

TOWN & COUNTRY PLANNING ACT 1990

**LAND TO THE REAR OF MULBERRY GATE, COPTHORNE ROAD,
FELBRIDGE, EAST GRINSTEAD, RH19 2LJ**

CHANGE OF USE TO RESIDENTIAL GARDEN



PLANNING STATEMENT v.1

15 November 2024

Land to rear of Mulberry Gate, Copthorne Road, Felbridge, RH19 2LJ
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1. SITE AND SURROUNDING AREA

- 1.1 The application site is located to the south of Mulberry Gate and west of Longwall, two residential cul-de-sacs south of the A264 Copthorne Road in Felbridge. A new housing development, Martin's Mead and Birches View, has recently been built to the west of the application site (DM/16/5502).
- 1.2 The site itself is an undeveloped plot of land, of approximately 0.38 hectares, extending from the rear gardens of properties on Mulberry Gate down to a stream, a tributary of Felbridge Water. Beyond the stream is Birches Industrial Estate.
- 1.3 The southern part of the site is mixed deciduous woodland, which extends down to the stream, whilst the northernmost part of the site is modified grassland with some ruderal vegetation.¹ Historic aerial images on Google Earth show in 2008 the northern part of the site cleared of vegetation and used for storing construction materials. This was in connection with the housing development at Mulberry Gate (DM/07/00707/FUL).
- 1.4 The trees are predominantly alder (*Alnus glutinosa*) with lesser amounts of sycamore, holly, and hazel. A wider range of species can be found near the eastern boundary and the southern part has a more mature woodland structure.² (A full description of the woodland is provided in the Preliminary Ecological Appraisal by JWK Wildlife Survey, which accompanies this application).
- 1.5 Back in 2022, the arboriculturalist for BHA Trees surveyed 80 trees, of which none were category A, 16 were category B (moderate quality), 15 were category C (low quality) and 5 category U (must be removed).³

¹ Ruderal vegetation comprises plant species that are first to colonise lands disturbed by human or natural activity.

² JWK Wildlife Surveys, Land at Mulberry Gate, Felbridge Preliminary Ecological Appraisal, ref 2483, 11th November 2024

³ Tree Schedule by BHA Trees Ltd, 17th January 2022, submitted for DM/22/0474

- 1.6 The east, north and western site boundaries are formed by two metre close boarded fencing. At the other end of the site, beyond the stream, is a post and rail fence that demarcates the southern site boundary with the industrial estate.
- 1.7 There is an entrance in the northern site boundary, currently covered with close boarded fence, that leads to a Tarmac driveway off Mulberry Gate.
- 1.8 The land has been purchased by the applicant, Mr Leppard, who lives at 6 Longwall. His house backs onto the eastern site boundary. Mr Leppard purchased the land in 2023, following the submission of an outline planning application for two dwellings on the land to Mid Sussex District Council (MSDC) – ref: DM/22/0474. The proposed access for that development was the now closed off Tarmac drive through Mulberry Gate to the north. The application was subsequently withdrawn, after which Mr Leppard took up the opportunity to buy the land, with the intention of incorporating it into his property and creating a larger garden for his family.
- 1.9 The application site comprises the northernmost part of the site, with modified grassland habitat, and is outlined in red on the location and block plan. This extends to 898sqm. The woodland to the south is outside of the application site area, and is shown as other land owned by the applicant.



Figure 1: The application site, looking west. The houses in the background are on the recently built development at Martin's Mead (DM/16/5502/FUL).



Figure 2: The application site, looking east towards 6 Longwall, the applicant's property. This photograph shows the ruderal vegetation that colonised the site after construction of Mulberry Gate



Figure 3: Houses on Mulberry Gate, to the north of the application site. The access point off Mulberry Gate is just visible on the far left hand side.



Figure 4: Looking south into the woodland. 6 Longwall is on the left hand side of the photograph



Figure 5: In the woodland, looking west towards Martin's Mead



Figure 6: The woodland. Holly is prevalent in the understory.



