

MID SUSSEX DISTRICT COUNCIL

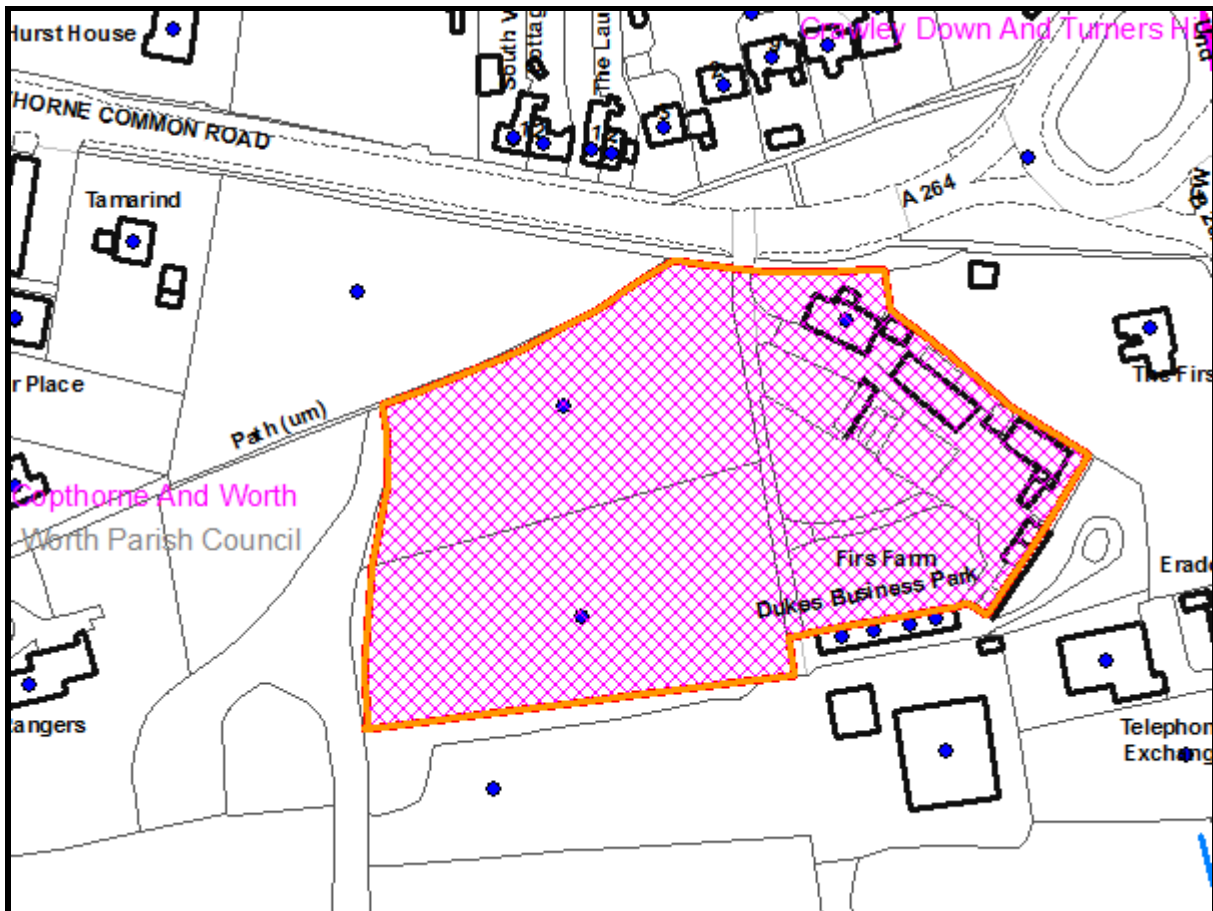
Planning Committee

19 DEC 2019

RECOMMENDED FOR REFUSAL

Worth Parish Council

DM/19/2060



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**FIRS FARM COPTHORNE COMMON ROAD COPTHORNE CRAWLEY
DEMOLITION OF EXISTING DWELLING AND OUTBUILDINGS. ERECTION
OF 44 NO. DWELLINGS WITH ASSOCIATED ACCESS, PARKING AND
LANDSCAPING.
ACHERFIELD HOMES**

POLICY: Areas of Special Control for Adverts / Countryside Area of Dev.
Restraint / Classified Roads - 20m buffer / Aerodrome Safeguarding
(CAA) / Radar Safeguarding (NATS) / Tree Preservation Order /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 20th December 2019

WARD MEMBERS: Cllr Paul Budgen / Cllr Christopher Phillips /

CASE OFFICER: Stephen Ashdown

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

Full planning permission is sought for the demolition of existing dwelling and outbuildings on the site and the erection of 44 dwellings containing a mix of 1 bedroom flats and 2 and 3 bedroom houses. It is proposed that 14 of the 44 dwellings proposed will be for affordable housing.

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.

The Council are able to demonstrate a 5 year housing land supply and therefore the balance to be applied in this case is a non-tilted one.

The site lies within the Countryside Area of Development Restraint, as defined by the District Plan, where development is restricted unless it is necessary for purposes of agriculture or supported by a specific policy reference elsewhere in the plan or the Development Plan as a whole. The development of the site meets neither of the criteria. Even in the event that an improved pedestrian route to Copthorne Village could be provided, using upgraded PRow's, given the unattractiveness of such a route which would large unsupervised, residents would be heavily reliant on the private car for access to services and facilities and as such the site does not present a sustainable location for development.

Furthermore, it has been identified that the potential upgrading of the PRow's would have an unacceptable urbanising effect of this semi-rural area and proposed layout and design would fail to provide a high quality scheme and would result in unacceptable harm to the character and appearance of the area.

In addition to the above, through the withdrawal of transport statement by its author, there is insufficient information to demonstrate that the proposed access arrangements are safe. Furthermore, inadequate information has been provided in relation to Bats, Great Crested Newts and Reptiles in order to assess the impact of

the proposals on these protected species.

The development would provide some economic benefits; with jobs created through the construction phase, additional council tax revenues, as well as additional spend within the area by residents. This would attract limited weight.

It is clear that the proposal does not comply with the Development Plan and having regard to other material considerations there is nothing to suggest that a decision should be made other than in accordance with the Development Plan.

Moreover, no likely significant impact on the Ashdown Forest SAC can be demonstrated and in the absence of overriding public interest, and adopting the precautionary approach, permission cannot be granted as it is contrary to the Conservation of Habitats and Species Regulations 2017.

The application fails to comply with policies DP6, DP12, DP15, DP17, DP20, DP21, DP26, DP31, DP38 and DP41 of the District and should be refused.

Recommendation

It is recommended that planning permission be refused for the reasons set out in Appendix A.

SUMMARY OF REPRESENTATIONS

1 letters of objection received stating the following;

- Over development
- Lack of infrastructure
- Highway safety
- All previous applications refused

1 letter received question access rights that may have altered.

1 letter received (from bus company) supporting improvements to the bus stop.

SUMMARY OF CONSULTEES

MSDC Urban Designer

In overall terms the perimeter block layout works well and the contemporary designed buildings should positively contribute to giving the scheme a sense of place. However, the proposal would have benefited from pre-application consideration as the parking is poorly integrated / too dominant and the building design is let down in some respects by the detailing. For these reasons I object to the application in its current form.

MSDC Housing

No objection.

MSDC Tree and Landscape Officer**MSDC Environmental Protection**

No objection subject to conditions.

MSDC Contaminated Land Officer

No objection subject to conditions.

