

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1218	Case Officer:	Hamish Evans
Application Type:	Full Application		
Proposal:	Proposed erection of one pair of semi detached houses, with associated parking and new shared vehicular access.		
Site:	Land Adj. To , 19 Estcots Drive, East Grinstead, West Sussex, , , ,		
Validation Date	17 Jun 2025	Overall Expiry Date:	1 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	10 Sep 2025
Target Date:	12 Aug 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	17
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Signed and Agreed By:	Stephen Ashdown	Date:	12 Sep 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1218

**Land Adj. To , 19 Estcots Drive, East Grinstead, West Sussex, , ,
Proposed erection of one pair of semi detached houses, with associated parking and new shared vehicular access.**

Mr E Harradine

SUMMARY OF REPRESENTATIONS

16 third party representation letters have been received in respect of this application.

One letter writes in support of this application and states that the proposal would be sympathetic and will add to the aesthetics of the road. It will also not detract from the listed building or surrounding area.

15 letters have been received which object to the proposal and the issues raised are summarised below:

- Loss of amenity to the general public,
- Loss of views from properties,
- Non-compliance with policy DP35,
- Impact on Conservation Area and Listed Building,
- Increased noise and disturbance during construction,
- Impact on privacy and available light to neighbouring properties,
- Inadequate parking,
- Semi-detached properties not in-keeping,
- Impact on Meridian Line marker,
- Previous application refused,
- Impact on existing historic wall,
- Not proportionate and in-keeping with surrounding area,
- Overdevelopment of the site,
- Impact on highways safety,
- Impact on drainage and flood risk,
- Overbearing impact, and
- Development is for financial gain.

SUMMARY OF CONSULTEES

MSDC Street Name and Numbering - Recommend informative.

MSDC Floor Risk and Drainage Officer - No objection subject to conditions.

Southern Water - Recommend contacting South East Water and recommend informative.

MSDC Newt Officer - No objection subject to condition.

WSCC Highways - No unacceptable impact on highway safety or severe cumulative impact.
Recommends conditions.

MSDC Conservation Officer - Result in less than substantial harm to the designated heritage assets, on the lower range of that scale. The proposal would also be contrary to the requirements of DP34 and DP35 of the Mid Sussex District Plan.

TOWN COUNCIL OBSERVATIONS

East Grinstead Town Council

Recommend approval.

INTRODUCTION

The application seeks planning permission for the erection of two semi-detached dwellings at land adjacent to 19 Estcots Drive, East Grinstead.

RELEVANT PLANNING HISTORY

GR/038/90. Erection of house and garage and formation of new access and turning area. Refused.

03/02468/FUL. Construction of new two storey dwelling with associated access and parking (Amended plans received 8th January 2004 showing width of proposed dwelling reduced by 1.5 metres and other minor alterations to site). Refused.

SITE AND SURROUNDINGS

The site is located within the East Grinstead built up area boundary, within the 7km buffer zone of the Ashdown Forest SPA, it is considered to be within the setting of the Estcots Conservation Area which is located to the north of the site, within the setting of Estcots Farmhouse a grade II listed building to the north of the site, and the historic farmstead of Estcots located to the north of the site.

The application site consists of the residential garden of 19 Estcots Drive to the east of the site. Whilst now used in association with 19 Estcots Drive it was previously part of the gardens of Estcots Farmhouse, a Grade II listed building to the north of the site. It includes ornamental features and a mixture of hard and soft landscaping. There is an existing brick boundary wall some 2.0 metres in height to the north and west, no boundary treatment to the east and a closed board 1.8 metres high boundary fence to the south of the site.

There is no existing vehicular access directly to the site.

The surrounding area is residential in its nature with the surrounding dwellings characterised by a variety of external materials. The dwellings within the surrounding area are predominantly detached large properties which are sited on spacious plots. Residential properties are located to the north, east and west of the site with Estcots Drive located to the south of the site.

APPLICATION DETAILS

The application seeks planning permission for the erection of two semi-detached dwellings at land adjacent to 19 Estcots Drive, East Grinstead.

