for Police Field House in regard to 2m by 2m pedestrian visibility was pre-application advice, not a formal planning consultation response. It is unclear whether any planning application came forward however it should be noted that the LHA does not hold a formal policy/requirement for pedestrian splays. Whilst it is acknowledged that some pedestrians may be set back further it is considered that the design of the clearly delineated access with no continuous footway and dropped kerbs/tactile paving would make it conspicuous to pedestrians and vehicles alike. Please also see comments in Pedestrian Visibility section above.

2.8 - the 15m forward visibility stated is a DMRB requirement. For the speeds and local road context MfS would apply. MfS2 para 10.3.2 states that "...there will be situations in locations with design speeds of 60kph or less where it is desirable and appropriate to restrict forward visibility to control traffic speed".

3.3, 3.4 & 3.5 - addressed in swept path tracking section above.

3.6 - addressed above - discrepancies in kerb radii would not alter LHA assessment of the principle of application. In respect to the impact on internal footway width, the LHA considers

that a shared surface with no segregated footway could be appropriate for the level of traffic movements being under 100 per hour (MfS - para. 7.2.14).

3.7 - regardless of comments made, if third party (MSDC) land were obtained to provide the access works then the 2m by 2m either side could be achievable within developer land, subject to further demonstration.

#### Horsted Keynes Parish Council (HKPC) Objection

HKPC main objection points are in italics below with the LHA response following each point.

*HKPC request that swept path analysis is provided to demonstrate safe access and legal access for all types of parked vehicles.*

Access designs are reviewed in accordance with MfS as provided for the majority of traffic - there is no formal requirement to demonstrate all types of vehicles that may park on-street. The onus is on the driver to park in a manner that doesn't obstruct the highway and, as referred to previously, if a refuse collection vehicle is to enter/egress the site a multipoint manoeuvre may be required.

*Policy SA29...“safe and convenient pedestrian access, both along Hamsland and into the proposed development”...The Applicant has only provided material in the review of policy SA29 related to the access into the proposed development. The Applicant’s letter and Technical Note are silent on the issue of safety of pedestrians along Hamsland.*

The anticipated level of additional pedestrian movements on Hamsland are not considered to be 'severe'. Furthermore, the application does provide for improvement in terms of the dropped kerb tactile paved crossing of Hamsland.

*Deficiencies in the Applicant’s car parking survey....Failure by the Applicant to address the increased highway safety risks caused by more frequent head-to-head vehicle conflicts along the constricted western section of Hamsland as a result of additional traffic with development.*

The LHA does not consider the additional traffic movements to be 'severe'. Furthermore, the applicant is setting back on street parking which will provide a wider carriageway on this section, allowing two cars to pass and improving the existing situation. There is no recorded accident data along Hamsland that would suggest a highway safety issue although the LHA acknowledge the existing on-street parking may cause inconvenience.

#### Conclusion

As per previous comments the vehicle visibility from the site access is considered acceptable and in accordance with guidance, especially considering that a reduced 'x' distance of 2m would be acceptable in this location.

Furthermore, the original RSA points were previously addressed. The information provided by residents, Parish Council and consultants representing the Hamsland Action Group does not present information that changes the overall recommendation and view of the Highway Authority on the acceptability of the proposals from a planning perspective. From the highways point of view it is considered that the application would not result in a 'severe' detrimental impact to highway safety and is therefore compliant with para. 110 and 111 of National Planning Policy Framework.

The applicant has also offered travel information packs, as the size of the development does not require a full travel plan statement and monitoring fee, under WSCC policy. The pack could be secured via suitably worded condition. Previously advised conditions below. Please note that the LHA advise the Access and dropped kerb/tactile paved crossings be secured through s106 legal agreement, to be provided by s278 at technical approval stage. However, if the LPA wish to also secure this through condition, the wording is suggested below.

#### Access

No part of the development shall be first occupied until such time as the vehicular access, footway and dropped kerb/tactile paved crossings serving the development have been constructed in accordance with the details shown on the drawing titled Proposed Site Access and Visibility Splay and numbered JNY1008403 Rev G.

Reason: In the interests of road safety.

#### Visibility

No part of the development shall be first occupied until visibility splays of 2.4 metres by 35 metres east and 2.4 metres by 36.1m west have been provided at the proposed site vehicular access onto Hamsland in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety.

#### 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.

#### 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),
- 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.

## Travel Information Pack

No part of the development shall be first occupied until such time as the Travel Information Pack has been submitted to and approved in writing by the Local Planning Authority.

Reason: To encourage and promote sustainable transport.

