

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0856	Case Officer:	Caroline Grist
Application Type:	Full Application		
Proposal:	Demolition of existing garage and shed and erection of a single storey 2no bedroom dwelling with associated landscaping, parking for two cars and erection of a new shed.		
Site:	Land To R/O, 99 Leylands Road, Burgess Hill, RH15 8AA, , , ,		
Validation Date	16 Apr 2025	Overall Expiry Date:	6 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	8 Sep 2025
Target Date:	11 Jun 2025	Recommending Officer Signature:	<i>Caroline Grist</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	11
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Signed and Agreed By:	<i>Steven King</i>	Date:	10 Sep 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0856

**Land To R/O, 99 Leylands Road, Burgess Hill, RH15 8AA, , ,
Demolition of existing garage and shed and erection of a single storey 2no bedroom dwelling
with associated landscaping, parking for two cars and erection of a new shed.
Watling**

SUMMARY OF REPRESENTATIONS

Twelve representations, from 11 different addresses, have been received in objection to this proposal. In summary, the following issues have been raised:

- o Planning permission has been previously refused for a house on this site;
- o Objections were raised to previous applications for a new house on this site;
- o Proposal has not overcome the reason for refusal relating to unneighbourly comings and goings;
- o Development contrary to policy H2 of the Burgess Hill Neighbourhood Plan;
- o Proposal represents an overdevelopment of a constrained backyard site;
- o Planning and Sustainability Statement sets out that a flat roof is proposed but the plans show a pitched roof with a flat top;
- o Whilst the building is now a bungalow its footprint has increased;
- o Concern that the flat roof of the proposed house may be built on later;
- o If permission is granted there should be restrictions to prevent further extensions to the dwelling;
- o Insufficient reduction in building height;
- o Will be a greater reduction to private garden and amenity space than previously indicated;
- o Existing fences and boundary treatments should be protected and retained;
- o Object to any trees or hedges planted along the boundary with 103 Leylands Road that would grow higher than the top of the fence, due to changing land levels;
- o Previous application was refused due to being overbearing and loss of privacy;
- o Loss of light, privacy, intrusion and sense of enclosure to 15 Millbank;
- o Development will impact the sunlight, privacy and garden of 101A Leylands Road;
- o Will impact neighbours in Millbank and Leylands Road;
- o Boundary distances to 101A and 101B Leylands Road have decreased;
- o Difference between a summer house and a new dwelling;
- o Construction noise and air pollution concerns;
- o Concern as there is currently insufficient parking and this is affecting access to Millbank;
- o New house will add to existing pressures relating to traffic, parking and safety;
- o Traffic and access impacts downplayed, whilst physical constraints are unchanged;
- o Yellow line, restrictive parking should be considered;
- o Part of the footpath along Millbank is owned by 15 Millbank and
- o Construction vehicles will affect accessibility for existing residents, cause a nuisance and increase traffic;
- o Concern relating to construction traffic using a shared access;
- o Noise and dirt from construction will affect residents;
- o Increased flood risk to surrounding properties;
- o Surface water flooding issues;
- o Sewerage disposal concerns;
- o Concerns surrounding the proposed drainage;
- o No approval from Southern Water;
- o Southern Water require no development or tree planting within 3m of a sewer without consent from Southern Water, which the proposal would contravene;
- o Use of self build to potentially bypass Biodiversity Net Gain requirements;
- o No substantive enhancement to biodiversity or meaningful ecological mitigation measures;
- o Will negatively affect quality of life;
- o Previous objections still valid;

- o Planning and Sustainability Statement notes that pre-application advice stated that proposals would be unlikely to be supported as full application stage;
- o Section 6.83 of the Planning and Sustainability Statement is irrelevant;
- o May affect utilities;
- o Hanlye Lane case not relevant;
- o Issues relating to land ownership and rights of access do not appear to be resolved;
- o Development should not affect the fence or land associated with 15 Millbank;
- o Concern relating to the change in applicant's name from previous application;
- o Issue with site location as it does not reflect that the access would be from Millbank;
- o Concern regarding transparency and missing objections from earlier processes remain;
- o Confirmation needed of the heat pump location and noise levels;
- o Will affect house prices;
- o The existing tree near 103 Leylands Road should be trimmed lower and back from the boundary;
- o If permission is granted, working hours, deliveries and on-site materials should be enforced;
- o Building deliveries should only take place on the site;
- o Restriction of building and trade parking on Millbank;
- o Construction should not damage to footpaths and drains;
- o Construction vehicles should be cleaned to avoid mud and debris being tracked;
- o Any damage to the shared access should be made good to resident's satisfaction;
- o Ensure that scaffolding or construction overhanging does not occur to neighbouring properties;
- o No part of the development, including during the construction, should affect the land associated with neighbouring properties; and
- o Concerns surrounding the property being used as a short term rental.

The purpose of the application address is to identify the parcel of land to which the application relates. The site forms part of 99 Leylands Road and is situated to the rear of this dwelling. As such it is considered to accurately describe the area of land to which the application relates. The submitted plans consistently show that access is to be provided from Millbank and those neighbours along Millbank who are adjacent to the red line boundary, that includes the access, have been notified of the application. With regards to the applicant's details, these are not a consideration of the planning application. Any planning permission granted relates to the land, not the applicant.

It should be noted that each application is required to be assessed in accordance with relevant planning policies and any other material considerations, on its own merits. As such, concerns relating to matters such as house prices being reduced cannot be taken into account as they are not material. Furthermore only planning matters can be taken into account, therefore concerns relating to other legislation cannot be considered. Any planning permission would also not negate the applicant's responsibility with regards to civil matters, such as land or fence ownership, the Highways Act or Southern Water's requirements. Planning permission can also not be used to enter into agreements with neighbouring properties, such as for planting to be maintained at a specific height.

