
2 November 2021

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Dear Councillor,

A meeting of **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER** at these offices on **THURSDAY, 11TH NOVEMBER, 2021 at 4.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

Pages

- | | | |
|----|--|--------------|
| 1. | To receive apologies for absence. | |
| 2. | To receive Declarations of Interest from Members in respect of any matter on the Agenda. | |
| 3. | To confirm the Minutes of the meeting of the Committee held on 9 September 2021. | 3 - 8 |
| 4. | To consider any items that the Chairman agrees to take as urgent business. | |

Items Recommended for Approval.

- | | | |
|----|---|----------------|
| 5. | DM/20/4712 - Land at Balcombe House, London Road, Balcombe, RH17 6PB. | 9 - 100 |
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Items Recommended for Refusal.

None.

Other Matters.

- | | | |
|----|---|------------------|
| 6. | DM/18/0988 - North End Farm, Cuckfield Road, Hurstpierpoint, BN6 9HJ. | 101 - 110 |
| 7. | EF/18/0160 - Tyes Cross Farm, Grinstead Lane, East Grinstead, RH19 4HS. | 111 - 114 |
| 8. | TP/21/0004 - Land East of Stone House, Ryecroft Road, Bolney, RH17 5PR. | 115 - 120 |
| 9. | Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given. | |

Human Rights Act

The reports and recommendations set out in this agenda have been prepared having regard to the requirements of the Human Rights Act 1998.

Risk Assessment

In formulating the recommendations on the agenda, due consideration has been given to relevant planning policies, government guidance, relative merits of the individual proposal, views of consultees and the representations received in support, and against, the proposal.

The assessment of the proposal follows the requirements of the 1990 Town and Country Planning Act and is based solely on planning policy and all other material planning considerations.

Members should carefully consider and give reasons if making decisions contrary to the recommendations, including in respect of planning conditions.

Where specifically relevant, for example, on some applications relating to trees, and on major proposals which are likely to have a significant impact on the wider community, potential risks associated with the proposed decision will be referred to in the individual report.

NOTE: All representations, both for and against, the proposals contained in the agenda have been summarised. Any further representations received after the preparation of the agenda will be reported verbally to Members at the meeting. Any other verbal or additional information will be presented at the meeting.

The appropriate files, which are open to Member and Public Inspection, include copies of all representations received.

To: **Members of Planning Committee:** Councillors G Marsh, P Coote, R Cartwright, E Coe-Gunnell White, J Dabell, R Eggleston, B Forbes, S Hatton, C Phillips, M Pulfer, D Sweatman and N Walker

**Minutes of a meeting of Planning Committee
held on Thursday, 9th September, 2021
from 4.00 - 5.02 pm**

Present: G Marsh (Chairman)
P Coote (Vice-Chair)

R Cartwright	B Forbes	M Pulfer
J Dabell	S Hatton	D Sweatman
R Eggleston	C Phillips	N Walker

Absent: Councillors E Coe-Gunnell White

1 TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies were received from Councillor Coe-Gunnell White.

2 TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

Councillor Brown declared a personal interest in item 6, DM21/2457 as he knows one of the applicants Councillor Edwards as part of her role in serving on West Hoathly Parish Council.

3 TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 12 AUGUST 2021.

The minutes of the meeting of the Planning Committees held on 12 August 2021 were agreed as a correct record and signed by the Chairman.

4 TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.

The Chairman had no urgent business.

5 DM/21/2367 - LITTLE PARK FARM, MARCHANTS CLOSE, HURSTPIERPOINT, HASSOCKS, WEST SUSSEX, BN6 9UZ.

Anna Tidey, Planning Officer, introduced the application which sought permission for the removal of an existing barn, dairy building, mobile home unit and associated structures and the construction of 3 dwellings. She provided a summary of the Agenda Update Sheet which include the extension of the 8-week date to 16th September 2021, the comments from West Sussex Highways Authority, a recommended condition by the Ecological Advisor and additional comments from the Parish Council. It also includes the consultation response from Southern Water, additional comments received from Hurstpierpoint Parish Council and amended wording to conditions 3, 11 and 16.

The Planning Officer noted that the application is before the Committee as it represents a departure from adopted planning policy. She also drew Members attention to the planning history of the site, which has extant permission for a barn conversion for 4 new dwellings and a Lawful Development Certificate for a mobile home on the land. She set out the size of proposed buildings and the location of the new application noting that part of the access serves an existing property at North End House and is a pedestrian route to houses and Hurst Meadow open space as well as having a vehicle access gate allowing access to an extended garden for the adjacent Grade 2* property.

Peter Rainier spoke in support of the application as the agent.

The Chairman noted that one Ward Member had provided comments in writing which reiterate concerns raised in the report and another Ward Member had agreed providing a construction management plan was implemented.

A Member was in favour of the application noting that it was good to reduce the number of dwellings down to 3 but raised concern on whether the comments from the Conservation Officer regarding Unit A had been taken into account. The Planning Applications Team Leader confirmed that the comments are related to one aspect of the site and whilst they have been considered, the Planning Officers assessment of the proposal has to be on the scheme as a whole and it is their belief that the benefits outweigh the negatives.

With regards to the pathway, a Member noted that safety considerations had been covered in conditions relating to the construction phase but asked if there could be a condition to place a pathway for pedestrians, post construction. The Planning Officer noted that this was not suggested by the Highways Authority and pedestrians currently share the path with farming machinery so it is unlikely that a condition could be included. If the application is successful, it would remove the farming machinery and therefore make the road safer from that perspective.

A Member queried the lawful development certificate for the mobile home. It was confirmed that it is lawful for a mobile home to be on site, and the existing one could be replaced with another. The application seeks to replace the mobile home on the site by unit C.

A Member raised concerns around DP39 noting that sustainability provisions were listed a 'where-ever possible'. He suggested that measurable requirements such as the amount of rainwater collected or an insulation score should be specified. He also expressed concern that the developers had not considered ways to demonstrate how future climate change is reflected in the design. He also reiterated concerns around the safety of the pedestrian path.

The Chairman reiterated that the Highways Authority had not expressed concerns around the path. The Planning Applications Team Leader noted that DP39 sought to encourage developers to increase sustainability but it is not a policy that sets out a minimum standard. He noted that the proposed application to redevelop rather than convert the buildings would provide a more sustainable site.

A Member noted that it was unfortunate that no modern technology had been proposed with regards to sustainable heating, and that no report was provided by the Tree Officer. The Planning Officer noted that as a result of discussions with the Tree Officer there is an amended tree protection plan referred to in the conditions to

protect the trees and secure additional planting in the buffer zone. She also acknowledged that a traffic management plan will be implemented, taking on board the Parish Council's recommendations on timings and children.

A Member noted that this application was better than the prior approved application which could still be implemented until it expires on 15 August 2022.

The Chairman took Members to a recorded vote on the recommendations as set out in the report and the Agenda Update Sheet. This was proposed by Councillor Coote and seconded by Councillor Sweatman and agreed with 10 in favour and 1 against.

Councillor	For	Against	Abstain
P. Brown		Y	
R. Cartwright	Y		
P. Coote	Y		
J. Dabell	Y		
R. Eggleston	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N. Walker	Y		

RESOLVED

That permission be granted subject to the conditions as outlined at Appendix A and additional information contained in the Agenda Update Sheet.

6 DM/21/2457 - LOWER SHERIFF FARM, HAMMINGDEN LANE, ARDINGLY, HAYWARDS HEATH, WEST SUSSEX, RH17 6SP.

The Chairman noted that the application is policy compliant and only before the Committee as one of the applicants is a District Councillor.

Anna Tidey, Planning Officer, introduced the report which sought permission for a change of use of four existing farm buildings to an events venue with small lean-to extension to the northern side of the main barn. She drew Members attention to the Agenda Update Sheet which contains a number of additional conditions.

The site is a largely disused farmyard situated in the open countryside and the High Weald Area of Outstanding Natural Beauty. The main barn is currently used for domestic storage and in need of repair. The proposed repairs include changing windows and doors, new glazing, new roof and roof lights and a small extension at northern end for toilets. Barn B is an open structure with very little change proposed. Barn C is a 10mx 4m stable building to be repaired and Barn C and D will mainly be used for recycling and waste storage associated with events use.

Emily Hatton spoke in support of the application as the architect.

A Member noted that provision for electric car charging is rather unclear as to whether it will actually be implemented and commented that the wish for people to take joint transport to the site is an ideal that may not happen in practice.

The Chairman took Members to a recorded vote on the recommendations as set out in the report and the Agenda Update Sheet. This was proposed by Councillor Coote, seconded by Councillor Walker and agreed unanimously.

Councillor	For	Against	Abstain
P. Brown	Y		
R. Cartwright	Y		
P. Coote	Y		
J. Dabell	Y		
R. Eggleston	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N. Walker	Y		

RESOLVED

That permission be granted subject to the conditions as outlined at Appendix A and additional conditions contained in the Agenda Update Sheet.

7 DM/21/2809 - BACHELORS FIELD RECREATION GROUND, THE STREET, BOLNEY, WEST SUSSEX.

Joanne Fisher, Senior Planning Officer introduced the report which sought permission for a tarmac surface pump track (bike track) to sit along-side the existing recreation facilities with a maximum height of 1m, plus other mounds of various heights to enable the user to roll from one side to the next. She drew Members attention to the Agenda Update Sheet with a letter concerning a grassy mound on site.

She noted that the item is before the Committee as it is on Mid Sussex District Council owned land, situated in the built-up area of Bolney. The Bolney Conservation Area lies to the east. The proposed track is situated between a children's play area and multi- use games area and the track itself is 30 in length and 10m in width. With regards to the grassy mound in the update sheet, the Landscape Architect has noted that the mound is situated 20m away from track.

The Senior Planning Officer noted that the proposal will enhance the facilities onsite, therefore complying with DP24 and the Neighbourhood Plan. The design and scale is sensitive to the site and would have a neutral impact with no significant harm to neighbouring properties.

The Chairman confirmed that he had spoken with the Ward Councillor who is in support.

A Member supported the application but sought clarification that it can be built without affecting the mature trees on the northern boundary, noting that there is no arboreal report on the subject. The Senior Planning Officer confirmed that the track is outside of the tree area on the opposite side of a tarmac path. Vehicle movements for construction will use the existing gate for the recreation ground which is away from the trees.

The Chairman took Members to a recorded vote on the recommendations as set out in the report. This was proposed by Councillor Coote and seconded by Councillor Forbes and agreed with 10 in favour and 1 abstention.

Councillor	For	Against	Abstain
P. Brown			Y
R. Cartwright	Y		
P. Coote	Y		
J. Dabell	Y		
R. Eggleston	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N. Walker	Y		

RESOLVED

That permission be granted subject to the conditions as outlined at Appendix A.

8 QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

The meeting finished at 5.02 pm

Chairman

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MID SUSSEX DISTRICT COUNCIL

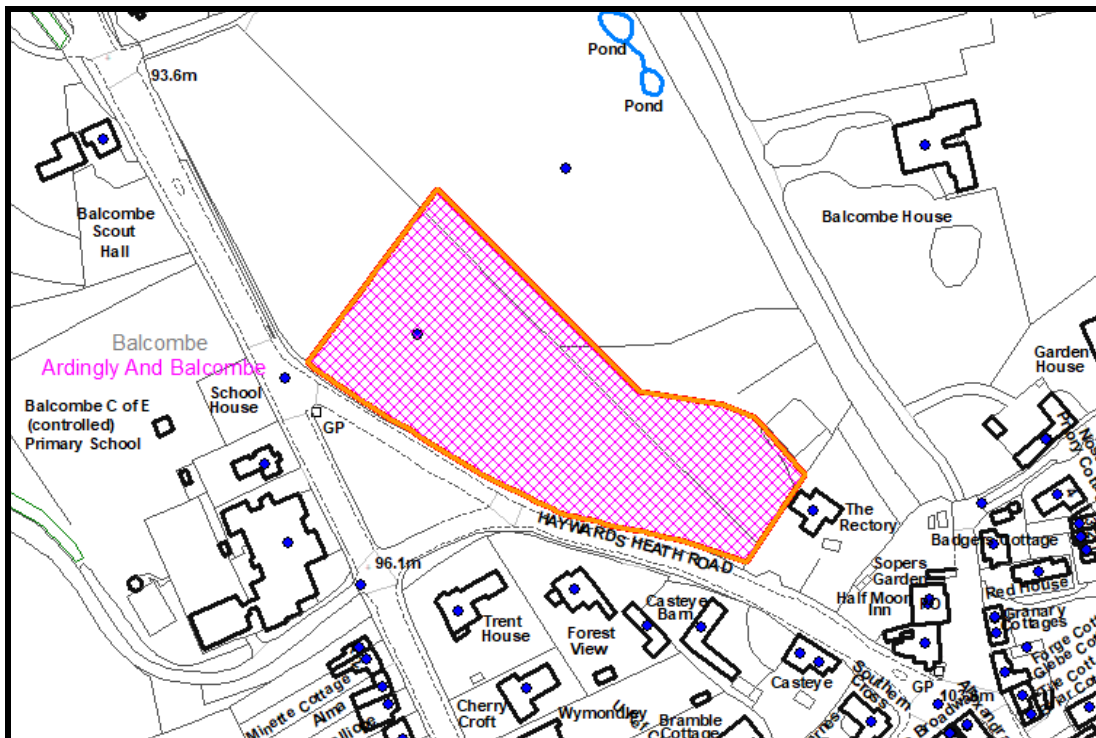
Planning Committee

11 NOV 2021

RECOMMENDED FOR PERMISSION

Balcombe

DM/20/4712



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LAND ADJACENT TO BALCOMBE HOUSE LONDON ROAD BALCOMBE WEST SUSSEX

RESIDENTIAL DEVELOPMENT TO PROVIDE 17 DWELLINGS MADE UP OF 1 AND 2 BEDROOM FLATS AND 3 AND 4 BEDROOM, DETACHED AND SEMI-DETACHED, HOUSES. ASSOCIATED LANDSCAPING, PARKING, VEHICULAR ACCESS AND A VILLAGE CAR PARK. PHASE 2 HABITAT SURVEY AND NET BIODIVERSITY GAIN ASSESSMENT RECEIVED 22/09/2021.

MR MARK HENDY

POLICY: Areas of Outstanding Natural Beauty / Area of Special Control of Adverts / Built Up Areas / Conservation Area / Countryside Area of Dev. Restraint / Post 1974 Conservation Area Boundary / Classified Roads - 20m buffer / Aerodrome Safeguarding (CAA) / Minerals Local Plan Safeguarding (WSSC) /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 1st December 2021

WARD MEMBERS: Cllr Gary Marsh / Cllr Jenny Edwards /

CASE OFFICER: Joanne Fisher

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

Planning permission is sought for 17 dwellings made up of 1 and 2 bedroom flats and 3 and 4 bedroom, detached and semi-detached houses with associated landscaping, parking, vehicular access and a village car park at land adjacent to Balcombe House, Haywards Heath Road, Balcombe.

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 an up to date District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The Balcombe Neighbourhood Plan was 'made' in September 2016 and thus forms part of the Development Plan.

The application site is within the built confines of a Category 3 settlement and allocated under Policy 2i of the Balcombe Neighbourhood Plan, identified for approximately 14 dwellings and a public car park for the village. Policy DP6 of the District Plan permits development within built up area boundaries subject to caveats. The principle of a residential development on this site is thus established and accords with the Development Plan.

The proposed design, layout and scale of the development is considered acceptable and would not cause harm to the character and appearance of the area. The proposal would preserve the High Weald Area of Outstanding Natural Beauty. No significant harm would be caused to the amenities of the surrounding residential occupiers through overlooking or a loss of outlook and the scheme would not cause harm in terms of parking or highway safety.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF and in the short term the proposal would also deliver a number of construction jobs. The Council would also receive a new homes bonus.

It is acknowledged that the proposal would result in less than substantial harm to the setting of the Balcombe Conservation Area and a number of listed buildings. However, as set out in para 196 of the NPPF, *'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'*.

The site would also lead to a loss of a number of trees and an impact to ecology on the site including loss of part of the front boundary hedge. However, the proposal is to provide mitigation and enhancement planting. Notwithstanding this the harm to biodiversity must be weighed against the public benefits of the proposal as set out under para 180 of the NPPF.

It is considered in this instance that the public benefits in the creation of 17 dwellings, including 5 affordable dwellings in a sustainable location, reflects one of the key objectives of the NPPF. The proposal would result in a number of infrastructure contributions which would be secured through a legal agreement as well as the formation of a public car park for the village. In addition, in the short term the proposal would also deliver a number of construction jobs and as a result of additional spending within the economy once occupied. As such it is considered that the proposal would result in significant public benefits which would outweigh the identified less than substantial harm to the setting of the Conservation Area and on the nearby listed buildings and the ecology on the site.

There will be a neutral impact in respect of highway safety, drainage and there will be no likely significant effect on the Ashdown Forest SPA and SAC.

The application is thereby considered to comply with policies DP4, DP6, DP16, DP20, DP21, DP26, DP27, DP28, DP30, DP31, DP34, DP35, DP37, DP38, DP39 and DP41 of the District Plan, policies 1, 2 and 3 of the Balcombe Neighbourhood Plan, and paragraphs 8, 110, 130, 152, 176, 180 and 202 of the NPPF.

Officers consider that in the context of the adopted District Plan and Neighbourhood Plan, the proposed development of the site complies with the development plan and there are no material planning considerations indicating a decision should be made otherwise than in accordance with it.

Overall, the planning balance is considered to fall significantly in favour of approving the planning application.

RECOMMENDATION

Recommendation A

It is recommended that planning permission be approved subject to the completion of a satisfactory S106 Legal Agreement to secure infrastructure contributions and affordable housing and the conditions set in Appendix A.

Recommendation B

It is recommended that if the applicants have not submitted a satisfactory signed planning obligation securing the necessary infrastructure payments and affordable housing by the 11th February 2022, then it is recommended that permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reasons:

1. 'The application fails to comply with policies DP20 and DP31 of the Mid Sussex District Plan in respect of the infrastructure and affordable housing required to serve the development.'

SUMMARY OF REPRESENTATIONS

3 letters of OBJECTION concerning the following points:

- Contrary to the principles of the Neighbourhood Plan due to the tree lined frontage on Haywards Heath Road which would not be retained or improved;
- Loss of views of woodland along road which would change
- Presence of Long Eared Bat roost next to the development which would be detrimental to the health and viability of the bats;
- Loss of trees on the site and introduction of street and house lighting would adversely affect bats.

SUMMARY OF CONSULTATIONS

WSCC Highways

No objection subject to conditions.

WSCC County Planning Officer

Summary of contributions:

Education Primary - £59,121
Education - Secondary - £63,631
Libraries - £6,459
TAD - £54,953

WSSC Flood Risk

No objection.

WSSC Water and Access

Advice

WSSC Minerals and Waste

No comments.

MSDC Urban Designer

No objection subject to conditions.

MSDC Conservation

The proposal will detract from the positive contribution which the site currently makes to the setting of the listed buildings, their special interest, and the manner in which this is appreciated. This will be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, the harm caused will be less than substantial, at the mid-high point of that scale.

MSDC Drainage Engineer

No objection subject to conditions.

MSDC Tree Officer

No objection - Reports should be fully adhered to and landscaping plans conditioned.

Ecologist

Comments. Condition.

Archaeologist

Recommend condition.

MSDC Leisure

The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities:

Play - £16,254

Kickabout - £13,653

Formal Sport - £18,615

Community Buildings - £11,220

MSDC Housing

No objection - to provide 5 on-site affordable units for rent and a commuted sum of £63,000 is to be provided towards off site affordable housing provision in lieu of the sixth unit.

MSDC Environmental Health

No objection - suggested conditions.

MSDC Environmental Health - Contaminated Land

No objection - suggested conditions.

MSDC Street Name and Numbering Officer

Informative.

Historic England

No comments.

Southern Water

No objection. Informative.

Sussex Police

Support the residential element of the application and do not have cause for great concern, however I do have concerns over the proposed public car park.

High Weald AONB Unit

Comments and recommended conditions.

Balcombe Parish Council

Summary of comments - full comments can be viewed in Appendix B

Overall, we welcome the site coming forward for development. In particular, the applicants have taken on board pre-application advice on housing mix and design and the new homes better reflect the surrounding conservation area and are in the main for smaller units than in the initial stakeholder consultation. The layout of the spine road is good. The house design is good.

We have four main concerns:

- The access road location and village car park
- Parking in the development

- Overdevelopment of a site originally allocated for approx. 14 units, for 1, 2 and 3 bedroomed properties.
 - Housing mix
-

INTRODUCTION

This application seeks planning permission for 17 dwellings made up of 1 and 2 bedroom flats and 3 and 4 bedroom, detached and semi-detached houses with associated landscaping, parking, vehicular access and a village car park at land adjacent to Balcombe House, Haywards Heath Road, Balcombe.

RELEVANT PLANNING HISTORY

DM/18/2586 - Proposed 17 residential units with associated car parking and landscaping, and the provision of a village car park. WITHDRAWN.

SITE AND SURROUNDINGS

The site is of irregular shape with plantation woodland with trees and vegetation within and on the boundaries of the site. There are residential properties to the south-east and south of the site set back from the road with trees and vegetation screening on the boundaries. To the north is the parkland setting of Balcombe House a Grade II Listed Building. This is screened by trees on the boundaries of the site.

The proposed development site is almost surrounded by the Balcombe Conservation Area, which is to the east, south, west and to the north-west of the site. There are a number of listed buildings in close proximity to the site including Catseye Cottage and Catseye Barn to the south on the opposite side of the highway, and Balcombe House to the north. To the north-west of the site outside of the red line is land which is further wooded.

Haywards Heath Road lies to the south and has a pavement on either side of the highway leading to the village centre to the east as well as the Primary School to the west.

The site is located within the built up area of Balcombe as well as within the High Weald Area of Outstanding Natural Beauty (AONB) as defined in the Mid Sussex District Plan and the Balcombe Neighbourhood Plan.

APPLICATION DETAILS

The proposal is for residential development to provide 17 dwellings made up of 1 and 2 bedroom flats and 3 and 4 bedroom, detached and semi-detached houses; associated landscaping, parking, vehicular access and a village car park.

The proposal is to comprise of 12 market houses and 5 affordable dwellings consisting of 2 no. 1-bed flats, 3 no. 2-bed flats, 11 no 3-bed dwellings and 1 no. 4-bed dwelling. The development would provide 30% affordable housing with a commuted sum proposed in lieu of an additional affordable dwelling.

The proposal is to provide a mixture in the style of dwellings comprising of a block of flats with accommodation in the roofspace with a communal front entrance, semi-detached dwellings with attached single garages, semi-detached dwellings, detached dwellings and link detached dwellings with single garages.

Plans show that the dwellings would be constructed in brick, with some dwellings having first floor tile hanging or timber detailing to the front roof pitches and clay tiled roofs. The properties would have decorative chimneys.

As part of the proposal the site would provide a village car park of 10 car parking spaces. The site would have one vehicular access off the Haywards Heath Road serving both the housing and village car park.

