

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2637	Case Officer:	Caroline Grist
Application Type:	Full Application		
Proposal:	Proposed two storey building to be constructed to house three ancillary commercial units.		
Site:	Land To Rear Of, 94, 94a, 96 And 98 London Road, East Grinstead, West Sussex, RH19 1EP, , ,		
Validation Date	10 Mar 2025	Overall Expiry Date:	21 May 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	27 Jun 2025
Target Date:	5 May 2025	Recommending Officer Signature:	<i>Caroline Grist</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	27 Jun 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2637

**Land To Rear Of, 94, 94a, 96 And 98 London Road, East Grinstead, West Sussex, RH19 1EP, ,
Proposed two storey building to be constructed to house three ancillary commercial units.
Mr Erkan Aksun**

SUMMARY OF REPRESENTATIONS

One representation was received, in response to the original consultation, raising objection to the proposal. In summary the following issues have been raised:

- o The application incorrectly states that the site is at low risk from surface water as water from the property floods 16 Dallaway Gardens;
- o The application incorrectly states that the development cannot be seen from a public road, public footpath, bridleway or other public land, when there are views between 16 and 17 Dallaway Gardens;
- o The application site sits on a slope above 16 Dallaway Gardens, so it will appear taller than 2 storey building.
- o Proposed building is to be positioned close the shared boundary with 16 Dallaway Gardens, increasing the impact;
- o Would be an overbearing impact to 16 Dallaway Gardens;
- o The current tree cover would not be sufficient to block views;
- o Proposed building would be visible and, to varying degrees overbearing to 14, 15, 16, 17, 18, 19 and 20 Dallaway Gardens;
- o External staircase would cause overlooking towards 16 Dallaway Gardens;
- o Proposed building would result in overshadowing to 94a London Road;
- o Any additional movement/increase in pedestrian traffic on the proposed property brings an increased chance of people looking into 16 Dallaway Gardens;
- o Concern regarding the positioning of any future CCTV cameras;
- o The rear windows on the proposed building will likely appear to be over the boundary fence, affecting privacy;
- o No reference has been made to air conditioning, which would have a noise impact;
- o BNG would be required;
- o Concerns regarding lighting;
- o Concerns relating to the storage of waste;
- o Impact relating to bats; and
- o No reference to disability access.

Following the submission of further information, a re-consultation was undertaken and a further letter of objection was received. In summary the following issues have been raised:

- o Proposed building would still sit higher in views from 16 Dallaway Gardens and its position would result in an overbearing impact;
- o Proposal would provide greater opportunity for overlooking to occur;
- o The external stairs would create a raised platform that anybody, such as the residential nature of neighbouring buildings, could use;
- o Moving the fence and increasing the elevation would give a clearer line of sight into the property;
- o A taller fence would mitigate some of the issues but 16 Dallaway Gardens is not in a position to replace the current fence;
- o The existing fence was erected by 16 Dallaway Gardens in 2018 when there was no fence and it was determined that the boundary line would be obstructed by the trees, so the fence was constructed to the south of the trees;
- o None of the trees on site are to be retained;
- o The trees shown are to be placed relative to the fence and not the boundary;
- o Concerns relating to noise arising from air conditioning; and

- o Concerns regarding flood risk.

It should be noted that only material planning considerations can be taken into account and as such concerns, such as a loss of view, cannot be considered. The concerns that can be taken into account will be addressed in the assessment below.

SUMMARY OF CONSULTEES

Southern Water

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

Our investigations indicate that Southern Water can facilitate foul sewerage /surface water run off 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.

To make an application visit Southern Water's Get Connected service.

Informative recommended for details of the proposed means of foul sewerage and surface water disposal to be agreed.

Newt Officer

Thank you for consulting me on the above planning application. The proposed development is not considered to be relevant to the District Licensing Scheme in this case and we consider there would be no likely impact on great crested newts or their habitats. I therefore have no comments to make at this time. If the proposal changes, then please seek further advice from me if necessary.

Ecologist

We have reviewed the documents supplied by the applicant, including the Biodiversity Net Gain Assessment (AEWC Ltd, February 2025), the Statutory Biodiversity Metric - Calculation Tool and Condition Assessment (Excel Spreadsheets) and the pre-development baseline habitat map, relating to mandatory biodiversity net gains.

We are satisfied that there is sufficient ecological information available to support determination of this application.