## INFORMATIVE

The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

The applicant is advised that the erection of temporary directional signage should be agreed with the Local Traffic Engineer prior to any signage being installed. The applicant should be aware that a charge will be applied for this service.

## **West Sussex Highways - Previous**

West Sussex County Council, in its capacity as Local Highway Authority (LHA), have been re-consulted on proposals for 30 x dwellings with associated works. In comments dated 22 July 2021 the LHA advised that all plans and technical drawings should reflect the amended extent of highway boundary in this location to ensure that access and visibility splay works are achievable within applicant owned and publicly maintained highway.

A Technical Note has been provided showing the site access proposed works including footway to north of Hamsland. Drawings and swept path tracking show that with the layby in place and reduced carriageway width, a refuse vehicle can still access the site.

The note does not address previous comments regards land ownership and extent of highway boundary. Only a Location Plan with amended red edge has been provided. The LPA should be assured that the applicant has ownership of all land required for access and visibility splays and that the access, visibility splays and all other plans are amended to reflect this.

If the LPA is satisfied that the section of land previously shown as highway boundary which has been corrected is within the applicants ownership and therefore the entirety of the access and splays can be provided, then the LHA would be happy to advise final comments and conditions.

## **West Sussex County Council Lead Local Flood Authority**

West Sussex County Council (WSSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage. The following is the comments of the LLFA relating to surface water drainage and

flood risk for the proposed development and any associated observations, recommendations and advice.

## **Flood Risk Summary**

### Current surface water flood risk based on 30year and 100year events - Low risk

#### Comments:

Current surface water mapping shows that the proposed site is at low risk from surface water flooding. This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events. Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk. Reason: NPPF paragraph 163 states – ‘When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.’

### Modelled groundwater flood hazard classification - Low risk

#### Comments:

The area of the proposed development is shown to be at low risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding. Ground water contamination and Source Protection Zones. The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.

### Ordinary Watercourses nearby? No

#### Comments:

Current Ordnance Survey mapping shows no ordinary watercourses running close to the development site. Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around or across the site. If present these should be maintained and highlighted on future plans. Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.

### Records of any surface water flooding within the site? No

#### Comments:

We do not have any records of surface water flooding within the confines of the proposed site. This should not be taken that the site itself has never suffered from flooding, only that it has never been reported to the LLFA.

### Future development - Sustainable Drainage Systems (SuDS)

The Flood Risk Assessment and Drainage Strategy included with this application proposes that, should infiltration not be possible, below ground attenuation with a restricted discharge to the watercourse, would be used to control the surface water runoff from the site. As highlighted by the District Drainage Engineer, the location of the attenuation tanks will need to be revised. In the spirit of SuDS implementation, and in line with many of the policies within the West Sussex Lead Local Flood Authority Policy for the Management of Surface Water, betterment for surface water systems on the new developments should be sought. This could include retention at source through rain gardens, permeable paving, swales or bioretention systems prior to disposal to reduce peak flows. SuDS landscaping significantly improves the local green infrastructure provision and biodiversity impact of the developments whilst also having surface water benefits.

All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The maintenance and management of the SuDS system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs. Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

### **West Sussex Fire and Rescue Service**

This proposal has been considered by means of desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC mapping and Fire and Rescue Service information. A site visit can be arranged on request.

I refer to your consultation in respect of the above planning application and would provide the following comments:

- 1) Prior to the commencement of the development details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. These approvals shall not be unreasonably withheld or delayed.
- 2) Prior to the first occupation of any dwelling/unit forming part of the proposed development that they will at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

As part of the Building Regulations 2004, adequate access for firefighting vehicles and equipment from the public highway must be available and may require additional works on or off site, particularly in very large developments. (BS5588 Part B 5) for further information please contact the Fire and Rescue Service

If a requirement for additional water supply is identified by the Fire and Rescue Service and is subsequently not supplied, there is an increased risk for the Service to control a potential fire. It is therefore recommended that the hydrant condition is implemented

Reason: In the interests of amenity and in accordance with Mid Sussex District Plan (2014 – 2031) Key Policies DP18 and DP19 and in accordance with The Fire & Rescue Service Act 2004.