MSDC Community Leisure Officer

No objection subject to securing on site play space and the contributions to off-site infrastructure.

MSDC Drainage

No objection to condition.

MSDC Landscape Consultant

No objection subject to securing a landscape strategy.

MSDC Archaeological Consultant

No objection subject to condition.

WSCC Highways

Recommend refusal.

WSCC Flood Risk Management

No objection.

Sussex Police

No objection.

Gatwick Airport

No objection.

WORTH PARISH COUNCIL

Strongly object. The proposals are contrary to DP6 and DP13 in that the site is not adjacent to the built up areas of either Copthorne or Crawley Down, in an area of very low density existing housing, being contrary to DP13 implies conflict with DP14.

Concerns over access/egress onto the A264 in close proximity to the roundabout, especially if right turn out of site is permitted.

Previous appeal decisions on the site make reference to lack of connectivity to Copthorne and Crawley Down. Whilst a cycle/pedestrian route is proposed to Copthorne, details of this route are not clear in the submitted plans. Note inspector's report on appeal against refusal of DM/15/1039 at nearby Hurst House on proposals for a similar pedestrian route along A264 - "I am not convinced that even with improvement a footpath alongside such a busy road and flanked by woodland would be greatly more attractive to use. Moreover, widening the footpath and cutting back vegetation would have an increasingly urbanizing effect to the detriment of the rural character and appearance of the rural area along this length of road".

INTRODUCTION

Planning permission is sought for the redevelopment of Firs Farm, Copthorne Common Road, Copthorne, to provide 44 dwellings and associated infrastructure. The site lies within the defined Countryside Area and is currently made up of a mix of residential and commercial buildings, as well as paddocks areas.

PLANNING HISTORY

The site has an extensive planning history not all of which are directly related to the current proposal, however, the site has been subject to four previous proposals for residential development on the site;

00/01825/OUT - Residential development of unspecified number of units, with only principle of access to be considered. Refused by the Council on the 24th November 2000 and subsequent appeal dismissed by Inspector.

DM/15/1339 - Residential development up to 172 dwellings and community facilities (on a larger site), refused by Council on 10th July 2015.

DM/15/3975 - Residential development up to 167 dwellings and community facilities (on a larger site). Appealed lodged against non-determination and dismissed by Inspector under a letter dated 27th July 2016.

DM/17/1490 - Residential development up to 167 dwellings and community facilities (on a larger site). Appealed lodged against non-determination and dismissed by Inspector under a letter dated 2nd May 2018.

DM/18/4626 - Residential development comprising of 54 dwellings refused by the Council on 27th February 2019. A subsequent appeal was withdrawn.

SITE AND SURROUNDINGS

The site is located on the southern side of the Copthorne Common Road (A264), close to Dukes Head roundabout, with a single vehicular access point located at the western end of the bus stop layby on the southern side of the road.

The site is divided into two, with the eastern side containing a series of buildings of no architectural merit, including the existing Firs Farm residence and associated other ancillary structures and some small commercial units. The western side is made up on an open paddock.

To the south of the site is the Barns Court Business Park, with a limited number of detached properties to the east. To the west lie further paddocks, with a small cluster of properties beyond. On the northern side of the A264 are the rears of properties within the Newlands estate.

APPLICATION DETAILS

Full planning permission is sought for the demolition of existing dwelling and outbuildings on the site and the erection of 44 dwellings containing a mix of 1 bedroom flats and 2 and 3 bedroom houses. It is proposed that 14 of the 44 dwellings proposed will be for affordable housing.

Access will be taken off Copthorne Common Road (A264) via a revised arrangement and a shared cycle/footpath is proposed to Copthorne village via an upgraded/improved off road route.

The proposed layout shows a main road splitting the site in two, with dwellings generally provided by spurs off this road, in addition to a number of dwellings that will also front the main road through the site. The dwellings themselves will be two stories in height and follow a contemporary design approach.

A total of 92 parking spaces are proposed to service the development that will be provided in through on plots spaces, or larger off road parking areas. No garages are proposed. Cycle parking is also proposed,

An area of open space will be provided to the western side of the site and form the main area of potential recreation provision for the development.

LIST OF POLICIES

Mid Sussex District Plan 2014-2031

DP6 (Settlement Hierarchy)

DP12 (Protecting and Enhancement of Countryside)

DP15 (New Homes in the Countryside)

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

DP21 (Transport)

DP26 (Character and Design)

DP30 (Housing Mix)
DP31 (Affordable Housing)
DP37 (Trees, Woodland and Hedgerows)
DP38 (Biodiversity)
DP39 (Sustainable Design and Construction)
DP41 (Flood Risk and Water Management)

Supplementary Planning Guidance

Development Infrastructure and Contributions SPD (2018)
Affordable Housing SPD (2018)

Worth Parish Copthorne Neighbourhood Plan

Regulation 14 Draft Plan published. Consultation finished 30th April 2017. A material planning consideration but little weight.

National Policy

National Planning Policy Framework (NPPF)
Technical Housing Standards - National Described Space Standards (2015)

ASSESSMENT

In determining the application it is considered that the main issues for consideration are;

- Principle
- Highway and Accessibility
- Ecology
- Affordable Housing
- Design and Visual Impact
- Impact on trees
- Impact on Ashdown Forest SAC
- Infrastructure
- National Space Standards
- Sustainability
- Accessibility

Principle of Development

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

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

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

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

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

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

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan. The District Plan has been adopted and has superseded the Mid Sussex Local Plan (MSLP), other than the policies in the MSLP which relate to site specific allocations.

The District Plan has been adopted and the Council are able to demonstrate a 5 year housing land supply and therefore the balance to be applied in this case is a non-tilted one.

Policy DP6 in the District Plan relates to the settlement hierarchy in the District. It 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.

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

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

The developer will need to satisfy the Council that:

- The proposal does not represent an underdevelopment of the site with regard to Policy DP26: Character and Design; or*

- *A large site is not brought forward in phases that individually meet the threshold but cumulatively does not.'*

The site is not contiguous with the built up area of Copthorne, and is for more than 10 dwellings, and as such the proposal is contrary to policy DP6.

Policy DP12 of the District Plan seeks to protect the character of the countryside. It states

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

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

Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.

The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.

Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council.

Economically viable mineral reserves within the district will be safeguarded.'

The above policy is a key part of the overall spatial strategy of the District Plan, which seeks to protect the countryside and to focus development on the higher category settlements which have a wider range of services, facilities and better accessibility.

A fundamental principle of this policy is that the countryside is protected for its intrinsic beauty. Development can be permitted where it maintains or enhances the quality of the rural landscape character of the District and it is necessary for the purposes of agriculture or supported by a policy reference elsewhere in the District Plan, a Development Plan document or a Neighbourhood Plan.

The development of the site is not necessary for the purposes of agriculture and not supported by any specific policy reference with the Development Plan.

Furthermore, Policy DP15 in the District Plan allows for new dwellings in the countryside subject to a number of criteria. This proposal does not fall into one of the categories of development that are allowed under policy DP15.

In light of the above, it is clear that the proposal would be contrary to the policies that have been identified above because the proposal is for a large scale major development of residential development outside the built up area of Copthorne and the site has not been allocated for development. As such it is necessary to consider other material planning considerations to determine if there are grounds to come to a decision that is not in compliance with the development plan.

Highways and Accessibility

In respect of the impact on highway safety and surrounding highway network, Policy DP21 of District Plan is of relevance and requires schemes to protect the safety of road users and pedestrians, avoid severe additional traffic congestion and be supported by an appropriate Transport Assessment/Statement, amongst others.

