

MID SUSSEX DISTRICT COUNCIL

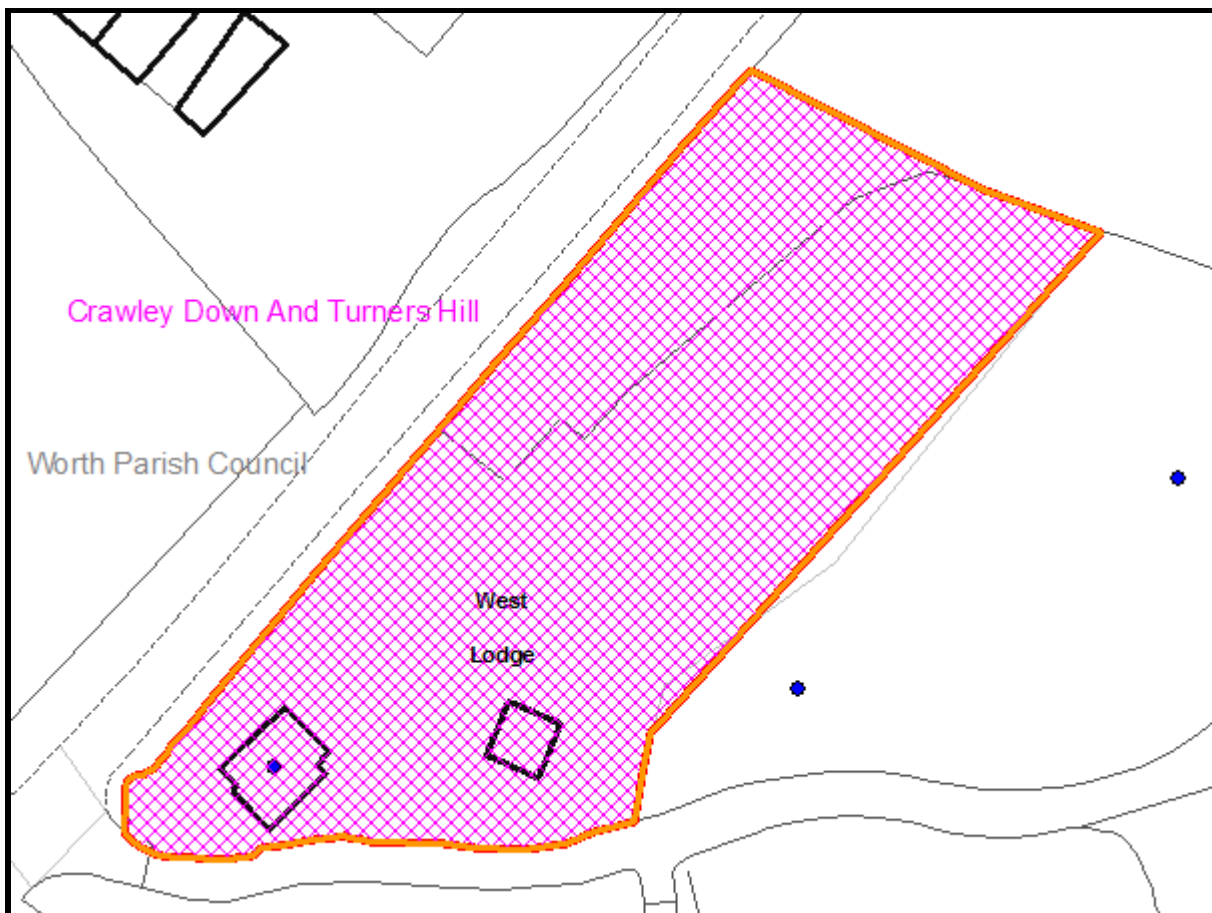
Planning Committee A

11 APR 2019

RECOMMENDED FOR PERMISSION

Worth Parish Council

DM/18/4013



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LAND R/O WEST LODGE TILTWOOD HOPHURST LANE CRAWLEY DOWN

PROPOSED ERECTION OF 2 NO. 4 BED DETACHED HOUSES AND GARAGES, INCLUDING THE DEMOLITION OF EXISTING GARAGE. AMENDED LAYOUT AND REVISED ELEVATIONS.