## West Sussex Infrastructure

<b>Education</b>			
School Planning Area	Haywards Heath/Cuckfield		
Population Adjustment	63.9		
	Primary	Secondary	6th Form
Child Product	0.7591	0.7591	0.0000
Total Places Required	5.3135	3.7953	0.0000
<b>Library</b>			
Locality	Haywards Heath		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£0		
Contribution towards East Grinstead/Haywards Heath	£11,554		
Population Adjustment	63.9		
Sqm per population	30/35		
<b>Waste</b>			
Adjusted Net. Households	30		
<b>Fire</b>			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
<b>TAD- Transport</b>			
Net Population Increase	63.9		
Net Parking Spaces	59		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

### **Summary of Contributions**

<b>S106 type</b>	<b>Monies Due</b>
<b>Education - Primary</b>	£109,282
<b>Education - Secondary</b>	£117,613
<b>Education - 6<sup>th</sup> Form</b>	No contribution
<b>Libraries</b>	£11,554
<b>Waste</b>	No contribution
<b>Fire &amp; Rescue</b>	No contribution
<b>No. of Hydrants</b>	secured under Condition
<b>TAD</b>	£96,776
<b>Total Contribution</b>	<b>£335,226</b>

The primary contributions generated by this proposal shall be spent on additional facilities at St Giles C of E Primary School.

The secondary contributions generated by this proposal shall be spent on additional facilities at Oathall Community College.

The contributions generated by this proposal shall be spent on additional facilities at Haywards Heath Library.

The TAD contributions generated by this proposal shall be spent on traffic calming, pedestrian and cycle improvements within the village of Horsted Keynes which will improve and promote sustainable movement between the development and local infrastructure, to include St Giles C of E Primary School.

## **West Sussex Waste and Minerals**

Please could the allocated case officer for the application as per the subject line of this email be advised that the MWPA would offer No Objection to the proposed development.

Reason: The application site is not within an identified mineral safeguarding area, and there are no identified waste operators within the vicinity of the proposed development.

## **High Weald AONB Unit**

### Legal and Policy Background

It is the responsibility of the Local Planning Authority to decide whether the application meets legislative and policy requirements in respect of AONBs. Section 85 of the Countryside and Rights of Way Act 2000 requires local authorities to have regard to 'the purpose of conserving and enhancing the natural beauty of AONBs' in making decisions that affect the designated area.

The National Planning Policy Framework paragraph 172 requires great weight to be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas. The scale and extent of development within these designated areas should be limited.

In the event that the decision-maker concludes that development is 'major' in terms of its impact on the AONB, paragraph 172 of the NPPF states that "Planning permission should be refused for major development<sup>55</sup> other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated".

Footnote 55 says: "For the purposes of paragraphs 172 and 173, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined". It is recommended that the case officer undertakes a clear and transparent assessment of whether the proposal is major development, using the key characteristics and landscape components of the AONB as set out in the Management Plan.

The High Weald AONB Management Plan has been adopted by all the relevant local authorities with land in the AONB as their policy for the management of the area and for the carrying out of their functions in relation to it, and is a material consideration for planning applications. The Management Plan includes a commitment from the Joint Advisory Committee partners (including the Local Planning Authorities) that they will use the Management Plan as a 'checklist' against which to assess the impact of policies and other activities on AONB purpose to fulfil the requirements of the Countryside and Rights of Way Act 2000, s85. A template to assist with this assessment is provided in the Legislation and Planning Advice Note.

## The Proposal

The proposal is for the erection of 30 dwellings (30% affordable) with a mix of dwelling types including 1 bed apartments and 2, 3 and 4 bed houses. The site is a proposed allocation for 30 homes in the Mid Sussex Site Allocations DPD which has recently been submitted for examination (Policy SA 29). The stated objective of this policy is "To deliver a high quality, landscape led, sustainable extension to Horsted Keynes, which respects the character of the village and the High Weald AONB, and which is comprehensively integrated with the settlement so residents can access existing facilities".

## Analysis Against the High Weald AONB Management Plan

The attached plan shows the AONB Landscape Components represented on and around the application site. The following Management Plan key characteristics, objectives and proposed actions are considered relevant to this proposal.

(Please see the High Weald AONB Mgt comments on planning file 8/2/21 for full table. But the key objectives are listed as G2, G3, S2, S3, R1, R2, W1, W2, FH2, FH3, FH4 and QQ4.)

## Comments on Impacts

The use of the High Weald Housing Design Guide to inform the design is welcomed. The following detailed comments are provided on the proposed design:

- The existing trees and hedgerows on the site boundaries are particularly important in their own right as biodiversity assets and for their function in softening views into the site from the surrounding countryside. Care should be taken to ensure that these trees are not damaged by the proposed development (particularly to gain access to the site) and that the dwellings and their gardens are not located in such a way that occupants will want to remove or significantly prune these trees in the future.
- The High Weald Housing Design Guide and the draft criteria for the policy both stipulate that open sustainable drainage systems such as ditches and ponds should be used in preference to underground storage of water. It is disappointing that this is not reflected in the design. It is recommended that this is amended by placing a pond at the lowest point of the site to provide multiple benefits to water management, wildlife and the appearance of the development.
- At the eastern end of the site is an area next to a turning head marked 'Ecology Area (tussocky grassland)' and 'Calor Gas'. The area is too small to be managed effectively for ecology and appears more as an area of 'left over' space, a practice discouraged within the Design Guide.
- The reference to Calor Gas is queried as it is unsustainable to build new houses that are dependent on fossil fuel when they could use solar energy and/or air source heat pumps for hot water, heating and cooking that could become carbon neutral once the National Grid is decarbonised. The Sustainability Statement submitted with the application does not address this issue.