On the matter of the proposed access arrangements, details were contained within a transport assessment submitted with the application, however, the authors have withdrawn this document and as such there is no evidence in front of the Council on this matter. Notwithstanding any comments the LHA may have made in respect to the original transport assessment they have stated;

'The document contained information such as the site access proposals, trip generation, a stage 1 RSA and designer's response. Whilst my original response did provide consideration of the issues raised within the document (and requested further information) without the information contained within it is not possible to determine if the application can provide safe and suitable access or its impact on the A264'.

A transport statement addendum was submitted by the applicants following original comments by the LHA, and this is still relevant. It contained additional modelling work in respect of the proposals impact in the Dukes Head roundabout and while it would add a maximum of two seconds and one additional vehicle queueing in both Am and PM peaks, the LHA have confirmed that this does not constitute a severe impact.

It is acknowledged that in the event that a suitable transport statement was submitted then the issues around the proposed access arrangements could be addressed however, in order to protect the Council's position at any future appeal a reason for refusal on the basis of insufficient information is appropriate.

On the matter of accessibility, there are very limited facilities and services in the immediate vicinity of the site and a small range within the centre of Copthorne which is approximately 2km from the site. The submitted documentation refers to the provision of upgrades of existing Public Rights of Way (PRoW) 19W, 24W, 25W and 26W to provide a new shared footway/cycleway towards Copthorne, away from the A264 Copthorne Common Road.

The proposed provision of the PRow upgrades was included within the original transport assessment submitted with the application and given that this does not now form part of the application, these upgrades cannot be taken into account in the determination of the application.

Notwithstanding the above, it should be noted that the officers do have concerns over the suitability of the potential PRow upgrades to address long standing concerns relating to accessibility, in addition to concerns over the visual impact of the proposals.

With regard to accessibility, while any proposed upgrades to the PRow's towards Cophorne would potentially offer an alternative to pedestrians walking alongside the A264 there are no certainties that new residents would use any improved route. Furthermore, notwithstanding the fact the proposed improved route could be lit, there is very limited supervision along the route (which is currently a rural recreational path) and it is not considered that the route would appeal to users after dusk or more generally to users, particularly the elderly. The Inspector in dismissing the appeal against DM/17/1490 referred to considered that the future occupiers of the development would be very likely to rely on private car trips for the necessities of daily life and concluded would be poorly accessible in relation to access to local services and facilities other than by the use of private car, contrary to policy DP21 of the District Plan. It is not considered that any proposed improvements to the PRow's as indicated by the applicant would overcome this fundamental issue.

In addition to the above, any improvement to the PRow's would result in a significant visual impact. The creation of a 3m wide surface path, to replace an existing recreational route, would create a significant urban intrusion along significant sections of the route that current enjoy a rural/semi-rural setting and it is not considered the potential benefits of such upgrading (which given the comments above relating to accessibility) would justify the degree of intrusion and harm caused to general character and appearance of the area.

Notwithstanding the above and having regard to the information provided by the applicants within their transport statement addendum regarding to the delivery of any PRow improvements, the LHA has concluded that the applicants have failed to demonstrate that the mitigation can be delivered under land within their control. In such circumstances, it would not be appropriate, in any event, to take into account the proposed mitigation.

There has been no material change in the relationship between the site and local services/facilities since the appeal Inspector issued her decision letter on the 2nd May 2018 and there is no evidence within this application that indicates a different conclusion should be reached on this matter.

Having regard for the above it is considered that the application fails to accord with policy DP21 of Mid Sussex District Plan.

Ecology

Policy DP38 in the District Plan seeks to protect and enhance biodiversity.

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 of Habitats and Species Regulations 2017/1012.

Paragraph 170 of the NPPF states:

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

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'*

Paragraph 175 of the NPPF states;

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

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

- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

The application is supported by an Ecology Assessment that identifies that habitats found within the site are common and widespread. In terms of protected species, the assessment does not identify badgers or dormouse on site however, in terms of the Bats, Great Crested Newts and Reptiles than it is identified that the site has the potential to support them and further survey works is recommended to establish any population and any relevant mitigation proposals.

Without the results of any survey work, the full ecological implications of the proposal cannot be taken into account in considering the application. Therefore it is not possible to determine the application in accordance with the Conservation of Habitats Regulations 2010, para 175 of the NPPF or the legal duty under the Natural Environment and Rural Communities (NERC) Act, 2006 which requires local authorities to have regard to the conservation of biodiversity in exercising their functions. Furthermore, given the above, the application fails to accord with policy DP38 of the District Plan.

Affordable Housing

Policy DP31 of the District Plan sets out the Council's stance with regard to the provision of affordable housing in relation to development, along with the adopted Supplementary Planning Document on the same matter.

The application contains the following proposed affordable provision;

- 4 x 1 bed 2 person flats (rented)
- 4 x 2 bed person houses (rented)
- 2 x 3 bed 5 person houses (rented)
- 4 x 2 bed 4 person houses (shared ownership)

The Council's Housing Officer has made has reviewed the proposal and have not raised an objection to the mix and the dwellings are acceptably integrated within the scheme.

It is considered that the proposed affordable housing provision complies with policies DP30 and DP31 and would need to be secured as part of any S106 Agreement.

Design and Layout

Policy DP26 of the District Plan relates to character and design which requires development to be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. Applicants are expected to demonstrate that the development (amongst other things);

- High quality design and layout
- Contributes positively to, and clearly defines, public and private realms
- Create a sense of place and;
- Incorporates well integrated parking that does not dominate the street environment

Paragraph 130 of the NPPF refers to design matters and states 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Paragraph 130 goes on to state that 'great weight should be given to innovative designs which promote high level of sustainability, or help raise the standard of design more generally in the area, so long as they fit in with the overall form and layout of their surroundings'.

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 proposals have been considered by your Urban Designer who considers that;

"the overall terms of the perimeter block layout works well and contemporary designed buildings should positively contribute to giving the scheme a sense of place".

However, he has identified that the proposed parking arrangements are too dominant/poorly integrated and the building design is let down in some respects by its detailing. In respect of parking he states;

'Overall the public realm is too dominated by parking particularly in the southern part of the site where it generates hard edged thresholds in front of plots 9-12, 15-18, 19-25 that may also create car headlight and noise nuisance in front rooms. The combination of the parking and clumsily truncated spine road adjacent to plots 19-21 is especially poor. The forward position of the parking serving the houses on plots 4-8 and relatively set-back building line will indiscreetly expose the side parking, and the corner parking on plot 8 is especially prominent'.

Your officer agrees with the concerns raised by the Urban Designer with regard to the layout and integration of the parking.

With regard to the detailed design issues, these are set out in consultation response of the Urban Designer, which is available to view in appendix B of this report. A number of the issues could potentially be dealt with by means of condition, in the event that the application were to be approved, however, given the issues raised in relation to the layout it is considered that at this stage they should be raised as a reason for refusal.

In respect of the impact of the proposal on the wider character and appearance of the area, the comments and objection of the Council's landscape consultant are noted. On this issue the Inspector in his decision into DM/15/3975 was satisfied that the scale and density of the development (167 dwellings on a larger site) *'could.., at reserved matters stage, have a limited detrimental impact on the character and appearance of the surrounding area due to the existing nature of the site and sense of enclosure'.*

The Council's landscape consultant's response sets the policy and landscape/visual context for considering the proposal. Policy DP12 seeks to protect the countryside in recognition of its intrinsic character and beauty and subject to specific criteria, which the proposal does not meet, development within the countryside will be permitted provided 'it maintains or where possible enhances the quality of the rural and landscape character of the District'. Policy DP26 deals with general character and design matters and requires all development to be 'well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside'.

