

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0209	Case Officer:	Hamish Evans
Application Type:	Full Application		
Proposal:	Proposed 4 dwellings as 2 x pairs of semi detached properties		
Site:	Holly Tree House, Cuckfield Road, Burgess Hill, West Sussex, RH15 8RE, , ,		
Validation Date	17 Feb 2025	Overall Expiry Date:	13 Jun 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	7 Oct 2025
Target Date:	14 Apr 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Steven King	Date:	10 Oct 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0209

**Holly Tree House, Cuckfield Road, Burgess Hill, West Sussex, RH15 8RE, ,
Proposed 4 dwellings as 2 x pairs of semi detached properties
Mr Christopher Jones**

SUMMARY OF REPRESENTATIONS

No third-party letters of representation have been received in respect of this application

SUMMARY OF CONSULTEES

MSDC Ecology

No objection subject to conditions.

MSDC Newt Officer

No objection subject to conditions.

MSDC Tree Officer

No objection subject to conditions.

MSDC Flood Risk and Drainage Team

No objection subject to conditions.

MSDC Street Name and Numbering Team

No objection subject to informatives.

TOWN COUNCIL OBSERVATIONS

Burgess Hill Town Council

Recommend refusal, contravene policy H2 of the Burgess Hill Neighbourhood Plan and policies DP9, DP21, DP39 and DP42 of the Mid Sussex District Plan.

INTRODUCTION

The application seeks planning permission for the erection of four dwellings as two pairs of semi-detached dwellings at Holly Tree House Cuckfield Road Burgess Hill RH15 8RE.

RELEVANT PLANNING HISTORY

None considered relevant.

SITE AND SURROUNDINGS

The application site is located within the built up area boundary of Burgess Hill. It consists of one two-storey dwelling within a significant curtilage. The proposed dwellings would be located to the south of the existing dwelling within the existing curtilage. The existing dwelling is a two-storey dwelling which is characterised by white painted brick work and brown clay hanging tile walls, brown clay roof tiles and

dark uPVC window and door frames. The existing curtilage is a significant amount of grassland. The existing site is surrounded by significant treelines to the east and south and hedgerows some 2.0 metres high to the north and west of the site. The site is accessed from Cuckfield Road which is located to the west of the site. The surrounding area is semi-rural in its nature with sporadic residential development, open fields, a golf course and woodland. It should be noted that an outline planning application for 3,040 dwellings known as the Brookleigh development was permitted under application DM/18/5114. This development permitted the surrounding fields and golf course to be turned into residential dwellings.

APPLICATION DETAILS

The application seeks planning permission for the erection of four dwellings as two pairs of semi-detached dwellings at Holly Tree House Cuckfield Road Burgess Hill RH15 8RE.

The proposed dwellings would measure some 5.2 metres in width, 15.4 metres in depth, an eaves height of 5.0 metres and a total height of 10.1 metres. They would consist of two pairs of semi-detached dwellings which would mirror each other and they would each consist of a porch, two living rooms, utility room, toilet and a kitchen/dining room at ground floor level. At first-floor level it would include two two-person bedrooms and a bathroom. At second floor level it would consist of one two-person bedroom and a bathroom. The second floor would be located within the roof space. The GIA of each dwelling would be some 132.96 sqm. Each dwelling would include four rooflights within the front roof slope and two rooflights to the rear roof slope. Each dwelling also includes a first-floor side facing window. The proposed dwellings would be characterised by bare brick works walls, grey slate roof tiles and black uPVC window and door frames. The proposed dwellings include private amenity space to the rear of the dwellings and the proposed boundary treatment would be closed-board timber fencing measuring some 1.8 metres in height.

The proposal would utilise the existing vehicular access to the west of the site onto Cuckfield Road. There would be some two off-street parking spaces for each dwelling and they would be sited to the front of the dwellings within a proposed area of hardstanding. The proposal also includes a bin store which would be located to the west of the site and measure some 3.2 metres in width, 2.6 metres in depth and a total height of 2.3 metres. It would be characterised by black timber cladding.

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, and*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

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

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

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

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be

resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

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

Whilst the site is located within the Burgess Hill built up area boundary the remit of the Burgess Hill Neighbourhood Plan does not extend to the application site and as such there is no relevant neighbourhood plan.