## Recommended Conditions

In the event that the Local Planning Authority considers that the development is acceptable in principle, it is recommended that the following detailed requirements are met:

- The High Weald Colour Study should be used to select the colours of external materials of structures and hard surfacing so that they are appropriate to the setting of the High Weald AONB landscape (Management Plan objective S3);

- Local habitats and species should be protected and enhanced as appropriate and conditions applied to prevent loss of existing habitats including hedgerows (Management Plan objectives G3, R2, W1, W2, FH2, and FH3);
- Native, locally sourced plants should be used for any additional landscaping to support local wildlife and avoid contamination by invasive non-native species or plant diseases (Management Plan objective FH3); and
- Controls over lighting should be imposed (Institute of Lighting Professionals recommended light control zone E1) to protect the intrinsically dark night skies of the High Weald (Management Plan objective OQ4).

The above comments are advisory and are the professional views of the AONB Unit's Planning Advisor on the potential impacts on the High Weald landscape. They are not necessarily the views of the High Weald AONB Joint Advisory Committee.

### **Sussex Police – Further**

The amended site plan shows the northern half of the development to be in the main the same with minor changes. The southern half of the development shows that the re-orientation of the dwellings will ensure that the whole of the publicly accessible areas including the road layout, communal amenity space and designated car parking areas, benefit from being overlooked and has created good levels of natural surveillance. Additionally back to back gardens have been introduced within the southern half of the development which has eliminated the need for vulnerable rear garden access pathways.

There is an increase in on-street visitor parking. There is still provision at the southern end of the development for private access for the land owner for maintenance.

The majority of the dwellings now face out onto the street layout creating an improved active frontage across the site. This has also increased the level of natural surveillance. Parking is on-curtilage, garage, car barns, parking courts and a number of visitor on-street parking bays. This should leave the street layout free and unobstructed

My previous comments concerning; door entry requirements, postal arrangements for communal dwellings, boundary treatments, gates, cycle security, lighting within the development along with access by the land owner for maintenance as stated within my previous correspondence of PE/MID/21/03/A dated 02/02/2021, remain extant. To summarise; The amended site plan shows improved levels of active frontage over the street layout along with good levels of surveillance across the site and has removed vulnerable rear garden pathways.

I do not have any concerns from a crime prevention perspective to the amended application.

I thank you for allowing me the opportunity to comment.

### **Sussex Police – Original**

Thank you for your correspondence of 15th January 2021, advising me of an outline planning application for the proposed erection of 30 dwellings (30% affordable). There will be a mix of dwelling types including 1 bed apartments and 2, 3 and 4 bed houses at the above location, for which you seek advice from a crime prevention viewpoint.

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments from a Secured by Design (SBD) perspective. SBD is owned by the UK Police service and

supported by the Home Office and Building Control Departments in England (Part Q Security – Dwellings), that recommends a minimum standard of security using proven, tested and accredited products. Further details can be found at [www.securedbydesign.com](http://www.securedbydesign.com) Due to the application being outline, my comments will be broad with more in-depth advice being delivered at reserved matters.

The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should always be considered.

In general terms I support the proposals in this application which will create a development where access is gained through a single point with no through route. Secondary access routes off the main spine give access into a small parking courts and manoeuvring areas that will allow residents access to their dwellings, parking and frontages. The shared surface with varying widths and texture should allow for safe activity and movement for both vehicles and pedestrians.

The orientation of the dwellings will ensure that in the main the majority of the publicly accessible areas including the road layout, communal amenity space and designated car parking areas benefit from overlooking and good natural surveillance. Provision has been made for car parking within the on-curtilage of the dwellings, the addition of some garages, car barns, parking courts and 1x visitor on-street parking bay. Each of the dwellings has access to secure cycle storage. There is provision at the southern end of the development for private access for the land owner for maintenance.