MR PETER HEWSON

POLICY: Areas of Special Control for Adverts / Ashdown Forest SPA/SAC / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Methane Gas Safeguarding / Aerodrome Safeguarding (CAA) /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 30th April 2019

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

CASE OFFICER: Susan Dubberley

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

This application seeks full planning permission for the construction of two new 4 bedroom dwellings each with detached garage on land rear of West Lodge, Tiltwood, Hophurst Lane.

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

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies in the countryside, outside the built up area of Crawley Down and thus would be contrary to policy DP12 of the District Plan as general housing development is not one of the permitted exceptions to the policy of restraint in the countryside.

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

Policy DP6 of the District Plan is not a relevant policy as the proposal is on an application site that is not contiguous with the built up area.

Whilst the proposal conflicts with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely CDNP05 of the Neighbourhood Plan that does not restrict the location of new

developments. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, in this case the District Plan. Only limited weight can thus be given to this policy in support of the application.

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

There are other material considerations, specific to this site which are relevant to this application. While it is acknowledged that there is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural environment, in this case a significant material consideration is that there is existing development on the site and a number of similar applications has been given consent on the Tiltwood Estate, some of which are under construction and other sites have extant permissions. The houses would be seen in the context of the existing development and the proposed layout, scale and appearance of the houses are considered to be in keeping with the character of the existing and approved development.

Weighing in favour of the scheme is that the development will provide 2 new dwelling in a sustainable location in terms of its location to a Category 2 settlement. The development will provide positive economic and social benefits through the New Homes Bonus, construction jobs and an increased population likely to spend in the community. It is considered to accord with policy CDNP05 of the Neighbourhood Plan which supports new residential development.

There will be a neutral impact in respect of a number of issues such as highways, landscaping, drainage and sustainability. A legal agreement would also secure monies to mitigate the impact on the Ashdown Forest. As these impacts would be mitigated by the section 106 agreement, these matters are neutral in the planning balance.

Weighing against the scheme is that the fact that dwellings are being proposed outside the built up area and would normally be restricted under the relevant District Plan policies.

Overall it is considered that while the proposal is not in compliance with all of the policies in the development plan, in particular there is a conflict with DP12 and DP15. There are however other material considerations in this case; the development is not isolated or in open countryside as there is existing development on the site and the proposed layout, scale and appearance is considered to be in keeping with the character of the existing development and it is not considered therefore that in this instance that there would be a significant adverse impact on the wider countryside.

In light of the above circumstances, it is considered that in this case there are sufficient material considerations such that the development is considered acceptable and should be approved.

The proposal would comply with policies within the development plan DP13, DP17, DP21, DP26, DP27, DP37, DP38, DP39 and DP41 and Policies CDNP04.2, CDNP05, CDNP06, CDNP08, CDNP09, CDNP10 and CDNP11 of the Neighbourhood Plan and the provisions of the National Planning Policy Framework.

RECOMMENDATION

It is recommended that the application be approved subject to the conditions set out in appendix A.

SUMMARY OF REPRESENTATIONS

Worth Parish Council

Object, as contrary to DP6 as not contiguous with BUAB, and contrary to CDNP10, due to increased vehicular movements onto the access road. There are 18 dwellings proposed in this immediate vicinity, which is piecemeal development. In our opinion this is contrary again to DP6 as this number is over 9 dwellings.

Comments following amended plans:

The plot is not contiguous with the BUAB, nor is it allocated within the District Plan or the Neighbourhood Plan. Therefore the application does not comply with DP6 or DP12.

The overall development of this site has resulted in incremental additions to vehicle movements, sufficient in our view to cause an unsafe access to the highway at Hophurst Hill. The application does not therefore comply with CDNP10.1

SUMMARY OF CONSULTATIONS

MSDC Street Naming and Numbering Officer

Request informative is added to any decision notice granting approval

WSCC Highways

No objection subject to conditions.