SUMMARY OF CONSULTEES

Southern Water

Proposed works involve demolition

In order to protect and safeguard the existing water supply apparatus, Southern Water requests formal notification of any proposed demolition works prior to such works being undertaken.

Development Site is not within Southern Water's Supply Area

The development site is not located within Southern Water's statutory area for water supply services. Please contact South East Water who are the relevant statutory undertaker.

Connection to public sewer

Southern Water has undertaken a capacity check, and our investigations indicate that Southern Water can facilitate foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Existing Southern Water Assets

Please see the attached extract from Southern Water records showing the approximate position of our existing sewer and water main assets crossing/in the vicinity of the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

Tree planting

We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers" and the Sewerage Sector Guidance with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers, rising mains and water mains.

Condition:

In order to protect public apparatus, Southern Water requests that if consent is granted, the following pre commencement condition is attached to the planning permission; The developer must advise the local authority (in consultation with Southern Water) of the landscaping proposals in proximity of public apparatus in order to protect it in accordance with Southern Water's guidance, prior to the commencement of the development.

Proposed SUDS features

If it is the intention of the developer for Southern Water to adopt the proposed SuDS, the system shall be designed and constructed in line with the Design and Construction Guidance

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption of SuDS will be considered if requested by the developer if they comply with: Design and Construction Guidance (Appendix C), CIRIA guidance and Southern Water SuDS Guidance.

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991.

Proposed soakaways

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. No new soakaways should be located within 5 metres of a public or adoptable gravity sewer, rising main or water main.

No Soakaways should be connected to the public surface water sewer.

Highways Authority

This application seeks the demolition of existing garage and shed and erection of a single-storey two-bedroom dwelling. The site is located on Millbank, an unclassified road subject to a speed restriction of 30 mph.

WSCC in its role as Local Highway Authority (LHA) was previously consulted regarding highway matters for this site for similar application DM/24/0579, of which no highway safety or capacity concerns were raised. The Local Planning Authority (LPA) refused the application on grounds unrelated to highways.

Content

The existing dropped kerb from Millbank will be utilised to facilitate access to the site. From inspection of WSCC mapping, there are no apparent visibility concerns with the existing point of access on Millbank. In addition, the proposed development is not anticipated to give rise to a material intensification of use of the existing access.

Two off-street car parking spaces are proposed, which would be in accordance with WSCC Parking Standards for a dwelling of this size and location. On-site turning appears achievable within the site, allowing cars to exit in a forward gear. Cycle parking can be accommodated within the proposed replacement shed.

The site is situated in a sustainable location within walking/cycle distance of local services and amenities. Cycling is a viable option in the area. The site is also well connected by public transport, with regular buses available from Mill Road. Wivelsfield Train Station is situated approximately 850m east of the site.

Conclusion

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 116), and that there are no transport grounds to resist the proposal.

Conditions are recommended to secure cycle and vehicular parking.

Street Naming and Numbering Officer

Informative requested.

Environmental Protection Officer

Contaminated Land:

The proposed development involves the demolition of an existing garage, and given the low potential for contamination associated with such structures (e.g., from oil, fuel, or other hazardous substances), we recommend the inclusion of a discovery condition for contaminated land. This condition would require an immediate stop of works and notification to the local authority if contamination is found during development, followed by appropriate investigation and remediation measures.

Noise:

Technical specifications for the proposed ASHP have now been submitted. However, the submitted plans do not clearly identify whether a nearby outbuilding belonging to an neighbouring property would be considered a habitable room. To fully assess the potential noise impact in accordance with MCS020 guidance, further clarification is required regarding the location of the nearest windows serving habitable rooms on neighbouring properties.

If the applicant can confirm that the ASHP is sited such that it meets MCS020 siting criteria, particularly in relation to the distance to the nearest habitable room window, then it is likely that a specific noise condition will not be necessary.

In the absence of this clarification, a precautionary approach is recommended, and a BS4142:2014+A1:2019 noise assessment condition should be applied. This condition may be

discharged at a later stage if the applicant provides satisfactory evidence that the ASHP will not result in adverse noise impacts.

Construction Environmental Management Plan (CEMP):

Given that residential properties surround the proposed development, it is important to minimise the impact of construction activities on neighbouring residents. I recommend conditioning a Construction Environmental Management Plan (CEMP). The CEMP should include measures to control construction:

Working Hours: Restrictions on working hours to minimise disturbance to residents.

Noise: Mitigation measures to reduce noise from demolition and construction activities.

Dust: Dust suppression techniques to prevent dust from affecting neighbouring properties.

We acknowledge that there are limitations on the extent to which noise and dust can be controlled during demolition and construction. However, the CEMP should aim to minimise these impacts as much as reasonably possible.

Conditions are recommended in relation to contaminated land, noise levels, construction hours and a Construction Environmental Management Plan.

Environmental Health - Housing Standards

Based on the plans submitted the following comments are made with specific reference to compliance with Housing Standards legislation. Please note that this may differ from planning legislation, but respective minimum standards must be followed.

Rooms sizes

To prevent future enforcement action under Environmental Health legislation the developer must ensure that all bedrooms in the proposed development meet the following minimum room sizes:

1. Single bedroom: minimum size 6.5 square metres
2. Double bedroom minimum size 10 square metres

Please note specific requirements in the Technical Housing Standards - Nationally described space standard used by Planning Departments.