This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

Whilst no ecological information relating to designated sites, protected and Priority species / habitats has been submitted for this application, we have conducted a desk study to determine the likely impacts of the development. This included a review of Magic Map, local records and aerial imagery. This confirmed that no designated sites are likely to be impacted by the proposals and as the vegetated garden has been cleared it is not considered likely that any impacts upon protected and Priority species will occur from the proposed development. However, if the LPA is minded to approve this application, we would recommend that an informative could be included with the decision notice, setting out best practice measures for mobile species.

With regard to mandatory biodiversity net gains, it is highlighted that we support the submitted Information. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 and we are satisfied that submitted information provides sufficient information at application stage. As a result, a Biodiversity Gain Plan should be submitted prior to commencement, which also includes the following:

- a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
- b) Pre and post development habitat plans.
- c) Legal agreement(s)
- d) Biodiversity Gain Site Register reference numbers (if using off-site units).
- e) Proof of purchase (if buying statutory biodiversity credits at a last resort).

In addition, a Habitat Management and Monitoring Plan (HMMP) should be secured for all significant on-site enhancements. However, as this is a minor application, with no medium - very high distinctiveness habitats proposed, we are satisfied that significant on-site enhancements are not present for this application.

We note that post-intervention values have also been provided. As a result, it is recommended that the following matters will also need to be addressed as part of the biodiversity gain condition:

- o The calculations within the Biodiversity Net Gain Assessment (AEWC Ltd, February 2025) show a net loss. Therefore, off-site habitat units will be required from an off-site provider. Alternatively, the Governments Statutory Biodiversity Credits could be used as a last resort.

We also recommend that reasonable biodiversity enhancements for protected, Priority and threatened species should be provided, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent. This could include integrated bird or bat boxes.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.

Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Highways Authority

This application seeks the erection of a two-storey building providing three ancillary commercial units. The site is located on London Road, a C-classified road subject to a speed restriction of 20 mph in this location.

No vehicular access is associated with this site. Pedestrian access to the application site will be via an existing side passage from London Road, or via the existing commercial units on London Road, as per the existing arrangement.

Considering the proposed units are relatively small in scale and will be used ancillary to existing commercial uses, the LHA does not anticipate that the proposals would give rise to a material intensification of movements to or from the site.

No vehicular parking is proposed, and therefore vehicles would have to be accommodated on-street or within nearby paid-for provision, as per the existing arrangement. The proposals would not be anticipated to significantly increase parking demand for the existing commercial uses.

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 115), and that there are no transport grounds to resist the proposal.

Environmental Protection Officer

The proximity of the site to residential premises has potential to affect residential amenity by way of noise disturbance from construction, and from use if outside office hours. I therefore recommend conditions to protect residents accordingly:

Conditions relating to construction hours and hours of use are recommended.

Tree Officer

I have reviewed the Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan for this proposal and have no objection.

I am disappointed that exotic species are favoured over native species and would prefer to see something native replanted instead.

Please do condition adherence to these documents.

Street Naming and Numbering Officer

Informative recommended.

TOWN COUNCIL OBSERVATIONS

First response

Committee commented that this would be a good use of space in an area which could not easily be used, however concerns around vehicle access were raised as there was none, both during the build and afterwards for ongoing use.

As this was not a material planning consideration this did not influence EGTC recommendations but the impact on traffic should be considered, especially the permitted construction times bearing in mind the heavy traffic flow on London Road.

The committee would also prefer to see a condition applied that allowed commercial use only of these new buildings.

The committee recommended approval of this application subject to the above conditions.

Second response

No comment.

INTRODUCTION

Planning permission is sought to construct a two storey building to be constructed to house three ancillary commercial units.

RELEVANT PLANNING HISTORY

GR/241/84 - Installation of new shop front. Permission.

GR/171/99 - Demolition of lean-to structure to be replaced with a larger lean-to. Permission.

SITE AND SURROUNDINGS

The application relates to an area of land to the rear of 94, 94a, 96 and 98 London Road. These properties form a two storey, semi-detached pair, with accommodation within the roof. Commercial units are at the ground floor, currently a newsagents and vape shop, and residential above. The area of land to be developed has a size of 140 square metres and is of an irregular shape. There is a patio area

immediately joining the buildings and the remaining space has been cleared. Access is gained from the north eastern corner of the site and is pedestrian only. Along the southern boundary there is a row of trees.

The site is located within the built up area of East Grinstead and within the Town Centre. London Road is to the north of the site, continuing to the east and west, and forms part of the Primary Shopping Frontage. To the south are residential properties on Dallaway Gardens.