The Council's Landscape Consultant in her conclusions states;

'A high quality development on this site could provide an opportunity to enhance the landscape and visual amenity of the local area. The proposed development could be acceptable from a landscape and visual perspective if supported by a landscape strategy which would represent an overall enhancement to local landscape character and views'.

A suitable landscape strategy could be secured by condition and as such there are no grounds to refuse the application in relation to the proposed developments impact on the wider landscape character of the area.

In conclusion on these matters, while there are insufficient grounds to refuse the application in relation to its potential impact on the wider landscape character of the

area, there are elements of the proposed layout and design of the scheme that are unsatisfactory and fail to demonstrate a high quality design. Taking all the above into account, in respect of the matters of layout and design, the application is contrary to Development Plan policy DP26.

Impact on Trees

The northern western boundary of the site contains a line of mature trees that are covered by a Preservation Order, (WP/7/TPO/87 refers). The applicants have submitted an 'Arboricultural Impact Assessment and Method Statement in support of their application

Policy DP37 deals with tree matters and sets out that the Council support the protection and enhancement of trees, woodland and hedgerows. Development that would lead to the loss of damage of high value trees (the policy refers to a number of specific values) will not normally be permitted. Furthermore a series of criteria are set out to ensure that trees, woodlands and hedgerows will be protected and enhanced by development.

The submitted information shows that a number of trees will need to be removed in order to enable the development, however, the majority of these are categorised as category C trees and none are covered by a TPO.

The Council's Tree and Landscape Officer has considered the proposals and has not raised an objection subject to the securing an appropriate landscaping scheme and protection measures through the construction period.

The suitable mitigation can be secured via conditions and as such it is considered that the application complies with policy DP37 of the Mid Sussex District Plan.

Impact on Ashdown Forest SAC

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

Under the Conservation of Habitats and Species Regulations 2017 (the "Habitats Regulations") which is a consolidation and update of the 2010 Regulations, the competent authority, in this case the Planning Inspector, has a duty to ensure that any plans or projects that they regulate will have no adverse effect on the integrity of Ashdown Forest. Regulation 63 of the Habitats Regulations requires the Planning Inspector to assess the possible effects of plans or projects, i.e. planning applications, on Ashdown Forest.

If the proposed development will not have a likely significant effect on the Forest, either alone or in combination with other proposed developments in the area, the Planning Inspector may proceed to determine the appeal. However, if a significant effect is likely, either alone or in combination with other plans and projects, an

appropriate assessment must be undertaken to establish whether the proposed development will have an adverse effect on the integrity of the European site. If the appropriate assessment concludes that there will not be an adverse effect on the integrity of the European site the Inspector may proceed to determine the application.

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.

Judgements in recent case law have reinforced the need to make proper consideration of the effects of a proposal on the protected areas, including consideration of effects 'in combination' with other projects and plans.

Habitats Assessments made in the preparation of the District Plan Habitats Regulation Assessment have also confirmed the potential for likely significant effects of development proposals on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

It is important to note that as assessments are required to meet the above regulations on a 'pass or fail' basis, any SAC effects cannot be traded off as part of any 'planning balance'. In the case of this application, the Local Planning Authority are the competent authority and it should be noted that having regard to paragraph 63(5) of the Habitat Regulations 2017 the competent authority can only agree to the project after first having ascertained that it will not adversely affect the integrity of the European site.

Policy DP17 of the District Plan deals with the Ashdown Forest SPA and SAC and sets out that in order to prevent adverse effects on the Ashdown Forest new development likely to have a significant effect, either alone or in combination, will be required to demonstrate that adequate measures are out in place to avoid or mitigate any potential adverse effects.

The Inspector considered the matter as part of the last appeal and concluded the following;

... "I conclude that even very small effects of the air quality of the Ashdown Forest cannot automatically be considered inconsequential, or unable to have an in-combination effect on the integrity of the protected site when considered alongside other plans or projects. As no detailed assessment of any possible in-combination effects has been put forward before me, I cannot be sure that there would no harm to the SAC arising from this development.

In the light of this and the absence of any mitigation proposals or considerations of overriding public interest, and adopting a precautionary approach, I therefore conclude that permission must not be granted as the proposal would be contrary to the Conservation of Habitats Species Regulations 2017. It would also conflict with Policy DP17 of the District Plan which seeks development which avoids or mitigates

any potential adverse effects of the Ashdown Forest SPA and SAC and policy DP38 of the DP, which seeks to avoid damage to internationally designated Special Areas of Conservation".

The submitted transport statement contained some information in relation to proposals impact on the Ashdown Forest SPA, however, it did not address the cumulative issue raised by the Inspector. As noted earlier, this statement no longer forms part of the application and there is no evidence in front of the Council to assess the impact of the proposal on the Ashdown Forest either alone and in-combination of the other Plans and Projects and as such the matter remains as concluded by the Inspector above.

The Council are not able to demonstrate in a Habitats Regulations Assessment a conclusion of no likely significant effect on the Ashdown Forest SAC using our current approach and existing evidence and as such permission cannot be granted as it would be contrary to the Conservation of Habitats Species Regulations 2017. Furthermore, the application is contrary to policies DP17 and DP38 of the District Plan.

Infrastructure

Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure secured through the use of planning obligations.

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

The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 54 and 56 which state:

'54 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:

'56 Planning obligations must only be sought where they meet all of the following tests:

- 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'."

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

In accordance with the relevant policies within the Development Plan, the SPD's, Regulation 122 and guidance in the NPPF the development would generate the need for a number of financial infrastructure contributions to mitigate against the impact of the development, along with securing an appropriate amount of affordable housing.

While the applicants have indicated a willingness to enter into a S106 Legal Agreement, discussions have not progressed given the fundamental concerns associated with the proposal as set out in this report. Given this, no Agreement has been completed and as such the application does not secure the necessary infrastructure and mitigation measures required by the development and is therefore contrary to policy DP20 of the District Plan and the adopted Council SPD's. A reason for refusal is therefore recommended but this might be withdrawn in the event of the submission of a satisfactory S106 Agreement should an appeal be lodged against this decision.

National Space Standards

Policy DP27 deals with dwelling space standards sets out that minimum nationally described space standards will be applied to all new residential development and that all dwellings will be required to meet these standards, unless exceptional circumstances are clearly evidenced.

Based upon the information submitted, it is considered that the proposals comply with the national space standards and therefore the application complies with the policy DP27 of the District Plan.

Impact on Heritage Assets

The Firs is a Grade II listed building that is located between the north eastern boundary of the application site and the Dukes Head Roundabout. The listing description states that it dates from the mid-19th century.

From a policy perspective, DP34 of the District Plan requires development to protect listed buildings and their settings and development that would affect their historic or architectural character will not be permitted.

When considering the impact of a proposed development on the significance of a designated heritage asset the NPPF requires great weight should be given to its conservation. The more important the assets, the greater weight the weight should be. Where the harm is considered to cause less than substantial harm to the significance of the assets, para 196 of the NPPF requires that any such harm should be balanced by public benefits that clearly outweigh the harm.

In addition to the above Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special

regard to the desirability of preserving the building or its setting or any features of special architectural or historical interest which it possesses.