Each property would benefit off road parking with a number of the dwellings (Plots 8 - 17) benefitting from garaging. Parking would be to the side of the dwellings, with the parking for the flats opposite the building. There would also be 6no. visitor parking spaces serving the residential element of the site.

The boundary trees and vegetation are to be retained with a planting buffer and enhanced planting provided on the northern boundary of the site.

The application has been accompanied by a number of supporting statements for consideration consisting of:

- A Planning, Design and Access Statement including an Affordable Housing Statement;
- A Sustainability and Energy Statement;
- A Transport Statement;
- A Drainage Statement;
- A Preliminary Ecological Appraisal;
- A Phase 2 Ecology Survey
- Biodiversity Net Gain Survey;
- An Archaeological Desk Based Assessment including a Heritage Statement;
- A Tree Survey and Impact Assessment; and
- A Statement of Community Involvement.

LEGAL FRAMEWORK AND LIST OF POLICIES

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.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

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 for this part of Mid Sussex consists of the District Plan and Balcombe Neighbourhood Plan.

The District Plan is up to date, and the Council can demonstrate a 5 year supply of deliverable housing land.

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

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

Relevant policies include:

- DP4 - Housing
- DP6 - Settlement Hierarchy
- DP16 - High Weald Area of Outstanding Natural Beauty
- DP20 - Securing Infrastructure
- DP21 -Transport
- DP26 - Character and Design
- DP27 - Dwelling Space Standards
- DP28 - Accessibility
- DP29 - Noise, Air and Light Pollution
- DP30 - Housing Mix
- DP31 - Affordable Housing
- DP34 - Listed Buildings and Other Heritage Assets
- DP35 - Conservation Areas
- DP37 - Trees, Woodland and Hedgerows
- DP38 - Biodiversity
- DP39 - Sustainable Design and Construction

DP41 - Flood Risk and Drainage

Balcombe Neighbourhood Plan

The Neighbourhood Plan was made in September 2016. It forms part of the Development Plan for the District and can be given full weight.

The following policies are considered to be relevant:

Policy 1 - Built Up Area Boundary

Policy 2 - Housing

Policy 3 - Design

Balcombe Parish Neighbourhood Plan Design Guide

Development Infrastructure and Contributions Supplementary Planning Document (SPD)

Affordable Housing Supplementary Planning Document (SPD)

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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.

West Sussex County Council Guidance on Parking at New Development, September 2020

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

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'.

National Planning Policy Framework (NPPF)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. 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 '*significantly boosting the supply of homes.*'

Paragraph 12 of the NPPF states:

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 38 of the NPPF states:

'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'

With specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Guidance

National Design Guide

Ministerial Statement and Design Guide

On 1 October 2019 the Secretary of State for the Ministry of Housing, Communities and Local Government made a statement relating to design. The thrust of the statement was that the Government was seeking to improve the quality of design and drive up the quality of new homes. The Government also published a National Design Guide, which is a material planning consideration.

The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social, economic and environmental change will influence the planning, design and construction of new homes and places.

Technical Housing Standards

Assessment

The main issues for consideration are:

- Principle of development

- Design;
- Impact on the High Weald AONB
- Heritage;
- Access, parking and highway safety;
- Residential Amenity;
- Dwelling Space Standards;
- Sustainability;
- Drainage
- Ecology
- Trees;
- Infrastructure;
- Affordable Housing and Housing Mix;
- Ashdown Forest; and
- Planning Balance and Conclusion.

Principle of development

The District Plan is up to date and the Council can demonstrate a 5 year supply of deliverable housing land.

As the proposed development is within the built up area of Balcombe, the principle of additional windfall housing development is acceptable under Policy DP6 of the District Plan which states:

'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement.'

In addition to the above, Balcombe is classed as category 3 settlement in the settlement hierarchy listed under MSDP policy DP6. This is defined as a medium sized village providing essential services for the needs of their own residents and immediate surrounding communities. As such, the application site can be considered to be a sustainable location for residential development.

The site is allocated within the Balcombe Neighbourhood Plan under Policy 2i. This states the site is allocated for housing subject to the following development principles:

'Approximately 14 dwellings on land at Balcombe House Gardens and Rectory Gardens on Haywards Heath Road adjoining the village centre, comprising a mix of 1, 2 and 3 bedroom dwellings, provided the scheme comprises proposals for:

- a. *the provision of a public car park of 10 spaces;*
- b. *the retention and improvement of the existing tree-lined frontage to Haywards Heath Road;*
- c. *it can be demonstrated that they will sustain or enhance the significance of the setting to both the Grade II listed Balcombe House and the Balcombe Conservation Area heritage assets by using the existing woodland setting'*

The principle of development on this site is therefore acceptable. It is however also necessary to consider other planning issues to determine the overall planning balance.

Design

Policy DP26 of the District Plan deals with design matters and states the following;

'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and 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.*
- *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 plus unit) scheme will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development.'*

Policy 3 of the Neighbourhood Plan in part states:

'The scale, density, massing, height, landscape design, layout and materials of all development proposals, including alterations to existing buildings, will be required to reflect the architectural and historic character and scale of the surrounding buildings and to avoid any significant detrimental effect on the landscape and natural beauty of the High Weald AONB and the significance and character or appearance of the Balcombe Conservation Area, where a building will command a view.'

Para 130 of the NPPF relates to design and states:

'Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

On the 1st October 2019 the Government published the National Design Guide which addresses the question of how well-designed places are recognised, by outlining and illustrating the Government's priorities for well-designed places in the form of ten characteristics. The underlying purpose for design quality and the quality of new development at all scales is to create well-designed and well-built places that benefit people and communities.

The Secretary of State for the Ministry of Housing, Communities and Local Government issued a Ministerial Statement on the 1st October 2019 stating that *'the National Design Guide is also capable of being a material consideration in planning applications and appeals, meaning that, where relevant, local planning authorities should take it into account when taking decisions. This should help give local authorities the confidence to refuse developments that are poorly designed.'*

The Council's adopted Design Guide is a material consideration in the determination of the application. This document seeks to inform and guide the quality of design for all development across Mid Sussex District. It sets out a number of design principles to deliver high quality, new development that responds appropriately to its context and is inclusive and sustainable. Within the Design Guide there is support for innovative and inventive designs that responds to the sustainability agenda within DG37. There is support for architectural integrity and a sense of place within DG38 where the facade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings. Design principle DG39 requires the scale of new buildings to relate to their context. In addition DG40 requires buildings to be designed so that streets and public spaces have good levels of natural surveillance and are overlooked by ground floor habitable rooms and upper floor windows.

The site currently comprises of plantation trees with trees and vegetation on the boundaries of the site. It forms part of the verdant character of Haywards Heath Road. However, as set out in this report, the site has been allocated within the Neighbourhood Plan for residential development. Within para 5.15 of the Neighbourhood Plan in relation to the site's allocation it states that a *'successful scheme will likely comprise a mix of dwellings in distinct groups fronting on to Haywards Heath Road and placed within a woodland setting to enable them to appear subservient to the larger, listed buildings to the north and east. The scheme should have a direct access on to the road'*

The Council's Urban Design Officer has considered the scheme and has raised no objections. His full comments are set out in Appendix B. However, in part he considers that:

'The site is characterised by the woodland that covers it, and which provides an attractive backdrop to the village and the conservation area that wraps around most of its boundary. On the south west side, the woodland provides an attractive setting for the village green and Haywards Heath Road and London Road on either side of it. On the north-east side the woodland helps preserve the rural setting of the listed Balcombe House.'

In relation to the proposed elevations the Urban Designer considers that *'care has been taken to ensure the facades are well articulated with gabled frontages that provide some underlying order and rhythm as well as elevational interest. The houses also benefit from being consistently detailed on the front, side and rear; this is especially important on plots 10-12 where the formally organised rear elevations will provide a presentable elevation facing Haywards Heath Road particularly during the winter months when the tree screen/planted buffer will have less impact.'*

Overall the Urban Designer considers that the elevations and layout are generally well organised and that *'the scheme overall meets the provisions of policy DP26 of the District Plan and the design principles set out in the Mid Sussex Design Guide.'*

Your Planning Officers agree with the comments of the Urban Designer. The proposed housing offers a range of housing sizes, including affordable housing for the local community. It has been designed to offer a character that, whilst different to those dwellings close to the site, nevertheless reflects materials and building styles that are found in other housing in the village and are of a relatively modest scale. The variations in the design of the properties would add to the visual interest of the proposed cul-de-sac. It is considered that the proposed layout is deemed to provide spacious plots for each dwelling, with properties well-spaced between each other. The long gardens reflect the character of the area.

Due to the dwellings being set within the site, with boundary screening along Haywards Heath Road, it is considered that the development would sit comfortably within the site and reflect the general character of the street scene along Haywards Heath Road. In addition, the car parking is to be set within the site with vegetation screening to soften the area of hardsurfacing and would be seen in context with the adjacent housing proposed as part of the development. The proposal thereby

presents a positive relationship with the street and would not adversely affect the character of the area.

The Parish Council considers that the proposal forms an over-development of the site. It is noted that Policy 2 of the Neighbourhood Plan sets out that the site should provide *'Approximately 14 dwellings'*, whereas the proposal subject of this application is to form 17 dwellings. However, the District Plan and the NPPF seeks developments to optimise the potential of the site to accommodate development. It is considered that the proposal would not form an overdevelopment of the site as the layout shows the dwellings to be well spaced with gardens commensurate with the size of the properties and suitable off road parking serving each dwelling, as well as visitor parking. The trees and vegetation on the boundaries of the site are retained, where possible, to provide softening of the development and the retention of the verdant character of the area.

Sussex Police have raised concerns in relation to natural surveillance of the public car park which is to be provided as part of the scheme. Whilst these concerns are noted, plans show that the layout is to provide a shared access from Haywards Heath Road with the vehicular access and pedestrian path for the car park leading past the front of Plots 1-5 and their parking area opposite. On the side elevation of this block of flats would be a bin store and windows serving the open plan living area at first floor, bathrooms at ground and first floor and a rooflight serving the living accommodation for the flat in the roofspace. It is considered that the layout and side windows would provide some surveillance of this public car park. A condition concerning landscaping on the boundary treatments and the planting to soften this could be placed on such a permission to ensure that there are suitable treatments to allow for further surveillance of this area.

In light of the above it is considered that the application would comply with Policy DP26 of the District Plan, Policy 3 of the Neighbourhood Plan, the design principles of the adopted Mid Sussex Design Guide SPD and the provisions of the NPPF.

Impact on the character of the High Weald AONB

The site lies 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'*.

Policy DP16 of the District Plan relates to the High Weald AONB and requires proposals to *'conserve or enhance natural beauty'*.

Policy 3 of the Neighbourhood Plan seeks *'to avoid any significant detrimental effect on the landscape and natural beauty of the High Weald AONB.'*

Paragraph 176 of the NPPF is also relevant. This states:

'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.'

It is considered that the proposed design of the dwellings and the retention and proposed enhancement planting is sensitive to the character of the area providing traditional character properties and a development within a landscaped site which provides screening and softening of the development. Due to the site's location within the built up area of Balcombe, with properties to the south and east, it is considered that the development would be seen in the context of the village and would not be detrimental to wider views of the AONB.

The proposal is thereby considered to comply with Policy DP16 of the District Plan, Policy 3 of the Neighbourhood Plan, para 176 of the NPPF and the provisions of the High Weald AONB Management Plan.

Heritage Assets

The site is within the setting of a number of heritage assets, including:

- Balcombe Conservation Area
- St Mary's Church (Grade I listed)
- Balcombe House (Grade II listed)
- Haylors Cottage (Grade II listed)
- Casteye Cottage and Casteye Barn (both Grade II listed)

S.66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'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.'

Policy DP34 of the District Plan refers to listed buildings and other heritage assets. It states:

'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;*
- *Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of*

a listed building retain its significance and character whilst ensuring that the building remains in a viable use;

- *Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- *Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- *Special regard is given to protecting the setting of a listed building;*
- *Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric.*

Other Heritage Assets

Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.

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.'

S.72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

Policy DP35 of the District Plan relates to Conservation Areas. It requires developments to *'protect the setting of the conservation area and in particular views into and out of the area.'*

The NPPF states that 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.

Paras 199 - 202 of the NPPF states:

'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.

200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

201. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

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.'

The Council's Conservation Officer has provided detailed comments on the scheme in relation to each of the designated heritage assets outlined above. Her full comments are set out in Appendix B. Overall she considers that the proposal would be contrary to the requirements of Policies DP34 and DP35 of the District Plan and would result in less than substantial harm to all of the designated heritage assets identified above.

Consideration is required to be undertaken in respect of each heritage asset and the harm to these which would be caused through the proposed development. This is set out in turn below:

Impact of the scheme on the setting of the Conservation Area

Balcombe Conservation Area includes the historic centre of the village at the crossroads, the green and St Mary's Church to the north, and extends south to a second grouping of historic buildings around the junction of Haywards Heath Road and Mill Lane, as well as more modern development to the west around Stockcroft Road and neighbouring streets. Although a full character appraisal has not been prepared, the Council's document Conservation Areas in Mid Sussex provides a brief assessment of the Area and of its key features, which include attractive countryside views. The Conservation Officer considers that the special character of the

Conservation Area depends in part on its nature as the core of a historic Sussex village which has grown up over many centuries in close connection with the surrounding landscape.

The proposed development site is almost surrounded by the Conservation Area, and in its current state as forms a verdant, wooded space. The Conservation Officer considers that the site *'makes a strong positive contribution to its setting, including the countryside views mentioned above, and the manner in which the relationship of the settlement to the surrounding rural landscape is appreciated. It also has a strong positive impact on the character of the approach to the historic core of the village along Haywards Heath Road.'*

She considers that the proposal will have a *'fundamental impact on the character of the site, which will become suburbanised. A substantial number of trees will be lost from within the site. Although the proposal includes retention and strengthening of boundary vegetation to the eastern side the submitted street elevation to Haywards Heath Road indicates that the development will be visually prominent from this road an in views looking from and across the green to the west. Although some of the vegetation to this boundary is to be retained a number of trees appear to be lost, and new openings are created for pedestrian and vehicular access, which will allow clear views into the site.'*

She considers that *'the development will have a notable impact on that character, and in particular on how this is appreciated in views from Haywards Heath Road, the green and London Road beyond. This will detract from the positive contribution that the site currently makes to the setting of Balcombe Conservation Area, including the approach to the village centre along Haywards Heath Road.'* As such she considers that the harm caused to the heritage asset of the Conservation Area would be less than substantial, at the mid-point on that scale.

Whilst it is acknowledged that the trees within the site would be removed as part of the development, the principle of this has been accepted through the allocation of the site in the Neighbourhood Plan. The tree and vegetation lined boundary with the highway is to remain in part with some trees and vegetation removed for the formation of the access into the site. In addition, the vegetation on the boundaries is to be retained and enhanced. A street scene has been provided showing how the development would site within Haywards Heath Road. It is your Officers view that this shows that the boundary planting would in part screen and soften the development and retain the verdant boundary of the site which would meet the requirements of Policy 2i of the Neighbourhood Plan.

However, it is considered by your planning officers that the proposal would result in less than substantial harm to the setting of the Conservation Area where para 202 of the NPPF applies, which is considered further below.

Impact of the scheme on the setting of St Mary's Church

St Mary's Church is a Grade I listed building dating originally from 13th century, with a 15th century tower and later additions and alterations. The Conservation Officer considers that *'the building is likely to be considered to possess historic evidential*

and illustrative value, as an exceptional example of a church of this period, altered over many centuries to reflect changes in religious practice and other socio-economic factors. The positioning of the church at a short distance outside of the village to the north lends a sense of semi-rural isolation and detachment.'

The Conservation Officer considers that at *'present the site makes a positive contribution to the rural setting of the church, and in particular the approaches to it along Haywards Heath Road and London Road, and the sense of detachment which it enjoys from the village itself.'* In addition, she considers that the *'suburbanisation of the site will detract from the rural nature of the setting of and southern approaches to St Mary's, and from the sense of detachment from the village which the Church currently enjoys. This will be harmful to special interest of the listed building and how this is appreciated, and in particular those parts of this special interest which are drawn from the church's historical illustrative and aesthetic values.'*

Whilst these concerns are noted, this Grade I church is some 120 metres from the boundary of the application site. In between the application site and the church is a wooded area of a mixed plantation which provides tree screening which is to be retained.

It is your planning officers view that that the retention of the woodland to the north-west of the application site would still retain the sense of detachment from the village which the Church currently enjoys. In addition, it is considered that due to the distance of the proposed development from this listed building and the dense vegetative boundary screening that the visual quality of the setting as a whole will continue to be predominantly rural and the way in which the designated heritage asset is experienced will not be markedly altered.

However, it is considered that the proposal would result in less than substantial harm to the setting of the St Marys Church where para 202 of the NPPF applies.

Impact of the scheme on the setting of Balcombe House

Balcombe House is a Grade II listed 18th century mansion located in substantial grounds on the northern edge of Balcombe village, within the Conservation Area. At present the building is appreciated in the context of its grounds and of the wider rural setting, including the site, in to which little development intrudes. The principle entrance elevation of the building faces to the west across the immediate grounds of the building, with views across a paddock to the site, the trees within which provide a natural backdrop to this verdant outlook. A public right of way runs along the eastern side of the grounds to the house.

The Conservation Officer considers that *'the verdant and rural setting of the house, with its immediate formal grounds and the wider rural landscape beyond, make a strong positive contribution to the special interest of the building and the manner in which this is appreciated, and in particular those parts of its special interest which are drawn from historical illustrative and aesthetic values. The application site makes a strong positive contribution to this setting, and provides a verdant backdrop to views looking westwards from the principle elevation of the house.'*

She considers that the *'proposal will have a fundamental impact on the character of the site, in that it will become suburbanised.'* Whilst she acknowledges that there is boundary screening on the site, she considers that the *'effectiveness of natural screening is also subject to seasonal variation, and may be ephemeral.'*

She considers that *'the extent that the proposed development within the site is visible within the setting of and views from Balcombe House this will be harmful to the setting of the building and the manner in which this contributes to the special interest of the house and how this is appreciated.'*

Following receipt of additional information showing the impact of the development from Balcombe House, the Councils Conservation Officer considers that:

'Verified views have been submitted from two viewpoints within the vicinity of the house. These demonstrate the extent to which the built form would project above the ground level/topography of the site boundary and the adjacent field from these viewpoints. They also suggest that the vegetation on the site boundary would be relatively effective in screening this built form from view, however it should be noted that these views were taken in summer with the vegetation in full leaf. They do not indicate the impact of seasonal variation in the vegetation, or the extent to which the development would be visible during the winter. Given the extent and bulk of the development which rises above the surrounding topography as illustrated by these views, it seems likely to me that this development will be visible from the immediate setting of Balcombe House for at least part of the year, albeit that views may be partial and filtered.'

As set out in the above comments, on the boundary to the north-east with the setting of Balcombe House is to be a planted buffer, which is to be retained and enhanced to mitigate the impact of the development on the wider parkland setting of Balcombe House. It is your planning officers view that whilst the roofs of some of the dwellings would be visible, due to the intervening trees and distance between the development and the listed building that the visual impact of the development would be reduced.

However, it is considered that the proposal would result in less than substantial harm to the setting of Balcombe House where para 202 of the NPPF applies.

Impact of the scheme on the setting of Haylors

Haylors Cottage (formerly known as Hayter's Cottage) is a Grade II listed 17th century or earlier timber framed building, in a rural setting to the north of the site. The Councils Conservation Officer considers that the *'existing rural setting of the cottage makes a strong positive contribution to its special interest and the manner in which this is appreciated'*.

The Councils Conservation Officer considers that due to the *'open nature of the rural/parkland setting to the west and north of Balcombe House there will be potential intervisibility between the site and the cottage, as well as potential impact on the character of the broader setting within which the cottage is appreciated.'* In addition she considers that *'on the basis of the information currently in front of us (also discussed above) it appears that the proposed screening to the eastern*

boundary may not be complete or particularly successful. On this basis, it seems likely that there will be an impact on views of the site from the east, which will in turn detract from the currently positive contribution that the site makes to the setting of Haylors, its special interest and the manner in which this is appreciated.'

Whilst these concerns are noted, your Officers note that Haylors is set to the north beyond the listed church and wider parkland setting of Balcombe House. This property is set approximately 200 metres from the site at a lower level. There is intervening screening and fields between the application site and this dwelling. At present this listed building cannot be seen from the application site.

Whilst the Council's Conservation Officer considers that the development would result in less than substantial harm (but at the lower end), it is your planning officer's opinion that the proposal would result in a neutral impact to the setting of Haylors due to the distance of the building from the site where the intervisibility between the building and the site is not a current concern due to the boundary screening and intervening parkland.

Impact of the scheme on the setting of Catseye Cottage and Barn

The buildings are both Grade II listed and formed part of the same farmstead historically located on the northern edge of Balcombe village.

These properties are to the south-eastern corner of the site on the opposite side of the Highway. The existing Rectory dwelling as well as other properties are in closer proximity and within the setting of these two listed buildings. Vegetation screening is to be retained on the south-eastern corner of this site with development some 17 metres from the front boundary as on the eastern end of the site the village car park is proposed.

The Council's Conservation Officer considers that the development would result in a suburbanising impact on its character and effectively sever these two buildings from the remaining part of their rural setting as they will become completely surrounded by the built form of Balcombe village.

Whilst this concern is appreciated, your planning officer acknowledges that these buildings are close to the centre of the village and whilst the application site forms a verdant character within the village, it has been allocated for housing within the Neighbourhood Plan accepting that it is appropriate for development. The vegetation screening on the boundary with Haywards Heath Road would be retained to provide softening of the development.

Notwithstanding this, it is considered that the proposal would result in less than substantial harm to the setting of the Catseye Cottage and Barn where para 202 of the NPPF applies.

Para 202 of the NPPF sets out that '*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*'.

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.'*

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.'*

It is considered in this instance that the public benefits in the creation of 17 dwellings including 5 affordable dwellings and a commuted sum in a sustainable location within the village reflects one of the key objectives of the NPPF. The proposal would result in a number of infrastructure contributions detailed further in this report which would be secured through a legal agreement.

In addition, the proposal would result in the provision of a public car park for the village as required in the policy of the Neighbourhood Plan. This would be transferred to the Parish Council for ongoing management and operation.

In the short term the proposal would also deliver a number of construction jobs and as a result of additional spending within the economy once occupied. As such it is considered that the proposal would result in significant public benefits which would outweigh the identified less than substantial harm to the setting of the Conservation Area and the nearby heritage assets.

The Council would also receive a new homes bonus.

Notwithstanding the above, the site is allocated in the made Balcombe Neighbourhood Plan under Policy 2 i. Part c of this policy requires any proposal for housing development on this land to demonstrate that the development will *'sustain or enhance the significance of the setting to both the Grade II listed Balcombe House and the Balcombe Conservation Area heritage assets by using the existing woodland setting'*.

It is acknowledged that any redevelopment of the site would have some harm to the setting of the surrounding designated heritage assets. The Inspector in the independent examination of the Neighbourhood Plan carried out an unaccompanied site visit in 2016 where he looked at the proposed housing site at Balcombe House Gardens and Rectory Gardens. During this visit he noted that he saw the various trees and vegetation and its relationship to the village centre. In respect of the housing allocations policy for this site the Inspector for the Neighbourhood Plan examination was satisfied that the allocation was appropriate.