APPLICATION DETAILS

Planning permission is sought for a two storey building that is to house three ancillary commercial units to be used in association with the properties on London Road. The ground floor is to have an irregular footprint, with a width of some 7.1 metres wide. A staggered depth is proposed that would have a minimum projection of 4.5 metres and maximum of 7.8 metres. The first floor is to have the same width, a depth of some 4.5 metres and would be accessed by an external stair on the eastern elevation.

A pitched roof design is proposed for the two storey section, measuring approximately 3.7 metres to the eaves and 5.5 metres to the ridge. Over the ground floor it is to have a flat roof, which would have an overall height of some 2.8 metres.

The walls are to be finished in render; sheeted metal is proposed for the roof and the windows are to be charcoal grey.

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) 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, Site Allocations Development Plan Document (DPD) and East Grinstead 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:

DP1 - Sustainable Economic Development
DP2 - Town Centre Development
DP21 - Transport
DP26 - Character and Design
DP37 - Trees, Woodland and Hedgerows 90
DP38 - Biodiversity
DP41 - Flood Risk and Drainage

Site Allocations Development Plan Document

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

There are no relevant policies.

East Grinstead Neighbourhood Plan

The East Grinstead Neighbourhood Plan was formally made on 2nd November 2016.

Relevant policies:

EG3 - Promoting Good Design

Other Material Considerations

Mid Sussex District Plan 2021-2039 Consultation Draft

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
DPN4 - Trees, Woodland and Hedgerows
DPB1 - Character and Design
DPT1 - Placemaking and Connectivity
DPE1 - Sustainable Economic Development
DPE4 - Town and Village Centre Development

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 objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

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.

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 character of the area
- o Impact to neighbouring amenity
- o Highways
- o Flood risk and Drainage
- o Ecology and Biodiversity Net Gain

Principle of Development

Policy DP1 of the Mid Sussex District Plan relates to sustainable economic development:

'The total number of additional jobs required within the district over the plan period is estimated to be an average of 543 jobs per year. This will be achieved by:

- o Encouraging high quality development of land and premises to meet the needs of 21st century businesses;*
- o Supporting existing businesses, and allowing them room to expand;*
- o Encouraging inward investment, especially the location, promotion and expansion of clusters or networks of knowledge, creative or high technology industries; and*

- o *Seeking the provision of appropriate infrastructure to support business growth - in particular high speed broadband connections'.*

Additionally the site is situated to the rear of London Road, which is within the East Grinstead Town Centre. Policy DP2 of the Mid Sussex District Plan relates, in part, to development within Town Centres and states:

'These are defined as the town centres of Burgess Hill, East Grinstead and Haywards Heath which meet the needs of their communities and those of the surrounding large and small villages and countryside areas.

To support the regeneration and renewal and environmental enhancement of the town centres as defined on the Policies Map - development, including mixed use and tourism related development, will be permitted providing it:

- o *is appropriate in scale and function to its location including the character and amenities of the surrounding area;*
- o *has regard to the relevant Town Centre Masterplans and is in accordance with the relevant Neighbourhood Plan'.*

The information submitted as part of this application states that:

'The commercial units have indicated a need for additional ancillary space in order to continue maintaining the levels of their business, be it for storage or for office use'.

It is therefore considered that the proposed development would allow for investment into the commercial area and support the existing businesses along London Road. Subject to the proposal being appropriate in scale and function to its location, which will be explored further in this report, it is considered that the principle of the development would accord with the requirements of policies DP1 and DP2 of the Mid Sussex District Plan.

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 EG3 of the East Grinstead Neighbourhood Plan, relates to design and states:

'Planning permission will normally be granted where development proposals meet the following criteria:

- a) The form of the proposed development is proportionate and in keeping with the scale, height, materials and site coverage of the surrounding area;*
- b) The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity;*
- c) The proposal does not result in the loss of buildings or spaces that would have an unacceptable impact on the character of the area;*
- d) The proposal ensures satisfactory means of access for vehicles and pedestrians and provides adequate parking, cycle storage and refuse facilities on site;*
- e) The design of new buildings and the layout of spaces, including footways, car and cycle parking areas, should be permeable and provide connectivity with neighbouring areas;*
- f) New development must be inclusive and where appropriate make satisfactory provision for the safe and easy access for those with mobility impairment; and*
- g) The design of new developments must result in the creation of a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour; and*
- h) Proposals make provision for green infrastructure and biodiversity enhancement.*

Due to infrastructure constraints within the town, all new development proposals, which generate a net increase in traffic (excluding householder applications), will be required to contribute towards improving the walking and cycle network related to the development and be of a recognised acceptable standard'.