Means of escape

1. Means of escape in case of fire. Provision of 30 Minute fire doors to kitchen and living areas.
2. Interlinked early fire alarm system to whole building with a 30 minute warning system.

Advice Note for Building Control and Planning Applicants regarding the Housing Health and Safety Rating System.

The Housing Health and Safety Rating system (HHSRS) was introduced in July 2006 and is used by Environmental Health Officers in Council's Private Sector Housing departments to assess the condition of residential dwellings. The HHSRS replaced the historic Fitness Standard and disrepair. HHSRS evaluates potential risks to health and safety from any deficiencies identified in dwellings - it is not a standard.

Residential new build dwellings and conversions can fall foul of the HHSRS despite meeting Building Control and planning requirements. This situation usually arises if the dwelling is subsequently let and the tenant complains about a particular issue.

Unfortunately there is not a guide to 'designing to conform to the HHSRS', however you may be interested in looking at the HHSRS Operating Guidance which contains notes on the perceived optimum standard derived from the British Standards or Building Regulations Approved Documents.

Heating:

3. The system shall be capable of maintaining the following internal temperatures when the external temperature is -1degrees C.

4. Living room and dining room 21degrees C.
5. Bathroom 22degrees C.
6. Elsewhere 18degrees C.
7. All storage heaters shall have automatic charge control and thermostatically controlled damper outlet. Living rooms to be provided with a fan assisted combination storage heater with thermostatically controlled top up convector heater.
8. Gas Central heating systems should satisfy the design and installation requirements of British Standard 5449: 1990 in accordance with Part L of the current Building Regulations (as amended).

Ventilation:

9. All kitchen/living areas must be provided with open-able windows of a suitable size to ensure sufficient ventilation without causing excessive draughts.
10. All habitable rooms must have a window to provide natural ventilation. Allow for natural ventilation 1/20th of the floor area of each habitable room.

Lighting:

11. Provision of adequate natural lighting via windows to kitchen, bedroom and living rooms to provide adequate natural lighting. BS8206 Code of practice Parts 1 & 2. Also BRE guidance on Natural Lighting.
12. There should be sufficient natural light during daylight hours to enable normal domestic tasks to be carried out without eyestrain.

Drainage Engineer

First Response

The Risk of Flooding from Surface Water mapping suggests the site is shown to be at very low to low surface water flood risk (comparable to flood zone 1 and flood zone 2) for the present day (2025) and to be at very low to low with small area of high surface water flood risk at the site boundary (comparable to flood zone 1 and flood zone 2 on site). within the climate change range of 2040 - 2060.

The PPG states that the design flood event for surface water is the 1:100 plus an allowance for climate change (Para. 002) which is the same as for river flood events.

The proposed development is a 'more vulnerable' development (NPPF, Annex 3).

Historical Flood Risk

Mid Sussex District Council's records do not contain records of the site flooding. Our records also contain no records of flooding within the area immediately surrounding the site.

Mid Sussex District Council's records are not complete, and flooding may have occurred which is not recorded. A site having never flooded in the past does not mean it won't flood in the future.

Sewers on Site

The Southern Water public sewer map shows public foul water sewers located within the redline boundary of the site. It is understood that Southern Water require a Build Close Application to be submitted.

The applicant has conducted a CCTV drainage survey and has also located a surface water sewer beneath the site which the applicant has interpreted as being part of the highways drainage network.

There may be sewers located on the site not shown on the plan which are now considered public sewers. Any drain which serves more than one property, or crosses into the site from a separate site may be considered a public sewer. Advice in relation to this situation can be found on the relevant water authority's website.

Surface Water Drainage Information

Surface water drainage will ultimately need to be designed to meet the latest national and local planning and drainage policies and guidance. The drainage system will need to consider climate change, the allowances for which should be based on the climate change guidance from the Environment Agency at the time of detailed design.

Detailed drainage design should consider the impact a flooded outfall could have on the proposed drainage system.

The recommendation for a drainage condition to be utilised for an application does not preclude the need for updated calculations or alterations to a drainage strategy. Recommendation for a drainage condition shows that the Flood Risk and Drainage Team are of the opinion that the development has shown that, in principle, drainage could successfully be provided on the site.

Application specific comment

The BGS infiltration potential map shows the site to be in an area with low infiltration potential. Therefore, the use of infiltration drainage such as permeable paving or soakaways is unlikely to be possible on site. To ensure the drainage hierarchy is followed this will need to be confirmed through infiltration testing on site as part of detailed drainage design.

It is proposed that the development will discharge into a surface water sewer (interpreted as being part of the highways drainage network by the applicant) at an attenuated rate via geocellular attenuation storage and Type C no infiltration permeable paving.

We would advise the applicant that in our experience West Sussex County Council (WSCC) Highways do not allow surface water drainage to discharge into their highway sewer system.

The flood risk and drainage team need to be confident that the proposed development has a viable means of surface water drainage available to it. Based on the information provided at this time the team do not believe the principle of surface water drainage has been proven.

Therefore, we require the following further information to be provided at this time:

- o Evidence that WSCC Highways and/or Southern Water would accept the principle of surface water drainage connecting to their system.

Foul Water Drainage

It is proposed that the development will discharge foul water to the foul water sewer located within the red outline boundary.

Information into our general requirements for detailed foul water drainage design is included within our 'General Drainage Information Guide'. This level of information will be required to address the recommended drainage condition.

To ensure the final drainage design meets with the latest design requirements we would advise the applicant to confirm the design parameters required prior to undertaking detailed design.