The Firs occupies a large plot that has the A264 and Turners Hill Road running along its northern and eastern boundaries, with the application site to the south. The site is relatively well enclosed by existing vegetation and there are limited views of the building. The boundary to the application site (as identified in the applicants' tree survey) is generally made up of groups of holly, cherry and laurel, as well as Lawson cypress trees in heights excess of 7m. A large oak tree is also present. These are due to be retained. Given the above, the inter-visibility between the listed building and the application site is extremely limited.

In respect of previous proposals on the site your officers have considered that development would have a neutral effect on the setting of the listed building, having regard at all times for the Council's obligations under Section 66 of Planning (Listed Buildings and Conservation Areas) Act 1990. The matter has not been commented on by the previous Inspectors, and as such it can be considered that they were satisfied that the principle of development would not harm the setting of the Listed Building. The nearest proposed properties to this boundary are modest two dwellings and it is not considered that they will impact on the setting of the listed building. With this in mind, the application complies with policy DP34 of the Mid Sussex District Plan.

Other Matters

With regard to sustainability, the applicant has submitted a supporting statement that sets out that the development will include measures to reduce CO₂, water consumption and waste over the lifetime of the development. It is proposed that a number of renewable and low carbon consumption measures would be used across the development and these could be secured via a planning condition. It is considered that in light of this the application complies with policy DP39 of the Mid Sussex District Plan.

In respect of drainage, the proposals have been considered by your Drainage Engineer who has raised no objection. The proposal will manage surface water through permeable paving and an infiltration and attenuation basin, which will discharge at a controlled rate. Foul water will be discharged into an existing foul sewer. Suitable details can be secured by condition and it is considered that the application accords with policy DP41 of the Mid Sussex Local Plan.

Matters associated with archaeology can be secured via a condition and no objection is raised by the Council's consultant with regard to this issue.

Planning Balance and Conclusion

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

The Council are able to demonstrate a 5 year housing land supply and therefore the balance to be applied in this case is a non-tilted one.

The site lies within the Countryside Area of Development Restraint, as defined by the District Plan, where development is restricted unless it is necessary for purposes of agriculture or supported by a specific policy reference elsewhere in the plan or the Development Plan as a whole. The development of the site meets neither of the criteria. Even in the event that an improved pedestrian route to Copthorne Village could be provided, using upgraded PRow's, given the attractiveness of such a route which would large unsupervised, residents would be heavily reliant on the private car for access to services and facilities and as such the site does not present a sustainable location for development.

Furthermore, it has been identified that the potential upgrading of the PRow's would have an unacceptable urbanising effect of this semi-rural area and proposed layout and design would fail to provide a high quality scheme and would result in unacceptable harm to the character and appearance of the area.

In addition to the above, through the withdrawal of transport statement by its author, there is insufficient information to demonstrate that the proposed access arrangements are safe. Furthermore, inadequate information has been provided in relation to Bats, Great Crested Newts and Reptiles in order to assess the impact of the proposals on these protected species.

The development would provide some economic benefits; with jobs created through the construction phase, additional council tax revenues, as well as additional spend within the area by residents. This would attract limited weight.

It is clear that the proposal does not comply with the Development Plan and having regard to other material considerations there is nothing to suggest that a decision should be made other than in accordance with the Development Plan.

Moreover, no likely significant impact on the Ashdown Forest SAC can be demonstrated and in the absence of overriding public interest, and adopting the precautionary approach, permission cannot be granted as it is contrary to the Conservation of Habitats and Species Regulations 2017.

The application fails to comply with policies DP6, DP12, DP15, DP17, DP20, DP21, DP26, DP31, DP38 and DP41 of the District and should be refused.

APPENDIX A – REASONS FOR REFUSAL

1. The Council are able to demonstrate a five year housing land supply and whilst the dwellings will make a contribution to additional housing in the district the proposed development is located within the countryside outside any built up area as defined in the Development Plan and thus would be contrary to policies DP6, DP12 and DP15 of the District Plan as there is no identified need for these units in this location and the proposals are not necessary for the purposes of agriculture and are not supported by other policies in the Plan. Furthermore, there is no material considerations that indicate the decision should be made otherwise than in compliance with the Development Plan.
2. The development is considered to be in an unsustainable location in transport terms with poor walking and cycling accessibility to local shops, services and employment opportunities within Copthorne Village. The proposal would not achieve safe and convenient access by a choice of means of travel nor encourage and enable and increase in environmentally sustainable means of travel such as walking and cycling and thereby minimise the impact of car journeys. The occupants would therefore be highly dependent on the use of the private car to meet their everyday needs. The development therefore conflicts with Policy DP21 of the District Plan and the aims of the NPPF.
3. By virtue of the proposed layout and the detail of the proposed dwellings the development fails to demonstrate a high quality design, which would be detrimental to the general character and appearance of the area. Therefore the application fails to comply with Policy DP26 of the District Plan and paragraph 130 of the NPPF.
4. Insufficient information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, road layout and on site turning facilities and would not therefore give rise to increased hazards to highway users. Therefore the application fails to comply with Policy DP21 of the Mid Sussex District Plan.
5. Insufficient information has been submitted to support the application to enable the Local Planning Authority to take into account the full ecological implications of the proposal and determine the application in accordance with the Conservation of Habitats and Species Regulations 2017, Policy DP38 of the District Plan, paragraph 175 of the NPPF or the legal duty under the Natural Environment and Rural Communities (NERC) Act 2006, which requires local authorities to have regard to the conservation of biodiversity in exercising their functions.
6. Insufficient information has been provided to enable the Local Planning Authority to conclude that the proposal would not have a likely significant impact on the Ashdown Forest SPA and therefore would be contrary to the Conservation of Habitats and Species Regulations 2010, Policy DP17 of the District Plan and paragraph 175 of the NPPF.
7. The proposal does not satisfy the requirements of Policies DP20 and DP31 of the District Plan in respect of infrastructure requirements, including affordable housing provision, to service the development as supplemented by the Local Planning Authority's Supplementary Planning Documents 'Development Infrastructure and Contributions' (2018) and 'Affordable Housing' (2018).

INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (General Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner clearly setting out the reason(s) for refusal, thereby allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme. The Local Planning Authority is willing to provide preapplication advice and advise on the best course of action in respect of any future application for a revised development.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location Plan	A100		12.07.2019
Existing Site Plan	A101		12.07.2019
Sections	A102		12.07.2019
Sections	A103		12.07.2019
Proposed Site Plan	A104		12.07.2019
Proposed Floor and Elevations Plan	A300		12.07.2019
Proposed Floor and Elevations Plan	A301		12.07.2019
Proposed Floor and Elevations Plan	A302		12.07.2019
Proposed Floor and Elevations Plan	A303		12.08.2019
Proposed Floor and Elevations Plan	A304		12.08.2019
Proposed Floor and Elevations Plan	A305		12.08.2019
Proposed Floor and Elevations Plan	A306		12.08.2019
Landscaping Details	A400		12.07.2019
Landscaping Details	A401		12.07.2019

APPENDIX B – CONSULTATIONS

Parish Consultation

Strongly object. The proposals are contrary to DP6 and DP13 in that the site is not adjacent to the built up areas of either Copthorne or Crawley Down, in an area of very low density existing housing, being contrary to DP13 implies conflict with DP14.

Concerns over access/egress onto the A264 in close proximity to the roundabout, especially if right turn out of site is permitted.