It is important that the boundary between public space and private areas is clearly indicated. It is desirable for dwelling frontages to be open to view, so walls fences and hedges will need to be kept low or alternatively feature a combination (max height 1m) of wall, railings or timber picket fence. The positioning of the rear parking courts to the rear of plots 8-13 has created unobserved rear parking from the respective housing. Where communal parking occurs it is important that they must be within view of an active room within the property. An active room is where there is direct and visual connection between the room and the street or the car parking area. Such visual connections can be expected from rooms such as kitchens and living rooms, but not from bedrooms and bathrooms. Previous experience has shown that where parking courts are hidden away behind trees, shrubbery or fences they can become targets for crime. This can result in the vehicle owners deserting their designated bays and parking on the street in full view of their house, creating illegal parking, the obstruction of emergency and refuse vehicles as well as neighbourly disharmony.

Where gates are providing access to the rear gardens. They must be placed at the entrance to the footpath, as near to the front building line as possible, so that attempts to climb them will be in full view of the street and be the same height as the adjoining fence so as not to reduce the overall security of the dwellings boundary. Where possible the street lighting scheme should be designed to ensure that the gates are well illuminated. Gates must be capable of being locked (operable by key from both sides of the gate). The gates must not be easy to climb or remove from their hinges

Detailed advice on access control, door entry requirements, methods of communal post-delivery and secure cycle requirements can be found in SBD Homes 2019 V2.



There has been arrangements made for access by the land owner in order to carry out maintenance at the south elevation of the development. I ask if this would entail large agricultural machinery having to access this area through the development. If so, this would concern me from a safety aspect concerning the resident's safety and that of their vehicles.

Finally, lighting throughout the development will be an important consideration and where it is implemented it should conform to the recommendations within BS 5489-1:2013. SBD considers that bollard lighting is not appropriate as it does not project sufficient light at the right height making it difficult to recognise facial features and as a result causes an increase in the fear of crime.

The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

### **Southern Water**

Our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service:

[developerservices.southernwater.co.uk](http://developerservices.southernwater.co.uk) and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

[southernwater.co.uk/developing-building/connection-charging-arrangements](http://southernwater.co.uk/developing-building/connection-charging-arrangements)

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance available here:

[water.org.uk/sewerage-sector-guidance-approved-documents/  
ciria.org/Memberships/The\\_SuDS\\_Manual\\_C753\\_Chapters.aspx](http://water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx)

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers 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 Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse. Land uses such as general hard standing that may be subject to oil/petrol spillages should be drained by means of appropriate oil trap gullies or petrol/oil interceptors.

If the applicant proposes to offer a new on-site drainage and pumping station for adoption as part of the foul public sewerage system, this would have to be designed and constructed to the specification of Southern Water Services Ltd. A secure compound would be required, to which access for large vehicles would need to be possible at all times. The compound will be required to be 100 square metres in area, or of some such approved lesser area as would provide an operationally satisfactory layout. In order to protect the amenity of prospective residents, no habitable rooms shall be located within 15 metres to the boundary of the proposed adoptable pumping station, due to the potential odour, vibration and noise generated by all types of pumping stations. The transfer of land ownership will be required at a later stage for adoption.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with the Design and Construction Guidance will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).  
Website: [southernwater.co.uk](http://southernwater.co.uk) or by email at: [SouthernWaterPlanning@southernwater.co.uk](mailto:SouthernWaterPlanning@southernwater.co.uk)

### **Wealden District Council**

NO OBJECTIONS are raised subject to the appropriate screening under the habitat regulations and an assessment of other material considerations. Due to the siting and limited intervisibility between the site and the Wealden Plan area, the proposed development would not have any implications for the strategic planning aims of Wealden District Council.

### **Natural England**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

### **DESIGNATED SITES [EUROPEAN] – NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION**

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for the following European designated site[s], Ashdown Forest. It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site

due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

If the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant, it is your responsibility (as the competent authority) to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

#### Other advice – AONB Landscape

The proposed development is for a site within or close to a nationally designated landscape namely High Weald AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to

determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

### **Horsted Keynes Parish Council**

At a previous meeting on 23 February 2021, the Parish Council resolved to make a HOLDING OBJECTION to the original application, and at a meeting on 17 June 2021 resolved to OBJECT to the planning application.

Having passed examination, on 6 February 2023 the MSDC Cabinet approved the referral to referendum of the Horsted Keynes Neighbourhood Development Plan, including some minor modifications, and as such, the Plan carries significant weight in planning terms.

Having now considered the revisions and clarifications made to the application, the Parish Council wishes to **OBJECT** to the application on the following grounds:

#### **ACCESS**

Following a detailed review of RPS's Technical Note reference JNY 10084-09, dated 13th August 2022 it is apparent that the Applicant has failed to demonstrate that it has secured "safe and convenient pedestrian and vehicular access", as required by modified policy SA29 in the adopted Sites Allocation Development Plan Document.