National policy (which is contained in the National Planning Policy Framework (NPPF) 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

DP37: Trees, Woodland and Hedgerows

DP38: Biodiversity

DP39: Sustainable Design and Construction

DP41: Flood Risk and Drainage

Site Allocations DPD

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

There are no relevant policies.

No relevant neighbourhood plan.

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:

DPS1: Climate Change

DPS2: Sustainable Design and Construction

DPS4: Flood Risk and Sustainable Drainage

DNP3: Green and Blue Infrastructure
DNP6: Pollution
DPN7: Noise Impacts
DNP9: Air Quality
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPT1: Placemaking and Connectivity
DPT3: Active and Sustainable Travel
DPT4: Parking and Electric Vehicle (EV) Charging Infrastructure
DPH1: Housing
DPH3: Sustainable Development - Inside the BUA
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 Design Guide

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 Guidance on Parking at New Developments (September 2020)

ASSESSMENT

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

- o Principle
- o Design and Impact on the character and appearance of the area
- o Highways
- o Impact on Residential Amenity
- o Trees, Woodland and Hedgerows
- o Housing Standards
- o Flood Risk and Drainage
- o Ecology
- o Sustainability
- o Ashdown Forest
- o Biodiversity Net Gain
- o Planning Balance and Conclusion

Principle

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.

Policy DP4 of the Mid Sussex District Plan seeks to provide 14,892 dwellings over the plan period, Burgess Hill is considered to be a category 1 settlement which is considered to be a settlement with a comprehensive range of employment, retail, health, education leisure services and facilities. These settlements will also benefit from good public transport provision and will act as a main service centre for the smaller settlements.

The proposal is within the built-up area boundary of Burgess Hill, the principle of additional windfall housing development is considered acceptable under Policy DP6 of the District Plan which states:

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

In addition, with Burgess Hill being classed as category 1 settlement in the settlement hierarchy listed under MSDP policy DP6, the application site can be considered to be a sustainable location for residential development.

The principle of additional residential development is therefore acceptable owing to the sites sustainable location in accordance with policies DP4 and DP6 of the Mid Sussex District Plan.

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 or 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 deliverable 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 para 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.

Design and impact on the character of the area

Policy DP26 of the Mid Sussex District Plan relates to design and amenity and in part 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 incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;'*

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.'*

Paragraph 71 of the NPPF recognises that the development of dwellings within existing gardens can have a detrimental visual impact, stating that *'plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.'*

The proposed dwellings would be characterised by external materials that are common within the built-up area boundary of Burgess Hill. The proposed external materials are considered to be of a mix of traditional and contemporary materials which reflect the appearance of the surrounding area. Details of the proposed external materials can be secured by a suitably worded condition.

The proposed dwellings are four pairs of semi-detached dwellings which mirror each other in terms of their character and design. The Northern Arc Design Guide (Brookleigh) was approved as part of DM/18/5114 and it states that the area surrounding the application site would be characterised by dwellings that are a mixture of short terraces and semi-detached dwellings, which are nominally set-back from the highway. They would generally be 2/2.5 and 3 storey dwellings. The proposed dwellings are of a character and scale which would reflect the requirements of this design guide. A density plan was also submitted with DM/18/5114 and it states that the area surrounding the application site would be at a density of 35-50 dwellings per hectare. This application site measures some 0.1 hectares and would provide four dwellings which would result in an equivalent density of 40 dwellings per hectare. This density is considered to be reflective of the character of the area that will be built.

Whilst it is noted that the Brookleigh development has not started the construction of dwellings around the application site, the permission has been implemented and there is no reason before the Council that the permission won't be fully implemented as set out within the previously approved planning permission.

The proposed parking area would be located to the front of the proposed dwellings, however given the existing boundary treatment, this area will be softened in its appearance. The details of the proposed landscaping can also be secured by a suitably worded condition.

Taking into account the above, the proposed development is considered to be of an appropriate design, scale, and appearance and as such it would address the character and scale of the surrounding buildings and landscape and it would consist of high quality design. Therefore the proposal would comply with policy DP26 of the Mid Sussex District Plan, principle DG38 of the Mid Sussex Design Guide SPD and paragraph 71 of the NPPF.