MSDC Arboriculturist

No objection.

MSDC Drainage Engineer

No objection subject to conditions.

INTRODUCTION

Full planning permission is sought for the erection of two 4 bedroom detached dwellings each with detached garage on land rear of West Lodge, Tiltwood, Hophurst Lane.

RELEVANT PLANNING HISTORY

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

Planning permission was granted for 2no. 5 bed houses in rear garden of Tiltwood East on 25 June 2018. (DM/17/0402)

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

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

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

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

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

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

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

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

SITE AND SURROUNDINGS

The site comprises part of the rear garden of west lodge, a detached dwelling located on the Tiltwood Estate accessed from an existing private gravel drive, with entry and exit from Hophurst Lane adjacent to the west of West Lodge. The garden runs parallel to Hophurst Lane located to the north of the site and is screened from

the road by mature trees. To the south of the site are two detached house currently under construction.

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

APPLICATION DETAILS

Full planning permission is sought for the erection of two 4 bedroom detached dwellings with detached garages located in what is currently the garden of West Lodge. West Lodge would retain a rear garden and the houses would be sited to the east. An existing garage would be demolished in order to provide access onto the site and a new repositioned garage is proposed for the existing house. Access onto Hophurst Lane would be from the existing shared driveway to the Tiltwood properties.

The two houses would have the same design and have an L-shaped footprint with a single storey projecting front element and a two storey wing with a cat slide roof that integrates with the single storey elements.

The proposed materials are camber tiles red/brown roof tiles and the walls to the 2 storey element are to be orange/red 'handmade' clay tiles, similar to those on West Lodge. The base of the house walls to be a blue/black brickwork in keeping with other new developments on the site. The cladding to the walls to the single storey wings is to be charred black timber, again in keeping with other new developments on the site. Windows and sliding doors to be double glazed in powder coated anthracite grey coloured aluminium frames.

LIST OF POLICIES

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

The most relevant policies are:

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

Worth - Crawley Down Neighbourhood Plan

The CDNP was 'made' in January 2016 and so forms part of the development plan. In accordance with the Planning and Compulsory Purchase Act 2004 and the NPPF, an assessment has been undertaken of the CDNP policies to identify if there are any in conflict with the District Plan. Where there is a conflict the weight to the policy has been identified.

The most relevant policies are:

Policy CDNP04.2: Infill Housing

Policy CDNP05: Control of New Developments

Policy CDNP06: Sustainable Drainage Systems

Policy CDNP08: Prevention of Coalescence

Policy CDNP09: Protect and Enhance Biodiversity

Policy CDNP10: Promoting Sustainable Transport

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

National Policy

National Planning Policy Framework (NPPF) (February 2019)

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

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

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

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

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

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

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

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

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

Planning Practice Guidance

Technical Housing Standards

ASSESSMENT (Consideration of Key Issues)

Principle of development

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

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

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

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

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

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

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan in Mid Sussex consists of the District Plan (2018) and the Crawley Down Neighbourhood Plan.

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

As the proposed development is located within the Countryside the proposal is contrary to Policy DP12 of the District Plan.

Policy DP12 of the District Plan states:

The countryside will be protected in recognition of its intrinsic character and beauty...

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

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

It is clear that a fundamental principle of this policy is that the countryside is protected for its intrinsic beauty. Development can be permitted where it maintains or enhances the quality of the rural landscape character of the District and it is supported by a policy reference elsewhere in the District Plan, a development plan document or a neighbourhood plan.

Policy DP15 of the District Plan relates to new homes in the countryside and allows for development:

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

- *Where accommodation is essential to enable agricultural, forestry and certain other full time rural workers to live at, or in the immediate vicinity of, their place of work; or*
- *In the case of new isolated homes in the countryside, where the design of the dwelling is of exceptional quality and it enhances its immediate setting and is sensitive to the character of the area; or*
- *Affordable housing in accordance with Policy DP32: Rural Exception Sites; or*
- *The proposed development meets the requirements of Policy DP6: Settlement Hierarchy.*

Policy DP6 of the District Plan relates to Settlement Hierarchy and states:

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

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

As the application site is not contiguous with the built-up area of Crawley Down, then this policy is not relevant to this application.