#### **1. Site Entrance**

There are significant measurement errors on RPS's Proposed Site Access Drawing JNY 10084-03, Rev G, in Appendix 1 on page 9 of the RPS Technical Note.

The annotations on the drawing of the site entrance describe bellmouth curves of 5.0m radius leading into a 5.5m wide site access road. All these stated dimensions appear to be inaccurate.

A careful check of the geometry of this junction shows that the drawn dimensions appear to be as follows:

- Western arc – drawn at 4.5m radius, not 5.0m radius stated
- Eastern arc – drawn at 4.0m radius, not 5.0m radius stated
- Site access road – drawn at 5.4m width, not 5.5m stated

In addition, the site boundary has been moved c.300mm to the west, it would appear that this is in order to prevent the pedestrian-vehicle visibility splay specified by WSCC Highways being seen to cross onto land not controlled by the Applicant or WSCC Highways. HKPC refers you to, and supports, Paul Fairbairn's detailed analysis underpinning his objection.

The Safety Auditor and the WSCC Highways Planning Officer will reasonably be expecting these quality assured deliverables from a reputable consultant to be accurate, and they will have made their decisions on that basis. HKPC requests that MSDC should require the Applicant to demonstrate that its deliverables are accurate, and to resubmit them for consideration if they are indeed found to be inaccurate.

## 2. Swept Path Analyses

The modified policy SA29 requires the Applicant to demonstrate that "satisfactory access by waste collection vehicles and emergency services vehicles" has been secured. However, the four swept path analyses for a large refuse vehicle shown on Drawing Document JNY 10084-04 appear to be inaccurate. The 10.8m kerb to kerb radius stated in the vehicle data is the tightest radius turn that the refuse vehicle is able to make, but all four swept paths show turns tighter than this:

- Three out of four swept path analyses show part of the outer wheel track following a c.6.0m radius arc on the apex of the bend. The effect of this is to push the inner tracks away from the dropped kerbs and from the critical intersections of the access road boundary with the Highway boundary, and to reduce the apparent likelihood of the outer tracks potentially striking vehicles or pedestrians. It is not physically possible for the vehicle to turn on less than a 10.8m radius arc, so it is a mystery how these swept paths have been created.
- The fourth swept path shows instantaneous application of full lock on the left turn exit, before following a 10.8m radius arc, implying that the vehicle has stopped, applied full lock and then proceeded. Is this a suitable assumption for demonstrating that "satisfactory access by waste collection vehicles and emergency services vehicles" has been secured?

HKPC refers you to, and supports, Paul Fairbairn's detailed analysis underpinning his objection and the independent transport consultant Richard Pelham's supporting analysis.

Further, we note that the Swept Path Analysis only considers the case of cars parked in the layby which is unrealistic. In addition to the presence of delivery and work vans, residents have work vans, campervans and large 4x4 cars which have historically been parked here. The applicant should be designing out any risk in accordance with the design responsibilities.

We consider WSCC suggestion of the use of Highway Act Powers to deal with larger vehicles parking here to be both unworkable and unacceptable.

**HKPC request that swept path analysis is provided to demonstrate safe access and legal access for all types of parked vehicles.**

Once again, inspection of the Applicant's submissions raises significant questions about the accuracy of material being submitted to the Safety Auditor and to the WSCC Highways Planning Officer for review.

The Safety Auditor and the WSCC Highways Planning Officer will reasonably be expecting these quality assured deliverables from a reputable consultant to be accurate, and they will have made their decisions on that basis. **HKPC requests that MSDC should require the Applicant to demonstrate that its deliverables are accurate, and to resubmit them for consideration if they are indeed found to be inaccurate**

### **3. Hamsland Access**

Policy SA29 was modified by the Inspector to require the Applicant to demonstrate that "*safe and convenient pedestrian access, both along Hamsland and into the proposed development*" has been secured.

The Applicant has only provided material in the review of policy SA29 related to the access into the proposed development. The Applicant's letter and Technical Note are silent on the issue of safety of pedestrians along Hamsland.