In view of the above it is therefore considered that the proposal would comply with Policies DP34 and DP35 of the District Plan, Policy 2i.c of the Neighbourhood Plan and the relevant paragraphs of the NPPF.

Access, parking and highway safety

Policy DP21 of the District Plan relates to transport and requires proposals to be sustainably located and provide adequate parking. It states:

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

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

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

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*

- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

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

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

Paragraph 110 of the NPPF is relevant in respect of transport matters and states that:

'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

In addition, para 111 states:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

The site lies close to the centre of Balcombe village as well as the primary school, bus stops and the train station. Continuous walking routes are available from outside the site to access these services.

The proposal is to provide one vehicle access point onto Haywards Heath Road to serve the development. The proposal is to comprise of a village car park of 10 spaces and 37 parking spaces for the residential development (including garage and visitor parking). There are to be pedestrian footways within the site linking to Haywards Heath Road.

The access road will be 5.5m wide along with a new 2m footway on either side, dropped kerbs and tactile paving.

The proposal meets the parking standards as set out in the West Sussex County Council Guidance on Parking at New Developments (September 2020). This guidance identifies this location within parking behaviour zone 1. As such there is a requirement for some 35 car parking spaces which the proposal meets.

The Highways Authority has considered the proposal and reviewed the submitted Transport Statement and Stage1 Road Safety Audit. They raise no objection subject to conditions and consider that the proposal is acceptable in terms of highway safety.

The Parish Council considers that the access from Haywards Heath Road needs to be moved to allow the car park to be separated from the residential development and to allow the car park to be managed and discourage overflow car parking from the houses and to reduce disturbance to occupants of the houses and flats of plots 1-9. Whilst this is noted, the plans as submitted are considered acceptable as the layout allows for surveillance of the car park from the housing and forms a cohesive development. There is sufficient parking within the residential development element to discourage parking in the village car park and different hardsurfacing as well as signage could be used to demarcate village car parking area. Due to the low speeds of vehicles accessing the site, and the public car park only providing 10 spaces, it is considered that there would not be significant detriment to occupiers of the dwellings through vehicles accessing the site.

In light of the above it is considered that from a highway safety perspective the application complies with Policy DP21 of the District Plan and para 110 of the NPPF.

Residential Amenity

Policy DP26 of the District Plan requires developments to demonstrate that it does not cause significant harm to amenities of existing nearby residents (or future occupiers), taking into account matters such as impact on light, privacy and outlook.

The submitted site plan shows that the proposed houses are set within the site away from the southern boundary with the highway. Along this southern boundary are mature trees and hedging which are to be retained and reinforced. Plot 8 at the entrance of the site would be set some 27 metres to the nearest residential dwelling on the opposite side of Haywards Heath Road. Due to the boundary screening and the distances between the proposed and existing dwellings, it is considered that the development would not result in significant harm through overlooking, loss of amenity or an overbearing impact.

In addition, the relationship between each dwelling is considered to be acceptable and would not result in a detrimental impact through an overbearing nature or a loss of privacy.

The northerly orientation of the gardens serving plots 1-7 and 13-17 will result in less overshadowing from the boundary trees and, as elsewhere, the buildings have been pulled forward within their plot to maximise the separation distance. The rear gardens are to measure between some 13 - 15 metres in depth. Due to the distances, it is considered that the dwellings will not be significantly affected through overshadowing of these trees.

Concerns have been raised from the Parish Council in respect of the impact on the amenities of Plots 1 - 9 from pedestrian and vehicle traffic using the proposed public car park. The dwellings are to be set off the highway and path by some 3 metres for Plots 1-7 and some 5 metres for Plot 8 with a front garden area. The path for the car park is on the opposite side of the access and not outside of Plots 1-7 as such it is considered that there would be no significant detriment in overlooking or a loss of privacy to future occupiers through users of the car park.

In light of the above, it is considered that the proposal is acceptable in neighbouring amenity terms and complies with policy DP26 of the District Plan

Dwelling Space Standards and Accessibility

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. Policy DP27 of the District Plan supports this.

In addition, Policy DP28 of the District Plan relates to accessibility and requires all development to meet and maintain high standards of accessibility so all users can use them safely and easily. In respect of larger developments there is a requirement for 20% of dwellings to meet Category 2 -accessible and adaptable dwellings under Building Regulations - Approved Document M Requirement M4(2).

The submitted plans show that the proposed homes would meet and, in some cases, exceed the National Dwelling Space Standards.

A condition in relation to 20% of the units to be part M4(2) (Adaptable and Accessible) compliant is proposed in Appendix A.

The proposal would therefore provide a satisfactory standard of accommodation for future occupiers of the units proposed and thereby comply with Policies DP27 and DP28 of the District Plan.

Sustainability

Policy DP21 of the District Plan relates to transport. The full policy is set out above. In part it requires schemes to be *'sustainably located to minimise the need for travel'* and take *'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'*. In addition, it requires where *'practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.'*

Policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development. It states:

'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'*

Paragraph 152 of the NPPF states:

'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

Paragraph 158 states:

'In determining planning applications, local planning authorities should expect new development to:

- a) *comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

The application has been accompanied with Sustainability and Energy Statement. The statement sets out that *'Sustainable design is not just about incorporating low-carbon or renewable technologies; buildings should be designed at the outset to provide suitable environmental conditions for the occupants whilst also consuming as little energy as practical'*. It details that the proposed scheme by a combination of passive design measures and active design measures, a strategy often referred to as a 'fabric first approach' will result in exceeding existing minimum Building

Regulations requirements. This approach considers the following in the design and construction of each dwelling;

Passive Design Measures

- Passive solar gain
- Natural daylighting

Efficient Building Fabric

- Building envelope
- Air leakage
- Thermal bridging
- Ventilation

Active Design Measures

- Efficient lighting and controls
- Space heating and hot water

The statement also sets out total emissions from the site due to the energy efficiency measures being incorporated into the development will result in a reduction in carbon dioxide emissions from the site of 6.7% per year, based upon the maximum permissible by Building Regulations.

In addition, various 'technologies have been considered and wind turbines, combined heat and power, ground source heat pumps or air source heat pumps are not considered appropriate....' Furthermore, it is set out that that the 'water efficiency measures incorporated within the apartments will ensure the water use is less than 110 litres per person per day and achieves the enhanced standard required by the Building Regulations.'

In addition, the accessibility of the site, or the sustainable location of it, is a key consideration.

The development is situated in a highly sustainable location within a category 3 settlement close to the village centre, the village primary school as well as a bus stop and the railway station.

Therefore, it is considered that the proposal complies with the relevant criteria policies DP21 and DP39 of the District Plan as well as the provisions of the NPPF. The proposal is considered to be acceptable in sustainability terms.

Drainage

Policy DP41 relates to flood risk and drainage and requires development to demonstrate it is safe across its lifetime and not increase the risk of flooding elsewhere.

The proposed development is within flood zone 1 and is deemed to be at low fluvial flood risk. The site is not within an area identified as having possible surface water (pluvial) flood risk.

It is proposed that the development will discharge surface water to an attenuation pond to be located within the adjacent 3rd party field. It has been confirmed that there will be an easement for the development to access this 3rd party land to maintain this pond. In respect of foul drainage, it is proposed that the development will utilise existing local foul sewers.

The Council's Drainage Engineer has been consulted on the scheme and has raised no objection subject to a condition. In addition the WSCC Lead Local Flood Authority has considered the application and raised no objection.

The proposal is thereby considered to comply with policy DP41 of the District Plan.

Ecology

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the District Plan relates to Biodiversity and seeks proposals to protect and enhance biodiversity.

Para's 179 - 182 of the NPPF relate to habitats and biodiversity. Para 180 states *'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 and a suitable compensation strategy exists'*. In addition, it considers that *'development whose primary objective is to conserve or enhance biodiversity should be supported'*.

A Preliminary Ecological Appraisal has been submitted with the application which recommended further ecological surveys and impact assessment are required in respect of great crested newt, breeding birds, badger, bats, hazel dormouse, invasive non-native plant species and reptiles.

Following this a Protected Species Report and Biodiversity Net Gain Assessment has been submitted following further survey works. The Protected Species Report identified that surveys were undertaken for hedgerow vegetation, great crested newt, breeding birds, foraging and commuting bats, and hazel dormouse at the site. It identified that the hedgerow (H1 - adjacent to Haywards Heath Road) is likely to be considered 'important', however it has lost much of its identity and structure and is in a relatively poor condition. Surveys concluded that great crested newts are likely to be absent from the site. The site was identified as being of Local Importance for its

breeding bird species, but the majority of the birds are common and widespread and unlikely to be significantly affected. In addition, it identified that the impact of light on foraging and commuting bats is classified as low. Finally, it identified that hazel dormouse are likely to be present on site. As such a European Protected Species Mitigation Licence for hazel dormouse would need to be obtained following the granting of planning consent. A number of recommendations were identified for the site including that the retained hedgerow be brought under management, the retained woodland and hedgerow within the site and to the north-west be positively managed for breeding birds, the installation of artificial nest boxes on buildings and retained trees, as well as a lighting strategy to avoid light spill.

The submitted Biodiversity Net Gain Assessment concludes that the site would result in the net loss of area habitats within the site through the removal of the trees and vegetation within the site. However it notes that the retention of the woodland and scrub along the south-eastern and northern boundaries of the site would form part of the linear habitat creation. Additional biodiversity enhancements are recommended within the Preliminary Ecological Appraisal (UEEC, 2020) including the provision of bat boxes, bird boxes, and habitat piles for amphibians and invertebrates.

The Councils Ecology Consultant comments that the proposal involves a new access being created which will destroy a 23m section of species-rich hedgerow. He considers that the hedgerow on the boundary with Haywards Heath Road should be considered an irreplaceable habitat type as it contains ancient woodland indicator species that would not readily colonise newly planted hedgerow and may well support other species that could not simply recolonise a new hedgerow planted as a replacement. In respect of the Biodiversity Net Gain Assessment, the Councils Ecology Consultant advises that as *'the types of habitat enhancement outlined in the report are reasonable and achievable.'* He recommends that if the application were to be approved that a condition be placed regarding further details to be submitted to prevent loss of, and contribute to a net gain in, biodiversity including a protection plan and details of habitat enhancements.

Para 180 of the NPPF indicates that were development would result in the loss or deterioration of irreplaceable habitats then permission should be refused unless there are wholly exceptional reasons where the public benefit would clearly outweigh the loss or deterioration of the habitat.

As previously set out in this report, the site is allocated for residential development and a village car park within Policy 2i of the Balcombe Neighbourhood Plan where the loss of the trees and vegetation within the site has been accepted. In addition, the site will provide 17 dwellings (5 of these to be affordable and an additional commuted sum towards additional off-site affordable housing provision), as well as a village car park for the community and infrastructure contributions. These public benefits are considered to outweigh the loss of the habitat on the site.

Notwithstanding this, as part of the scheme mitigation and enhancement planting is proposed as set out in the Protected Species Report in providing new native species rich hedgerow planting with the retained hedgerow brought under positive management; and retain tree cover and hedgerow at the site boundaries and enhance through additional planting, particularly along the northern boundary which

is adjacent to an area of wood-pasture and parkland, and along the southern boundary to strengthen the existing hedgerow.

Overall it is considered that the scheme would not adversely affect any protected species and that conditions could be used to ensure wildlife mitigation and enhancements. The proposal is thereby considered to comply with Policy DP38 of the District Plan and para 180 of the NPPF.

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.'*

As part of Policy 2 of the Neighbourhood Plan there is a requirement that the existing tree-lined frontage to Haywards Heath Road is retained and improved.

A Tree Survey and Impact Assessment has been submitted as part of the application. This states that the *'site appears to have been planted with trees at some point in the past. These trees were predominantly conifers which have led to poor quality tree cover. Occasional trees are of some merit.'* It submits that the *'layout of application proposals has been carefully conceived to only result in impact on those, predominantly low quality, trees within the plantation core of the site.'* In addition it states that the significant trees on the Haywards Heath Road are to be retained to ensure that the tree lined character of the road is maintained.

The submitted tree plan indicates the location of trees to be removed including single and groups of trees.

It is acknowledged that the wooded nature of the site forms part of the character of Haywards Heath Road and that a large amount of trees within the centre of the site and by the site access are to be removed to accommodate the development. These trees are not protected as they fall outside of the Conservation Area and are not subject to Tree Preservation Orders (TPO's).

Whilst the loss of some of the trees is regrettable, the site has been allocated for development within Policy 2 of the Neighbourhood Plan. In order to develop the site in any way a significant number of trees will inevitably be lost. The vast majority of the trees being removed are of low classification with many of these being non-native plantation trees. As part of the proposal the boundary trees are to be retained as far as possible and enhanced with replacement trees.

The Councils Tree Officer has considered the proposal and raised no objection on arboricultural grounds.

It is considered that the proposal would thereby comply with Policy DP37 of the District Plan.

Infrastructure contributions

Policy DP20 of the District Plan relates to infrastructure. It states:

'The Council will expect developers to provide for, or contribute towards, the infrastructure and mitigation measures made necessary by their development proposals through:

- *appropriate on-site mitigation and infrastructure provision;*
- *the use of planning obligations (s106 legal agreements and unilateral undertakings);*
- *the Community Infrastructure Levy, when it is in place.*

A planning obligation can be used where it is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The Council will assess each application on its merits to determine if a planning obligation is needed and the matters it should address. Planning obligations will only be entered into where planning conditions cannot be used to overcome problems associated with a development proposal.

Financial contributions will not be sought through planning obligations if 5 or more obligations for that project or type of infrastructure (other than for affordable housing) have already been entered into since 6 April 2010, or if it is a type of infrastructure that is funded by the Community Infrastructure Levy (this will be set out on a list of infrastructure that the Council proposes to fund from the Levy).

The Community Infrastructure Levy Charging Schedule will set out how development will fund the infrastructure needed to support it. The Levy will normally be spent on infrastructure needs in the locality of the scheme.

Proposals by service providers for the delivery of utility infrastructure required to meet the needs generated by new development in the District and by existing communities will be encouraged and permitted, subject to accordance with other policies within the Plan.

Affordable housing is dealt with separately, under Policy DP31: Affordable Housing.'

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

Due to the number of units provided, the proposal requires affordable housing contributions as set out in Policy DP31 of the District Plan.

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.'

and:

'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.'*

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

Having regard to the relevant policies in the District Plan, the SPDs, Regulation 122 and guidance in the National Planning Policy Framework the infrastructure set out below is to be secured via a planning obligation.

County Council Contributions

- Education - Primary: £59,121 - to be spent on additional facilities at Balcombe Primary School
- Education - Secondary: £63,631 - to be spent on additional facilities at Warden Park Secondary Academy
- Libraries: £6,459 - to be spent on providing additional facilities at Haywards Heath Library.
- TAD: £54,953 - to be spent on traffic calming measures and a safer routes to school scheme at Balcombe Primary School.

District Council Contributions

- Children's Playing Equipment: £16,254 - to be spent on improvement to play equipment at Balcombe Recreation Ground
- Kickabout: £13,653 - to be spent on improved facilities at Balcombe Recreation Ground
- Formal Sport: £18,615 - to be spent towards a skateboard park and or sports training facilities and or pitch drainage improvements at Balcombe Recreation Ground
- Community Buildings: £11,220 - to be spent on improvements to the Victory Hall and or the Parish rooms, Balcombe
- Local Community Infrastructure: £12,720 - To be confirmed.

It is considered that the above infrastructure obligation would meet policy requirements and statutory tests contained in the CIL Regulations.

The additional population from this development will impose additional burdens on existing infrastructure and the monies identified above will mitigate these impacts. 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.

The Applicants have confirmed agreement to the contributions and works are progressing on the legal agreement. The proposal therefore complies with Policy DP20 of the Mid Sussex District Plan.

Housing Mix and Affordable Housing

Policy DP30 of the District Plan states that to support sustainable communities, housing development will provide a mix of dwelling types and sizes from new development that reflects current and future housing needs.

Policy DP31 of the District Plan relates to Affordable Housing and states:

'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 floorspace¹⁴ of more than 1,000m²;*
- 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.*

¹⁴ Measured as gross internal floorspace

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 such standards which supersedes these.

Proposals that do not meet these requirements will be refused unless significant clear evidence demonstrates to the Council's satisfaction that the site cannot support the required affordable housing from a viability and deliverability perspective. Viability should be set out in an independent viability assessment on terms agreed by the relevant parties, including the Council, and funded by the developer. This will involve an open book approach. The Council's approach to financial viability, alongside details on tenure mix and the provision of affordable housing will be set out in a Supplementary Planning Document.

The policy will be monitored and kept under review having regard to the Council's Housing Strategy and any changes to evidence of housing needs.'

The application plans show that the development is to comprise of 12 market dwellings comprising of 11 no 3-bed and 1no 4-bed dwellings as well as 5 affordable units comprising of 2no 1-bed flats and 3no 1-bed flats. The affordable housing provision would be secured through the S106 legal agreement.

The Councils Housing Officer has raised no objection to the proposal and has accepted a commuted sum in lieu of one of the required onsite affordable units (5 on-site affordable dwellings provided rather than 6). It is considered that the proposed mix indicated would meet a broad range of housing needs.

The provision of affordable housing should attract significant positive weight in the determination of the application as there is a clear need for such accommodation.

Policy 2 of the Neighbourhood Plan requires the development to comprise of a mix of 1, 2 and 3 bedroom dwellings. The proposal broadly meets this requirement with the addition of one 4-bed dwelling as well. The comments of the Parish Council are noted in respect of the mix and there being no units smaller than 3-bed dwelling available for market housing. However, it is not considered that this could justify a refusal on this basis.

The scheme provides a policy compliant level of affordable housing and provides a good mix of dwelling sin their sizes. The proposal thereby meets the requirements of Policies DP30 and DP31 of the District Plan.

Ashdown Forest

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).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

Recreational disturbance

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.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, 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. 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.

The proposed development is outside the 7km zone of influence and as such, **mitigation is not required.**

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 as a **windfall development** 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. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across 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 screening report

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Planning Balance and Conclusion

Planning permission is sought for 17 dwellings made up of 1 and 2 bedroom flats and 3 and 4 bedroom, detached and semi-detached houses with associated

landscaping, parking, vehicular access and a village car park at land adjacent to Balcombe House, Haywards Heath Road, Balcombe.

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 an up to date District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The Balcombe Neighbourhood Plan was 'made' in September 2016 and thus forms part of the Development Plan.

The application site is within the built confines of a Category 3 settlement and allocated under Policy 2i of the Balcombe Neighbourhood Plan, identified for approximately 14 dwellings and a public car park for the village. Policy DP6 of the District Plan permits development within built up area boundaries subject to caveats. The principle of a residential development on this site is thus established and accords with the Development Plan.

The proposed design, layout and scale of the development is considered acceptable and would not cause harm to the character and appearance of the area. The proposal would preserve the High Weald Area of Outstanding Natural Beauty. No significant harm would be caused to the amenities of the surrounding residential occupiers through overlooking or a loss of outlook and the scheme would not cause harm in terms of parking or highway safety.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF and in the short term the proposal would also deliver a number of construction jobs. The Council would also receive a new homes bonus.

It is acknowledged that the proposal would result in less than substantial harm to the setting of the Balcombe Conservation Area and a number of listed buildings. However, as set out in para 196 of the NPPF, *'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'*.

The site would also lead to a loss of a number of trees and an impact to ecology on the site including loss of part of the front boundary hedge. However, the proposal is to provide mitigation and enhancement planting. Notwithstanding this the harm to biodiversity must be weighed against the public benefits of the proposal as set out under para 180 of the NPPF.

It is considered in this instance that the public benefits in the creation of 17 dwellings, including 5 affordable dwellings in a sustainable location, reflects one of

the key objectives of the NPPF. The proposal would result in a number of infrastructure contributions which would be secured through a legal agreement as well as the formation of a public car park for the village. In addition, in the short term the proposal would also deliver a number of construction jobs and as a result of additional spending within the economy once occupied. As such it is considered that the proposal would result in significant public benefits which would outweigh the identified less than substantial harm to the setting of the Conservation Area and on the nearby listed buildings and the ecology on the site.

There will be a neutral impact in respect of highway safety, drainage and there will be no likely significant effect on the Ashdown Forest SPA and SAC.

The application is thereby considered to comply with policies DP4, DP6, DP16, DP20, DP21, DP26, DP27, DP28, DP30, DP31, DP34, DP35, DP37, DP38, DP39 and DP41 of the District Plan, policies 1, 2 and 3 of the Balcombe Neighbourhood Plan, and paragraphs 8, 110, 130, 152, 176, 180 and 202 of the NPPF.

Officers consider that in the context of the adopted District Plan and Neighbourhood Plan, the proposed development of the site complies with the development plan and there are no material planning considerations indicating a decision should be made otherwise than in accordance with it.

Overall, the planning balance is considered to fall significantly in favour of approving the planning application.

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.

Approved plans

2. 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 Application".

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

Pre-commencement conditions

3. No development above ground slab level shall be carried out unless and until a schedule of materials and finishes to be used for external walls / roofs / fenestration of the proposed dwellings and garaging have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality

and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy 3 of the Neighbourhood Plan.

4. No development shall take place unless and until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The details shall include section drawings of plot 13's garage and a street elevation of plots 8 and 9 and the relationship with the access road approach. 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 / amenities of adjacent residents and to accord with Policy DP26 of the District Plan 2014 - 2031 and Policy 3 of the Neighbourhood Plan

5. No development shall commence until the following details have been submitted to, and approved by, the Local Planning Authority:

A protection plan and method statement setting out practical measures to be put in place to prevent unnecessary harm to biodiversity during site clearance and construction;

Details of habitat enhancements, which may be integrated with landscape planting details and a long-term habitat management plan; and

A wildlife-sensitive lighting scheme (if any external lighting is proposed).

The approved details shall be implemented in full unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent loss of, and contribute to a net gain in, biodiversity, in accordance with policies DP38 of the Mid Sussex District Plan and 180 of the NPPF.

6. No development shall take place, including any works of demolition, until a Construction Environmental 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,

- a timetable for the commencement, construction, occupation and completion of the development
- the anticipated number, frequency and types of vehicles used during construction
- the method of access and routing of vehicles during construction and directional signage for the purposes of such
- the siting and layout of site compounds and welfare facilities for construction workers
- the provision of parking of vehicles by site operatives and visitors
- the provision for the loading and unloading of plant, materials and removal of waste
- the provision for the storage of plant and materials used in construction of the development

- the design, erection and maintenance of security hoardings and other measures related to site health and safety
- 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
- hours of construction working
- a scheme to protect existing neighbouring properties from dust and noise emissions
- a noise management plan, to include consideration of vibration from construction work including the compacting of ground
- measures to deal with surface water run-off from the site during construction
- pollution incident control
- a scheme for community liaison and public engagement during construction, including the provision of information to occupiers moving onto the site before the development is complete
- contact details of site operations manager, contracts manager, and any other relevant personnel.