Highways

Policy DP21 of the District Plan relates to transport and states, in part that,:

'...Decisions on development proposals will take account of whether:

- The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- The scheme protects the safety of road users and pedestrians; and*
- The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

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

Paragraph 116 of the NPPF states; *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts*

on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios..'

The proposal would use an existing vehicular access to the site onto Cuckfield Road and it would result in the creation of two off-street parking spaces for each dwelling and a total of two visitor parking spaces. As such there would be a total of 10 off-street parking spaces. No details of cycle parking have been provided but it is considered that these can be secured by a suitably worded condition.

The Local Highways Authority (LHA) at West Sussex County Council have provided detailed comments regarding the proposal. They have noted that suitable visibility splays can be achieved and they have advised that the proposed parking spaces do meet the requirements as stipulated within the WSCC Parking Demand Calculator. Therefore, subject to conditions on parking and cycle parking, they have advised that there are no transport grounds to resist the proposal.

Taking into account the comments from WSCC highways, subject to the recommended conditions, it is considered that policy DP21 of the Mid Sussex District Plan, paragraph 116 of the NPPF and the West Sussex County Council Guidance on Parking at New Developments (September 2020) would be met and therefore there are no highway, access or parking grounds to resist the proposal.

The Town Council have recommended refusal of the application due to it not complying with policy DP21 of the Mid Sussex District Plan, however given the above assessment the proposal is considered to comply with policy DP21 of the Mid Sussex District Plan.

Residential Amenity

When considering impact upon neighbouring amenities, policy DP26 of the District Plan states in part that development proposals should *'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 DP29);'*

A similar ethos is found within the Mid Sussex Design Guide SPD.

The proposed dwellings would be some 3.8 metres from the southern boundary of the site, 1.3 metres to the northern boundary, 35.5 metres from the eastern boundary and 29.2 metres from the western boundary. There would be some 1.2 metres between the proposed pair of semi-detached dwellings. Given the nature of the semi-detached dwellings, their location within the built up area boundary and the planned density of the surrounding area, it is considered that a degree of overlooking is acceptable. The resulting level of overlooking between the proposed dwellings, the existing dwelling to the north and the planned dwellings within the surrounding area, would be relatively low level, given the location and orientation of the proposed opening and the distances between the boundaries and the proposed dwellings. The proposed elevations show first-floor side facing windows which would serve bathrooms. A suitably worded condition can be imposed to ensure that these windows are obscure-glazed and non-opening up to 1.7 metres from the floor level of the bathrooms they service.

The proposed dwellings would not extend beyond the rear elevation of each other and whilst they would extend beyond the rear elevation of the existing dwelling to the north, it would only be the single storey element of the proposed dwellings that would do this. As such it is considered that the proposed dwellings would not have an overbearing impact on existing or future residents.

The proposal would result in the loss of private amenity space for Holly Tree House, however the resulting arrangement at Holly Tree House would still consist of a relatively significant private amenity space which is considered to be acceptable.

Taking into account the above, the proposal is not considered to cause significant harm to the amenities of nearby residents and future occupiers and is considered to comply with the above-mentioned policies.

Trees, Woodland and Hedgerows

Policy DP37 of the Mid Sussex District Plan in part states:

'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'

As part of the application four category C trees are to be removed and a section of a hedgerow is to be removed. The submitted documents also state that a Wild Cherry has been categorised as a dangerous U tree and should also be removed. Replacement trees on the site can be secured by a suitably worded condition. A number of tree protection measures have also been proposed, including tree protection fencing and ground protection. The Tree Officer raises no objection to the proposal and requests that the submitted AIA and Tree Protection Plan are secured by a suitably worded condition. The proposal is considered to sufficiently protect the existing trees and replacement trees can be secured, as such the proposal complies with the above part of policy DP37 of the Mid Sussex District Plan.

Dwelling Space Standards

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan supports this.

A 3-bedroom 6-person, 2 storey dwelling is required to provide a minimum gross internal floor area of 102 square metres and 2.5 sqm of built-in storage. The gross internal area of each dwelling would be some 133 sqm. Taking into account, the above the proposed standard of living for future occupiers would be acceptable and the proposal complies with policy DP27 of the Mid Sussex District Plan and the Government's Technical Housing Standards - Nationally Described Space Standards document.