Summary of Further Information Required

At this time, we will require the following further information:

- o Evidence that WSCC Highways and/or Southern Water would accept the principle of surface water drainage connecting to their system.

Final comments

We consider that sufficient information has been provided to demonstrate that the proposed development has a viable means to drain surface water from the site in principle, subject to detailed design.

Information into our general requirements for detailed drainage design is included within the 'General Drainage Requirement Guidance' section. This level of information will be required to address the recommended drainage condition.

To ensure the final drainage design meets with the latest design requirements we would advise the applicant to confirm the design parameters required in relation to climate change etc prior to undertaking detailed design.

A condition is recommended to secure details of the proposed foul and surface water drainage and means of disposal.

TOWN COUNCIL OBSERVATIONS

Recommend Refusal:

The Committee of 12th May 2025 felt this application contravened:

Burgess Hill Neighbourhood Plan:

H2 - Back Garden Development.

Mid Sussex District Plan:

DP21 - Transport and Traffic Safety

DP26 - Character and Design - as this will intrude on neighbouring properties amenity.

DP29 - Noise, Air and Light Pollution.

DP41 - Flood Risk and Drainage

Mid Sussex Design Guide:

DG21 - Consider and allow for servicing, refuse collection and deliveries

DG45 - Privacy of existing and future residents

DG47 - Provide homes with sufficient daylight and sunlight

In addition, the Committee had concerns as to the plan being a bigger footprint than previously, no specification for the heat pump being included in the plans, several objections which have been submitted are not showing on the portal over a week after submission and a claim by the neighbour (while not a material planning matter) that part of this land for the access would be over her land and permission will not be granted.

INTRODUCTION

Planning permission is sought to demolish an existing garage and shed and erect a 2no. bedroom dwelling with associated landscaping, parking for two cars and erection of a new shed.

RELEVANT PLANNING HISTORY

13/01598/FUL - Erect chalet bungalow to rear of property. Withdrawn.

DM/24/0578 - Demolition of existing garage and shed and erection of a 2no. bedroom dwelling with associated landscaping, parking for two cars and erection of a new shed. Refused.

Reasons for refusal:

'1. The proposed development would be of a harmful scale and form, resulting in a contrived layout that would be out of keeping with the character of the surrounding area. The design would present a stark side elevation to Millbank, where the property would be publicly visible, and have an unbalanced and poorly proportioned front elevation, thereby failing to create a dwelling of a high design quality. As a result, the proposal would not comply with Policy DP26 of the Mid Sussex District Plan, Policy H2 of the Burgess Hill Neighbourhood Plan, the Mid Sussex Design Guide SPD and the National Planning Policy Framework.

2. The scale, height and position of the proposed dwelling in relation to 101A and 101B Leylands Road, would create an imposing feature that would be increased by the changing land levels between the site and these neighbours. Furthermore the location of the property frontage facing these rear gardens and

the associated comings and goings is considered to be unneighbourly and, overall, these issues would result in significant harm to their privacy and outlook. As a result, the proposal would not comply with Policy DP26 of the Mid Sussex District Plan, the Mid Sussex Design Guide SPD and the National Planning Policy Framework'.

Land to the rear of 97 Leylands Road

BH/254/85 - Outline application - Proposed bungalow. Refused.

Reason for refusal:

'Having regard to the limited area of the site and its relationship to existing residential properties the proposed dwelling would result in a cramped layout, with inadequate parking and turning facilities and garden space, and would have an unneighbourly effect on the amenities of adjacent properties'.

BH/185/92 - Outline application for a two bedroom bungalow with parking space. Refused.

Reason for refusal:

'Having regard to the limited area of the site and its relationship to existing residential properties the proposed dwelling would result in a cramped layout, with inadequate parking and turning facilities and garden space, and would have an unneighbourly effect on the amenities of adjacent properties, and would be contrary to Local Plan Policy BH3/6'.

SITE AND SURROUNDINGS

The application predominantly relates to an area of land that is situated behind the rear gardens of 99, 101A, 101B and 103 Leylands Road. This land is currently associated with 99 Leylands Road and is used as part of their garden. The site also includes an area of land to the rear of 97 Leylands Road that currently contains a flat roof garage and is finished in hardstanding. This area of the site is accessed from Millbank, which is a residential cul-de-sac to the south.

The application site is located within the built up area of Burgess Hill. Residential dwellings are located to all sides of the site.

APPLICATION DETAILS

The application seeks to demolish an existing garage and shed and construct a new dwelling, with associated landscaping, parking and a new shed. In terms of the new dwelling, it is to be a single storey building with accommodation only on the ground floor. This would comprise a kitchen and dining room, bathroom and two bedrooms. It is to have an overall depth of some 13.3 metres and width of 6.6 metres. A pitched roof design is proposed for the front section of the building, approximately 8.9 metres deep, and a crown roof over the remaining rear area. A consistent eaves line of some 2.4 metres is proposed. The pitched roof is to have a ridge height of approximately 5.1 metres, whilst the crown pitch would be 3.5 metres.

It is proposed to create the access to the property from Millbank, at the northern end of the cul-de-sac. Two parking spaces are proposed to the north of the access and the shed is to be sited in the south western corner. An air source heat pump is shown on the site plan as being positioned on the northern edge of the rear patio area.

LEGAL FRAMEWORK AND LIST OF POLICIES

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

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

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

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

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

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

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

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Document (DPD) and Burgess Hill Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan but is an important material consideration.