Figure 7: The southernmost part of the woodland, with boundary fence of Birches Industrial Estate in background.



Figure 8: The entrance from the garden of 6, Longwall, the applicant's house, into the application site.

2. PROPOSED DEVELOPMENT

- 2.1 The application proposes changing the use of the non-wooded part of the site to residential garden land. This area is shown outlined in red on the accompanying 1:1250 and 1:500 plans, and extends to 898 sqm. It comprises a mixed of grasses and ruderal vegetation, which has colonised the land following it being stripped back to bare earth some years ago when the properties on Mulberry Gate were built.
- 2.2 With a change of use permission in place, Mr Leppard will incorporate this land into his garden, re-positioning the close boarded fence along the southern boundary of the garden, to include the new land.
- 2.3 Mr Leppard owns all of the land south to the boundary with Birches Industrial Estate. However, in terms of its character and habitat, the land clearly has two distinct areas, the modified grassland to the north and the mixed broadleaved woodland to the south. These two distinct areas were identified in the Preliminary Ecological Appraisal by Ecology By Design submitted in support of the two dwelling outline application DM/22/0474.⁴ The ruderal vegetation was described in that PEA as having “no intrinsic ecological value”. It is this area that the application proposes as residential garden land.
- 2.4 The wooded area, described by the Council’s Ecological Advisor in April 2022 as “wet woodland, a habitat type classified as habitat of principal importance under S.41 of the Natural Environment and Rural Communities Act 2006” will remain as woodland. Mr Leppard intends to manage this woodland to maximise its wildlife and amenity value, and has appointed Jack Kellett of JWK Wildlife Surveys, his Ecological Consultant, to advise him on future woodland management.
- 2.5 A Preliminary Ecological Appraisal by JWK Wildlife Surveys accompanies this application.

⁴ Ecology by Design, Preliminary Ecological Appraisal ‘Land to the rear of Mulberry Gate’, August 2020

3. PLANNING POLICY CONTEXT

3.1 The local development plan for the area comprises the Mid Sussex District Plan 2018 (DP) and East Grinstead Neighbourhood Plan 2016 (NP). The Council is preparing a new District Plan for 2021- 2039, and the Regulation 19 Submission Draft (DDP) has been sent out to consultation earlier this year and was submitted for Examination on 8th July 2024. Due to the advanced stage of preparation, weight can be given to policies in the emerging District Plan.

3.2 The site is within the Built Up Area Boundary for East Grinstead, as defined on the District Plan maps. There are no site specific designations covering the site.

3.3 Relevant adopted District Plan (DP) policies:

DP26: Character and Design

DP37: Trees, Woodland and Hedgerows

DP38: Biodiversity

3.4 Draft District Plan (DDP) policies:

DPS1: Climate Change

DPS6: Health and Well Being

DPN1: Biodiversity, Geodiversity and Nature Recovery

DPN2: Biodiversity Net Gain

DPN3: Green and Blue Infrastructure

DPN4: Trees, Woodland and Hedgerows

3.5 National Planning Policy Framework (NPPF):

Paragraph 180: "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;

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"

Paragraph 186: "When determining planning applications, local planning authorities should apply the following principles:

d) development whose primary objective is to conserve or enhance biodiversity should be supported."