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

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

- a) *The scale height and form fit unobtrusively with the surrounding buildings and the character of the area or street scene and where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character.*
- b) *Individual developments will not comprise more than 30 dwellings in total, with a maximum density of 25 per Ha and spacing between buildings to reflect the character of the area.*
- c) *Amenities such as access, noise, privacy, daylight, sunlight and outlook of adjoining residents are safeguarded.*
- d) *The individual plot sizes are proportionate to the scale of the dwelling.*
- e) *Open green spaces are provided in accordance with the Local Plan standard provisions. Where practical open spaces should provide linkage/connection to elements of the local footpath network.*
- f) *Construction materials are compatible with the materials of the general area and are locally sourced where practical.*
- g) *The traditional boundary treatment of the area is provided and where feasible reinforced.*
- h) *Suitable access and on-site parking is provided without detriment to neighbouring properties.*
- i) *The development is arranged such that it integrates with the village.*
- j) *Housing need is justified.*
- k) *The development does not impact unacceptably on the local highway network.*
- l) *Issues raised in the local housing supply document site assessment are satisfactorily addressed.*
- m) *Has a range of dwelling sizes and in particular provides dwellings that are suited to the needs of both young families and older residents.*
- n) *Includes affordable homes as required by District policy.*
- o) *Proposals for new housing developments must meet the standards set out in Appendix 1*

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

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

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

The application proposal is thus contrary to the Development Plan. In accordance with the law it is necessary to have regard to other material considerations to ascertain whether or not a decision should be made otherwise than in accordance the Plan.

In this case the material considerations are the fact that the application site is located on the already developed Tiltwood Estate, where the planning history of the wider site shows that there have been several recent approvals on the site for housing developments, some of which are now under construction and other sites with extant permissions. It is not considered therefore that in this instance that there would be a significant adverse impact on the countryside arising from the development. The development is not isolated or in open countryside and the proposed layout, scale and appearance of the proposed houses is considered to be in keeping with the character of the existing development and it is not considered therefore that in this instance that there would be a significant adverse impact on the wider countryside. The site itself is also quite well contained by mature trees and hedges along the site boundaries.

Therefore while it is acknowledged that there is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural environment, in this case due to the location of the site on the developed Tiltwood Estate it is not considered therefore that in this instance that there would be a significant adverse impact on the countryside arising from the development.

In light of the above circumstances, it is considered that in this case there are sufficient material considerations such that the principle of development is considered acceptable.

Design and visual impact

Policy DP26 in the District Plan seeks to ensure a high standard of design in all new development and requires new development to demonstrate a sensitive approach to urban design by respecting the character of the locality in which they take place.

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

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

Policy DP13 of the District Plan seeks to prevent coalescence. The proposed dwellings would be seen in the context of the recent planning approval and development in the area, therefore it is not considered to impact on the gaps between neighbouring settlements.

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

Standard of accommodation

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

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

The dwellings have been designed in accordance with these standards with both units well above the minimum standards for new houses of this size.

The proposal is considered to comply with policy DP27 of the District Plan.

Impact on neighbouring amenity

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

In terms of the impact on adjoining properties the nearest house to plot one is the existing house at West Lodge which lies to the west and would have a separating distance of some 30m. To the south there is a detached house under construction

with a separating distance of between 15 to 17m with the proposed house sited so that it would be at an angle and would looking towards the detached garage of the house under construction.

Plot 2 would be located some 14m away from plot 1 with a detached double garage in between. To the south is another house that is under construction and due to the orientation the house on plot 2 it would also be sited opposite the garage to this property.

Due to these distances and orientation of the houses it is considered that the proposal would not cause a significant detrimental impact upon the neighbouring amenities in terms of overlooking, loss of privacy, reduction in sunlight and daylight and a loss of outlook.