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 allow the LPA to control in detail the implementation of the permission and to safeguard the safety and amenities of nearby residents and surrounding highways and to accord with Policies DP21 and DP26 of the Mid Sussex District Plan 2014 - 2031.

7. No development shall take place until the applicant, or their agent or successor's 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.

Reason: The site is potentially of archaeological interest and to accord with Policy DP35 of the Mid Sussex District Plan 2014 - 2031

8. 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 in consultation with Southern Water. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, and Policy DP41 of the Mid Sussex District Plan (2014 - 2031).

9. No development pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:

a) A desk study report documenting all the previous and existing land uses of the site and adjacent land in accordance with best practice including BS10175:2011+A1:2013 Investigation of potentially contaminated sites - code of practice. The report shall contain a conceptual model showing the potential pathways for exposure to contaminants that may occur both during and after development;

and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study created in accordance with BS10175:2011+A1:2013 and BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs); the laboratory analysis should be accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) where possible; the report shall refine the conceptual model of the site and state either that the site is currently suitable for the proposed end-use or that it will be made so by remediation;

and, unless otherwise agreed in writing by the LPA,

c) A remediation method statement detailing the remedial works and measures to be undertaken to avoid risks from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. For risks related to bulk gases, this will require the production of a design report and an installation report for the gas as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall consider the sustainability of the proposed remedial approach. It shall include nomination of a competent person to oversee the implementation and completion of the works.

Reason: In the interests of health of future occupiers and to accord with Policy DP1 of the Mid Sussex District Plan 2014 - 2031.

10. Prior to the commencement of construction of any dwelling / building or the public car park 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 Mid Sussex District Plan 2014 - 2031 and Policy 3 of the Neighbourhood Plan.

11. No development shall take place, until replanting details including a landscape plan (including details of size of trees to be replanted) and facilitative pruning specification has been submitted to and approved in writing by the Local Planning Authority in respect of the retained trees along the boundaries of the site. Details shall include the maintenance and aftercare of all replacement trees to ensure that the trees establish well and grow to maturity showing the position, size, planting, feeding, support and aftercare of these trees.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy 2i of the Neighbourhood Plan.

Construction Phase

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

Reason: To protect the amenity of local residents and to accord with Policy DP29 of the Mid Sussex District Plan 2014 - 2031.

13. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

Reason: In the interests of health of future occupiers and to accord with Policy DP1 of the Mid Sussex District Plan 2014 - 2031.

14. No development above ground slab level shall be carried out unless and until a front elevation (at an appropriate scale) of Plots 1-7 showing the position of the rainwater downpipes have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy 3 of the Neighbourhood Plan

15. No development above slab level shall be carried out unless and until 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.

Reason: In the interests of amenity and in accordance with policy DP20 of the Mid Sussex District Plan 2014 - 2031 and in accordance with The Fire & Rescue Service Act 2004.

Pre-occupation conditions

16. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

17. No part of the development shall be first occupied until details of the electric charging vehicle points including the location of these spaces has been provided and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained for its designated use.

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 2014 - 2031.

18. Prior to the occupation of each plot covered and secure cycle parking spaces shall be provided in accordance with the approved plan.

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 2014 - 2031.

19. Prior to the occupation of any dwelling subject of this permission, details of proposed screen walls/fences and/or hedges shall be submitted to and approved by the Local Planning Authority and no dwellings shall be occupied until such screen walls/fences or hedges associated with them have been erected or planted.

Reason: In order to protect the appearance of the area and to accord with and Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy 3 of the Neighbourhood Plan.

20. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of conditions (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by the LPA such verification shall comprise a stand-alone report including (but not be limited to):

- a) Description of remedial scheme
- b) as built drawings of the implemented scheme
- c) photographs of the remediation works in progress

d) certificates demonstrating that imported and/or material left in-situ is free of contamination, and records of amounts involved.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 9c.

Reason: In the interests of health of future occupiers and to accord with Policy DP1 of the Mid Sussex District Plan 2014 - 2031.

21. No dwelling shall be occupied until the public car park as shown in drwg 1379/PLn/112 (received 22nd December 2020) has been constructed in accordance with plans submitted to and approved in writing to the Local Planning Authority showing the layout and position of parking spaces including disable parking spaces. No part of the development shall be occupied until works have been carried out in the construction of the car park and it is ready for use.

Reason: To ensure that suitable provision is available for the village car park in accordance with the requirements of Policy 2ia of the Neighbourhood Plan.

22. No external lighting or floodlighting shall be installed without the prior written approval of the Local Planning Authority.

Reason: To safeguard the visual appearance of the area and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

23. Prior to the first occupation of any building forming part of the proposed development the developer will at their own expense install the fire hydrant 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 to accord with policy DP20 in the Mid Sussex Local Plan 2014-2031 and in accordance with The Fire & Rescue Service Act 2004.

Post construction

24. A minimum of 20% of the units hereby permitted shall be part M4(2) (Adaptable and Accessible) compliant, and 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.

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.

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 or by phone on 01444 477175.
2. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

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

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

3. In respect of Condition 5 the protection plan and method statement should be practical document aimed at site managers and construction personnel clearly setting out what measures are required (e.g. protective fencing, pre-felling wildlife checks), when they are required, how they are to be implemented, who is responsible for making them happen and why they are required. The document should be as succinct as possible, make good use of annotated drawings and schedules and avoid excessive background material.
4. 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.
5. 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: southernwater.co.uk/developing and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link:

www.southernwater.co.uk/connection-charging-arrangements

6. 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.
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:

Plan Type	Reference	Version	Submitted Date
Street Scene	1379/Pln/		05.08.2021
Other	SK_002		17.05.2021
Block Plan	1379/Pln/112		22.12.2020
Site Plan	1379/Pln/113		22.12.2020
Location Plan	1379/Pln/100		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/102		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/103		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/104		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/105		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/106		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/107		22.12.2020
Proposed Floor and Elevations Plan	1379/Pln/108		22.12.2020
Planning Layout	1379/Pln/101		22.12.2020
Sections	1379/Pln/111		22.12.2020
Street Scene	1379/Pln/109		22.12.2020
Tree Survey	1526-KC-XX- YTREE-TPP01Rev0		22.12.2020
Street Scene	1379/Pln/110		22.12.2020

APPENDIX B – CONSULTATIONS

WSCC Highways Authority

Background

The proposed development comprises residential dwellings, ancillary garages and associated vehicle parking, as well as a local community car park. From a highways perspective the proposals are supported by way of a Transport Statement (TS) which includes a Stage Road Safety (RSA).

Comments

The Local Highway Authority (LHA) has reviewed the submitted TS including the Stage 1 RSA. The principle of the application is accepted. We are satisfied with the Trip Rates provided and the internal arrangements proposed. Having reviewed the RSA there are two (2.3.2 and 2.4.2) problems identified in the RSA which the Designer has not agreed with. Given the Designers Response and additional comments in Section 4 of the TS, the LHA considers the Designer has proposed two reasonable solutions to each problem. The two points were considered by the LHA's Exception Report (ER) process.

Our Road Safety Team have signed the ER on the outstanding matters within the RSA. On that basis we would now be in a position to support the proposals from the highways perspective.

Conclusion

The LHA would be satisfied that the proposals are sufficient in regards of Highway Safety. The LHA would advise the following conditions be attached to any planning consent:

Access (Access to be provided prior to first occupation)

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown.

Reason: In the interests of road safety.

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.

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.

WSCC County Planning Officer

Summary of Contributions

Education			
School Planning Area	0		
Population Adjustment	38.8		
	Primary	Secondary	6th Form
Child Product	0.4461	0.4461	0.0000
Total Places Required	3.1227	2.2305	0.0000
Library			
Locality	Haywards Heath		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£0		
Contribution towards East Grinstead/Haywards Heath	£6,459		
Population Adjustment	38.8		
Sqm per population	30/35		
Waste			
Adjusted Net. Households	17		
Fire			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
TAD- Transport			
Net Population Increase	38.8		
Net Parking Spaces	37		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

Summary of Contributions

S106 type	Monies Due
Education - Primary	£59,121
Education - Secondary	£63,631
Education - 6th Form	No contribution
Libraries	£6,459
Waste	No contribution
Fire & Rescue	No contribution
No. of Hydrants	secured under Condition
TAD	£54,953
Total Contribution	£184,165

Note: The above summary does not include the installation costs of fire hydrants. Where these are required on developments, (quantity as identified above) as required under the Fire Services Act 2004 they will be installed as a planning condition and at direct cost to the developer. Hydrants should be attached to a mains capable of delivering sufficient flow and pressure for fire-fighting as required in the National Guidance Document on the Provision of Water for Fire Fighting 3rd Edition (Appendix 5)

The above contributions are required pursuant to s106 of the Town and Country planning Act 1990 to mitigate the impacts of the subject proposal with the provision of additional County Council service infrastructure, highways and public transport that would arise in relation to the proposed development.

Planning obligations requiring the above money is understood to accord with the Secretary of State's policy tests outlined by the in the National Planning Policy Framework, 2019.

The CIL Regulations 2010 (as amended by the CIL amendment Regulations 2019) came into force on 1st September 2019 and clarify that an authority collecting contributions through the use of S106 agreements may now lawfully charge a fee for monitoring the planning obligations they contain. From 1st April 2020 West Sussex County Council will implement a S106 monitoring fee of £200 per trigger, per year of monitoring. Financial triggers are monitored for an average of three years and will therefore produce a fee of £600 per trigger, with non-financial triggers taking around six years to fulfil and therefore costing £1200.

The proposal falls within the Mid Sussex District and the contributions comply with the provisions of Mid Sussex District Local Development Framework Supplementary Planning Document- Development Infrastructure and Contributions July 2018.

All TAD contributions have been calculated in accordance with the stipulated local threshold and the methodology adopted as Supplementary Planning Guidance (SPG) in November 2003.

The calculations have been derived on the basis of an increase in 17 net dwellings, and an additional 47 car parking spaces.

Please see below for a Breakdown and explanation of the WSCC Contribution Calculators. Also see the attached spreadsheet for the breakdown of the calculation figures. For further explanation please see the Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

5. Deed of Planning Obligations

- a) As a deed of planning obligations would be required to ensure payment of the necessary financial contribution, the County Council would require the proposed development to reimburse its reasonable legal fees incurred in the preparation of the deed.
- b) The deed would provide for payment of the financial contribution upon commencement of the development.
- c) In order to reflect the changing costs, the deed would include arrangements for review of the financial contributions at the date the payment is made if the relevant date falls after 31st March 2021. This may include revised occupancy rates if payment is made after new data is available from the 2021 Census.
- d) **Review of the contributions towards school building costs should be by reference to the DfE adopted Primary/Secondary building costs applicable at the date of payment of the contribution and where this has not been published in the financial year in which the contribution has been made then the contribution should be index linked to the DfE cost multiplier and relevant increase in the RICS BCIS All-In TPI. This figure is subject to annual review.**
- e) **Review of the contribution towards the provision of additional library floorspace should be by reference to an appropriate index, preferably RICS BCIS All-In TPI. This figure is subject to annual review.**

The contributions generated by this proposal shall be spent additional facilities at Balcombe Church of England Primary School.

The contributions generated by this proposal shall be spent additional facilities at Warden Park Secondary Academy.

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

The contributions generated by this proposal shall be spent on traffic calming measures and a safer routes to school scheme at Balcombe CE Primary School.

Recent experience suggests that where a change in contributions required in relation to a development or the necessity for indexation of financial contributions from the proposed development towards the costs of providing service infrastructure such as libraries is not specifically set out within recommendations approved by committee, applicants are unlikely to agree to such provisions being included in the deed itself. Therefore, it is important that your report and recommendations should cover a possible change in requirements and the need for appropriate indexation arrangements in relation to financial contributions.

Please ensure that applicants and their agents are advised that any alteration to the housing mix, size, nature or tenure, may generate a different population and thus require re-assessment of contributions. Such re-assessment should be sought as soon as the housing mix is known and not be left until signing of the section 106 Agreement is imminent.

Where the developer intends to keep some of the estate roads private we will require provisions in any s106 agreement to ensure that they are properly built, never offered for adoption and that a certificate from a suitably qualified professional is provided confirming their construction standard.

Where land is to be transferred to the County Council as part of the development (e.g. a school site) that we will require the developer to provide CAD drawings of the site to aid design/layout and to ensure that there is no accidental encroachment by either the developer or WSCC.

It should be noted that the figures quoted in this letter are based on current information and will be adhered to for 3 months. Thereafter, if they are not consolidated in a signed S106 agreement they will be subject to revision as necessary to reflect the latest information as to cost and need.

Please see below for a Breakdown of the Contribution Calculators for clarification of West Sussex County Council's methodology in calculating Contributions. For further explanation please see the Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

Breakdown of Contribution Calculation Formulas:

1. School Infrastructure Contributions

The financial contributions for school infrastructure are broken up into three categories (primary, secondary, sixth form). Depending on the existing local infrastructure only some or none of these categories of education will be required. Where the contributions are required the calculations are based on the additional amount of children and thus school places that the development would generate (shown as TPR- **Total Places Required**). The TPR is then multiplied by the Department for Children, Schools and Families school building costs per pupil place (**cost multiplier**).

School Contributions = TPR x cost multiplier

a) TPR- Total Places Required:

TPR is determined by the number of year groups in each school category multiplied by the child product.

$$\text{TPR} = (\text{No of year groups}) \times (\text{child product})$$

Year groups are as below:

- Primary school: **7** year groups (aged 4 to 11)
- Secondary School: **5** year groups (aged 11 to 16)
- Sixth Form School Places: **2** year groups (aged 16 to 18)

Child Product is the **adjusted education population** multiplied by average amount of children, taken to be 14 children per year of age per 1000 persons (average figure taken from 2001 Census).

$$\text{Child Product} = \text{Adjusted Population} \times 14 / 1000$$

Note: The adjusted education population for the child product excludes population generated from 1 bed units, Sheltered and 55+ Age Restricted Housing. Affordable dwellings are given a 33% discount.

b) Cost multiplier- Education Services

The cost multiplier is a figure released by the Department for Education. It is a school building costs per pupil place as at 2020/2021, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

- Primary Schools: **£18,933 per child**
- Secondary Schools: **£28,528 per child**
- Sixth Form Schools: **£30,939 per child**

2. Library Infrastructure

There are two methodologies used for calculating library infrastructure Contributions. These have been locally tailored on the basis of required contributions and the nature of the library in the locality, as below:

Library infrastructure contributions are determined by the population adjustment resulting in a square metre demand for library services. The square metre demand is multiplied by a cost multiplier which determines the total contributions as below:

$$\text{Contributions} = \text{SQ M Demand} \times \text{Cost Multiplier}$$

a) Square Metre Demand

The square metre demand for library floor space varies across the relevant districts and parishes on the basis of library infrastructure available and the settlement population in each particular locality. The **local floorspace demand (LFD)** figure varies between 30 and 35 square metres per 1000 people and is provided with each individual calculation.

$$\text{Square Metre Demand} = (\text{Adjusted Population} \times \text{LFD}) / 1000$$

b) Cost Multiplier- Library Infrastructure

WSCC estimated cost of providing relatively small additions to the floorspace of existing library buildings is **£5,549** per square metre. This figure was updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index for the 2020/2021 period.

3. TAD- Total Access Demand

The methodology is based on total access to and from a development. An Infrastructure Contribution is required in respect of each occupant or employee provided with a parking space, as they would be more likely to use the road infrastructure. The **Sustainable Transport Contribution** is required in respect of each occupant or employee not provided with a parking space which would be likely to rely on sustainable transport.

TAD = Infrastructure contribution + Sustainable Transport contribution

a) Infrastructure Contribution

Contributions for Infrastructure are determined by the new increase in car parking spaces, multiplied by WSCC's estimated cost of providing transport infrastructure per vehicle Infrastructure cost multiplier. The Infrastructure cost multiplier as at 2020/2021 is £1,450 per parking space.

Infrastructure contributions = Car parking spaces x Cost multiplier

b) Sustainable Transport Contribution

This is derived from the new car parking increase subtracted from the projected increase in occupancy of the development. The sustainable transport contribution increases where the population is greater than the parking provided. The sustainable transport figure is then multiplied by the County Council's estimated costs of providing sustainable transport infrastructure cost multiplier (£724).

Sustainable transport contribution = (net car parking - occupancy) x 724

Note: occupancy is determined by projected rates per dwelling and projected people per commercial floorspace as determined by WSCC.

WSCC Lead Local Flood Authority

Advice - No objection

West Sussex County Council (WSCC), 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.

Watercourses nearby? Yes

Comments: Current Ordnance Survey mapping shows a watercourse (and associated ponds) approximately 75m from 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 and Drainage Statement included with this application proposes that an attenuation pond, with a restricted discharge to the watercourse, would be used to control the surface water runoff from the site.

Evidence of the agreement to cross third party land to enable this discharge, should be provided.

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.

This application may want to be reviewed by the District Council Drainage Engineer to identify site specific land use considerations that may affect surface water management and for a technical review of the drainage systems proposed.

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.

WSCC Water and Access

This application has been dealt with in accordance with the statutory obligation placed upon Fire and Rescue Service by the following act;

*Fire and Rescue Services Act 2004
Part 5, 38: Duty to secure water supply etc.*

- 1) *A fire and rescue authority must take all reasonable measures for securing that an adequate supply of water will be available for the authority's use in the event of fire.*

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

WSSC Minerals and Waste

No comments

MSDC Urban Designer

Summary and Overall Assessment

This is an awkward linear-shaped site with significant planning constraints that presents a challenge to develop in a manner that is sensitive to the surrounding conservation area and nearby listed building. However, the scheme has achieved this by maintaining attractive tree-lined boundaries that should continue to form a backdrop to the village (on the south side) and to the Balcombe House estate (on the north side); this is also important because the site sits on high ground and needs to address longer views from the wider Area of Outstanding Natural Beauty. As well as establishing planted buffer zones around the boundaries, the layout enables a suitable separation gap between rear elevations and the planted buffers. While it is unfortunate that three of the houses (plots 10-12) back on to Haywards Heath Road, the limitations of the site necessitate this, and it will be mitigated by the planted/tree-lined screen along the boundary and by formally organised rear elevations; it conversely enables these houses to present a positive development edge towards the northern boundary. It should also be acknowledged that plots 1-7 are organised with their frontages appropriately facing Haywards Heath Road.

As the elevations as well as the layout are generally well organised, the scheme overall meets the provisions of policy DP26 of the District Plan and the design principles set out in the Mid Sussex Design Guide. I therefore raise no objections to this application but would recommend conditions are included that require the approval of the following further drawings and information:

- Detailed soft and hard landscaping plan including boundary treatment;
- Details of the facing materials including windows;
- A revised east elevation of the apartment block on plots 1-5 showing additional fenestration to improve the natural surveillance over the adjacent village car park;
- Section drawings of plot 13's garage that accurately show the topography/site levels;
- A street elevation of plots 8 and 9 that accurately shows the topography/site levels and the relationship with the access road approach; and
- Front elevations of plots 1-7 showing the position of the rainwater downpipes.

Layout

The site is characterised by the woodland that covers it, and which provides an attractive backdrop to the village and the conservation area that wraps around most of its boundary. On the south west side, the woodland provides an attractive setting for the village green and Haywards Heath Road and London Road on either side of it. On the north-east side the woodland helps preserve the rural setting of the listed Balcombe House. It is therefore critical that the appearance of the woodland is maintained as much as possible. With the

loss of trees in the middle of the site to facilitate the development; this is achieved by retaining the existing boundary trees and shrubs on all sides of the site except where vehicular access is required or where the condition of a tree presents a hazard (new trees and shrubs will be expected to replace any loss).

The current proposal has been evolved to address these considerations with the buildings positioned away from the boundaries in the middle of the site to reduce the separation distance from the boundary trees and thereby allow as much natural light into the rear gardens as is possible in this constrained site. This has been achieved along the north east boundary with a generous verge, and along the south boundary with a planted buffer zone. The northerly orientation of the gardens serving plots 1-7 and 13-17 will result in less overshadowing from the boundary trees and, as elsewhere, the buildings have been pulled forward within their plot to maximise the separation distance.

If this site is to be developed, it is accepted that the houses on plots 10-12 will unfortunately need to back on to the Haywards Heath Road boundary because the long narrow shape of the site (45m approx. at its narrowest) is only wide enough to accommodate a single run of houses across most of the site. To accommodate the access road and navigate the awkward slope, it is preferable the spine road is located parallel and adjacent to the NW boundary which results in this arrangement. The forward position of these houses within their plots nevertheless ensures they are centrally positioned between the north and south boundaries to maximise their separation from the trees. The modest front thresholds also helpfully ensure the private parking does not dominate the street realm as it is provided at the side (rather than the front) of houses.

The proposed village car park presents a large area of hard surfacing. However, it will be softened by the existing and proposed trees around it. I note that Sussex Police have raised concerns about the lack of natural surveillance in the north east corner. I believe the window serving the living area of the first floor flat provides some surveillance. There is also scope for more fenestration that should help address this problem: the first floor living room window could be enlarged from a double to a tripartite arrangement; secondly, it should be possible to accommodate an additional first floor bedroom window at the side with some internal rearrangement; and thirdly, the second-floor flat living room could have a dormer window in place of the rooflight.

The ground floor flats on plots 1-5 block of flats would benefit from a planted buffer strip to provide some defensible space from the communal garden.

The double garage serving plot 13 looks uncomfortably squeezed-in, both in relation to the planted buffer zone and the front elevation of the house; the sloping ground level also needs to be considered which may have impact on the height of the rear elevation.

Elevations

The elevations are reliant on a standard-house design. However, care has been taken to ensure the facades are well articulated with gabled frontages that provide some underlying order and rhythm as well as elevational interest. The houses also benefit from being consistently detailed on the front, side and rear; this is especially important on plots 10-12 where the formally organised rear elevations will provide a presentable elevation facing Haywards Heath Road particularly during the winter months when the tree screen/planted buffer will have less impact.

The elevations on plots 8 and 9 suggest they are located on level ground which is not the case as there is a slope at the entrance approach.

Rainwater downpipes are not shown on all the building frontages. Conditions are therefore recommended to address this and the other areas of concern as stated above.

The rear elevation of the block of flats unfortunately does not vertically define the gable bays that could be achieved with a recess/projection. However, as this is the least visible part of the site, I am prepared to accept it.

MSDC Conservation

Additional comments

Further comments on the above application following the receipt of verified views and a further elevational drawing in respect of the impact on the setting of Balcombe House.

The submitted elevation shows the built form adjacent to the north east boundary of the site. However this is not an elevation taken from a position external to the site, and it therefore does not include detail of the existing and proposed screening to the boundary. As such adds little to our understanding of the impact of the proposal on the setting of and views from Balcombe House.