The proposed dwellings would be two semi-detached properties that would each measure some 14.5 metres in depth, 9.5 metres in width, 4.2 metres in eaves height and a total height of 8.0 metres. The dwellings would be mirror images of each other and consist of a lounge, utility room, WC, kitchen, dining room and family room at ground floor level. At first floor level they would provide four bedrooms, one with an en-suite and one bathroom. The total GIA of each dwelling is some 175sqm and their external private amenity space would be located to the north of the proposed dwellings.

A new access would be created to the south of the site onto Estcots Drive and there would be two off-street parking spaces provided for each dwelling, and these would be sited to the front of each dwelling within a shared parking area. The proposed boundary treatment consists of a retaining wall to the north and west of the site. The plans show a cycle storage shed within each plot, a bin area and one EV charging enabled parking space.

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, Site Allocations Development Plan Document (DPD) and the East Grinstead 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
DP34: Listed Buildings and Other Heritage Assets
DP35: Conservation Areas
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.

No relevant policies.

East Grinstead Neighbourhood Plan

The East Grinstead Neighbourhood Plan was made in November 2016.

Relevant policies:

EG3: Promoting Good Design
EG4: Heritage Assets
EG5: Housing Proposals
EG12: Car Parking
EG16: Ashdown Forest Protection

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

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
DPB3: Conservation Areas
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.

Chapter 11 of the NPPF deals with making effective use of land and paragraph 125 c) sets out that decisions should;

'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals should be approved unless substantial harm would be caused...'

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

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 Impact on Heritage Assets
- o Design and Impact on the character and appearance of the area
- o Highways
- o Impact on Residential Amenity
- o Housing Standards

- o Flood Risk and Drainage
- 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.

DP4 of the Mid Sussex District Plan seeks to provide 14,892 dwellings over the plan period, East Grinstead 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 boundaries of East Grinstead, 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 East Grinstead 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 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 delivery housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that delivery of housing has been substantially below (less than 75%) of the housing requirement for the last three years, then relevant policies for the supply of housing should be considered out-of-date.

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

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

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

Policies DP4 (Housing) and DP6 (Settlement Hierarchy) are relevant to this application. As is policy EG5 (Housing) of the East Grinstead Neighbourhood Plan. These policies are considered to be policies relating to the supply of housing and as such can be considered to be out-of-date, having regard to the NPPF tests. As such, these policies can be given limited weight in the determination of the application.

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

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

Impact on Heritage Assets

The LPA is under a duty by virtue of s.66 of the Listed Building and Conservation Area (LBCA) Act 1990 (Decision on application): to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Recent case law has stated that 'As the Court of Appeal has made absolutely clear in its recent decision in Barnwell, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.'

The Courts further stated on this point *'This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.'*

Policy DP34 of the Mid Sussex District Plan states:

'Listed Buildings

Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:

- o A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- o Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of a listed building retain its significance and character whilst ensuring that the building remains in a viable use;*
- o Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- o Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- o Special regard is given to protecting the setting of a listed building;*
- o Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric.*

Other Heritage Assets

Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.

The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic.

Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.'

Estcots Farmhouse is a Grade II listed building located to the north of the site. Estcots farmstead to the north of the site is considered to be a historic farmstead.

The site is located to the south of the Estcots Conservation Area which the site is considered to be within the setting of. Policy DP35 of the District Plan states:

'Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:

- o New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials;*
- o Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character;*

o Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not result in the loss of a traditional shopfront and the new design is sympathetic to the character of the existing building and street scene in which it is located;
o Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area;
o Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;
o New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.

Development will also protect the setting of the conservation area and in particular views into and out of the area.

New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area.'

A similar ethos is contained within policy EG4 of the East Grinstead Neighbourhood Plan.

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraphs 212 - 215 of the NPPF states:

'212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The Council's Conservation Officer has commented on the application and has identified less than substantial harm to the designated heritage assets of the setting of Estcots Farmhouse, the setting of the Estcots farmstead and the Estcots Conservation Area. This is due to the proposal having a fundamental impact on the verdant and relatively open character of the site, it will remove and reverse the positive contribution the site makes to the setting of the adjacent heritage assets, the surviving 1920s garden

features will be lost and views from the farmstead from Estcots Drive will be lost. This identified level of less than substantial harm is placed at the lower range of that scale.