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

Access, parking and impact on highway safety

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

The WSCC Highways Engineer has raised no objections to the parking and while noting the proposed double garages do not meet minimum internal dimensions in order to provide cycle storage and vehicle parking, the Highways Engineer is satisfied that alternative secure and covered cycle storage can be secured via condition.

The concerns of the Parish council in regard to the safety of the access onto Hophurst Lane are noted however the WSCC Highways Engineer has commented:

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

The WSCC Highways Engineer concludes that there are no transport grounds to resist the proposal. The proposal is therefore considered to comply with policy DP21 of the District Plan.

Drainage

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

The Drainage Engineer has raised no objection and considers that this matter can be suitably dealt with by condition, so there should be no conflict with policy DP41.

Impact on trees

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

Initially the Arboriculturist raised concerns over the development and its future relationship with the surrounding trees. The concern was that post development pressure would be likely as several trees are in close proximity to the proposed houses and therefore the trees:

'will cast significant shade over the rear gardens. Leaf drop, deadwood and perceived fear of failure are all commonly given reasons for requesting the reduction or removal of trees post development. It would be very difficult for the council to resist these requests once the properties have been built. Many of the high quality trees along the highway boundary are Early mature and so still need space for future growth. Provision for the future growth of these trees will be severely limited by the construction of the properties.'

Following negotiations the design of the houses has been amended and the position of the house on the site changed so that the houses are now further away from the trees. The Arboriculturist has considered the amended layout of the site and now has no objection to the application. It is therefore considered that the proposal would comply with the above policy.

Ashdown Forest

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

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

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

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

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

relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.
2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.
3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.
4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

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

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

Atmospheric pollution

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

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

considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Planning Balance and Conclusions

This application seeks full planning permission for the construction of two new 4 bedroom dwellings each with detached garage on land rear of West Lodge, Tiltwood, Hophurst Lane.

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

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies in the countryside, outside the built up area of Crawley Down and thus would be contrary to policy DP12 of the District Plan as general housing development is not one of the permitted exceptions to the policy of restraint in the countryside.

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

Policy DP6 of the District Plan is not a relevant policy as the proposal is on an application site that is not contiguous with the built up area.

Whilst the proposal conflicts with policy DP12 and DP15 of the District Plan, the proposals are considered to accord with the relevant Neighbourhood Plan policies, namely CDNP05 of the Neighbourhood Plan that does not restrict the location of new developments. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, in this case the District Plan. Only limited weight can thus be given to this policy in support of the application.

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

There are other material considerations, specific to this site which are relevant to this application. While it is acknowledged that there is an overriding need to ensure that

the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural environment, in this case a significant material consideration is that there is existing development on the site and a number of similar applications has been given consent on the Tiltwood Estate, some of which are under construction and other sites have extant permissions. The houses would be seen in the context of the existing development and the proposed layout, scale and appearance of the houses are considered to be in keeping with the character of the existing and approved development.

In light of the above circumstances, it is considered that in this case there are sufficient material considerations such that the development is considered acceptable and should be approved.

The proposal would comply with policies within the development plan DP13, DP17, DP21, DP26, DP27, DP37, DP38, DP39 and DP41 and Policies CDNP04.2, CDNP05, CDNP06, CDNP08, CDNP09, CDNP10 and CDNP11 of the Neighbourhood Plan and the provisions of the National Planning Policy Framework.

APPENDIX A – RECOMMENDED CONDITIONS

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

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

2. No development shall be carried out until a schedule and/or samples of materials and finishes to be used for external walls, windows and roof of the proposed buildings have been submitted to and approved by the Local Planning Authority.

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

3. The development hereby permitted shall not proceed until details of the proposed surface water and foul drainage and means of disposal, including details of surface water management during construction and details of future maintenance, have been submitted to and approved by the Local Planning Authority, in agreement with Southern Water, and shall not be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the District Plan.