Verified views have been submitted from two viewpoints within the vicinity of the house. These demonstrate the extent to which the built form would project above the ground level/topography of the site boundary and the adjacent field from these viewpoints. They also suggest that the vegetation on the site boundary would be relatively effective in screening this built form from view, however it should be noted that these views were taken in summer with the vegetation in full leaf. They do not indicate the impact of seasonal variation in the vegetation, or the extent to which the development would be visible during the winter. Given the extent and bulk of the development which rises above the surrounding topography as illustrated by these views, it seems likely to me that this development will be visible from the immediate setting of Balcombe House for at least part of the year, albeit that views may be partial and filtered. Given the position of the site relative to the principle frontage of the house, and its prominence in views from the house and its immediate setting, I remain of then opinion that the development is likely to cause a degree of less than substantial harm to the setting and special interest of Balcombe House, for the reasons set out in my previous comments. I would place this harm at the mid-point on that scale.

Original

Firstly I note that although the relevant box has been ticked on the application checklist, I can't see a Heritage Statement among the saved documents- has one been submitted?

Secondly I note that Historic England have not been consulted, although the development is within the setting of St Mary's Church is a Grade I listed building- this needs to be corrected.

Also, the submitted site plan and street elevation from Haywards Heath Road appear to be inconsistent- there is a small structure shown on the plan to the rear of plots 8 and 10 which does not appear on the elevation. This should be amended.

The proposed development site is a wooded parcel of land situated to the north of Balcombe village and the east of Haywards Heath Road. The site is within the setting of a number of heritage assets, including:

- Balcombe Conservation Area
- St Mary's Church (Grade I listed)

- Balcombe House (Grade II)
- Haylors Cottage (Grade II)
- Casteys Cottage and Casteys Barn (both Grade II)
- The Half Moon Inn (Grade II)

The impact of the proposal on the setting of these assets has been assessed according to the staged approach set out in the relevant Historic England guidance Good Practice Advice in Planning Note 3 'The Setting of Heritage Assets'.

Balcombe Conservation Area

Balcombe Conservation Area includes the historic centre of the village at the crossroads, the green and St Mary's Church to the north, and extends south to a second grouping of historic buildings around the junction of Haywards Heath Road and Mill Lane, as well as more modern development to the west around Stockcroft Road and neighbouring streets.

Although a full character appraisal has not been prepared, the Council's document Conservation Areas in Mid Sussex provides a brief assessment of the Area and of its key features, which include attractive countryside views. In my opinion, the special character of the Area depends in part on its nature as the core of a historic Sussex village which has grown up over many centuries in close connection with the surrounding landscape.

The proposed development site is almost surrounded by the Conservation Area, and in its current state as a verdant, wooded space, makes a strong positive contribution to its setting, including the countryside views mentioned above, and the manner in which the relationship of the settlement to the surrounding rural landscape is appreciated. It also has a strong positive impact on the character of the approach to the historic core of the village along Haywards Heath Road.

The current proposal will have a fundamental impact on the character of the site, which will become suburbanised. A substantial number of trees will be lost from within the site. Although the proposal includes retention and strengthening of boundary vegetation to the eastern side the submitted street elevation to Haywards Heath Road indicates that the development will be visually prominent from this road and in views looking from and across the green to the west. Although some of the vegetation to this boundary is to be retained a number of trees appear to be lost, and new openings are created for pedestrian and vehicular access, which will allow clear views into the site.

Although I note the attempts made in site layout and landscaping to mitigate the impact of the proposal on the character of the site in external views, the development will have a notable impact on that character, and in particular on how this is appreciated in views from Haywards Heath Road, the green and London Road beyond. This will detract from the positive contribution that the site currently makes to the setting of Balcombe Conservation Area, including the approach to the village centre along Haywards Heath Road.

This is contrary to the requirements of District Plan Policy DP35. In terms of the NPPF I would place the harm caused to the heritage asset as less than substantial, at the mid point on that scale, such that the criteria set out in paragraph 196 would apply.

St Mary's Church (Grade I listed)

St Mary's Church is a Grade I listed building dating originally from 13th century, with a 15th century tower and later additions and alterations. The building is likely to be considered to possess historic evidential and illustrative value, as an exceptional example of a church of this period, altered over many centuries to reflect changes in religious practice and other

socio-economic factors. It will also possess communal value within the village context, and aesthetic value which will depend in part on the use of vernacular materials seen within the landscape from which they were drawn. The positioning of the church at a short distance outside of the village to the north lends a sense of semi-rural isolation and detachment- this separation of church and village can occasionally be seen in other early rural Sussex settlements and may reflect land holding patterns or other socio-economic factors. The placement of the building outside the settlement may therefore contribute to the historic illustrative value of the building- this is something which should be considered in detail by a Heritage Statement.

At present the site makes a positive contribution to the rural setting of the church, and in particular the approaches to it along Haywards Heath Road and London Road, and the sense of detachment which it enjoys from the village itself.

As above, the current proposal will have a fundamental impact on the character of the site and in particular in views from Haywards Heath Road, the green and London Road. The suburbanisation of the site will detract from the rural nature of the setting of and southern approaches to St Mary's, and from the sense of detachment from the village which the Church currently enjoys. This will be harmful to special interest of the listed building and how this is appreciated, and in particular those parts of this special interest which are drawn from the church's historical illustrative and aesthetic values.

This will be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, I would consider the harm caused to be less than substantial, at the low-mid point of that scale, such that paragraph 196 will apply.

Balcombe House (Grade II listed)

Balcombe House is a Grade II listed 18th century mansion located in substantial grounds on the northern edge of Balcombe village, within the Conservation Area. I would consider it likely that the building would possess historical evidential and illustrative value as a good example of a country house of that period, altered and extended over the years in response to changing socio- economic conditions and the needs and aspirations of its owners, as well as aesthetic value. At present the building is appreciated in the context of its grounds and of the wider rural setting, including the site, in to which little development intrudes. The principle entrance elevation of the building faces to the west across the immediate grounds of the building, with views across a paddock to the site, the trees within which provide a natural backdrop to this verdant outlook. A public right of way runs along the eastern side of the grounds to the house.

I would consider that the verdant and rural setting of the house, with its immediate formal grounds and the wider rural landscape beyond, make a strong positive contribution to the special interest of the building and the manner in which this is appreciated, and in particular those parts of its special interest which are drawn from historical illustrative and aesthetic values. The application site makes a strong positive contribution to this setting, and provides a verdant backdrop to views looking westwards from the principle elevation of the house.

As above, the application proposal will have a fundamental impact on the character of the site, in that it will become suburbanised. It is noted that a band of vegetation is proposed to be retained to the eastern boundary of the site - this is marked on the site plan as 'Planting buffer to be retained and enhanced as necessary.' However, the application documents do not include a proposed elevation of this boundary of the site in external view. It is therefore difficult to assess the extent or effectiveness of the screening to this boundary of the site, which will be key in assessing the impact of the proposal on the setting of Balcombe House. The submitted site section appears to show trees retained but little in the way of lower level

vegetation, which would suggest that views into the site beneath the canopy of the trees may be relatively open. The effectiveness of natural screening is also subject to seasonal variation, and may be ephemeral.

I would therefore recommend that an elevation of the eastern site boundary should be provided, to allow a better informed assessment of the impact of the proposal on the setting of Balcombe House. On the basis of the submitted information, including the site section, it appears that the proposed boundary screening is likely to be only at best partially successful in mitigating the impact of the proposal on the setting of Balcombe House and on views from it towards the west. To the extent that the proposed development within the site is visible within the setting of and views from Balcombe House this will be harmful to the setting of the building and the manner in which this contributes to the special interest of the house and how this is appreciated. This would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF I would regard the harm caused to be less than substantial. It is difficult to be more precise within that range in the absence of the above mentioned elevation, but on the basis of the submitted site section I would place the harm as at the mid point on that scale.

Haylors (Grade II listed)

Haylors Cottage (formerly known as Hayter's Cottage) is a Grade II listed 17th century or earlier timber framed building, in a rural setting to the north of the site. The building would be likely to be considered to possess historical evidential and illustrative value, as a good example of a 17th century or earlier rural Sussex building altered and extended over the years in response to changing socio-economic conditions and the needs and aspirations of successive owners. It also possesses fortuitous aesthetic value based in part on the use of vernacular materials seen within the rural landscape from which they were drawn. The existing rural setting of the cottage makes a strong positive contribution to its special interest and the manner in which this is appreciated, in particular those parts of its special interest which is drawn from historical illustrative and aesthetic values.

Due to the open nature of the rural/parkland setting to the west and north of Balcombe House there will be potential intervisibility between the site and the cottage, as well as potential impact on the character of the broader setting within which the cottage is appreciated. At present, as discussed above, the impact of the development on the character of the site as appreciated in external views from the east is not clear. However, on the basis of the information currently in front of us (also discussed above) it appears that the proposed screening to the eastern boundary may not be complete or particularly successful. On this basis, it seems likely that there will be an impact on views of the site from the east, which will in turn detract from the currently positive contribution that the site makes to the setting of Haylors, its special interest and the manner in which this is appreciated.

This would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, the level of harm is for the reasons discussed above in respect of Balcombe House difficult to establish, but I would consider it to be likely to be less than substantial at the lower end of the scale.

Casteye Cottage and Barn (Grade II listed)

The buildings, both Grade II listed, formed part of the same farmstead historically located on the northern edge of Balcombe village. The Cottage (the former farmhouse) dates from the 17th century, the barn from the 18th century or earlier. I would consider that both buildings are likely to possess historical evidential and illustrative value as good examples of their building types, altered over time to reflect changing socio-economic conditions and the needs and aspirations of successive owners. They also possess aesthetic value based in

part on the use of vernacular materials, and group value as constituent parts of a historic farmstead.

Although currently located on the northern edge of Balcombe village, the surviving rural setting of the buildings to the north of Haywards Heath Road (the application site) makes a strong positive contribution to the special interest of both buildings, and the manner in which this is appreciated, in particular those parts of the buildings' special interest which is drawn from their historical illustrative value and group value as former farm buildings forming part of a historic farmstead, and their aesthetic value.

The result of the proposed development on the site, with its suburbanising impact on its character, will be effectively to sever these two buildings from the remaining part of their rural setting- they will become completely surrounded by the built form of Balcombe village. The impact of the proposal will be exacerbated in this instance by the location of the vehicle access, which will give clear views into the development on the site, at the eastern end of the road frontage closer to these listed buildings.

For these reasons the proposal will detract from the positive contribution which the site currently makes to the setting of the listed buildings, their special interest, and the manner in which this is appreciated. This will be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, the harm caused will be less than substantial, at the mid-high point of that scale.

In making these comments I am mindful that this proposal has been through several iterations including a previously withdrawn application and pre-application discussions. I do note that changes have been made to the proposal to attempt to address concerns previously raised in several respects, including the above mentioned impacts on nearby heritage assets. It is unfortunate that despite some improvements to the layout of the scheme there remain issues with the current proposal, which are exacerbated by the lack of relevant information including (apparently) no heritage statement and no elevation to the east of the site. In my opinion, greater attention could also be paid to improving the screening to the western boundary- more tree planting to increase high level screening, and more planting around the vehicle entrance, as visibility splays allow, would both be beneficial in reducing the level of harm caused. More tree planting within the site would also potentially help to retain more of its current character.

MSDC Drainage

Recommendation - No objection subject to conditions

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.

SURFACE WATER DRAINAGE

It is proposed that the development will discharge surface water to an attenuation pond to be located within the adjacent 3rd party field. It has been confirmed that there will be an easement for the development to access this 3rd party land to maintain this pond.

A flow control is proposed to limit discharge from the pond to a watercourse network at 1 Is-1.

The proposed connection to the downstream watercourse will require ordinary watercourse consent.

Further information into our general requirements for surface water drainage is included within the 'General Drainage Requirement Guidance' section.

FOUL WATER DRAINAGE

It is proposed that the development will utilise existing local foul sewers.

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 CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

General drainage requirement guidance

SURFACE WATER DRAINAGE

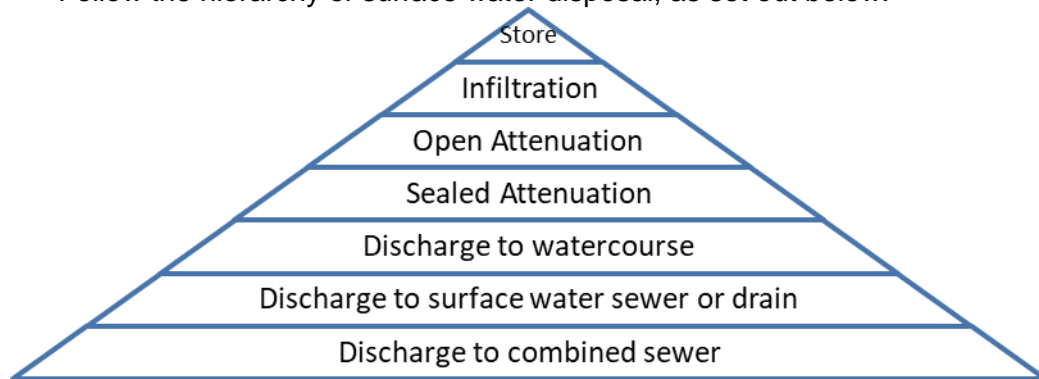
Proposed development will need to fully consider how it will manage surface water run-off. The hierarchy of surface water disposal will need to be followed and full consideration will need to be made towards the development catering for the 1 in 100-year storm event plus extra capacity for climate change. Climate change allowances should be in line with the Environment Agency's climate change allowance recommendations.

The use of pumped surface water drainage is not considered to be sustainable and therefore would not be considered an appropriate means of managing surface water as part of a development.

Multiple dwellings / multiple unit development will need to provide 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, as set out below.



- 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.

FOUL WATER DRAINAGE

This proposed development will need to fully consider how it will manage foul water drainage. The preference will always be to connect to a public foul sewer. However, where a foul sewer is not available then the use of a package treatment plant or septic tank should be investigated.

The use of non-mains foul drainage should consider the Environment Agency's General Binding Rules. We would advise applicants that 'General Binding Rules 2020' came into force as of 1st January 2020.

The Environment Agency have advised that any existing septic tank foul drainage systems that are found to not comply with the 2020 Binding Rules will need to be replaced or upgraded. As such any foul drainage system which proposed to utilise a septic tank will need to comply with the new 2020 rules. Guidance into the General Binding Rules can be found on the government website (<https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-a-surface-water>)

Flood Risk and Drainage Information for Planning Applications

The level of drainage information necessary for submission at each stage within the planning process will vary depending on the size of the development, flood risk, site constraints, proposed sustainable drainage system etc. The table below provides a guide and is taken from the Practice Guidance for the English non-statutory SuDS Standards. Additional information may be required under specific site conditions or development proposals.

PRE-APP	OUTLINE	FULL	RESERVED	DISCHARGE	DOCUMENT SUBMITTED
✓	✓	✓			Flood Risk Assessment / Statement (checklist)
✓	✓	✓			Drainage Strategy / Statement & sketch layout plan (checklist)
	✓				Preliminary layout drawings
	✓				Preliminary "Outline" hydraulic calculations
	✓				Preliminary landscape proposals
	✓				Ground investigation report (for infiltration)
	✓	✓			Evidence of third-party agreement for discharge to their system (in principle / consent to discharge)
		✓		✓	Maintenance program and on-going maintenance responsibilities
		✓	✓		Detailed development layout
		✓	✓	✓	Detailed flood and drainage design drawings
		✓	✓	✓	Full Structural, hydraulic & ground investigations
		✓	✓	✓	Geotechnical factual and interpretive reports, including infiltration results
		✓	✓	✓	Detailing landscaping details
		✓	✓	✓	Discharge agreements (temporary and permanent)
		✓	✓	✓	Development Management & Construction Phasing Plan

Useful Links

[Planning Practice Guidance - Flood Risk and Coastal Change](#)

[Flood Risk Assessment for Planning Applications](#)

[Sustainable drainage systems technical standards](#)

[Water.People.Places.- A guide for master planning sustainable drainage into developments](#)

[Climate change allowances - Detailed guidance - Environment Agency Guidance](#)

Further guidance is available on the Susdrain website at <http://www.susdrain.org/resources/>

Information Requirements

The following provides a guideline into the specific information required based on the type of development, location and type of surface water drainage management proposed. Multiple lists may be relevant to a single application.

DESCRIPTION OF DEVELOPMENT	INFORMATION REQUIRED
<p>Located in Flood Zone 2 or 3.</p> <p>Located in Flood Zone 1 and greater than 1 hectare in area.</p> <p>Located in an area where a significant flood risk has been identified (including increased surface water flood risk)</p>	<ul style="list-style-type: none"> Flood Risk Assessment which identified what the flood risks are and how they will change in the future. Also, whether the proposed development will create or exacerbate flood risk, and how it is intended to manage flood risk post development.
<p>Multiple plot development</p>	<ul style="list-style-type: none"> A Maintenance and Management Plan that shows how all drainage infrastructure will be maintained so it will operate at its optimum for the lifetime of the development. This will need to identify who will undertake this work and how it will be funded. Also, measures and arrangements in place to ensure perpetuity and demonstrate the serviceability requirements, including scheduled maintenance, inspections, repairs and replacements, will need to be submitted. A clear timetable for the schedule of maintenance can help to demonstrate this.
<p>Public sewer under or adjacent to site</p>	<ul style="list-style-type: none"> Evidence of approvals to build over or within proximity to public sewers will need to be submitted. <p><u>Advice</u> Consultation will need to be made with the sewerage undertaker if there is a Public Sewer running under or adjacent to the proposed development.</p> <p>Building any structure over or within proximity to such sewers will require prior permission from the sewerage undertaker. Any development within 8m of a sewer will require consultation.</p>

DESCRIPTION OF DEVELOPMENT	INFORMATION REQUIRED
MSDC culvert under or adjacent to site	<ul style="list-style-type: none"> Evidence of approvals to build over or within proximity to MSDC assets will need to be submitted. <p><u>Advice</u> Consultation will need to be made with Mid Sussex District Council if there is a MSDC owned culvert running under or adjacent to the proposed development. Consultation should be made where such an asset is within 8m of any development.</p> <p>Building any structure over or within proximity to such culverts will require prior permission from Mid Sussex District Council. Normally it will be required that an “easement” strip of land, at least 5 to 8 metres wide, is left undeveloped to ensure that access can be made in the event of future maintenance and/or replacement.</p> <p>This matter can be discussed with Mid Sussex District Council Flood Risk and Drainage Team via drainage@midsussex.gov.uk.</p>
Watercourse on or adjacent to site	<ul style="list-style-type: none"> Plan showing watercourse maintenance strip <p><u>Advice</u> A watercourse maintenance strip of 5 to 8 metres is required between any building and the top-of-bank of any watercourse that may run through or adjacent to the development site.</p>

Information Requirements - Surface Water Drainage

PROPOSED SURFACE WATER DRAINAGE METHOD	INFORMATION REQUIRED
Infiltration e.g. Soakaways	<ul style="list-style-type: none"> Percolation test results Sizing calculations, details and plans to demonstrate that the soakaway system will be able to cater for the 1 in 100-year storm event plus have extra capacity for climate change. Climate change allowances for residential development is 40% and for commercial development is 30%. Calculations which show the proposed soakaway will have a half drain time of 24 hours or less.

<p style="text-align: center;">PROPOSED SURFACE WATER DRAINAGE METHOD</p>	<p style="text-align: center;">INFORMATION REQUIRED</p>
<p>Outfall to watercourse</p>	<ul style="list-style-type: none"> • Evidence discharge rate will be restricted in accordance with <i>West Sussex Lead Local Flood Authority Policy for the Management of Surface Water</i> (https://www.midsussex.gov.uk/media/3826/ws-llfa-policy-for-management-of-surface-water.pdf). <p><u>Advice</u> You cannot discharge surface water unrestricted to a watercourse.</p> <p>Discharge rates should be restricted to the Greenfield QBar runoff rate for the positively drained area for all events up to and including the 1 in 100-year rainfall event with climate change.</p> <p>If works (including temporary works) are undertaken within, under, over or up to an Ordinary Watercourse, then these works are likely to affect the flow in the watercourse and an <i>Ordinary Watercourse Consent (OWC)</i> may need to be applied for. Guidance into the OWC application process can be found on West Sussex County Council's website at</p> <p>https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extreme-weather/dealing-with-flooding/flood-risk-management/ordinary-watercourse-land-drainage-consent/</p> <p>OWC applications can also be discussed and made with Mid Sussex District Council Flood Risk and Drainage Team via drainage@midsussex.gov.uk.</p>
<p>Outfall to public sewer</p>	<ul style="list-style-type: none"> • Evidence discharge rate will be restricted in accordance with <i>West Sussex Lead Local Flood Authority Policy for the Management of Surface Water</i> (https://www.midsussex.gov.uk/media/3826/ws-llfa-policy-for-management-of-surface-water.pdf). • Evidence connection and discharge rate has been approved with responsible sewerage undertaker. <p><u>Advice</u> You cannot discharge surface water unrestricted to a sewer. Discharge of surface water into a foul sewer system is not usually acceptable.</p> <p>Discharge rates should be restricted to the Greenfield QBar runoff rate for the positively drained area for all events up to and including the 1 in 100-year rainfall event with climate change. Unless agreed otherwise with the sewerage provider.</p>

PROPOSED SURFACE WATER DRAINAGE METHOD	INFORMATION REQUIRED
SuDS and attenuation	<ul style="list-style-type: none"> • Evidence any discharge rates will be restricted in accordance with <i>West Sussex Lead Local Flood Authority Policy for the Management of Surface Water</i> (https://www.midsussex.gov.uk/media/3826/ws-llfa-policy-for-management-of-surface-water.pdf). • Percolation test results • Sizing calculations, details and plans to demonstrate that any infiltration / attenuation will be able to cater for the 1 in 100-year storm event plus have extra capacity for climate change. Climate change allowances for residential development is 40% and for commercial development is 30%. • Calculations which show the proposed soakaway will have a half drain time of 24 hours or less. <p><u>Advice</u> Written Statement (HCWS 161) - Department for Communities and Local Government - sets out the expectation that sustainable drainage systems will be provided to new developments wherever this is appropriate.</p> <p>You cannot discharge surface water unrestricted to a watercourse or sewer.</p>

MSDC Tree Officer

No objection - Reports should be fully adhered to and landscaping plans conditioned.

There are currently no trees subject to TPOs within the site and although the development is not within the conservation the local conservation area wraps around much of the site.

A large number of trees are to be removed to facilitate the development, which is a significant loss, although it is acknowledged that the site is an allocated site and in order to develop it in any way a significant number of trees will inevitably be lost. The vast majority of the trees being removed are of low classification with many of these being non-native plantation trees.

To maintain the rural setting and to mitigate the loss of the internal trees it has been made very clear throughout, that the boundary trees are of utmost importance and should be retained as far as possible and enhanced with replacement trees. The development appears to have successfully addressed this.

To avoid harm to the trees being retained the protection measures outlined within the above tree reports should be fully adhered to throughout. In addition to tree protection fencing, exclusion zones and ground protection measures, emphasis should be placed on the specialist measures outlined where any hard surfaces coincide with RPAs or where there is a need to locate any services within any RPAs. It is critical such measures are deployed as described where necessary to minimise the harm to the retained trees.

Furthermore, I would request that a detailed landscaping plan is conditioned to clearly show the specifications of the replacement trees, planting guidance and a five year maintenance plan.

I do not object to the development on arboricultural grounds.