This modification to SA29 was an informed judgement by the Inspector after consideration of representations made at the Examination regarding the evident deficiencies of the limited material available in the Applicant's original Transport Statement. In particular, evidence-based concerns which have been made in earlier representations remain unaddressed regarding:

- Deficiencies in the Applicant's car parking survey along Hamsland, as demonstrated by a separate car park survey carried out by a resident, and as demonstrated by inspection of Google Maps imagery. This is not a concern about overspill parking from the proposed development, as unfortunately misunderstood by the WSCC Highways Planning Officer when reviewing the Main Modification MM20 that was made by the Inspector to Policy SA29. It is about the higher number of cars currently parking along the western section of Hamsland than stated by the Applicant in the Transport Statement. These parked cars effectively turn the 5.5m wide road into a long length of single-track road with limited forward visibility, which causes frequent head-to-head vehicle conflicts;
- Failure by the Applicant to address the increased highway safety risks caused by more frequent head-to-head vehicle conflicts along the constricted western section of Hamsland as a result of additional traffic with development. Local knowledge, backed up by photographic evidence of vehicle tracks in the mud, demonstrates that resolution of these head-to-head conflicts often results in one of the vehicles driving up onto the southern verge and pavement – with the evident hazard that creates for pedestrians using that footpath. The Inspector was sufficiently concerned by this evidence at the Examination to make the very specific modification to policy SA29. To date, despite repeated representations about this matter, the Applicant has stoically refused to address this issue.

**HKPC requests that MSDC should require the Applicant to review and submit robust data regarding the increase in head-to-head vehicle conflicts along Hamsland as a result of the proposed development. MSDC should also require the Applicant to include a road safety audit as part of a conclusive demonstration that "*safe and convenient pedestrian access (has been secured) along Hamsland*".**

## **BIODIVERSITY**

We understand that there is a requirement for the Applicant to demonstrate a minimum biodiversity net gain of 10% as required by Appendix B of the Site Allocations DPD and that the Applicant has recently submitted a briefing note setting out how it intends to comply with this. However, we are concerned it appears that the areas of private gardens have been included within the calculations to support the biodiversity. This does not seem to be the correct logical approach in view of the fact that, when the properties are sold, the developer or local authority will have no control on how the gardens are managed for nature. The homeowners or occupiers may decide to construct patios or decking or surface the areas with artificial grass. Even a mowed lawn is unlikely to support much biodiversity so it is unclear how these areas can be reasonably assessed as “vegetated garden”. We therefore query whether the calculation submitted in support of this application has correctly followed the methodology as set out in the DEFRA Biodiversity Metric 3.1 Calculation Tool which it purports to have used.

**We would also like to seek assurance that the appropriate legal protections will be enforced by MSDC regarding the “offsetting site” and how this will be positively managed and financed for what we understand to be a minimum of 30 years. Clarification over whether public access to the “offsetting site” would be allowed is also requested, as we note in some areas authorities make this a condition.**

## **HOUSING MIX**

The application fails to comply with Horsted Keynes Neighbourhood Plan policy HK3 “Dwelling Mix” which states:

*New residential development of multiple dwellings should seek to include in their housing mix a majority of 1-bedroom and 2-bedroom dwellings.*

***Where practicable and commercially viable, development proposals should deliver the following housing mix:***

- 40% 1 bedroom.
- 40% 2 bedrooms.
- 20% 3 bedrooms.

This dwelling mix is informed by a 2019 Local Housing Needs Survey (prepared by Action for Rural Sussex and supported by MSDC Housing) and 2020 data from MSDC’s Common Housing Register. This shows that the local housing need is overwhelmingly for 1 and 2-bed dwellings.

**In the absence of any evidence to demonstrate that this housing mix is either not practicable or not commercially viable, we believe that the proposals should be amended to comply with policy HK3.**

## **ZERO-CARBON READY**

The application proposals do not comply with Horsted Keynes Neighbourhood Plan policy HK11: LOW CARBON DESIGN AND RENEWABLE ENERGY SCHEMES which states:

*“As appropriate to their scale, nature and location, development proposals should be ‘zero carbon ready’ by design to minimise the amount of energy needed to heat and cool buildings through landform, layout, building orientation, massing and landscaping. Consideration should be given to resource efficiency at the outset ...”*

*“Residential design proposals that include low energy and renewable technologies will be strongly supported.”*

The Government's Heat and Buildings Strategy, October 2021 is predicated on the basis that:

*"To meet Net Zero virtually all heat in buildings will need to be decarbonised".*

It goes on to make clear (page 13) that some steps are evident and should be taken now:

*"While there is work to be done to identify the best solutions for different buildings and regions, there are also areas where the solution is clear and we can take decisive, 'no-regrets' action now. No – or low-regrets means actions that are cost-effective now and will continue to prove beneficial in future. For example, installing energy efficiency measures reduces consumer bills now, while making buildings warmer and comfier, but has the added benefit of making future installations of low-carbon heating more cost-effective. For example, hydronic (air-to-water or ground-to water) heat pumps will be a key technology for new buildings and buildings not connected to the gas grid (off-gas-grid)..."*

Two examples, homebuilders Redrow and Persimmon are already opting to provide air source heat pumps and underfloor heating systems or other energy saving technology as standard in all upcoming developments, while the Applicant is proposing to use LPG boilers, which fails to address emerging Government policy, set out in its strategy, or the local policy set out in HK11.