Flood Risk and Drainage

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

Para 170 of the NPPF relates to planning and flood risk and states:

'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

The Council's Drainage Officer has confirmed that the site is at low flood risk, with the surface water drainage to be managed via a shared surface water drainage system, with the foul water utilising a shared package treatment plant which is considered acceptable in principle subject to the detailed design. Therefore they have raised no objections to the proposal, subject to a condition. Southern Water have also raised no objection to the proposal and requested conditions be imposed to secure details of rainwater harvesting and their connection to public sewers. Whilst this is noted there are no public sewers that the proposal would be connected to, as such a condition is not considered to be necessary. The proposal, subject to the recommended conditions is therefore considered to comply with Policy DP41 of the Mid Sussex District Plan.

Ecology

Paragraph 192 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Paragraph 193 states in part that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. This stance is reflected under policy DP38 of the District Plan which states in part that:

'Biodiversity will be protected and enhanced by ensuring development:

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and...'

The site being developed is a residential garden and it is not of any particular habitat or ecological significance and as part of the proposal no significant areas of trees or vegetation would need to be removed to facilitate the development. The Council's Ecologist has raised no objection to the proposal subject to the imposition of conditions to secure the proposed mitigation, enhancement measures and a sensitive lighting scheme.

Taking into account the above the proposal is considered to comply with the policy DP38 of the Mid Sussex District Plan and the relevant paragraphs of the NPPF.

It should be noted that biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This requirement is assessed in a subsequent section of the report.

Sustainability

Policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate measures including minimising energy use through the design and layout of the scheme; maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation; and also to limit water use to 110 litres/person/day.

At national level Paragraph 161 of the NPPF states:

'The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks 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.'

While Paragraph 166 states:

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

The application has been supported by a sustainability statement which has set out that the proposal would include the following measures:

- Low UValues and good air tightness.
- Air Source Heat Pumps for Heating,
- Rainwater harvesting,
- Solar PV panels,
- Heat recovery systems, and
- One electric car charging point per plot.

These details can be secured by condition, consequently, the proposal is deemed to comply with Policy DP39 of the District Plan and the relevant provisions of the NPPF.

The Town Council have recommended refusal of the application due to it not complying with policy DP39 of the Mid Sussex District Plan, however given the above assessment the proposal is considered to comply with policy DP39 of the Mid Sussex District Plan.

Impact on Ashdown Forest

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

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

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

Recreational disturbance

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

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

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

Atmospheric pollution

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

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

Conclusion of the Habitats Regulations Assessment screening report

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

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

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

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application is deemed to have been granted subject to the biodiversity net gain condition for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.

The biodiversity net gain condition is set out in the Town and Country Planning Act 1990, Schedule 7A, Part 2, 13 (2). It states:

'The condition is that the development may not be begun unless—

- (a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and
- (b) the planning authority has approved the plan (see paragraph 15)'.

Other Matters

The Town Council have recommended refusal of the application due to it not complying with policies DP9 and DP42 of the Mid Sussex District Plan and policy H2 of the Burgess Hill Neighbourhood Plan. Policy DP9 relates to the strategic allocation to the north and north-west of Burgess Hill, which the application site is adjacent to, however it is not located within this allocation. As such the proposal is not considered to contravene policy DP9 of the Mid Sussex District Plan. The site is not located within the remit of the Burgess Hill Neighbourhood Plan and as such policy H2 is not considered to be relevant.

Policy DP42 of the Mid Sussex District Plan relates to Water Infrastructure and the Water Environment and it requires development that increases the demand for off-site infrastructure should demonstrate that there is adequate water supply to serve the development. The applicant has provided correspondence with South East Water which confirms that there are two large water mains within close proximity of the site. South East Water have not objected to the application. As such it is considered that the proposal would comply with policy DP42 of the Mid Sussex District Plan.

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 and the Site Allocations Development Plan Document.

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, DP37, DP38, DP39 and DP41

As a result, it is considered that the application complies 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.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, the proposal would result in the provision of 4 new dwellings which will make a minor but positive contribution to the district's housing supply and requirement. The proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community. Because, however, of the small scale of the development proposed these benefits would be limited.

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

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.

Overall, the planning balance is considered to fall significantly in favour of granting planning permission.

Decision: Permission

Case Officer: Hamish Evans