Ecologist

Amended

I have reviewed the additional information contained in the Protected Species report by Urban Edge Environmental Consulting, dated September 2021. This addresses my previous comments regarding lack of protected species survey results and provides an adequate basis for protected species mitigation.

I note that the above report includes comments about the hedgerow on the southern boundary having suffered some neglect but find no compelling evidence or reasoning given persuade me that the hedgerow should not be regarded as irreplaceable. It clearly contains ancient woodland indicator species that would not readily colonise newly planted hedgerow and may well support other species that could not simply recolonise a new hedgerow planted as a replacement. The living heritage value of a centuries-old hedge would also obviously not be compensated for by new hedge planting. As such, my previous comments on the hedgerow and policy considerations when weighing the proposal against other material considerations such as housing need in this location, remain unchanged.

The submitted Biodiversity Net Gain Assessments shows (based on Natural England's proposed assessment method) that an overall net loss will result, which is not surprising given the aims of the development and size of the site. Unless a site is almost completely devoid of biodiversity to begin with, biodiversity net gain will be impossible to achieve without a significant proportion of a site being devoted to open space, unless offsetting is achieved on another site. Given the constraints here, I think the types of habitat enhancement outlined in the report are reasonable and achievable. I note that the report suggests there will be a net improvement in linear habitat but this is predicated on the southern hedgerow not being an irreplaceable habitat type. As previously stated, I do not agree with this assessment but otherwise consider the report to be a fair appraisal using the methodology which is expected to be the main tool for calculating biodiversity net gain when this becomes mandatory in the future. The policy implications of the site not achieving net gain (primarily DP38, as the NPPF merely encourages it) will obviously have to be weighed against other material considerations.

If MSDC are minded to grant consent, I would recommend that the following conditions are applied:

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

A protection plan and method statement setting out practical measures to be put in place to prevent unnecessary harm to biodiversity during site clearance and construction;

Details of habitat enhancements, which may be integrated with landscape planting details and a long-term habitat management plan; and

A wildlife-sensitive lighting scheme (if any external lighting is proposed).

The approved details shall be implemented in full unless otherwise approved in writing by the local planning authority.

Reason: To prevent loss of, and contribute to a net gain in, biodiversity, in accordance with policies DP38 of the Mid Sussex District Plan and 180 of the NPPF.

Note: the protection plan and method statement should be practical document aimed at site managers and construction personnel clearly setting out what measures are required (eg. protective fencing, pre-felling wildlife checks), when they are required, how they are to be implemented, who is responsible for making them happen and why they are required. The document should be as succinct as possible, make good use of annotated drawings and schedules and avoid excessive background material.

Original

The proposal involves a new access being created which will destroy a 23m section of species-rich hedgerow, which the supporting ecology report assesses as likely to be important under the Hedgerows Regulations 1997. Indeed, the average of 7 woody species recorded per sample section, is relatively high and, in the absence of evidence that this is due to deliberate planting, this would typically indicate that it is a feature of ancient countryside (pre-dating the enclosure acts where species poor hedges were planted as a rapid method of enclosing common land and which are generally not old enough to have become more species rich through natural colonisation). As such, the hedgerow, on a precautionary basis, should be considered an irreplaceable habitat type in my view and considered in accordance with Policy 175 NPPF, which states:

Development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Therefore, it is important that MSDC are satisfied that there is a wholly exceptional reason to permit this. I understand that this is a local plan allocation site, which I appreciate will be a factor in considering this matter.

The proposal also involves the loss of woodland (conifer with an element of broadleaf, which the supporting ecological appraisal assesses to be lowland mixed deciduous woodland (a priority habitat type. Historic OS mapping suggests this has only been in existence since between 1962 and 1972. As such, it is unlikely to have acquired the rich species assemblages associated with older woodlands and may not qualify a being considered irreplaceable, but still represent valuable habitat the loss of which, in accordance with the NPPF, should be avoided if possible, or as a last resort compensated for. Given the layout, compensation within the site would not be possible. Unless MSDC consider that this is outweighed by other material considerations, consideration should be given to offsetting this loss through offsite woodland establishment.

Protected species

Dormice are assumed to be present having been found during surveys in 2018. However, it is unclear how the loss of habitat will be compensated for.

The supporting ecological appraisal recommends that a range of other surveys for protected species are required to properly understand the ecological implications. However, the application has been submitted without allowing time to complete these. ODPM Circular 06/2005 makes clear that all relevant ecological survey information should be available to an LPA before it determines a planning application and that further survey work should only be

conditioned in exception circumstances. MSDC should at least have sufficient information to be satisfied that any significant impacts on protected species (assuming worst case) can be avoided, adequately mitigated or, as a last resort, compensated for in accordance with the requirements of Policy 175 of the NPPF.

Habitat Enhancements

A number of recommendations are made in the supporting ecological appraisal under the heading Biodiversity Net Gain. Within the constraints of the proposed layout, the proposed enhancement of woodland appears to be inapplicable. Other recommendations would help ensure, as far as practicable, that the site supports some wildlife, but compared to the habitat lost, it is hard to see how these measures represent a net gain. Pending an expected statutory requirement (through the Environment Bill) for developments to contribute to a net gain in biodiversity through compensation and enhancement, the main policy driver for this is set out in DP38 of the district plan which will therefore need to be weighed along with other material considerations. DP38 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.

Policy 175 of the NPPF states that "opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity".

Archaeologist

Recommend Archaeological Condition:

The Historic Environment Planning 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.

An Archaeological Desk Based Assessment has been submitted in support of the planning application (Archaeology South East, November 2020). The assessment provides a useful archaeological background to the site and observes that there are relatively few recorded archaeological assets in the vicinity of the site, but this is in part due to the absence of archaeological investigation rather than necessarily reflecting a true absence of archaeological activity. It concludes that the site is within an area of generally low theoretical potential, but with enhanced potential for heritage assets with a medieval or early medieval date, due to the vicinity to the medieval church and settlement core.

I agree with the conclusions of the assessment, and acknowledge that the result of previous vegetation growth, as well as possible landscaping or ploughing, may have impacted on the survival of any archaeological horizons or deposits. However as the extent this remains

currently undefined, and due to the enhanced likelihood for remains of archaeological significance to be present, in line with NPPF and policy B18 of the Mid Sussex Local Plan, I recommend that further archaeological work is required in relation to this proposed development.

In this instance I recommend that the work be secured by a condition requiring a scheme of archaeological work once, and if, planning permission is granted. To ensure the required archaeological work is secured satisfactorily, the following condition is appropriate:

"No development shall take place until the applicant, or their agent or successor's 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."

Ideally in the first instance archaeological work should comprise a trial trench evaluation exercise comprising a representative sample of the site in order to further identify the presence (or absence) of any archaeological remains. However, the practical and logistical considerations largely as a result of the current tree cover may make a suitable sample unviable. The assessment suggests an initial phase of trial trenching in accessible areas, in the first instance, in order to formulate a mitigation strategy where necessary. I broadly agree with this approach but also recommend that this may need to be supplemented by smaller test pits (hand dug if necessary) as needed in order to provide an adequate coverage of the site and test possible features in order to base further decision making. This should take place prior to any removal or grubbing out of vegetation, but if any early works need to take place this should be carefully considered alongside the archaeological programme, and with provision for archaeological monitoring if needed.

The results of such an archaeological evaluation will subsequently enable decisions to be made regarding the need for, and scope of, further archaeological mitigation.

A Written Scheme of Investigation for the programme of archaeological works should be produced, submitted and approved in advance of any work commencing.

Please note that these comments relate to below ground archaeological concerns only, and the views of the relevant Conservation Officer should be sought on the impact to built heritage and setting.

MSDC Leisure

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 over 5 units.

CHILDRENS PLAYING SPACE

Balcombe Recreation Ground, owned and managed by the Council, is the nearest locally equipped play area approximately 300m from the development site. This facility will face increased demand from the new development and a contribution of £29,907 is required to make improvements to play equipment (£16,254) and kickabout provision (£13,653) for older children. 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 £18,615 is required toward a skateboard park and / or sports training facilities and / or pitch drainage improvements at Balcombe Recreation 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 £11,220 is required to make improvements to the Victory Hall and / or the Parish Rooms, Balcombe.

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

Amended

The applicant is proposing a development of 17 dwellings which gives rise to an onsite affordable housing requirement of 30%, which represents 6 units since the number of affordable units is rounded up to the next whole number. 5 units comprising 2 x 1 Bed flats and 3 x 2 Bed flats (plots 1-5) are to be provided for Affordable Rent and a commuted sum of £63,000 is to be provided towards off site affordable housing provision in lieu of the sixth unit. This sum is calculated in accordance with the West Sussex Commuted Sum Review of 1st January 2011 for a 2 bed flat in Band D. The units will need to meet our occupancy and floor area requirements of 50m² (excluding any staircases) for a 1B/2P flat and 70m² (excluding any staircases) for a 2B/4P flat and from the schedule in the Design and Access Statement it appears that these requirements are being met. The ground floor flats will also be required to be built to category M4(2) of the Building Regulations 2010, so that they are able to be adapted to meet the needs of wheelchair users if required. Each flat should also have its own private garden area since this is an amenity which is often neglected in the development of affordable housing flats. All affordable units must also have their own car parking spaces, independent of those provided in the village car park and the provision of the spaces for the flats as shown would meet this requirement. Finally, since the site is allocated in the Balcombe Neighbourhood Plan, clause 40 of the Council's Allocations Scheme will apply and as well as 100% of the units being prioritised for allocation to those with a local connection to the parish on first let, 50% (3) of the affordable housing units (the exact units to be agreed with the Parish Council) will be prioritised in perpetuity to applicants with a local connection to the parish.

Original

The applicant is proposing a development of 17 dwellings which gives rise to an onsite affordable housing requirement of 30%. The affordable housing requirement is therefore 6 affordable units not 5 units as currently proposed, since the number of affordable units is rounded up to the next whole number. The units proposed as affordable are 2 x 1 Bed flats and 3 x 2 Bed flats (plots 1-5) for Affordable Rent as requested and to make up the 6 units a 2 or 3 bed affordable house/ 2 bed affordable maisonette will also be required. The Council's normal tenure split would be 5 units for Affordable Rent and 1 for Shared Ownership and we would be happy in this instance for this 6th affordable unit to be for either Affordable Rent or Shared Ownership. The units will need to meet, as a minimum, our occupancy and floor area requirements of 50m² for a one storey 1B/2P flat, 70m² for a one storey 2B/4P flat, 79m² for a two storey 2B/4P house or upper floor maisonette and 93m² for a two storey 3B/5P house. The ground floor flats will also be required to be built to category M4(2) of the Building Regulations 2010, so that they are able to be adapted to meet the needs of wheelchair users if required. Each flat should also have its own private garden area since this is an amenity

which is often neglected in the development of affordable housing flats and all affordable units must have their own car parking spaces, independent of those provided in the village car park. Finally, since the site is allocated in the Balcombe Neighbourhood Plan, clause 40 of the Council's Allocations Scheme will apply and as well as 100% of the units being prioritised for allocation to those with a local connection to the parish on first let, 50% of the affordable housing units (the exact units to be agreed with the Parish Council) will be prioritised in perpetuity to applicants with a local connection to the parish.

MSDC Environmental Protection

I have no objections to the application in principle. However, potentially significant environmental impacts must be controlled during the implementation phase to protect nearby residential premises and the school from noise and dust. This is possible during the clearance and construction phases, particularly if any of the following activities take place: piling, concrete breaking and vibrational rolling. I therefore recommend a construction management plan condition, along with construction conditions to ensure that good practice is followed to minimise disturbance.

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

- Monday 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.

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

- Monday to Friday: 08:00 - 18:00 hrs
- Saturday: 09:00 - 13:00 hrs
- Sundays and Bank/Public Holidays: None permitted

Reason: To protect the amenity of local residents

3. 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: hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; 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 from noise and dust emissions during construction.

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

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

MSDC Environmental Health - Contaminated Land

The applicant is proposing introducing residential units to former agricultural land. Agricultural land may have been used for the storage or disposal of items such as biocides, fuels, animal corpses, buried asbestos etc.

Given the size of the project and sensitivities of the end use, a phased contaminated land condition should be attached to the decision notice.

Additionally, a discovery strategy should also be included, so that in the event that contamination not already identified through the desktop study is found, that works stop until such time that a further assessment has been made, and further remediation methods put in place if needed.

1) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority before development commences or within such extended period as may be agreed with the Local Planning Authority:

a) A desk study report documenting all the previous and existing land uses of the site and adjacent land in accordance with best practice including BS10175:2011+A1:2013 Investigation of potentially contaminated sites - code of practice. The report shall contain a conceptual model showing the potential pathways for exposure to contaminants that may occur both during and after development;

and unless otherwise agreed in writing by the LPA,

b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk study created in accordance with BS10175:2011+A1:2013 and BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs); the laboratory analysis should be accredited by the Environment Agency's Monitoring Certification Scheme (MCERTS) where possible; the report shall refine the conceptual model of the site and state either that the site is currently suitable for the proposed end-use or that it will be made so by remediation;

and, unless otherwise agreed in writing by the LPA,

c) A remediation method statement detailing the remedial works and measures to be undertaken to avoid risks from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. For risks related to bulk gases, this will require the production of a design report and an installation report for the gas as detailed in BS 8485:2015 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. The scheme shall consider the sustainability of the proposed remedial approach. It shall include nomination of a competent person to oversee the implementation and completion of the works.

2) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority verification by the competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of conditions (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Unless otherwise agreed in writing by

the LPA such verification shall comprise a stand-alone report including (but not be limited to):

- a) Description of remedial scheme
- b) as built drawings of the implemented scheme
- c) photographs of the remediation works in progress
- d) certificates demonstrating that imported and/or material left in-situ is free of contamination, and records of amounts involved.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under conditions (1)c.

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.

In addition, the following precautionary condition should be applied separately:

3) If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

MSDC Street Name and Numbering Officer

Informative.

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 advice for developers can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.

Historic England

On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Southern Water

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: southernwater.co.uk/developing and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link: www.southernwater.co.uk/connection-charging-arrangements

The planning application form makes 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 Sewers for Adoption (Appendix C) and CIRIA guidance available here:

www.water.org.uk/sewerage-sector-guidance-approved-documents/
www.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 through 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.

It is possible that a sewer now deemed to be public could be crossing the development sit. 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 the site.

Land uses such as general hardstanding that may be subject to oil / petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

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 Sewers for Adoption standards 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: www.southernwater.co.uk by email at Southern WaterPlanning@southernwater.co.uk

Sussex Police

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

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.

The application is a resubmission of a previously withdrawn application of 17 dwellings to which this office did not have access to or comment upon. The application consists of a small development with single vehicle access off Haywards Heath Road with no-through vehicle route and a proposed car park for public use on the eastern elevation. In general, I support the residential element of the application and do not have cause for great concern, however I do have concerns over the proposed public car park.

The development's design and layout has created outward facing dwellings with good active frontage with the street being overlooked. Provision for residential parking has been made with a combination of on-curtilage parking, garages and on-street parking bays. This should leave the street free and unobstructed. Overlooked parking bays for plots 1-5 are provided opposite the block. Clear signage should be available or consideration given to combining the signage with a managed parking scheme for these bays to ensure that these bays are solely for the residents use and not utilised by visitors.

From a crime prevention perspective, it will be imperative that access control along with a door entry system is implemented into the design and layout of plots 1-5 to ensure control of entry is for authorised persons only. See SBD Homes 2019 V2 para 27.7.

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. Vulnerable areas, such as exposed side and rear gardens, need more robust defensive barriers by using walls or fencing to a minimum height of 1.8m. Differing ground levels should be taken into account. Where gates provide access to rear gardens they must be placed at the garden entrance, 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.

Where the dwellings have access to secure cycle storage. I direct the applicant to SBD Homes 2019 V2 para 56 for information on cycle security.

In order to maintain natural surveillance through and across the development, ground planting should not be higher than 1 metre with tree canopies no lower than 2 metres. This arrangement provides a window of observation throughout the area.

Lighting throughout the development will be an important consideration for the street, public and parking areas. 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.

Proposed Public car park

I have concerns over the proposed public car park for a number of reasons;

- It is hidden from view with no natural surveillance from the adjacent road layout or the development. The Design and Access Statement (DAS) submitted in support of this application states in para 2.4 the site is very well screened from public views from Haywards Heath Road by trees and vegetation on the road frontage. As a result of the car park having no natural surveillance over it from within the development or externally, any vehicle parked here will be vulnerable to unobserved attack.
- The DAS 3.3 states; The public car park will be provided in the eastern part of the site where it is closest to the Village centre, so that it provides convenient access to the local shop and facilities.

I feel the car park's location is unobserved and too far from the village environment for the visitors or village residents to use it confidently, for fear of unobserved attack.

- Additionally I have concerns over the permeability this car park brings to the development from visitors. Whilst it is accepted that through routes will be included within the development layouts, the designer must ensure that the security of the development is not compromised by excessive permeability by allowing the criminal legitimate access to the rear or side boundaries of dwellings or by providing too many or unnecessary segregated footpaths or in this instance, access to an legitimate car park within but unconnected to the development.
- Previous experience has shown that where parking courts / car parks are hidden away behind trees, shrubbery or fences they can become targets for crime. This can result in the car park not being used through the fear of crime. My concerns are that the potential users, fearful of parking in this area seek safer parking amongst the residential development in order for their vehicles to be in full view of the houses and a capable guardian (a capable guardian has a 'human element', that is usually a person who, by their mere presence, would deter potential offenders from perpetrating a crime. However a capable guardian could also be CCTV, providing that someone is monitoring it at the other end of the camera at all times). This 'safe parking' has the potential to result in illegal parking, the obstruction of emergency and refuse vehicles as well as neighbourly disharmony.

- There are no active rooms from the development overlooking this location. 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.
- Given that the local primary school is located nearby, I have concerns if this car park reaches capacity, then spill over parking from the twice daily school run will occur within the development itself. This has the potential to create illegal parking, blocking of emergency and refuse route and result in resident disharmony.
- There does not appear to be any lighting within this location. I feel this is essential for the security and safety of the vehicles and their users.

Sussex Police would support the residential element of the application from a crime prevention perspective subject to my above concerns and recommendations being satisfactorily addressed, but not the public car park element.

High Weald AONB Unit

Amended

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 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 National Planning Policy Framework (NPPF) 2021 paragraph 176 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 these issues. 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, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Paragraph 177 says "When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development 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 60 says: "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.

NPPF paragraph 11 explains the presumption in favour of sustainable development. Part d says that where there are no relevant development plan policies or the relevant ones are out of date (for instance in applications involving new housing where there are housing supply or delivery deficits) then permission should be granted unless:

- i. "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed7; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".

Areas of Outstanding Natural Beauty are listed in footnote 7 and the most relevant policies in the Framework are paragraphs 176 and 177. A recent court of appeal case¹ confirms that, if a proposal causes harm to an AONB sufficient to refuse planning permission if there were no other considerations, then the presumption in favour (or 'tilted balance' expressed in ii) above) should be disengaged. The decision-maker should therefore conduct a normal planning balancing exercise, applying appropriate weight to each consideration, to come to a decision. This will of course include giving great weight to the AONB as required by NPPF 176.

The above comments are the professional views of the AONB Unit's Planning Advisor and are not necessarily the views of the High Weald AONB Joint Advisory Committee.

Original

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.

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 residential development to provide 17 dwellings made up of 1 and 2 bedroom flats and 3 and 4 bedroom, detached and semidetached houses; associated landscaping, parking, vehicular access and a village car park. The site is allocated in the Balcombe Neighbourhood Plan Policy 2 for approximately 14 dwellings comprising a mix of 1, 2 and 3 bedroom dwellings, provided the scheme comprises proposals for:

- a. the provision of a public car park of 10 spaces;
- b. the retention and improvement of the existing tree-lined frontage to Haywards Heath Road;
- c. it can be demonstrated that they will sustain or enhance the significance of the setting to both the Grade II listed Balcombe House and the Balcombe Conservation Area heritage assets by using the existing woodland setting.

It should be noted that the allocated site is marginally larger than the current application site.

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.

Settlement

Relevant Key Characteristics

Villages and towns of Medieval origin located at historic focal points or along ridge top roads...

High concentrations of historic buildings in all settlement types, many listed, whose form and appearance reflects historic and socio- cultural functions...

Villages and hamlets typically unlit contributing to intrinsically dark landscapes.

A limited palette of local materials: clay as tiles and brick, timber as weatherboard and framing, and some localised instances of stone.

Green-ness of roads and streets with trees, hedges and verges dominant.

Relevant Objectives

S2 To protect the historic pattern and character of settlement.

S3 To enhance the architectural quality of the High Weald and ensure development reflects the character of the High Weald in its scale, layout and design.

Relevant Proposed Actions

Ensure there is reference to the AONB Management Plan in local plans and other public documents, and ensure its use as material consideration in planning decisions.

Promote the High Weald Design Guide and apply to housing development in the AONB.

Promote and utilise the High Weald Guidance on the Selection and Use of Colour in Development

Protect the relationship between historic settlement and its associated green spaces and routeways.

Seek to prioritise the delivery of new housing primarily through small-scale development and a mix of housing sizes that responds to local needs.

Routeways

Relevant Key Characteristics

A dense radiating network with a variety of origins...

Relevant Objectives

R1 To maintain the historic pattern and features of routeways.

R2 To enhance the ecological function of routeways.

Relevant Proposed Actions

Ensure that routeways are recognised as non-designated heritage assets in the planning process.

Support the enhancement of verges, especially verges in new developments, with local

provenance grassland species.

Maintain routeway verges in their 'natural state' and refrain from planting non-native species along routeways

Woodland

Relevant Key Characteristics

Highly interconnected and structurally varied mosaic of many small woods, larger forests and numerous linear gill woodlands, shaws, wooded routeways and outgrown hedges.

Relevant Objectives

W1 To maintain the existing extent of woodland and particularly ancient woodland.

Relevant Proposed Actions

Recognise the ecological value of old growth secondary woodland and ensure detailed ecological surveys are carried out if change is proposed.

Other Qualities

Relevant Key Characteristics

Intrinsically dark landscapes with a sense of remoteness and tranquillity.

Relevant Objectives

OQ4 To protect and promote the perceptual qualities that people value. Rationale: To ensure that the special qualities people value, such as tranquillity, dark skies, sense of naturalness and clean air, are recognised and taken account of in AONB management.

Relevant Proposed Actions

Follow the Institute for Lighting Professionals guidance; promote information on dark sky-friendly lighting; install outside lighting only when needed and use dark sky-friendly lighting.

Comments on Impacts

The wooded nature of this site is an important feature of the settlement character and the setting of adjacent historic buildings. It is also an important characteristic of the historic routeways of London Road and Balcombe Road, forming a soft boundary to the entrance to Balcombe village. It is therefore important that the proposed development minimises the impact on existing trees and replaces any significant trees which have to be removed with semi-mature native varieties. However, plan 1526-KC-XX-YTREE-TPP01Rev0 appears to show the significant loss of trees, albeit mostly in the centre of the site and in the location of the access. Whilst some loss in the centre of the site is an inevitable result of developing this

site, it is likely that this loss is exacerbated by the increase in the number of units and the reduction in the size of the site compared to the Neighbourhood Plan allocation.