Previous appeal decisions on the site make reference to lack of connectivity to Copthorne and Crawley Down. Whilst a cycle/pedestrian route is proposed to Copthorne, details of this route are not clear in the submitted plans. Note inspector's report on appeal against refusal of DM/15/1039 at nearby Hurst House on proposals for a similar pedestrian route along A264 'I am not convinced that even with improvement a footpath alongside such a busy road and flanked by woodland would be greatly more attractive to use. Moreover, widening the footpath and cutting back vegetation would have an increasingly urbanizing effect to the detriment of the rural character and appearance of the rural area along this length of road'

Parks And Landscapes Team

The trees being planted have not been named but appear to be sufficiently away from the properties to not cause long term subsidence or damage. Trees to be planted by plot 39 may be to close but depending on what they are may be ok.

MSDC Urban Designer

Summary and Overall Appearance

In overall terms the perimeter block layout works well and the contemporary designed buildings should positively contribute to giving the scheme a sense of place. However, the proposal would have benefited from pre-application consideration as the parking is poorly integrated / too dominant and the building design is let down in some respects by the detailing. For these reasons I object to the application in its current form.

Layout

The perimeter block arrangement on the main part of the site generates building frontages that positively address the site entrance as well as the attractive TPO trees on the north and west boundaries. The public open space also benefits from the same tree-lined backdrop; however its peripheral position within the layout is less satisfactory. Given the sites relatively isolated position and lack of facilities, the provision of a play area would be beneficial to activate the space and provide a focus for the community. Further information is needed in respect of the design of the attenuation pond; if it is designed as a visual amenity, the pond could positively contribute to the quality of the space; on the other hand if it is overly engineered it may undermine it.

Along the southern edge, the layout is organised with the buildings backing on to the boundary which is an acceptable approach as it screens the site from the commercial business to the south of the site. Nevertheless, the buildings proximity to the boundary risks undermining the opportunity to safeguard the tree-belt which plays an important role in softening this edge (even though this tree belt may not be the same quality as the others).

Overall the public realm is too dominated by parking particularly in the southern part of the site where it generates hard edged thresholds in front of plots 9-12, 15-18, 19-25 that may also create car headlight and noise nuisance in front rooms. The combination of the parking and clumsily truncated spine road adjacent to plots 19-21 is especially poor. The forward position of the parking serving the houses on plots 4-8 and relatively set-back building line will indiscreetly expose the side parking, and the corner parking on plot 8 is especially prominent.

Elevations

Overall the elevations can be commended for their fresh contemporary style, and the rhythm and order which have been achieved by the building groupings.

I nevertheless have the following detailed concerns:

- The entrance canopies need to be better integrated with the houses, as they sit up too high in relation to the front doors.
- The contemporary-styled chimneys help to articulate the buildings, but the floorplans and their position on the roof suggests they are also not an integrated element; consideration could be given to addressing this either by utilising them for ventilation purposes or as a flue for a wood-burning stove.

- Render finishes often look tatty after a few years which is especially an issue where it is used as the main facing material as it is here. Consideration therefore needs to be given to an alternative facing material.
- The sustainability statement states that solar PV's (and possibly solar thermals too) are proposed. These can unattractively clutter the roof unless they are very carefully integrated (such as employing an integrated solar tile system); they are especially problematic on clay-tiled roofs as the colour contrast makes them uncomfortably stand-out.
- The juxtaposition of the steep roofs on the 2+1 storey Thetford / Houghton house types and the shallow roofed Cardinham types is a little awkward.
- The blank east flank of plot 22/23 presents an unfortunate dead hand on the street.
- The pared-back styling is dependent on the crispness of the detailing that needs to be demonstrated in larger scale drawings.
- The street boundaries seem to be relying on close-boarded fences which will present a poor appearance.

MSDC Housing

The applicant is proposing a development of 44 dwellings including 14 for affordable housing which meets the minimum 30% required by policy DP31.

The tenure split of the affordable housing is 10 homes for rent and 4 homes for shared ownership with the type and size of dwellings as follows:

Rented:

- 4 x 1 bed 2 person flats
- 4 x 2 bed 4 person houses
- 2 x 3 bed 5 person houses

Shared Ownership:

- 4 x 2 bed 4 person houses

Although the floor plans do not state the floor areas the proposed site plan which includes the accommodation schedule indicates that all the dwellings meet national space standards and are acceptably integrated within the scheme.

MSDC Tree and Landscape Officer

To be reported.

MSDC Environmental Protection

This application seeks to demolish an existing dwelling and out buildings and to erect 44 dwellings with associated access, parking and landscaping. Given the location of this site adjacent to a major road Environmental Protection would recommend that the following conditions be applied should planning permission be granted.

Construction/demolition hours: Works of construction/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.

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

Monday to Friday: 08:00 - 18:00 Hours

Saturday: 09:00 - 13:00 Hours

Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents.

Construction Management Plan: Prior to the commencement of the development, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include amongst other matters details of:

- measures to control noise affecting nearby residents (in accordance with BS5228:2014 Code of practice for noise and vibration control on construction and open sites - with particular regard to the noisiest activities, typically piling, earthmoving, concreting, vibrational rollers and concrete breaking);
- dust management plan
- site contact details in case of complaints.
- the construction works shall thereafter be carried out at all times in accordance with the approved Construction Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents from noise and dust emissions during construction.

Soundproofing (Road noise): No development shall take place until a detailed scheme for protecting the residential units from noise generated by passing traffic has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB LAmax when measured in bedrooms internally between 23:00 and 07:00 hours, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate thermal comfort and fresh air for the occupants, with the windows closed. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period. All works which form part of the approved scheme shall be completed before any part of the relevant phase of development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To safeguard the amenity of neighbouring residents.

Informative:

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 construction/demolition waste materials shall take place on site.

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

Having planning permission in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the department receive a complaint, we are required to investigate under the provisions of the Environmental Protection Act 1990 and must take formal action where a statutory noise nuisance is in existence

MSDC Contaminated Land Officer

The application looks to construct 44 residential dwellings on land that has historically been used for agricultural use.

Agricultural land may have been used for the storage or disposal of items such as biocides, fuels, animal corpses etc.

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

Additionally, a discovery strategy should also be attached, 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.

Recommendation: Approve with conditions

1. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

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

MSDC Community Leisure Officer

The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the District Plan policy and SPD which require contributions for developments of five or more dwellings.

CHILDRENS PLAYING SPACE

The nearest locally equipped play area is nearly 2km from the development site and although the site layout plans show communal garden areas and public open space there are no details regarding on site play facilities. In this instance, we would expect a LEAP to be provided on site and full details regarding the layout, equipment and on-going maintenance will need to be agreed by condition.

FORMAL SPORT

In the case of this development, a financial contribution of £40,538 is required toward formal sport facilities in Copthorne. This contribution would be used to fund improvements to sports provision at King George V Field and neighbouring land, in Copthorne Bank.

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 £23,250 is required to make improvements to Copthorne Scouts and/or Guides facilities in Borers Arms Road

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 Drainage

SURFACE WATER DRAINAGE PROPOSAL

It is proposed that the development will manage surface water drainage through the use of source control in the form of permeable paving and an infiltration and attenuation basin. Surface water would be discharged at a controlled rate equivalent to the Qbar rate.

FOUL WATER DRAINAGE PROPOSAL

It is proposed that the development will manage foul water drainage by discharging to an existing foul sewer.

FLOOD RISK

The proposed development is within flood zone 1 and is at low fluvial flood risk.

The proposed development is largely located outside of any areas identified as being at risk of surface water flooding. A small area on the southern boundary has been identified as being at low risk of surface water 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.