In terms of the Mid Sussex Design Guide SPD, Principle DG38 relates to designing buildings with architectural integrity and a sense of place:

'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'.*

Planning permission is sought for a two storey building that would include a single storey element. It is to be used ancillary to the commercial premises opposite.

The proposed building would create two units on the ground floor, that would each be some 17 metres square, whilst the first floor unit would be 25 metres square. It is therefore considered that the scale of the building would be appropriate to the proposed use and would not appear overly dominant in relation to the buildings on London Road. A simple design approach has been used, which reflects its purpose, and is considered to be appropriate in this context.

Whilst the building would be screened from views on London Road, it would be visible from Dallaway Gardens. These views would occur between buildings at the eastern end of the road and currently

comprise the rear elevations of London Road, which are varied and include a range of extensions. Whilst there may be some direct views to the proposed buildings, most would be of oblique angles and glimpsed views. Furthermore, given the acceptability of the scale and design of the building particularly in this varied context, as set out above, it is considered that the proposal would not have a significantly harmful impact to the character of the streetscene.

Impact to neighbouring amenity

Policy EG3 of the East Grinstead Neighbourhood Plan states that proposals should "not harm" adjoining neighbours' amenity whereas policy DP26 of the Mid Sussex District Plan states that development 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. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect. 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. As such, policy DP26 is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

Concern has been raised regarding the proposed development on neighbouring properties. Due to the position of the proposal, it is considered that the development would have the greatest impact to 16 Dallaway Gardens. This is because this neighbour directly backs onto the application site. Neighbours further east and west along Dallaway Gardens would have more oblique views of the proposal, due to the arrangement of these houses, which would reduce the impact of the development.

It is noted that the application site is on higher land than 16 Dallaway Gardens, which would increase the potential impact, and they have their garden space adjoining the site boundary. The proposed building is to be situated some 1.6 metres from the shared boundary and would be single storey only at this point. It is acknowledged that there is an existing boundary fence and trees along the boundary. Whilst the trees are to be removed as part of the development, which currently provide a level of additional screening, new planting is intended and a condition can be imposed to ensure that this is undertaken. The two storey element would be, in the south western corner, approximately 1.6 metres from the boundary but this would increase to a set back of some 3.7 metres, at the south eastern corner. Furthermore the first floor accommodation is to be accommodated within the roofspace, which would slope away from No. 16. Given the position of the proposed building, to the north of the site, that it would be set away from the shared boundary and the staggered heights, it is considered that there would not be a significant impact to the light available to this neighbour. Whilst there would be some impact to their outlook, given the aforementioned arrangement, this harm would not be significant enough to warrant the refusal of this application.

With regards to the impact to the privacy of No. 16, it is noted that two windows are proposed on the southern elevation. These are labelled as obscure glazed and any views would be further screened by the boundary fence. A condition can be imposed to ensure that the windows are obscure glazed. It is acknowledged that the proposal could change the activity that occurs in this space, however the building is to be used as ancillary space for the commercial units only. It is therefore considered that this would be similar to how this space could be currently used. Furthermore, whilst concern has been raised regarding the external staircase, given its purpose and the size of the landing, it is considered that it would be an area that users would be unlikely to linger. Planning conditions can be imposed to restrict the use of the building, to ensure that it remains an ancillary space and to prevent air conditioning to be installed without the need for planning permission, which could impact upon amenity. With regards to CCTV, small cameras can be installed without needing planning permission that are positioned less than 2.5 metres above ground level. This does not, however, prevent the applicant from ensuring that the cameras comply with any other relevant legislation.

With regards to the impact to the dwellings opposite on London Road, it is noted that the residential properties are within the first and second floors of these buildings. The proposed building is to be sited some 4.0 metres away from these windows and the roof would slope away from these properties. As such, whilst there may be some impact to the light and outlook available to these neighbours, the harm

would not be considered significant. No windows are positioned that would result in any direct overlooking and, as noted above, the change of use or addition of the external staircase would not be considered to cause significant harm to their amenity either.

Comments have also been received from the Environmental Protection Officer, who has advised that the proximity of the site to residential premises has the potential to affect residential amenity by way of noise disturbance from construction, and from use if outside office hours. Conditions have been recommended relating to the hours of use and construction times, which are considered to be necessary and reasonable to protect residential amenity.