Similarly, the layout of the proposed development appears cramped and over-dominated by hard surfacing and car parking, with little amenity space around the dwellings, especially the flats. A reduction in the number of units would help to address this design 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 Housing Design Guide should be used to ensure that the design of the development is locally distinctive and conserves and enhances the AONB (Management Plan objectives S2 and S3);
- 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);
- Drainage proposals should seek to restore the natural functioning of river catchments and avoid polluting or increasing flow to watercourses (Management Plan objective G1);
- 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.

Balcombe Parish Council

Original

The following comments were discussed with Councillor Gary Marsh in Dec and Jan 2020/21 and with Shanley Homes on 25-01-2021.

1.0 Introduction

Overall, we welcome the site coming forward for development. In particular, the applicants have taken on board pre-application advice on housing mix and design and the new homes better reflect the surrounding conservation area and are in the main for smaller units than in the initial stakeholder consultation. The layout of the spine road is good. The house design is good.

We have four main concerns:

- The access road location and village car park (see section 2.0)
- Parking in the development (see section 3.0)

- Overdevelopment of a site originally allocated for approx. 14 units, for 1, 2 and 3 bedroomed properties. (see sections 1.1 and 4.0)
- Housing mix (see section 4.0)

To put some of the comments in this document into context its worth starting with the following, which is regarding overdevelopment.

1.1 Reduced site area

1.2 The sold site is about 20% (?) smaller than the allocated site in the Neighbourhood Plan as land to the north end adjacent to the existing rectory has been excluded from the sale to Shanley Homes. It's possible that a narrow strip to the western end has also been omitted.

As the site was originally allocated for approx. 14 units it could be argued that we are now comparing a site allocated for approx. 11 to 12 units to the current proposal. Its worth noting that the omitted plot has access from the driveway to Balcombe House and could be further developed in the future. If that were added, for say 3 units, the overall eventual development could be 20 or more units on this site. This would be acceptable to BPC if the overall design supports that number without compromise.

Post Shanley Meeting note - Shanley to overlay redline to current plot to see if narrow land strip omitted at northwest end.

2.0 Access from Haywards Heath Road and Village Car Park

2.1 Location of highway access and spatial arrangement

This section is a bit long but it's really IMPORTANT so please read and digest it all.

- Access to be moved towards village centre to replicate that in the previous application
- Car park needs clear separation from residential development
- Car park should be slightly bigger and better aligned with HH road so as to be visible from the road.

(see also post Shanley-BPC meeting note in section 2.7 below for a description of an alternative layout proposal put forward to BPC by Shanley on 25-01-2021)

The access from HH road needs to move to the arrangement in the previous application. This to allow the car park to be separated from the residential development. This will allow the car park to be managed by either BPC or MSDC, to discourage overflow parking from the new houses in the public spaces and to reduce disturbance to occupants of the houses and flats on plots 1 to 9 from public car park traffic. Essentially you enter the site and then turn left for housing and right for car park.

An issue over a ransom strip owned by WSCC along the verge has now been resolved with WSCC willing to transfer ownership to BPC for a minimal sum allowing us to then allow access to Shanley. (see post Shanley- BPC meeting note in section 2.7 below)

The aim is to replicate arrangements similar to Cuckfield's 'walled garden' carpark in terms of screening and access relative to highway and surrounding housing.

This could be provided within the new proposal by moving the flats further west but leaving them roughly in the same position with the residential spine road as proposed.

2.2 Neighbourhood plan context

The reason for this site coming forward is not only to provide housing but to solve or at least alleviate an identified issue with lack of off road public parking in the village centre and for the Primary school and to thereby enhance both viability of central village facilities, shops etc and to help with pedestrian safety. It's the last plot available anywhere near the village centre and so it's vital that we get it right this time. NP extract from clause 5.15 - 'Crucially, the site therefore offers a rare opportunity to create a new public car park for the village centre, where there are currently few existing places'. This need was identified in the consultation stage for the NP and, in combination with a village centre pedestrian enhancement scheme currently in design, addresses 5 of the 7 Aims set out in clause 4.3 of the Neighbourhood Plan.

If the car park does not work for the village, then the site does not work at all.

2.3 Nuisance

As the aim of the village car park is to provide a stop and shop for the village and extra parking for the Primary school drop off/pick up we envisage a steady stream of vehicles throughout the day and into the evening, including those using the pub and social club late into the evening. The current route of the access and spur road will mean plots 1-9 suffering a continued stream of traffic and pedestrians passing during the day. The proximity of drives for plots 8 and 9 to the proposed site entrance is also not ideal. (It's worth noting that the transport statement does not take into consideration traffic generated by the village car park - for shoppers, school drop off and pick-ups and pub /club visitors, but only deals with residential traffic to the new development.)

2.4 Intervisibility

The car park as proposed is still partially hidden from the road. Whilst we envisage landscaping the car park must be obvious to passers-by, which it won't be if you have to pass houses to get to it.

2.5 Finish and management

No mention has been made regarding the construction, boundary or maintenance of the car park. The mechanism for ownership and degree of finish for the car park needs to be agreed with Shanley Homes. Will it be surfaced and white lined? Kerbed? Boundary treatments and landscape? Who will maintain and who will own the land? Shanley have agreed to supply this via a condition of the approval when given, MSDC will need to set out the requirements in that condition and as such BPC would like to be part of drawing up the condition.

2.6 Disabled parking

Neither the housing (flats in particular) nor the car park shows any disabled spaces, again this needs to be addressed in the detail of the design.

2.7 - 25-01-2021 -Post Shanley meeting note: an alternative proposal with 2 site entrances has been drawn up by Shanley to allow access to the housing from the entrance shown in this application and to the carpark from a second entrance further towards the village centre. BPC were delighted to see this as it allows ownership and maintenance to be clearly delineated and avoids disturbance to residents from car park traffic. In addition, this proposal would allow the residential development to proceed outside the timeframe for acquisition by BPC of the ransom strip currently owned by WSCC. BPC would strongly support this alternative proposal for 2 accesses. Shanley will develop this as a proposal in the coming

weeks but won't submit until all MSDC officers and other consultees have responded with their comments on the current application.

3.0 Parking for the houses and flats

We are concerned that the majority of properties have tandem parking, mostly garages with a parking space in front, which will cause problems for two car owners. Despite what the transport statement says, we believe the temptation will be to use the visitor's spaces for the second cars. Garages will be used for storage and are easy to convert to habitable space under permitted development. Tandem parking is never ideal. We would prefer to see car barns/ports so that cars will actually be parked off the road. Ideally 2 open, off road, private spaces should be provided for each of the houses (and 1 or 2 for each flat depending number of bedrooms) arranged such that occupants don't have to move one car to get a second out. The Balcombe Design Guide is very clear on guidance for provision of off-road parking.

Furthermore, the parking for plots 8 & 9 are very close to the proposed junction with HH road. The parking for plots 14, 17 and to some degree 13 do not allow manoeuvring without difficulty. This is partly due to the density proposed.

Parking spaces for the flats need be such that residents don't have to cross the access road to get to them.

4.0 Overdevelopment & Housing Mix

In our Neighbourhood Plan the aims for this site are to offer affordable housing for local housing needs and to provide smaller houses for downsizing or first-time buyers, with a degree of DDA C2 accessibility required.

4.1 Housing mix

The proposed mix of housing is set out in section 5.0 of the Design and Access statement. This is now broadly in conformance with the NP which allocates the site for 1, 2 and 3 bedrooomed units in Policy 2.

However, (as we saw with Barnfield) the mix is such that the affordable units/housing association units are the 1 and 2 bedrooomed units (flats in this case) and the market housing is larger 3 & 4 bedrooomed units. The site brings forward no smaller units for sale and provides no larger units to address that end of the housing needs register. The latter is not such an issue as the site is meant to provide small units. But a unit of 2 bedrooomed or 1 bedrooomed for sale would be desirable. In order to achieve this, we suggest that either plot 6 and 7 are brought forward as a smaller, single unit of 2 no. 1 or 2 bedrooomed flats with garden access & parking or that unit 9 is built as such.

There is no requirement for 4 bedrooomed houses in NP policy 2 for this site, although BPC would be happy to see the single unit proposed if the 16 smaller units are also brought forward in an acceptable way, as this exceeds the allocation of 14 smaller units in the NP for this site.

Previously rejected plans for this site had 17 houses in 6 buildings, with some smaller 1 and 2 bedrooomed units for sale in a second block of 4 flats. This could be more closely matched by adopting the suggestion made in 4.1 and fig 8, regarding the flats and units 6 & 7.

4.2 Details of the plots

4.2.1 The flats forming plots 1-5, (2 x 1 bedroom (only just meeting minimum space standards) and 3 x 2 bed roomed flats), have little amenity space around them and no flats have direct access to the shared space to the rear. The car parking as planned is sited on the opposite side of the access road. The architecture of the building is good but internal arrangement could be bettered. A suggestion is to make the building slightly deeper and allowing a rear lobby accessing the external space. Ground floor flats could have direct access. In the last application in 2018 (DM/18/2586) each flat had their own entrance and allocated private garden area.

Bedrooms overlooking the communal garden could mean disturbed sleep.

We would like to DDA C2 standards being used for the ground floor flats and for some of the houses.

There is insufficient parking for the flats, and no disabled spaces allocated. Using the standards mentioned in 5.31, we believe there should be 8.1 spaces for the flats (plus visitor spaces?).

The location of the flat parking is within the area designated for the village car park, and we feel these spaces will be used by the village car users. Siting spaces on the opposite side of the access road to the flats is also not ideal. (this would be partly addressed by the two access suggestion made by Shanley BPC , see 2.7 above, as it would create a dead end at the flats)

4.2.2 Plots 6-7 is a pair of semi-detached 3 bedroom houses, plot 7 has a very small garden, with its allocated parking spaces outside its curtilage. The tandem parking for plot 6 will probably mean that one vehicle may be parked either in the allocated flat parking or village car park. See comments elsewhere re deleting these or replacement with a smaller 2 flat unit for sale. Thus allowing better housing mix and greater space for flats and their parking.

4.2.3 Plots 8 & 9 have compromised access to driveways due to proximity of junction with HH road, would be solved by moving site access towards village centre as suggested.

4.2.4 Plots 14-17. More minor comment - The two middle plots are in effect terraced. Bin storage? Parking is tight. How would anyone enlarge a linked detached unit?

5.0 Other issues for consideration

We note that the transport statement also recommends an uncontrolled crossing on Haywards Heath Road. Our concern is that during school drop off and pick up times, currently the road is heavily congested with parked cars, and this may cause a hazard with pedestrians being hidden between parked cars.

Note also that the house opposite, Forest View, is currently seeking to move its vehicle access, and Balcombe Parish Council are currently consulting on a design to enhance the current village centre crossing to become a zebra crossing.

Section 5 fails to reference the Balcombe Design guide which forms part of the NP and was subject to the NP referendum alongside the main plan document.

6.0 The positives

Whilst this document addresses our concerns, we would like to add the following. The applicants have been very easy to deal with, have listened to our concerns and communicated with us well. They have amended the housing mix to accord more closely with the NP, they have agreed to amend the access location if we are successful with WSCC on negotiating over the verge ransom strip. They have enhanced the hedge buffer to the green along the HH road boundary and have amended the design of the houses to better match the surrounding properties. They have provided the pedestrian link through the site as requested. We hope very much to continue that partnership to get a site that is both profitable for them, meets the village's need and provides a site we are all proud of, attesting to the design standards set out in our NP and lasting the test of time. We would like to thank them for their help so far in achieving that.

During our meeting with Shanley on 25-01-2021 several issues were discussed which we have added into this text from the draft version. Amongst those were the alternative of 2 highways accesses, detail of car park finish to be a condition, facilitating an EV point in the village car park, timing of the provision of car park at the end of development being acceptable to BPC so as to allow Shanley to use that area for a site compound during the construction phase.

MID SUSSEX DISTRICT COUNCIL

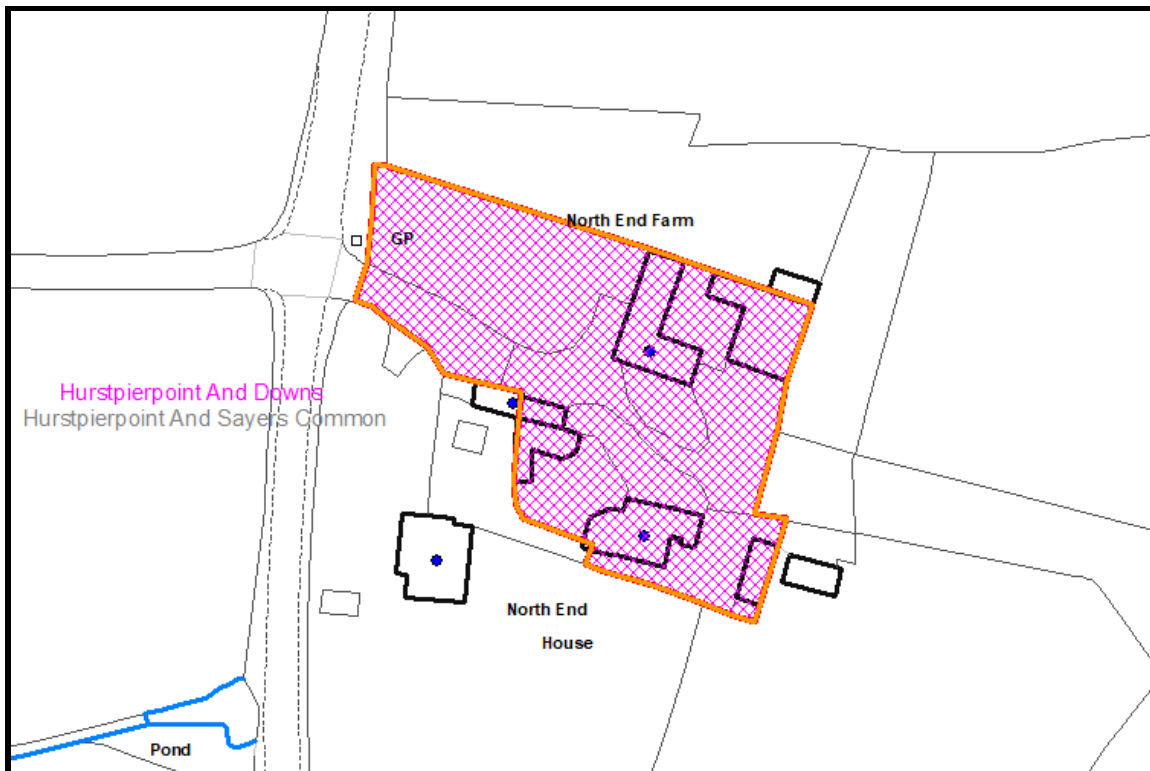
Planning Committee

11 NOV 2021

OTHER MATTERS

Hurstpierpoint And Sayers Common

DM/18/0988



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**NORTH END FARM CUCKFIELD ROAD HURSTPIERPOINT HASSOCKS
DISCHARGE OF THE PLANNING OBLIGATIONS FORM S.106
AGREEMENT RELATING TO PLANNING REFERENCE HP/00/1426/FUL
AND DATED 2ND APRIL 2004.
MR AND MRS GANDER**

ODPM CODE: Mod/Discharge of Planning Obligation

WARD MEMBERS: Cllr Colin Trumble / Cllr Alison Bennett / Cllr Rodney Jackson /

CASE OFFICER: Andrew Clarke

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

This application seeks to discharge the requirements of a s.106 agreement from 2004 which sought to restrict the use and ownership of three units of accommodation. The application seeks to consider whether the s.106 now serves any useful purpose and that the requirements can be discharged as a period of five years since the agreement have now passed.

Whilst the isolated rural location of the site is noted and that new residential development in this location may not normally be supported, the separate lawful residential use of all three units has now been confirmed through the issue of planning permissions and certificates of lawful use and therefore the restrictions of the s.106 in respect of independent occupation no longer has any purpose and could not realistically be successfully enforced. The final restriction relates to the ownership of the three units and the retention of the units in one ownership would not affect their actual use and therefore has no benefit or purpose in planning terms.

Therefore in accordance with the contents of the NPPF and NPPG, the s.106 serves no useful purpose and can be discharged in its entirety. The application is therefore recommended for approval.

RECOMMENDATION

It is recommended that requirements of a s.106 agreement entered into in association with the grant of planning permission HP/00/01426/FUL are discharged.

Parish Council Observations

Permission is granted.

INTRODUCTION

The application seeks to discharge the requirement of a s.106 agreement entered into in association with the grant of planning permission HP/00/01426/FUL.

The application is being reported to committee as the matter relates to a complete discharge of the requirements of a s.106 agreement and that the matter, and principle of the s.106, were originally considered by members in the year 2000. It was not until 2004 that the s.106 was agreed and signed and the planning permission granted.

RELEVANT PLANNING HISTORY

Planning permission was granted under reference HP/00/01426/FUL for the "*Conversion of buildings to form ancillary accommodation, relocation and extension to stable building*" on 2nd April 2004. The permission HP/00/01426/FUL gave permission for three units of accommodation which included a main dwelling, an annexe and a building known as the Granary. As each building could be capable of independent occupation the permission was accompanied by a s.106 legal agreement which related to the stables as an Annexe and which stated within the Schedule that:

1. *"The Owner covenants with the Council that neither the Main Dwelling the Granary nor the Annexe shall be sold or otherwise disposed of separately from each other...."*
2. *"The Granary and the Annexe shall be used solely as ancillary living accommodation to the private residential use of the Main Dwelling"*
3. *"For the avoidance of doubt neither the Granary nor the Annexe shall be used as a separate dwelling house."*

No further applications were made or considered until a s.191 Certificate of Lawful Use for the use of the Annexe as a single dwellinghouse was issued in December 2019 under reference DM/18/0664 whilst another s.191 Certificate of Lawful Use for the use of the Granary as a single dwellinghouse was issued in September 2018. Thereafter a s.73a planning application under reference DM/19/1280 approved the change of use of the Annex building from ancillary to a separate residential dwelling in December 2020.

Planning permissions and certificates of lawfulness therefore exist for the use of the three buildings as separate residential dwellings.

SITE AND SURROUNDINGS

The buildings subject to the permission and s.106 are a group of former agricultural building formed around a courtyard. The main dwelling is a large Grade II listed two storey building, with the Annexe a single storey former stables building which lies on the southern edge of the site. The Annexe also benefits from two separate storage buildings to the east and a detached pool / changing room building to the west.

The Granary is smaller one bed unit set above a store close to the entrance of the site. All three residential units benefit from their own curtilages, outdoor space and parking provision.

The site lies within a rural area to between Hurstpierpoint to the south and Goddards Green to the north. The surrounding land is agricultural in use with public footpath 48Hu running through the centre of the site past the application site.

APPLICATION DETAILS

The application seeks to discharge the requirements of the s.106 agreement dated 2nd April 2004 as planning permission and certificates have already been granted and issued for the developments to which it relates.

The planning obligation requires:

1. *"The Owner covenants with the Council that neither the Main Dwelling the Granary nor the Annexe shall be sold or otherwise disposed of separately from each other...."*
2. *"The Granary and the Annexe shall be used solely as ancillary living accommodation to the private residential use of the Main Dwelling"*
3. *"For the avoidance of doubt neither the Granary nor the Annexe shall be used as a separate dwelling house."*

Should the requirements of the s.106 agreement be discharged the associated residential dwellinghouses may be lawfully used and sold as sperate residential dwellinghouses without further restriction.

LEGAL FRAMEWORK AND LIST OF POLICIES

The application has been submitted under s.106a of the Town and Country Planning Act 1990 ("TCPA1990"), which provides that an application may be made to the Local Planning Authority to discharge the s.106 obligation where it is over 5 years old.

In the case of this application to discharge the requirements of the obligation, the LPA may determine that:

- (a) that the planning obligation shall continue to have effect without modification; or
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged.

There is a right of appeal under s.106b should the LPA decide that the planning obligation shall continue to have effect without modification (or being discharged).

The s.106 agreement was entered into in order to require compliance with the planning policies in effect at the time. Therefore although not a planning application, it should be considered as such and that normal planning considerations should apply.

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.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

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 for this part of Mid Sussex consists of the District Plan and the Hurstpierpoint and Sayers Common Neighbourhood Plan.

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

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

Relevant policies:

- DP4: Housing
- DP6: Settlement Hierarchy
- DP12: Protection and Enhancement of Countryside
- DP15: New Homes in the Countryside
- DP17: Ashdown Forest Special Protection Area (SPA) & Special Area of Conservation (SAC)
- DP21: Transport
- DP26: Character and Design
- DP27: Dwelling Space Standards
- DP34: Listed Buildings

Hurstpierpoint and Sayers Common Neighbourhood Plan

The Hurstpierpoint and Sayers Common Neighbourhood Plan has been made and is a material planning consideration with full weight attached. The following policies are considered relevant.

C1: Conserving and enhancing character

C3: Local Gaps and Preventing Coalescence

H1: Hurstpierpoint and Sayers Common new housing development

H8: Small Dwellings

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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 Policy

National Planning Policy Framework (NPPF - July 2021)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development.

With specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Paragraphs 55 and 57 of the NPPF refer to planning conditions and obligations, and states:

'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.'*

And Paragraph: 020 Reference ID: 23b-020-20190315 of the National Planning Practice Guidance (NPPG) states that:

'Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it "no longer serves a useful purpose" or would continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990).'

ASSESSMENT

The sole consideration relates to whether the s.106 and its requirements retain a useful planning purpose. In considering this the history of the site, the lawfulness of the buildings and development and the planning merits of the development are relevant.

The planning history of the site is outlined at the top of this report with the s.106 to be discharged requiring the following:

1. *"The Owner covenants with the Council that neither the Main Dwelling the Granary nor the Annexe shall be sold or otherwise disposed of separately from each other...."*
2. *"The Granary and the Annexe shall be used solely as ancillary living accommodation to the private residential use of the Main Dwelling"*
3. *"For the avoidance of doubt neither the Granary nor the Annexe shall be used as a separate dwelling house."*

The s.106 was requested by members of the Mid Sussex District Council Development and Transport Area Plans sub-Committee South who considered the matter on 12th October 2000. The intention of the agreement was to prevent the creation of separate residential units contrary to the policies of the development in effect at the time (the Local Plan and Deposit Draft Local Plan 2004). The agreement was thereafter completed and the planning permission granted on 2nd April 2004.

It is noted that should the requirements of the s.106 be discharged it would result in the final regularisation of three residential units in a rural location which could be considered contrary to policies DP12, DP15 and DP21 of the District Plan relating to new development within the countryside.

Should the requirements of the s.106 not be kept to a breach of planning control would take place which could be enforced through an injunction requiring the breach to cease or prevent it occurring in the first place. The Council was not made aware of any breach of planning control taking place until 2018 when we were approached by the current owners and the current situation and arrangement was investigated. This established that three separate residential units were present upon the site, in

contravention of requirements 2 and 3 of the s.106 agreement, although they were retained in the same ownership.