Given the acceptance of HK11 at Examination, HKPC would refer the Applicant to paragraph 6.19 in the Referendum version Neighbourhood Plan.

**HKPC would like to ask MSDC to request the Applicant to undertake an evaluation of its proposals using the Ready for Net Zero Toolkit and to demonstrate how they perform against the requirements of policy HK11.**

#### **ELECTRIC VEHICLE CHARGING**

The application proposal fails to make adequate provision for electric car charging systems within the development, in accordance with:

WSCC Electric Vehicle Strategy (2019 – 2030) which states;

*"... we see the integration of electric vehicle charging infrastructure into all new developments as critical to the future long-term sustainability of a charging network."*

*"... developers should identify ways to cater for ... demand within the design of new developments as part of the overall provision of parking facilities. This could include, for example, a mix of spaces with active charging facilities and passive provision, i.e., ducting to allow facilities to be brought into use at a later stage."*

WSCC Guidance on Parking at New Developments (September 2020) states (paragraph 4.7) that:

*'Active' charging points for electric vehicles should be provided at a minimum of 20% of all parking spaces with ducting provided at all remaining spaces where appropriate to provide 'Passive' provision for these spaces to be upgraded in future.*

**We request that MSDC requires the Applicant to comply with the WSCC strategy and guidance referenced above.**

#### **LIGHTING**

Horsted Keynes Neighbourhood Plan paragraph 2.35 states:

*"There are no streetlights in the village but again this is seen as contributing to the unique character and feel of the village and there is a significant desire to retain this".*

The Applicant has not demonstrated that it complies with:

Horsted Keynes Neighbourhood Plan policy HK13 "Light Pollution":

*New development will be required to demonstrate how it has minimised light pollution created through its proposed use.*

Mid Sussex Design Guide SPD (November 2020) Principle DG29 "Deliver a coordinated public realm with high quality landscape":



*Light fittings should be low energy and be designed to avoid causing light pollution particularly in sensitive and dark rural areas.*

Mid Sussex Policy DP29 “Noise, Air and Light Pollution”:

*... by only permitting development where:*

*Light pollution:*

- *The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- *The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;*

We note that the High Weald AONB Advisory Unit has suggested a condition on lighting in their consultation response dated 8th February 2021 and we would support this.

**Within such a condition, HKPC request that:**

- 1. no streetlights should be approved,**
- 2. if external lighting is considered necessary, the use of Passive Infrared Ray (PIR) sensors will be mandatory.**

## **TREES**

Clearly there have been very significant concerns expressed by the community about the potential impact on the trees adjacent to the site’s western boundary with Summerlea and we note that this was a subject of interest during the DPD Examination of Site SA29 which resulted in the Examiner requiring the following modification being made to Policy SA29:

*Ensure adequate protection of the existing trees along the site boundary*

In addition to this, Mid Sussex DP37 “Trees, Woodland and Hedgerows” states:

*Trees, woodland and hedgerows will be protected and enhanced by ensuring development:*

- *prevents damage to root systems and takes account of expected future growth;*
- *has appropriate protection measures throughout the development process; ...*

Horsted Keynes Neighbourhood Plan Policy HK4: “Maintaining Local Character and Good Quality Design” states:

*Respecting the natural contours of the site and protecting and sensitively incorporating well-established natural features of the landscape including trees, species-rich hedgerows and ponds within the site.*

Despite the efforts that have been made to minimise the impact, we are not convinced that the current proposals completely satisfy the requirements in the Examiner’s modification. It is abundantly clear that the constraints of the site are such that the proposed access cannot be formed without causing some harm to these trees and **we trust that MSDC will take the Examiner’s modification to policy SA29 fully into account when assessing the planning balance.**

## **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

Any major development is bound to have an impact on the immediate locality during construction works. If it is ultimately decided to grant planning permission, MSDC is asked to impose planning conditions to manage and mitigate the impact of construction works through provision of a Construction Environmental Management Plan (CEMP) to cover the following matters:

- working hours on site.
- lorry routing, layover space and delivery times.
- contractors’ and sub-contractors’ parking.
- noise and vibration suppression.

- dirt and dust suppression and clean up arrangements for any residents affected.
- artificial illumination.
- wheel washing and road cleaning.
- avoidance, control and reporting of pollution incidents.
- protection of trees during construction.
- site liaison and contact arrangements.

If any such condition is imposed, the Parish Council requests to be consulted on the content of any draft CEMP submitted to MSDC by the Applicant before it is approved