4. CONSIDERATION OF PLANNING POLICIES

- 4.1 The application site is surrounded new residential development. Mulberry Gate was built in 2008, and Martin's Mead and Birches View, to the west, as recently as 2021. The applicant purchased the land behind his property following the submission and subsequent withdrawal of a planning application for two dwellings - DM/22/0474 – with the express purpose of ensuring the deciduous woodland would not be lost to development.
- 4.2 In April 2022, when commenting on DM/22/0474, the Council's Ecological Advisor described the woodland on the site as 'wet woodland', which is a "habitat of principal importance"⁵. The application for two dwellings would have involved the felling of a fourteen alder trees, to which the Ecological Advisor objected, noting it was contrary to DP38 of the Mid Sussex District Plan. Whilst the applicant's reasons for withdrawing the application can't be known, this objection may well have been a factor.
- 4.3 The presence of the woodland is a constraint to housing development, as the grassland area is not large enough to accommodate a dwelling. In any event, the Mr Leppard wishes to preserve the woodland, as it provides amenity and ecological benefits and enhances an otherwise built-up urban environment, to the benefit of himself, his neighbours, and local wildlife. He can do this whilst simultaneously utilising the cleared area of land, the grassland to the north, as an extension to his small garden at 6 Longwall.
- 4.4 Although there are no specific policies in the District Plan or NPPF that are directly relevant to this change of use (the proposal being in essence the opposite of the type of development that planning policies are designed to control), policies that protect biodiversity and green infrastructure are material to the application.
- 4.5 Jack Kellett of JWK Wildlife Surveys has prepared a Preliminary Ecological Appraisal, which includes a number of recommended enhancements that Mr Leppard can implement to increase the biodiversity of the woodland, planting more oak and hazel in place of alder, removing rhododendron, and encouraging more a diverse shrub layer and seed a woodland ground flora mix.

⁵ Comments of Mike Bird MCIEEM, Principal Consultant, Calyx Environmental Ltd. (11th April 2022)

- 4.6 District Plan policy DP38 and paragraphs 180 and 186 of the Framework are formulated to promote exactly these kinds of enhancements to natural capital. DP38 protects biodiversity and encourages opportunities to “to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity”. DP37 protects existing woodland, and encourages the incorporation of trees and woodland into development proposals. Emerging policy DPN3 seeks to “opportunities to improve, enhance, manage and restore green and blue infrastructure”.
- 4.7 Paragraph 186 of the NPPF states that local planning authorities must support development “whose primary objective is to conserve or enhance biodiversity”.
- 4.8 Usually, local planning authorities can only seek such enhancements alongside proposals for new built development. However, in this instance, the consequence of the applicant’s proposal to extend his residential garden across the northern part of the site is the protection of the woodland in the long term.
- 4.9 It was the felling of trees proposed in relation to the application for two dwellings that the Council’s Ecological Advisor objected to back in 2022. The long term preservation of the woodland is only possible if the applicant, as the new owner of the woodland, can make good use of the grassed area to the north. He can do this by incorporating it into his property as residential garden.
- 4.10 The proposed change of use would protect the trees in perpetuity, in accordance with DP37, and enhance the biodiversity of the site, in accordance with district and national planning policies.
- 4.11 The modified grassland area that comprises the application site has low biodiversity. The species mix of grass and ruderal vegetation reflects its historic use as grassland and its temporary clearance some 20 years ago when Mulberry Gate was being built. This area has been regularly mowed by the applicant since he bought the land, and this regime would continue with the change of use to residential garden. Targeted removal of the ruderal species e.g. common ragwort, spear thistle, broad-leaved docks and common nettle, which would be desirable once the land is incorporated into Mr Leppard’s garden, replacing them with grasses and wildflowers, would enhance the ecological value of the application site.
- 4.12 The residential garden use of the land would be wholly appropriate to this residential area. The extended garden would back onto the gardens of properties on Mulberry Gate and

Martin's Mead, and would not result in a loss of amenity enjoyed by the occupants of these dwellings. Policy DP36 protects existing residents from significant harm such as loss of privacy, noise, air and light pollution. The proposed residential garden use would not result in any adverse harm to the adjoining neighbours.

- 4.13 In summary, the application proposes the change of use of the northernmost part of this piece of land to residential garden. The woodland to south would remain outside of the application site area, and would be managed sensitively by the applicant to maintain and increase the woodland's biodiversity.
- 4.14 In light of the above, it is respectfully requested that planning permission is approved for change of use to residential garden.