The investigations resulted on the submission and grant of certificates of lawful use for the use of the Granary and the Annexe as separate residential units. The presence of the s.106 agreement could not have had any bearing on the determination of the above applications

The grant of the certificate of lawful use for the Annexe was thereafter considered a material consideration with significant weight so as to outweigh the policies of the development plan and the presence of the s.106 and as such full planning permission has now been granted for the use of the Annexe as a separate residential dwelling.

Therefore the developments is immune from enforcement action by virtue of now being lawful. The three separate independent residential uses are therefore lawful.

As such the requirements of the s.106 in respect of items 2) and 3) relating to the use of the buildings could no longer be successfully enforced as the developments to which they relate are either lawful, have planning permission, or both.

It therefore falls to consider whether the final requirement, requirement 1), serves a useful planning purpose. Requirement 1) relates to the land ownership and that units shall not be sold off separately. Whilst this might prevent the site being separated by virtue of ownership, it does not prevent the use of the buildings as separate dwellings. Who owns the land has no bearing upon the use to which it is put and the enforcement of this requirement would not prevent the separate residential use to which the s.106 originally sought to restrict.

Requirement 1) could therefore also be considered to serve no useful purpose and it does not prevent the use of the buildings as separate residential dwellings as the use of the dwellings has already been established to be lawful and one has obtained planning permission.

Planning Balance and Conclusions

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 application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

The proposal could be considered contrary to Policy DP15 of the Mid Sussex District Plan, given that new dwellings would be regularised in the countryside where the site is not contiguous with the built up area and there are no special circumstances. Occupiers would be likely to be heavily reliant on the private car and as such is considered to be unsustainably located and contrary to policy DP12 of the District Plan.

The re-use of the buildings as a separate residential dwelling would provide optimum use of the buildings so as to outweigh the less than substantial harm caused to the neighbouring Listed Building by virtue of the change of use and intensity of the site and would therefore not contravene policies in relation to the preservation of heritage assets and there will be a neutral impact in respect of the impact on nitrogen deposition on the Ashdown Forest.

The development otherwise complies with all other policies of the development plan and the primary consideration of the application is the principle of the development of new dwellinghouses in a rural location vs the legal position regarding the enforcement and usefulness of the s.106.

Even if the development were to be considered contrary to the policies of the development plan and that the overarching aim of the s.106 may still seek to support the aims of the development plan, the three units of accommodation already have lawful use as separate residential dwellings either through the grant of planning permission or the issue of certificates of lawfulness; and in one case both and therefore are immune from enforcement action. Therefore any attempt to pursue a breach of requirements 2 and 3 of the s.106 is unlikely to be successful.

A contravention of requirement 1 could still be pursued, relating to ownership of the land, however this would have no bearing on the use or occupation of the dwellinghouses and therefore serves no purpose in addressing the aims of any planning policies.

Therefore whilst the policies of the development plan are noted, the planning history and legal position in relation to the lawfulness of the dwellinghouses are significant material considerations which prevent successful enforcement of the requirements of the s.106 and outweigh any planning purpose it may serve.

Conclusion

It is recommended that the requirements of the s.106 agreement be discharged as they serve no useful purpose as either they cannot be enforced because the development they seek to restrict is lawful or the restriction does not address any planning harm and relates solely to land and building ownership, not its use. The s.106 legal agreement and its contents cannot be successfully enforced and serves no planning purpose.

It is therefore recommended that the s.106 agreement related to planning permission HP/00/01426/FUL no longer serves a useful purpose and it should therefore be discharged in its entirety.

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MID SUSSEX DISTRICT COUNCIL

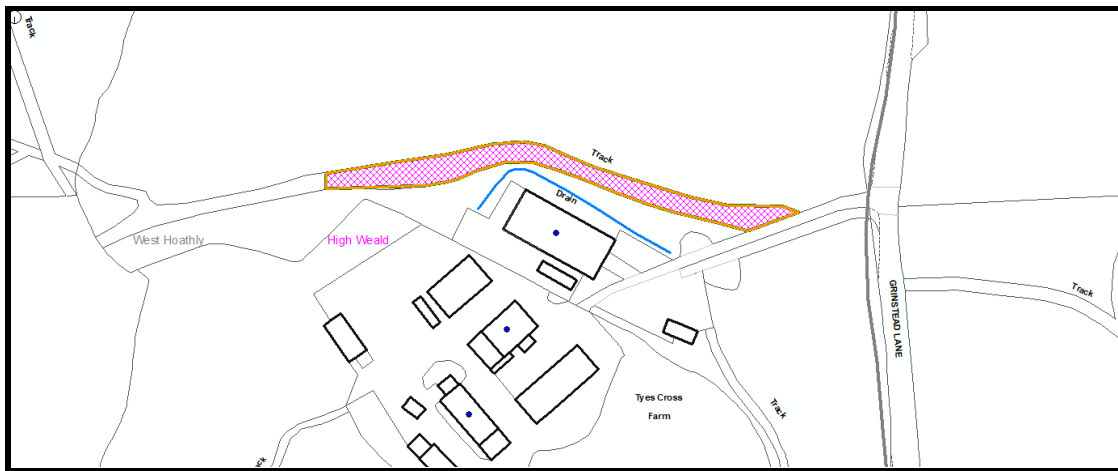
Planning Committee

11 NOV 2021

OTHER MATTERS

East Grinstead

EF/18/0160



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SITE: LAND AT TYES CROSS FARM, GRINSTEAD LANE, WEST SUSSEX

INTRODUCTION

This report relates to a planning enforcement investigation and breach of planning control where the land owner has failed to comply with the requirements of an Enforcement Notice. Officers are therefore requesting authorisation from members of the committee to commence prosecution proceedings in relation to the failure to comply with an extant s.172 Enforcement Notice.

SITE AND SURROUNDING

The land to which the Enforcement Notice relates is a parcel of agricultural land lying to the western side of Grinstead Lane close to the village of Sharpthorne. The agricultural holding is of a significant size with lawful vehicular access from Grinstead Lane to the east and which serves commercial units on adjoining land. The agricultural unit thereafter falls away in level.

An agricultural track has been subject to development without planning permission through the removal of topsoil and importation of material to create a hard surfaced private way wider and more substantial than the pre-existing track. The track leads west off of the main vehicle access into the farm complex and is comprised of an assortment of construction. The waste has been crushed to varying sizes has been laid down for a length of approximately 120 metres, beyond which an informal grass track can be made out.

The site is within designated countryside as defined by the Mid Sussex District Plan and is within the designated High Weald Area of Outstanding Natural Beauty which benefits from special protection addressed under paragraph 177 of the NPPF which states the following:

177. 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. Planning permission should be refused for major development 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.*

PLANNING AND ENFORCEMENT HISTORY

In April 2018 the Council commenced an investigation into an informal agricultural track being formalised and developed through the importation and laying of construction and demolition waste.

By virtue of the material importation, excavation works and the increased scale of the development it is considered that it cannot benefit from permitted development rights under either under Part 6 (Agricultural) or Part 9 (Roads) and therefore represents a breach of planning control. It is noted the landowner disputes this assessment by the Council.

Attempts to regularise the development through a Prior Notification process and a planning application have been unsuccessful with both applications refused in 2018. The development was considered, by virtue of its siting, design, appearance and material construction to cause harm to the rural appearance and character of the area which fails to conserve the scenic qualities of the High Weald Area of Outstanding Natural Beauty and is contrary to the policies of the development plan.

Thereafter, and in accordance with the Council's Enforcement Charter, the Council sought to make contact with the owner to address the matter without recourse to formal action, however, following the failure to respond to a number of letters an Enforcement Notice under s.172 of the Town and Country Planning Act was issued on 3rd December 2020. The Notice did not come into effect until 9th January 2021 (in excess of the 28 days legally required) and alleged the following breach of planning control:

'Without planning permission, the carrying out of engineering operations by the formation and laying out of a track comprising construction and demolition waste materials'

The Notice required the following steps to be taken.

- i. 'Take up and remove from the Land all the imported material, including, but not limited to the bricks, hardcore, plasterboard, wood, glass, plastics and metal used to form the Track.'*

- ii. *Restore the Land to its condition before the breach of planning control too place by infilling with soil and earth and reseeding with grass.*
- iii. *Remove from the Land to an appropriate place for disposal all equipment, materials, paraphernalia, waste and debris arising from compliance with requirement i) and ii) above.'*

A period of four months to comply with the requirements of the Notice was given.

An appeal against the issue of the Notice was turned away by the Planning Inspectorate for being submitted after the Notice came into effect. The Notice therefore came into effect on 9th January 2021 and compliance was due by 9th May 2021.

CURRENT SITUATION

The requirements of the Enforcement Notice have not been complied with. A site visit of 25th May 2021 noted the development remained. It is therefore open to the Council to pursue a prosecution against the failure to comply with the requirements of an Enforcement Notice in line with s.179 of the Town and Country Planning Act 1990 which provides that where the owner of the land is in breach of an enforcement notice they shall be guilty of an offence.

The Council has now been in communication with the landowner and recipient of the Notice who alleges the development is lawful by virtue of it benefitting from permitted development. The Council has sought to address this matter with the recipient of the Notice explaining the breach of planning control and that the Notice has been lawfully issued and that the development cannot benefit from permitted development as it exceeds the provisions of permitted development as laid out in Part 10 of the General Permitted Development Order.

The owner made an application for a Certificate of Lawful development under s.191 of the Town and Country Planning Act, however, this application was refused on 8th July 2021. Thereafter the Council wrote to the owner allowing a further informal period of compliance with the Notice until 1st October 2021. To date the development remains and the owner has made no indication that he intends to comply with the requirements of the Notice.

In accordance with the contents of the NPPF and policy DP16 of the District Plan, great weight should be given to conserving and enhancing the landscape and scenic beauty in Areas of Outstanding Natural Beauty and that major development should not be supported unless it is in the public interest. The retention of the track which does not benefit from planning permission is of poor quality construction and is visible from public vantage points and is considered to cause harm to the character and appearance of the Area of Outstanding Natural Beauty. It is therefore in the public interest to pursue the breach of planning control to protect the character and appearance of the landscape which benefits from special designation.

The owner has stated that the development is necessary for potential use of the land by a charity and the keeping of horses. The Council has undertaken pre-application advice regarding the potential change of use of part of the wider agricultural unit and whilst the development may be acceptable subject to obtaining planning permission, the track as constructed would be considered excessive and harmful to the AONB. The presence and compliance with the Enforcement Notice would not be considered to prejudice the potential change of use or prevent the potential grant of planning permission of a suitable access track of an acceptable construction and scale.

It is considered that the instigation of prosecution proceedings are undertaken where there does not appear to be any voluntary compliance with the requirements of an extant Enforcement Notice. Should the works to remedy the breach of planning control commence

prior to any prosecution proceedings being concluded, the Council could choose not to pursue the matter further. However, at the current time, and as the owner has failed to comply with the requirements of the Enforcement Notice, the harm to the character and appearance of the Area of Outstanding Natural Beauty remains. Therefore the owner may be prosecuted under s.179 of the Town and Country Planning Act and if found guilty of an offence shall be liable on summary conviction, or conviction on indictment, to a fine not exceeding £20,000.

RECOMMENDATION AND CONCLUSIONS

The owner has failed to comply with the requirements of the extant Enforcement Notice by the end of the period for compliance of 9th May 2021 and the informal extension until 1st October 2021 and remains in breach of the Enforcement Notice. The harm caused by the unauthorised part of the track to the character and appearance of the Area of Outstanding Natural Beauty which the Enforcement Notice seeks to remedy therefore remains.

Whilst the owner may disagree with the Notice the Council has explained its position and that no lawful appeal was or can now be made. The owner currently appears to have little intention to comply with the requirements of the Notice.

Having due regard to the options that are available (but without prejudice to any other enforcement action the Council may decide to take), the Town and Country Planning Act 1990 and relevant policies and applicable guidance issued, it is concluded that the most satisfactory course of action, at this time, is to recommend that authority be given for the Council to prosecute the owner of the land for non-compliance with the Enforcement Notice (which is an offence under section 179 TCPA 1990) subject to the Solicitor to the Council being satisfied that there is sufficient evidence and it is in the public interest to pursue a prosecution.

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MID SUSSEX DISTRICT COUNCIL

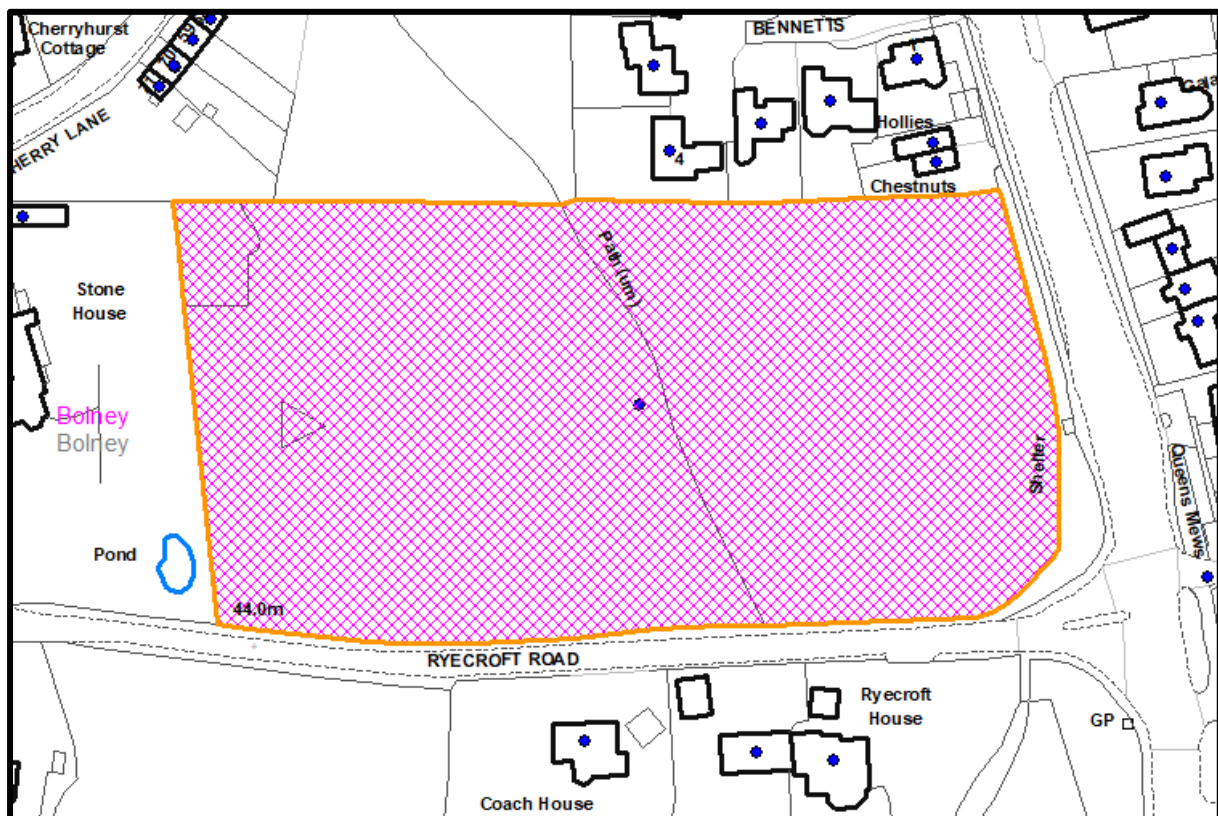
Planning Committee

11 NOV 2021

OTHER MATTERS

Bolney

TP/21/0004



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INTRODUCTION

Members are being requested whether or not to confirm a new Woodland Tree Preservation Order (TPO), TP/21/0004 refers, on an area of woodland east of Stone House, Ryecroft Road, Bolney.

The site has been subject to two previous Orders, TP/19/0001, which was unintentionally not confirmed, and TP/21/0002, which was erroneously confirmed, despite the receipt of an objection. This Order was therefore immediately re-served in order that the area remained legally protected.

It is considered that the Order should be confirmed. This matter is before members as an objection on behalf of the owners of the site has been received.

BACKGROUND

Around half of the site was clear felled over the Christmas 2018 period, which following a request by local residents, resulted in the issuing of the first Order. Several months later, it was evident that significant regeneration of the remaining stumps had taken place, including oak, birch and field maple and a number of tree seedlings were visible.

The remaining fringe trees provide important screening on this part of the site and include hawthorns, poplars, oak and ash. Remaining mature trees include horse chestnuts, many of which have bleeding canker.

The other half of the site, where clear felling did not take place, includes stands of birch and occasional hazel and holly. Again, there are some mature chestnuts and other oaks.

Currently, the cleared area of the site has become overgrown with pioneer species such as birch and bramble.

A public footpath crosses the site, and it is surrounded on two sides by Ryecroft Road and London Road.

The trees scored an average of 17 on the TEMPO assessment that has been undertaken by your tree officer, which indicates that they definitely merit protection by TPO. They are considered to be under threat due to previous felling.

THE OBJECTION

An objection has been received on behalf of the owners of the site on a number of grounds that can be summarised as follows;

- Lack of amenity value - MSDC did not assess the amenity value in a structured and consistent way. Their lack of assessment is in breach of the Town and Country Planning Act (TCPA) 1990, the National Planning Practical Guidance (NPPG) and the Mid Sussex District Plan. Further reference is made to the NPPG and its alleged breaching, and the contention is made that insufficient regard has been given to other considerations apart from the public visibility of the woodland.

The second part of their grounds of objection is that the trees do not have significant value as a woodland and, that their inclusion as such, lacks assessment.

- That MSDC did not carry out a site visit, in making the Order; further reference is made to NPPG.
- That MSDC did not assess if the removal of the trees would have a significant impact on the local environment and its enjoyment by the public. Again, reference is made to the NPPG. Reference is also made to arial views of the area and surrounding woodland, the contention being that the loss of the trees would be insignificant. They also given that Mid Sussex is heavily covered by ancient woodland worthy of protection, MSDC should have given reasons why the impacts on a small area of non-ancient woodland would be considered a significant impact on the local environment.

- The only trees which make a significant contribution to the area are fringe trees and most of the trees fail to have any significant individual impact . Some trees are dead, diseased or structurally hazardous to be included in an Order.
- Himalayan balsam, which is listed as an invasive species, has overtaken the site and the decision to protect the whole area as a woodland is not appropriate.
- A woodland Order is not appropriate and instead a specific trees TPO should be in place.
- Significant imprecisions in the TPO, including the lack of definition of the boundaries to the west and northwest that make it difficult to determine which trees are included in the TPO. In addition, the description used to identify the type of woodland 'mixed broadleaved' is not specific enough.

OTHER REPRESENTATIONS

In addition to the objection set out above, five letters of representations of support, as well a petition submitted on behalf of the Bolney Action Group with 332 signatures supporting the TPO, has been received.

The representations make the following points :

- the land has not been subject to any land management for decades
- submitted photographs show that the land was wooded, although less so on land east of the footpath, however this was disrupted by tree clearance in 2018
- site is outside the built up area and is part of a green corridor
- the land is visible from a well-used public footpath and residents of Bolney value its contribution
- the site has mature trees, fallen trees, self-seeded trees and open clearings and water, all of which indicate an area rich in flora and fauna, including endangered and protected species
- the area is a valid woodland and an important biodiversity green space
- there are some very old trees on the land among the younger trees which were thriving before the clearing/destruction of the land

RESPONSE TO OBJECTION

Legalisation sets out that Local Planning Authorities can make a Tree Preservation Order {i 'if it is expedient in the interest of amenity to make provision of trees or woodlands in their area, they may for that purpose make an Order with respect to such trees, groups of trees or woodlands as may be specified in the Order'.} Officers are satisfied that in making the Order full regard has been given to the legislative requirements set out in the TCPA 1990 and the

published guidance within the NPPG and it is not accepted that there is any discrepancy or conflict with either.

In relation to more specific matters, officers would draw members to attention to the following comments in respect to the objection received.

The objection makes reference to the fact that not enough detailed reasoning has been applied in imposing the Order. It should be noted that the site is in a prominent position at the junction of two roads and is traversed by a public footpath. The trees, therefore, are considered to have high amenity value. There is also clear 'expediency' in that around half of the site has been clear felled, indicating risk to remaining trees. The Council's grounds for the serving the Order is clearly set out in the Notice, and for the members benefit states;

'The trees referred to in the Schedule to the Order, should be preserved because the trees are a prominent feature of the area, contributing to its green and rural character. They also have significant value as a woodland.'

In making the Order, your tree officer has visited the site at least four times, over a period of time including the making of the previous Orders referred to above. It should be noted that when the tree officer first visited the site, around half the trees had been felled, with copious amounts of saw dust surrounding. The remaining trees on the other half of the site, which could be described as more 'mature' woodland had a number of features consistent with a woodland, including typical woodland floor plants, such as stinking iris, and ferns and dogs mercury, all defined as woodland plants. On the felled area, ferns were growing along with a number of other understorey plants which indicated it was a developing woodland, along with seedling trees, although with the now dense bramble cover it is difficult to assess further at the current time.

While it is accepted that around half the site is not 'mature' woodland, on the second visit, your tree officer noted significant regeneration of the stumps. The trees were not saplings, indicating recent growth, but rather trees of semi maturity, on the whole, with a significant stump diameter.

Government advice contained within the NPPG sets out when a Woodland Order should be used and states;

'The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.'

This clarifies that woodlands merit protection in their own right, regardless of the quality of individual specimens, and that regeneration of woodlands is an important part of the intention to make a Woodland Order.

In considering the appropriateness of an Order, your tree officer has undertaken a TEMPO Assessment (an established tree evaluation method for preservation orders) and that the score of 17 indicates that an Order is definitely merited.

It is accepted that a number of trees have bleeding canker. However, their condition cannot be fully assessed without further testing. It should be noted also that dead and diseased trees are an intrinsic part of a woodland, however, should the applicant wish to submit a 5 Day Notice for any trees, this may be done in the normal way. The onus is on the applicant in this case to prove that the trees are imminently dangerous as to require immediate safety work, however this doesn't undermine the suitability/credibility of the of the Woodland Order. Furthermore, within the last couple of years, there has been little further deterioration of the trees which the tree officer has observed.

It is fully accepted that the area is not classified as Ancient Woodland, had it been, other action may have been taken by the Forestry Commission at the time of the felling. However, the status of the woodland doesn't impact on the merits of the Order, whereby your tree officer is content that it expedient in the interest of amenity to protect the area in the manner proposed.

While there is an objection to the Order, it should also be noted that there is local support for it, including a petition, which are noted in the above section.

ASSESSMENT

It is considered that a number of trees have significant public amenity value, and value as a woodland in their own right, and that it was expedient to issue the Order in accordance with government advice.

Notwithstanding the objection that has been received, officers are content that the woodland meets the relevant criteria for inclusion in the Order and that its protection is justified.

The presence of an Order on the woodland does not mean future, suitable management works will be restricted. As noted in the government guidance (NPPG);

'The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example by making a single application for regularly repeated operations.'

It is open to the landowner to make an application to the Council with regard to a future management regime for the woodland, that will be beneficial to its long term health, while protecting its local amenity value.

RECOMMENDATION

It is recommended that the Order is confirmed.

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