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

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

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

5. The building shall not be occupied until the car parking on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking and turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways and to accord with Policy DP21 of the District Plan

6. No part of the development shall be first occupied until details of covered and secure cycle parking spaces have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the cycle spaces have been provided in accordance with the approved details.

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 Mid Sussex District Plan.

7. Prior to the commencement of construction of any dwelling or building subject of this permission, including construction of foundations, full details of a hard and soft landscaping scheme shall be submitted to and approved by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. These and these works shall be carried out as approved. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with policy DP26 of the District Plan.

INFORMATIVES

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

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to: Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

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

2. The applicant is advised that to satisfy condition 4 above there are likely to be two options. The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended. The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.
3. 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.
4. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location Plan	PH/1/1		01.10.2018
Survey	PH/1/2		01.10.2018
Survey	PH/1/3		01.10.2018
Block Plan	PH/1/4	E	11.12.2018
Proposed Site Plan	PH/1/5	E	11.12.2018
Proposed Site Plan	PH/1/6	E	11.12.2018

Proposed Floor Plans	PH/1/7	C	11.12.2018
Proposed Elevations	PH/1/8	C	11.12.2018
Proposed Sections	PH/1/9	B	11.12.2018
Illustration	PH/1/10	E	11.12.2018

APPENDIX B – CONSULTATIONS

Parish Consultation

The plot is not contiguous with the BUAB, nor is it allocated within the District Plan or the Neighbourhood Plan. Therefore the application does not comply with DP6 or DP12.

The overall development of this site has resulted in incremental additions to vehicle movements, sufficient in our view to cause an unsafe access to the highway at Hophurst Hill. The application does not therefore comply with CDNP10.1

Parish Consultation - further

Object, as contrary to DP6 as not contiguous with BUAB, and contrary to CDNP10, due to increased vehicular movements onto the access road. There are 18 dwellings proposed in this immediate vicinity, which is piecemeal development. In our opinion this is contrary again to DP6 as this number is over 9 dwellings.

WSCC Highways

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

This proposal is for the demolition of existing garage, erection of replacement garage and the erection of two 4-bedroom dwellings in garden land of West Lodge. West Sussex County Council, in its capacity as the Local Highway Authority (LHA), has been consulted previously on highways matters for this location for various proposals of dwellings at the Tiltwood Estate accessed via the existing private drive, to which no highways concerns have been raised. A site visit was conducted on 11th July 2016 to assess the suitability of the existing access on to Hophurst Lane, a 'C' classified road subject to a 40 mph speed restriction in this location.

Previous LHA comments regard access and visibility should be referred to:

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

Each dwelling (including the existing) will be provided two external parking spaces on site, which meet the minimum specifications of 2.4 x 4.8m per space as set out in MfS and can be counted towards parking provision. The proposed plans indicate that a double garage will be provided for each proposed dwelling and a replacement double garage for the existing dwelling. The plans demonstrate that the garages do not meet the minimum internal dimensions as set out in Manual for Streets (MfS) of 6 x 6m. Although this is not anticipated

to cause a highway safety concern in this location, the applicant should increase the size of the proposed garages to meet the minimum internal dimensions in order to provide sufficient space for vehicle parking and bicycle storage. There is sufficient space on site for vehicles to turn on site and exit onto the publically maintained highway in a forward gear.

Although there is no direct footway link adjacent to the site, the nearest bus stop is approximately 20 m south of the western access with services on to Crawley. Crawley Down village provides a limited range of retail, services and amenities. Cycling would be an attractive and sustainable mode of transport in this location. As the proposed double garages do not meet minimum internal dimensions, they are not sufficient to provide cycle storage and vehicle parking; the applicant should either increase the size of the proposed garages to minimum 6 x 6m or provide alternative secure and covered cycle storage; details of this can be secured via condition.

In conclusion, the LHA does not consider that the proposal for a replacement dwelling would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

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

Conditions:

Car parking space

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

Reason: To provide car-parking space for the use

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 to be 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.

Street Naming and Numbering

I note from the list of planning applications received during the week 4th October 2018 to 10th October 2018 that the applications listed below will require address allocation if approved.