Mid Sussex District Plan

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

Relevant policies:

DP4 - Housing

DP6 - Settlement Hierarchy

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

DP21 - Transport

DP26 - Character and Design

DP27 - Dwelling Space Standards

DP30 - Housing Mix

DP39 - Sustainable Design and Construction

DP40 - Renewable Energy schemes

DP41 - Flood Risk and Drainage

Site Allocations Development Plan Document (DPD)

The Site Allocations DPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

SA38 - Air Quality

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made in January 2016.

S4 - Parking Standards for new Developments

H2 - Back Garden Development

Other Material Considerations

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS2 - Sustainable Design and Construction
DPS4 - Flood Risk and Drainage
DPS6 - Health and Wellbeing
DPN2 - Biodiversity Net Gain
DPB1 - Character and Design
DPT1 - Placemaking and Connectivity
DPT4 - Parking and Electric Vehicle Charging Infrastructure
DPH3 - Sustainable Development - Inside the Built-up Area
DPH7 - Housing Mix
DPH11 - Dwelling Space Standards

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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

National Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

Paragraph 12 of the NPPF states:

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

Paragraph 39 of the NPPF states:

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

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Guidance

National Design Guide/Code

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

Technical Housing Standards

West Sussex County Council Parking Calculator

ASSESSMENT

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

- Principle of development;
- Self build;
- Design and impact on character of the area;
- Impact to neighbouring amenity;
- Highways;
- Flood risk and drainage;
- Dwelling space standards;
- Ashdown Forest;
- Sustainability; and
- Biodiversity Net Gain.

Principle of development

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

In terms of policy designations, the starting point for this assessment is that the application site falls inside of the built-up area of Burgess Hill as defined by the District Plan.

The principle of the proposed development is considered to be acceptable.

As per planning legislation, a decision must be made in accordance with the development plan unless there are any material planning considerations which indicate otherwise.

The policies contained within the NPPF are material considerations which should be taken into account in the determination of this application. This is confirmed within paragraph 231 of the NPPF.

Paragraph 232 clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development, and states:

'For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless;

i. The application of policies within this Framework that protect areas of assets of particular importance provides a strong reason for refusing development proposed; or

ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.'

Footnote 7 of paragraph 11(i) clarifies that the policies referred to are those in this Framework (rather than those in development plans) and relate to habitats sites (and those and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and other heritage assets of archaeological interest; and areas at risk of flooding or coastal change.

Footnote 8 of paragraph 11 clarifies that for applications involving the provision of housing, in situations where the local planning authority cannot demonstrate a five year land supply of delivery housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that delivery of housing has been substantially below (less than 75%) of the housing requirement for the last three years, then relevant policies for the supply of housing should be considered out-of-date.

Having regard to the above, while the Council has performed excellently in respect of the Housing Delivery Test, a new standard method formula was published alongside the NPPF which gives Mid Sussex a significantly higher housing requirement than the current District Plan. As a result, and having regard for the need for an appropriate buffer, the Council is unable to demonstrate a five year supply of deliverable housing sites as per the requirements of paragraph 78 of the NPPF.

In light of the above, this development needs to be considered in the context of the presumption in favour of sustainable development. If a development is found to be sustainable, that would weigh heavily in favour of granting permission in the paragraph 11(d) balance. If however the development is not found to be sustainable, that is not the end of the matter; the Local Planning Authority still need to go through the weighing up process between the positive benefits of the scheme against any harm that may be caused, having particular regard for the key policies indicated in paragraph 11(d)(ii).

As part of this process, the weight to be given to development plan policies will need to be assessed against the degree of conformity with the NPPF.

Policies DP4 (Housing) and DP6 (Settlement Hierarchy) are relevant to this application. These policies are considered to be policies relating to the supply of housing and as such can be considered to be out-of-date, having regard to the NPPF tests. As such, these policies can be given limited weight in the determination of the application.

Therefore the key test that must be undertaken when assessing this application is as set out within paragraph 11(d) of the NPPF.

The following sections of the report will consider the relevant matters associated with the proposed development in the context of the development plan and other material considerations, including the NPPF in order to undertake the necessary tilted balance assessment outlined above.

Self Build

The proposal has been submitted to be a self-build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

The Local Planning Authority must now grant 'suitable development permissions' in respect of enough serviced plots of land to meet the demand for self-build and custom housing building in the authority's area.

Policy DP30 of the District Plan relates to housing mix and states:

'To support sustainable communities, housing development will:

- o provide a mix of dwelling types and sizes from new development (including affordable housing) that reflects current and future local housing needs;*
- o meet the current and future needs of different groups in the community including older people, vulnerable groups and those wishing to build their own homes. This could include the provision of bungalows and other forms of suitable accommodation, and the provision of serviced self-build plots; and*
- o on strategic sites, provide permanent pitches for Gypsies and Travellers and Travelling Showpeople, as evidenced by the Mid Sussex District Gypsy and Traveller and Travelling Showpeople Accommodation Assessment or such other evidence as is available at the time; or the provision of an equivalent financial contribution towards off-site provision (or part thereof if some on-site provision is made) if it can be demonstrated that a suitable, available and achievable site (or sites) can be provided and made operational within an appropriate timescale, commensurable with the overall scale of residential development proposed by the strategic development; and serviced plots for self-build homes where a need for such accommodation is identified.*
- o If a shortfall is identified in the supply of specialist accommodation and care homes falling within Use Class C2 to meet demand in the District, the Council will consider allocating sites for such use through a Site Allocations Document, produced by the District Council.*

Evidence of housing need will be based on the best available evidence (including local evidence provided to support Neighbourhood Plans)'.