It is therefore considered that, on balance, the proposal would not cause significant harm to the amenity of surrounding residential properties subject to the inclusion of relevant planning conditions.

Highways

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.

The Highways Authority have been consulted as part of this application and have commented on the proposal. It has been noted that no change is proposed to the existing access arrangement. This is pedestrian only, either from the north eastern access or through the properties on London Road. Given the size of the units and the proposed ancillary use, it has been advised that there would not be a material intensification of movements to or from the site. Whilst no parking is proposed as part of the development, the proposal would not be anticipated to significantly increase the parking demand for the existing commercial units.

No objection has therefore been raised by the Highways Authority and, as such, it is considered that the proposal would accord with the requirements of Policy DP21 of the Mid Sussex District Plan.

Trees

Policy DP37 of the Mid Sussex District Plan relates to trees within the District. It 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.'

Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.

Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose.

Trees, woodland and hedgerows will be protected and enhanced by ensuring development:

- o incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme; and*
- o prevents damage to root systems and takes account of expected future growth; and*
- o where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management; and*
- o has appropriate protection measures throughout the development process; and*
- o takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change; and*

- o *does not sever ecological corridors created by these assets'.*

There are trees located along the southern boundary of the application site. During the course of the application a Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan has been provided. It sets out that these trees comprise seven holly, one cherry tree and a western red cedar. The cherry tree is listed as Category U, as it has died, and the remaining are Category C. It is further advised that the holly trees are also to be removed to facilitate the development, but protection measures are proposed for the cedar. Seven laurel trees are to be planted along the boundary to replace the trees that are to be removed.

The trees are not protected by a Tree Preservation Order or by virtue of being within a Conservation Area.

The information provided has been reviewed by the Tree Officer, who has raised no objection to the proposal. Whilst it is noted that the planting of non-native trees is regrettable, within the built up area, it is considered that the application could not be refused on these grounds.

It is therefore considered that the development would be acceptable in relation to tree matters and would comply with the requirements of policy DP37 of the Mid Sussex District Plan.

Flood Risk and Drainage

Policy DP41 of the District Plan relates to flood risk and drainage seeks to ensure development is safe across its lifetime and not increase the risk of flooding elsewhere.

The application site lies within Flood Zone 1 and is not at risk from surface water drainage. Given the low risk of the site, the proposal is not considered to have an adverse impact in terms of flood risk and drainage.

Southern Water have also commented on the proposal and has not raised an objection to the proposal.

It is therefore concluded that the proposal would accord with policy DP41 of the Mid Sussex District Plan.

Ecology and Biodiversity Net Gain

Policy DP40 of the Mid Sussex District Plan relates to biodiversity and states:

'Biodiversity will be protected and enhanced by ensuring development:

- o *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*
- o *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*
- o *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- o *Promotes the restoration, management and expansion of priority habitats in the District; and*
- o *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.

Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution'.

Further information has been submitted during the course of the application and has been considered by the Ecologist. It has been advised that no designed sites are likely to be impacted by the proposals and, as the garden has been cleared, it is not considered likely that the proposal would impact upon protected and priority species. The Newt Officer has also responded setting out that there would likely not be an impact on Great Crested Newts.

A condition has been recommended by the Ecologist to secure a Biodiversity Enhancement Strategy. The application site is within the built up area of East Grinstead and the Town Centre. Furthermore, as the development is not considered to impact upon designated sites or protected and priority species, it is not considered reasonable in this instance to impose such a condition.

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)'.

During the course of the application further information in relation to Biodiversity Net Gain has been supplied. This has included confirmation that the proposal would result in a net loss of biodiversity and the 10% increase is to be secured off-site or through the use of statutory biodiversity credits. No objection has been raised to this, and the statutory condition will be imposed as part of any consent.

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.

Planning permission is sought for a two storey building that would house three ancillary commercial units. Whilst the concerns raised are acknowledged, it is considered that the proposed building would be acceptable in terms of the principle, design, highways and with regards to flood risk and drainage. Additionally there would not be significant harm in relation to amenity, trees and ecology, particularly with the inclusion of the aforementioned conditions.

The proposal would comply with policies DP1, DP2, DP21, DP26, DP37, DP38 and DP41 of the Mid Sussex District Plan and policy EG3 of the East Grinstead Neighbourhood Plan. It is therefore considered acceptable.

Decision: Permission

Case Officer: Caroline Grist