FLOOD RISK AND DRAINAGE TEAM CONSULTATION

The proposed drainage plan shows surface water shall be directed into a large infiltration basin with a wet attenuation pond located at the downstream end. The attenuation pond would then discharge to an existing watercourse located adjacent to the site boundary. Surface water is proposed to be discharged at the Qbar equivalent.

No details have been provided in relation to the existing watercourse and this is not shown on OS mapping. Confirmation of this ditch, its connectivity and condition would be required before connection could be considered.

Further general information into our requirements for foul and surface water drainage are included within the 'further advice' section.

SUGGESTED CONDITIONS

C18F - MULTIPLE DWELLINGS

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan

MSDC Landscape Consultant

Summary Recommendation:

The proposal could comply with NPPF Section 15 policies for conserving and enhancing the natural environment.

This is with particular reference to Paragraph 170 which requires planning policies and decisions to contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

The proposal could comply with NPPF Section 12, Paragraph 130 requires that:

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

2) Reason for Recommendation

Policy Context

1. The NPPF Section 15 provides policies for conserving and enhancing the natural environment.

Paragraph 170 states that:

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

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever

possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
2. Policy DP12 of the District Plan seeks to protect the character of the countryside. It states - The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District.

Landscape and Visual Context

3. The Mid Sussex Landscape Capacity Study, as updated by Land Use Consultants 2005, identifies the site and surrounding area as having low to medium capacity for housing development. The site relating to the application area is not considered to be valued landscape in the context of the NPPF.
4. The western part of the site is rural in character and supports open pasture with well treed boundaries. The character of the eastern part of the site is influenced by the presence of mixed uses and farm diversification. The built up area of Copthorne village lies to the north of the A264 Copthorne Common Road. Existing development to the south of the road is typically larger houses in large gardens giving the area a semi-rural and enclosed character. The open character of the western part of the site would be more sensitive to change than the developed eastern part. The open pasture areas afford rural views and reinforce the undeveloped character of the gap between settlements.

Potential Impacts

5. A high quality redevelopment of this site could present an opportunity to enhance the local landscape and views. Any proposed development would need to demonstrate an overall enhancement to landscape character and visual amenity. To achieve enhancement the proposal would need to be supported by a comprehensive landscape strategy.
6. The proposal would retain all significant existing trees and it is noted that some smaller trees would be lost to the development. The proximity of the proposed unit 13 to the mature tree T5 could create future conflict with the residents and cause shading to the house and garden. The proximity of this tree to the proposed house is likely to result in future occupants bringing pressure to lop, top or remove tree on the grounds that they cause excessive shade and prevent garden plants from growing. Future residents may also be concerned about wind throw and branch shedding.
7. The arboricultural report and planning statement suggest that the proposed development would provide an opportunity to plant more trees and enhance the tree cover across the site. The landscape scheme submitted with the application is inadequate and would not provide the required enhancement. Most of the proposed trees are located in private gardens and these would not be secure in the long term as residents may remove them. These would also need to be species of trees which do not grow too large and therefore would not contribute to the public realm. To be acceptable the development would need to have more ultimately large species of trees located in the public realm and include

street trees. These would need to be of ultimately large species which are characteristic of the local area such as oak.

8. The landscape strategy for the proposed development would need to provide additional planting to the site boundaries. The existing tree screen has gaps which allow views into the site. These boundaries could be reinforced with tree and understory planting.

Conclusion and Summary Recommendations

9. A high quality development on this site could provide an opportunity to enhance the landscape and visual amenity of the local area. The proposed development could be acceptable from a landscape and visual perspective if supported by a landscape strategy which would represent an overall enhancement to local landscape character and views.
10. It is recommended that the proposed development can be supported subject to the requirement of a landscape strategy as outlined above.

MSDC Archaeological Consultant

Recommend Archaeological Condition:

The application is supported by an Archaeological Desk Based Assessment (DBA) produced by The Brigantia Archaeological Practice. The document appears to be a resubmission of a document produced in association with an earlier 2015 planning application, and it is disappointing that this does not appear to have been updated with more recent archaeological findings, or to provide more detail regarding the expected archaeological impact of the current proposal. I have therefore checked my own records, and that of the West Sussex Historic Environment Record in order to determine that no new significant archaeological information has been revealed in the vicinity in the immediate period.

The document provides a reasonable assessment of the potential for the site to contain below ground heritage assets, based on evidence from the relevant Historic Environment Records. However I disagree with the conclusion that the site has low potential for remains of a pre-post medieval date (although it does acknowledge some potential for the remains of former small-scale industrial activity). As limited archaeological investigation has taken place in the vicinity, the site should be more accurately categorized as having 'unknown' archaeological potential. The Historic Environment Record (HER) is only a record of known archaeological assets, and information within it does not preclude the subsequent discovery of elements of the historic environment that are, at present, unknown - a point recognised in the document in paragraph 11. Given the uncertain nature of the site's potential, and the potential for historic industrial activity, it is particularly disappointing that no site walkover was undertaken, nor an analysis of any aerial photographs, both of which have the potential to reveal the presence of archaeological earthworks, and for this site I would have expected these to be included within the Assessment.

Despite these shortcomings in the Assessment, it is clear there has been little archaeological investigation conducted in the vicinity of this site, and given that any surviving yet currently unknown Archaeological Assets will be destroyed as a result of these proposals, in line with the National Planning Policy Framework and Local Plan Policy DP34, I would recommend that there is the need for further archaeological work here.

In order to clarify the archaeological potential of the site it is my recommendation that in the first instance further work should take the form of a geophysical survey across the site. The results of a geophysical magnetometry survey should help to identify whether any former industrial remains are likely to exist on the site. This will need to be followed up by a number

of targeted trial trenches, based on the results of the survey, to both target any possible features, and also provide a representative sample of the site to determine, as far as is possible, the location, extent, date, character, condition, significance and quality of any other remains that are or may be present. Once this has been determined we will be in a position to make properly informed decisions on the likely archaeological impact of the development proposal, and so be in a position to discuss suitable mitigation measures. The evaluation will need to be undertaken within all those areas of the site affected by proposed development, and the results will enable appropriate mitigation measures to be developed if necessary.

The assessment indicates that it is unlikely that archaeological assets worthy of preservation in situ will be present on the site therefore I do not recommend that it is necessary for the archaeological work to be undertaken in advance of any planning permission; but securing the archaeological work as a condition of any planning permission is an acceptable and proportionate response. To ensure the required archaeological work is secured satisfactorily, the following condition is appropriate and I would recommend that it be attached to any planning permission that may be granted:

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, to be conducted in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority.

Please note that these comments are from an archaeological perspective only and do not account for potential impact on any historic building or its setting, these issues should be addressed by the appropriate conservation officer.

WSCC Highways

Background

The application is for the demolition of existing dwellings and outbuildings and the construction of 44 dwellings at Firs Farm, Copthorne Common. The site currently has an access on the A264 Copthorne Common Road. The site has been subject to a number of planning applications over recent years both individually and as part of a wider site that have been refused and dismissed on appeal.

The applicant has engaged in discussions with WSCC as part of the previous planning application DM/18/426.

Transport Statement

The Transport Statement originally provided with the application has been withdrawn. The document contained information such as the site access proposals, trip generation, a stage 1 RSA and designer's response. Whilst my original response did provide consideration of the issues raised within the document (and requested further information) without the information contained within it is not possible to determine if the application can provide safe and suitable access or its impact on the A264.