The proposal to provide a self-build home is a material consideration in the determination of the application which is supported by planning policy. This provides a positive benefit to the proposed development.

Design and impact on character of the area

Policy DP26 of the Mid Sussex District Plan states:

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

- o is of high quality design and layout and includes appropriate landscaping and greenspace;*
- o contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- o protects open spaces, trees and gardens that contribute to the character of the area;*
- o protects valued townscapes and the separate identity and character of towns and villages;*

- o does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP27);
- o creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;
- o incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;
- o positively addresses sustainability considerations in the layout and the building design;
- o take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;
- o optimises the potential of the site to accommodate development'.

Policy H2 of the Burgess Hill Neighbourhood Plan, relating to back garden development is also considered to be relevant:

'Development in back gardens in residential areas of Burgess Hill will generally not be supported. Exceptionally, proposals to intensify existing residential areas will only be supported where this can be achieved through good design and without harming local amenities. Any attractive prevailing character and appearance of the area must be protected.

Where back garden development is proposed; special regard must be paid to:

- i.) *The density and height of the proposal;*
- ii.) *The privacy and outlook from existing dwellings and, in particular, gardens;*
- iii.) *Any proposed demolition of existing dwellings or parts of dwellings to form access. If this would create an unattractive breach in a consistent street frontage then this will not be permitted;*
- iv.) *Access arrangements that would cause significant nuisance to neighbouring properties will not be permitted;*
- v.) *Sufficient garden depth and area should be retained by existing dwellings commensurate with their size and character;*
- vi.) *The layout, scale and form of housing visible from the street should be compatible with the predominant scale of housing on the street; and,*
- vii.) *The effect and cumulative impact of the development on the loss of garden habitat/biodiversity'.*

Principle DG11 of the Mid Sussex Design Guide states in part:

'new development should generally reflect the scale of adjacent areas and the settlement context within which it is located to deliver a coherent and consistent urban fabric'.

Principle DG38 is also considered to be relevant and states:

'Applicants should establish an architectural approach and identity in the design of building that is borne from the place.

The facade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings. However, this should not result in pastiche replicas of traditional buildings. Instead a re-interpretation of key aspects of their form should be demonstrated.

Good architecture involves the successful co-ordination of proportions, materials, colour and detail. Buildings should therefore be holistically designed with each part in harmony with its whole while appropriately responding to both its context and modern living requirements. This includes:

- o *The elevational treatment and overall façade design;*
- o *The placement, proportions and design of windows, doors and balconies;*
- o *A roofscape and form that creates a harmonious composition and minimises the visual impact of downpipes and guttering;*
- o *The appropriate incorporation of dormer windows and chimneys;*
- o *An appropriate palette of good quality materials that are preferably locally sourced'.*

Whilst the application site is located to the rear of properties that face onto Leylands Road, like the previous application, access is again to be gained from Millbank. As such this proposal, like the previously considered scheme, would be most visible and would form part of the streetscene of Millbank, which is a residential cul-de-sac. It therefore remains the view that this development would need to respond appropriately to these surrounding houses. Within Millbank there are predominantly pairs of semi-detached dwellings that are constructed of red brick, with tile hanging at the first floor level, and pantile roofs. Furthermore the houses step down in height, reflecting the changing land levels, and have ground floor, flat roof projections to the front. At the northern end of the cul-de-sac, the area changes to detached garage buildings and a chalet bungalow. This built form, whilst a diversion from the strong semi-detached pairs, respects the character of Millbank in its height, continuing the stepping down, and in terms of design, such as the materials and containing front projections. It is considered that the streetscene is very localised, with limited views to the surrounding built up area.

The current application proposes a single storey dwelling. The proposed plans show a building with a hipped roof and low eaves, which reads as a bungalow, unlike the previous application where the design presented a fully expressed two storey dwelling. The ridge height of the building has been reduced to reflect this, from some 7.5 metres to 5.1 metres. Whilst the building has widened, from the previous proposal, it is considered that the proportions of the building appear more balanced and less contrived. It is also noted that the roof height reduces towards the rear of the building, where a crown pitch roof is proposed that reflects the pitch of the front of the property. The change in roof heights would visually break up the massing of the building and reduce the potential bulk that could have otherwise been created. Sufficient space would remain around the property so that it would not appear cramped and the garden size would be adequate for a two bedroom bungalow, particularly in comparison to surrounding properties. Given this, it is further considered that the proposal would not represent an overdevelopment of the site.

The changes to the design have also enabled the entrance to the dwelling to be positioned so it fronts onto Millbank, rather than facing onto the rear gardens of Leylands Road. Features of a front elevation now front the highway and, as such, the dwelling would now respond more appropriately to the streetscene. The proposed bay window reflects the pitched roof design of the chalet bungalow opposite and the choice of materials would be consistent with those found in surrounding properties. The lower building height would also respond to the changing land levels of Millbank and the stepping down of building heights. Concerns relating to future enlargements are acknowledged and, given the constraints of the site, it is considered reasonable and necessary to remove permitted development rights that would relate to the enlargement of the dwelling. This would prevent an overdevelopment of the site and ensure that future extensions would be appropriate in scale and design.

With regards to the landscaping, the comments from Southern Water are acknowledged. Compliance with these requirements are, however, a matter for the applicant to resolve with Southern Water and a condition can be placed upon any consent to secure the final landscaping details. Drainage matters will be considered in a further section of this report

It is therefore considered that the issues identified under the previous application, relating to scale, form and layout, have been addressed and overcome through the current proposal. As such, from a design perspective, the development would accord with the requirements of policy DP26 of the Mid Sussex District Plan, policy H2 of the Burgess Hill Neighbourhood Plan and the Mid Sussex Design Guide SPD.