Planning application number(s):

DM/18/4018

DM/18/3937

DM/18/4039

DM/18/4013

Please could I ask you to ensure that the following informative is added to any decision notice granting approval:

Informative: Info29

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

MSDC Arboriculturist

Comments dated 14/01/2019

Having reviewed the submitted plans and amended layout of the site, I have no further objection to the above application.

Comments dated 30/10/2018

Further to reviewing the AIA/ AMS reports provided, please find my comments below.

All of the trees that are within influencing distance of the development have been: plotted, measured, identified and classified as per BS 5837.

The RPA of each tree has been calculated and displayed on the plan provided.

The site currently has no trees subject to TPOs and is not within a conservation area.

No trees are to be removed to facilitate the application, although a very large mature Oak tree was recently felled.

Protection measures for retained trees have been outlined within the submitted report, including: Construction Exclusion Zones using suitable fencing/signage and temporary ground protection.

All of the above is suitable and in accordance with BS 5837.

However, there is concern over the development and its future relationship with the surrounding trees.

Post development pressure is likely as several trees are in close proximity to the planned properties and will cast significant shade over the rear gardens. Leaf drop, deadwood and perceived fear of failure are all commonly given reasons for requesting the reduction or removal of trees post development. It would be very difficult for the council to resist these requests once the properties have been built.

Many of the high quality trees along the highway boundary are Early mature and so still need space for future growth. Provision for the future growth of these trees will be severely limited by the construction of the properties.

MSDC Drainage Engineer

Recommendation: No objection subject to conditions

Advice

Summary and overall assessment

The proposed drainage for this development relies upon a number of downstream development plots having their drainage arrangements approved and conditions discharged. This means that this site could not have the opportunity to drain unless all their downstream neighbours, almost in series, have approved systems of their own. The series of development that DM/18/4013 relies upon are:

DM/17/2787

To

DM/16/2552

To

DM/16/2544

To

DM/16/0600

All of the above plots have had the proposed drainage arrangements approved and conditions discharged. This means that we are willing to allow this proposed development to progress pending condition.

This proposed development will need to fully consider how it will manage surface water run-off. Guidance is provided at the end of this consultation response for the various possible methods.

However, the hierarchy of surface water disposal will need to be followed and full consideration will need to be made towards the development catering for the 1 in 100 year storm event plus extra capacity for climate change.

Any proposed run-off to a watercourse or sewer system will need to be restricted in accordance with the Non-statutory Technical Standards for SuDS, so that run-off rates and volumes do not exceed the pre-existing greenfield values for the whole site between the 1 in 1 to the 1 in 100 year event.

As this is for multiple dwellings, we will need to see a maintenance and management plan that identifies how the various drainage systems will be managed for the lifetime of the development, who will undertake this work and how it will be funded.

The proposed development drainage will need to:

- Follow the hierarchy of surface water disposal.
- Protect people and property on the site from the risk of flooding
- Avoid creating and/or exacerbating flood risk to others beyond the boundary of the site.
- Match existing greenfield rates and follow natural drainage routes as far as possible.
- Calculate greenfield rates using IH124 or a similar approved method. SAAR and any other rainfall data used in run-off storage calculations should be based upon FEH rainfall values.
- Seek to reduce existing flood risk.
- Fully consider the likely impacts of climate change and changes to impermeable areas over the lifetime of the development.
- Consider a sustainable approach to drainage design considering managing surface water at source and surface.
- Consider the ability to remove pollutants and improve water quality.
- Consider opportunities for biodiversity enhancement.

Flood Risk

The proposed development is within flood zone 1 and is deemed as low risk.

The proposed development is not within an area identified as having possible pluvial flood risk.

There are not any historic records of flooding occurring on this site and in this area. This does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

Surface Water Drainage Proposals

It is proposed that the development will utilise soakage.

Foul Water Drainage Proposals

It is proposed that the development will discharge to the proposed and approved arrangements as agreed with DM/17/5016.

Suggested Conditions

C18F - Multiple Dwellings

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details.

The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.