Transport Statement Addendum

An addendum technical note ref 4653 has been provided by the applicant to address concerns raised in my previous formal response dated 27/9/19.

- Junction Modelling - Impact of committed development;
- Shared Use Route - ability to deliver;

- Width of the new refugees and ability to accommodate cyclists; and
- Cycle link to the north east boundary of the site.

Junction Modelling

Junction Modelling has been provided for the site access and the Dukes Head Roundabout, A 2024 future year has been provided and TEMPRO utilised to factor growth vehicle flows, Information on committed development should be provided.

The applicant has provided a revised modelling of the junction that now includes the St Mowden development ref 13/04127/OUTES, upon further review of the modelling it has been established that whilst the modelling utilises the correct junction design parameters (for the mitigation secured from the St Mowdens development) it does not appear to have applied the Arm Capacity adjustment and as such further modelling was requested.

This modelling has been provided directly to me and details that the applications impact on the Dukes Head roundabout would be a maximum of 2 seconds and 1 additional vehicle queuing in both the AM peak and PM peaks in a 2031 scenario, as such would not constitute a severe impact.

Shared Use Route

Previous Appeals and reasons for refusals have focused on the sustainability of the site and the ability for a safe and suitable pedestrian and cycle provision to be provided to Copthorne and Crawley Down, given the reduce scale of the development the applicant has focused on delivering a shared use route towards Copthorne.

The applicant proposes the upgrade of existing PRoW 19W, 24W, 25W and 26W to provide a new shared footway/cycleway towards Copthorne away from the A264 Copthorne Common Road, where the PRoW network meets the A264 a 3m shared use facility is proposed with a 0.5m buffer provided to the carriageway, the improvements would include the widening of the route, surfacing appropriate to cycle route and new lighting to ensure the route can be used after dark.

Further Information was requested upon:

- No details have been provided on the delivery mechanism of cyclist rights on the network of footpaths either through the landowner providing permissive cycle rights or an upgrade to bridleway status. It is likely that the works would also require vegetation clearance.

The applicants transport consultant has indicated that cyclist rights would be delivered by way of an upgrade to Bridleway status. A draft contract has been included as an appendix of the TN however a plan of the proposed land is not included and the contract is not signed. As such there is no guarantee that the mitigation necessary to support sustainable transport can be achieved.

- The width of the route in front of Cherry Cottage is shown as 2.6m, the rational for the reduced width should be provided. A rational for the reduced width has been provided noting the achievable forward visibility and stage 1 RSA undertaken.
- The width of the pedestrian islands should be reconsidered to allow cyclists to remain on their bikes when crossing.

A revised strategy has been provided where the pedestrian islands have been replaced with a Toucan crossing. A stage 1 RSA and designers response has been undertaken. The RSA raised 7 issues to which the design team accepts all of the recommendations.

- Confirmation of any necessary vegetation clearance on the north side of the A264 and the ability for this to be delivered within highway land. It is noted that this has the potential to urbanise the section of the A264 and remove a buffer between the existing dwellings and the road.
- A plan has been provided confirming the extent of remaining vegetation, in the area close to the proposed toucan crossing this would fall below 1m.
- The ability of the development to deliver recommendation 5 and 6 of the safety audit 5, Vegetation as cyclists exit the proposed shared use route. The auditor recommends that the vegetation should be cleared for a minimum distance of 15m eastwards to which the designer agrees. However no information has been provided to indicate that the land is within the applicants control and the auditor's recommendations can be implemented.
- Uneven road surface in the layby, the auditor recommends that the layby should be resurfaced to which the design team agrees, again no information has been provided to indicate that the land is within the applicants control and the auditors' recommendations can be implemented.

In order to address the above, the applicant has proposed the closure of the existing layby at one end. The revised proposals have been considered by the road safety auditors who have confirmed that it would address their concerns.

The layby is currently not public highway or land under the applicants control and as such no guarantee can be provided on the ability of the scheme to be delivered. The TS addendum states that the land could adopted via legal agreement as it is owned by West Sussex County Council however no principal has been established over the sale of land or a purchase cost agreed.

Cycle Link to the north east boundary of the site: The applicants transport consultant has confirmed the section has been removed.

Conclusion:

Based on the information submitted to date it has not been demonstrated that the mitigation offered can be delivered under land under the applicants control and as such if the application is to be determined I would recommend the following Highway reason for refusal:

1. The proposal would not achieve safe and convenient access by a choice of means of travel nor encourage and enable and increase in environmentally sustainable means of travel such as walking and cycling and thereby minimise the impact of car journeys.

Due to the removal of the Transport Statement I would offer the following reason for refusal:

2. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, road layout and on site turning facilities and would not therefore give rise to increased hazards to highway users.

Should the information contained within the original TS be resubmitted then reason 2 would fall away.

WSCC Flood Risk Management

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 majority of the proposed site is at low risk from surface water flooding.

This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.

Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.

Reason: NPPF paragraph 163 states - 'When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.'

Modelled groundwater flood hazard classification: Low risk

Comments: The area of the proposed development is shown to be at low risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.

Ground water contamination and Source Protection Zones.

The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.

Ordinary Watercourses nearby? No

Comments: Current Ordnance Survey mapping shows there are no ordinary watercourses in close proximity of the 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 historic flooding within the site? No

Comments: We do not have any records of historic surface flooding within the confines of the proposed site. This should not be taken that this site 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 for this application proposes that sustainable drainage techniques (permeable paving, attenuation swales and a attenuation pond with a restricted discharge to the local watercourse) would be used to control the surface water from this development to Greenfield run-off rates. These methods would in principle, meet the requirements of the NPPF and associated guidance documents.

Evidence (condition/direction of flow etc.) of the watercourse which the surface water is to discharge into would be required.

It is recommended that this application 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.

Development should not commence until finalised detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, for the development have been submitted to and approved in writing by the Local Planning Authority. The drainage designs should demonstrate that the surface water runoff generated up to and including the 1 in 100 year, plus climate change, critical storm will not exceed the run-off from the current site following the corresponding rainfall event.

Development shall not commence until full details of the maintenance and management of the SUDs system is 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.

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 that recommends a minimum standard of security using proven, tested and accredited products.

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 be considered.

I was very pleased to note from the proposed masterplan submitted in support of the above application, that the applicant's agent has clearly demonstrated their understanding and the implementing of crime prevention measures by creating a safe and secure environment. The design and layout has created outward facing dwellings that have good active frontage with the streets being overlooked, back to back gardens that have eliminated vulnerable rear garden pathways, good demarcation of defensible space, gated rear access, robust rear fencing, overlooked parking and natural surveillance have all been incorporated into the development.

I feel from a crime prevention perspective this is a very good design and layout. I have no further comments to add.

I thank you for allowing me the opportunity to comment.

The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

This letter has been copied to the applicant or their agent who is asked to note that the above comments may be a material consideration in the determination of the application but may not necessarily be acceptable to the Local Planning Authority. It is recommended, therefore, that before making any amendments to the application, the applicant or their agent first discuss these comments with the Local Planning Authority.

Gatwick Airport

The proposed development has been examined from an aerodrome safeguarding perspective and could conflict with safeguarding criteria unless any planning permission granted is subject to the conditions detailed below:

Submission of Landscaping Scheme

No development shall take place until full details of soft and water landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- The species, number and spacing of trees and shrubs No subsequent alterations to the approved landscaping scheme are to take place unless submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To avoid endangering the safe movement of aircraft and the operation of Gatwick Airport through the attraction of birds and an increase in the bird hazard risk of the application site.