Impact to neighbouring amenity

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do '*...not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution*'.

A range of concerns have been raised regarding the impact of the proposed development on surrounding properties.

It is noted that the nearest neighbour on Millbank to the proposal is No. 15, which is situated at a higher land level. The proposed dwelling has again been designed so that the eastern elevation of the dwelling would be sited in a similar position to this neighbour. The additional rear section, at a lower height, would project beyond the rear elevation of No. 15. As set out under the previous application, whilst there are side windows facing the application site, they do not relate to habitable rooms. The representations received under this application have not noted that the internal layout of this neighbour has changed. Furthermore the scale and bulk of the proposed dwelling has been reduced, with the eaves height reducing by approximately one metre. As such, whilst there may be some impact to these windows, given that habitable rooms would not be affected, it is again considered that an objection could not be sustained on these grounds. Due to the position of the dwelling, in line with No. 15, it is considered that the front windows of this property would not be adversely affected. Whilst the proposed dwelling would be longer than No. 15, given that, again, only a single storey element would protrude beyond this neighbour's rear elevation that would be set at a lower ground level, it is not considered that there would be a significant loss of light or outlook in this regard either. In terms of privacy, one window is proposed on the southern elevation and would be associated with the hallway. Given the position of the window and that the site is at a lower land level, it is considered that it would not give rise to any significant overlooking from this transient space. The rear garden would be set further back, due to the reduced height element, and would remain in garden use. It is therefore concluded that there would not be a harmful loss of privacy to No. 15.

To the east of the site is 32 Millbank. The proposed eastern elevation, which is a side elevation, is to be set back some 19.0 metres from the site boundary. This distance is such, particularly within a built up area, that it would not give rise to concerns regarding a significant loss of light, outlook or privacy. It is noted that the parking spaces would be closer to this neighbour, however they would replace a garage that is in separate ownership. Given the similarity of these uses, this arrangement is therefore not considered to result in a loss of amenity to this neighbour.

To the north of the application site are the rear of properties on Leylands Road, which are at a lower land level than the site. The proposed dwelling is to be located to the rear of 101A and 101B Leylands Road. It should be noted that No. 101B benefits from a single storey projection. Whilst it is noted that the submitted plans shows a distance of some 14.0 metres between the northern elevation of the dwelling and No. 101B, this distance does not take into account this neighbour's extension. The distance between the proposed house and the shared boundary is to be some 2.2 metres and 2.7 metres, which is a shorter distance than was presented under the previous scheme (approximately 3.0 metres to 3.5 metres). Whilst this space has decreased and the changing land levels are still present, the height of the building has also been reduced from approximately 7.5 metres to 5.1 metres. The eaves height has also been reduced and the roof pitch is not as steep. Given that the proposed dwelling now presents a single storey building it is considered that, whilst there would be some impact to the light and outlook available to No.s 101A and 101B, on balance, the harm would not be as significant.

Furthermore the dwelling has been re-orientated so that the front door would face onto Millbank and so the space between these properties would not be associated with comings and goings to the new house, rather it would form part of the private amenity space of the dwelling. Whilst windows are proposed in the northern elevation, there is established fencing along the shared boundary. Boundary screening would be expected along shared boundaries to the rear of the properties and would screen direct overlooking from the new house. A condition can also be attached to any consent to secure the landscaping and boundary treatments around the site.

As set out in the previous section, a condition is proposed that would restrict permitted development rights for future extensions due to the constraints of the site. This would also take into account the proximity of neighbouring properties and would ensure that significant harm would not occur to their amenities. Concern was also raised in the representations regarding the property being used for short term letting. Planning permission is sought for a dwelling to be constructed only. The dwelling being used by an owner or renter cannot be controlled through planning conditions, however if the use were to change to a holiday let an application for planning permission would be required.

The Environmental Protection Officer has also commented on the application. With regards to contaminated land it is advised that the proposal involves the demolition of an existing garage. It is

advised that these structures have a low potential for contamination and a condition relating to the discovery of any contamination is considered to be sufficient.

Concern has been raised regarding the air source heat pump (ASHP) and this feature has been considered by the Environmental Protection Officer. Whilst no objection has been raised in principle to the addition of this feature, further information is required to ensure that there would not be an adverse impact in terms of noise. A condition has therefore been recommended to secure this information. In addition, a condition is recommended to secure a Construction Management Plan, which would agree matters such as working hours, noise and dust control, as well as in relation to construction hours. These conditions are also considered to address concerns raised by residents regarding the building works.

It is therefore considered that the changes made to the scale, design and orientation of the proposed dwelling would be sufficient to overcome the harm previously identified to 101A and 101B Laylands Road. Conditions can also be attached that would address concerns raised in the representations, such as noise and disturbance from building works. It is therefore considered that proposal would comply with the requirements of policy DP26 of the Mid Sussex Plan and policy H2 of the Burgess Hill Neighbourhood Plan, in relation to the impact to amenity.

Highway impact and parking provision

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

Policy S4 of the Burgess Hill Neighbourhood Plan establishes its own parking standards for new housing developments.

It is noted that a number of concerns have been raised, including in relation to parking and highways safety. The Highways Authority have also reviewed the proposal and provided comments. With regards to the proposed access onto Millbank, it is advised that no visibility issues have been identified and it is anticipated that the proposal would not give rise to a material intensification in terms of the access point being used.

The proposal seeks to include two parking spaces to the east of the site. This level of parking is advised as being consistent with the West Sussex Car Parking Demand Calculator, which would require at least two car parking spaces. The Burgess Hill Neighbourhood Plan has a parking standard for developments that propose 20 houses or fewer. For two bedroom houses, the allocated provision for a two bedroom house is one designated space and one non-designated space. This standard would be achieved for the proposed development. It further requires a provision of 1.5 non-allocated parking spaces, however it is noted that the scheme only seeks to provide one new dwelling within an existing area of housing. Whilst it is acknowledged that the cul-de-sac has limited off road parking, it is nonetheless available. The Highways Authority have further advised that the proposed parking bays are of an appropriate size and cycle storage can be accommodated within the proposed shed. Cycling is advised as being viable in this location, as local services and amenities are within an appropriate distance. Walking would also be an option and there are regular buses available from Mill Road as well as the train links available from Wivelsfield station.

Given the scheme would provide the full provision of the designed parking spaces and the sustainable travel links available, in this instance it is considered that an objection on parking could not be substantiated.

Conditions have been recommended by the Highways Authority to secure the car and cycle parking. Given the site constraints, it is considered that these conditions would be necessary. Due to the limited access it is also considered reasonable to include a condition that would require construction details to be provided, such as the details of where building materials are to be stored, to ensure the safe and

neighbourly development of the site. It is therefore concluded that the proposal, with the aforementioned conditions, would meet the requirements of policy DP21 of the District Plan and policy S4 of the Burgess Hill Neighbourhood Plan.

Standard of accommodation

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015 and sets out space standards for all new residential dwellings to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan seeks to ensure that Dwelling space standards comply with The Government's Technical Housing Standards - Nationally Described Space Standards document, which sets out space standards for all new residential dwellings to secure a satisfactory standard of accommodation for future residents.

The proposed house would accord with the requirements in terms of overall floor space, bedroom size and storage space. As such the unit would comply with Policy DP27 of the District Plan.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

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

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

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

Atmospheric pollution

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

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across

Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

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

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

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

Sustainability

Policy DP39 of the Mid Sussex District Plan states:

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

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

Paragraph 157 of the NPPF states:

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

Paragraph 162 states:

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

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

A Sustainability Statement has been submitted as part of this application that sets out the following:

- o Sustainable drainage techniques are to be used to disperse surface water (SUDS);*
- o Refuse and recycling bins are to be accommodated in the rear garden;*
- o The proposed landscaping within the garden and open spaces will be used to encourage and improve ecological diversity;*
- o Appliances will be energy efficient with low NOx levels;*
- o Heating and hot water are to be provided with Air Source Heat Pumps;*

- o Water consumption is to be reduced through the use of practical and hygienic water saving measures; and
- o High quality materials are to be used that will be specified, where possible to minimise their travel distance to the site and are from recognised sustainable sources.

It is considered that the proposed development would include sustainability measures to accord with local and national policy and, whilst the information is limited, would not be sufficient grounds to justify the refusal of the application for this reason.

Drainage

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

Comments were received from the Council's Drainage Engineer, during the course of the application, where concern was raised regarding the surface water drainage proposals. It was noted that West Sussex County Council Highways do not allow surface water drainage to discharge into their highway sewer system, therefore there was a lack of confidence that the proposed development would have a viable means of surface water drainage available to it. Confirmation was therefore required from the Highways Authority that they would accept the principle of surface water drainage connecting to their system, which was provided. This has been reviewed by the Drainage Engineer who has confirmed that, subject to a condition confirming the final foul and surface water drainage and means of disposal, there would be no objection to the proposal.

With regards to Southern Water, comments have been received setting out that they can facilitate foul sewerage disposal. The location of tree planting has been raised in their comments, noting that Southern Water has restrictions in this regard. A condition has been recommended to secure details of the landscaping in relation to public apparatus, which has been agreed to.

It is therefore considered that, with the inclusion of these conditions, the proposed development would comply with policy DP41.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Self and Custom Build development is exempt from providing biodiversity net gain, meaning development which:

- i.) consists of no more than 9 dwellings
- ii.) is carried out on a site which has an area no larger than 0.5 hectares, and
- iii.) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in Section 1(A1) of the Self Build and Custom House Building Act 2015).

The application has been submitted as a proposal for self-build and, to accompany the application, the Self-build and Custom Build Statement has been completed. Whilst the concerns of residents in regard to this matter are noted, as a self build dwelling, the application is exempt from the requirement for Biodiversity Net Gain.

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 Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP4, DP6, DP17, DP21, DP26, DP27, DP30, DP39, DP40 and DP41, policy SA38 of the Site Allocations DPD, and policies S4 and H2 of the Burgess Hill Neighbourhood Plan.

As a result, it is considered that the application would not conflict with the development plan when read as a whole. This is not the end point as planning law requires that 'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.'

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, it follows that the relevant policies for the supply of housing from the development plan are out-of-date (footnote 8 of paragraph 11 NPPF). As such, reduced weight should be given to these policies.

In these circumstances paragraph 11 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole (having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination), or specific policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development.

The proposal would have a neutral effect in terms of design/character, highways and parking, neighbouring amenity and drainage. There will be no likely significant effect on the Ashdown Forest SPA and SAC and the impact on the Ashdown Forest.

Whilst the concerns raised by residents are fully acknowledged, in weighing up these issues, when taken together, it is not considered that there are adverse impacts of the development which would significantly or demonstrably outweigh the benefits of the proposal.

There are no other material considerations that would alter the above planning balance.

Decision: Permission

Case Officer: Caroline Grist