A number of representations letters have also objected to the proposal due to its impact on the Conservation Area and existing listed buildings. One representation letter has been received which supports the application and states that the proposal would not detract from the listed buildings. However, given the above assessment this is not considered to be the case.

Taking into account the above the proposal would not protect the setting of the Grade II listed building Estcots Farmhouse, the historic Estcots farmstead or the Estcots Conservation Area and as such is considered to be contrary to policies DP34 and DP35 of the Mid Sussex Plan and policy EG4 of the East Grinstead Neighbourhood Plan.

This is the balancing exercise that must be undertaken by the decision maker, ensuring that considerable importance and weight is given to the less than substantial harm to the heritage asset that has been identified. It should be noted that National Planning Practice Guidance states that public benefit 'should not just be a private benefit'.

In terms of the public benefits of the proposal the proposed development would result in the creation of construction jobs during the build period. The additional, albeit limited, population could help generate more local spending in the local community, provision of infrastructure and services as well as additional Council Tax receipts. The proposal would also provide 10% BNG. These are all material considerations that weigh in favour of the development. The provision of two new dwellings will make a limited, but positive contribution to the district's housing supply and would help meet the identified need for housing.

Whilst the public benefits set out above are noted they are considered to be limited due to the small-scale nature of the proposal. The identified harm is considered to be on the low level of the less than substantial harm range however considerable weight should be afforded to this level of harm. Due to the considerable weight given to the identified harm and the limited public benefits of the proposal it is concluded that the harm that has been identified outweighs the public benefits of the scheme.

Design and impact on the character of the area

Policy DP26 of the Mid Sussex District Plan relates to design and amenity and 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 DP29);*
- 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.'*

A similar ethos is contained within policy EG3 of the East Grinstead Neighbourhood Plan.

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.'*

Estcots Drive is primarily comprised of detached residential dwellings which are placed on relatively spacious plots. Some existing dwellings have a more traditional design and appearance, while it is also noted that there are also a number of more modern additions within the street scene. This has resulted in a mixture of designs and materials visible within the street scene. The proposed external materials are of a traditional appearance which reflect the character of the surrounding area. Details of the proposed external materials can be secured by a suitably worded condition.

The proposal would result in two relatively large dwellings on the site and due to the scale of the proposed dwellings in relation to the existing site they would appear overly cramped and represent an overdevelopment of the site. Particularly in comparison to the more spacious plots and detached dwellings adjacent to the site at 18 and 19 Estcots Drive which accommodate one dwelling each. This arrangement would result in a discordant arrangement on the site when viewed in the context of 18 and 19 Estcots Drive.

Taking into account the above assessment, due to the scale of the proposal in relation to the size of the existing site the proposal would not address the character and scale of the surrounding buildings and area, and it would represent an overdevelopment of the site. As such the proposal would not comply with policy DP26 of the Mid Sussex District Plan, policy EG3 of the East Grinstead Neighbourhood Plan and principle DG38 of the Mid Sussex Design Guide SPD.

A number of representation letters have been received which object to the proposal due to it not being in-keeping with the surrounding area and over-development of the site. One representation letter supports the application due to it being sympathetic to the streetscene, however given the above assessment this is not considered to be the case.

Highways Matters

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.'

A similar ethos is contained within policy EG12 of the East Grinstead Neighbourhood Plan.

Paragraph 115 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 would be severe.'*

The proposal would result in a new vehicular access on to Estcots Drive and the creation of four off-street parking spaces. Each dwelling would have a cycle store and the proposal is not considered to result in a significant material intensification of movements on the local highway network.

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 whilst the proposed parking spaces do not meet the requirements as stipulated within the WSCC Parking Demand Calculator the shortfall of one off-street parking space is not considered to result to a detrimental highway safety impact. 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 and policy EG12 of the East Grinstead Neighbourhood Plan would be met and therefore there is no highway, access or parking grounds to resist the proposal.

Representations have been received which object to the proposal due to inadequate parking and impact on highways safety, however taking into account the above the proposed parking and impact on highways safety is considered to be acceptable.

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 test as set out under policy EG3 of the East Grinstead Neighbourhood Plan states that proposals should 'not harm' adjoining neighbours amenity.

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 of the MSDP 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.

The proposed dwellings would be some 2.8 metres from the western boundary of the site and 2.3 metres from the eastern boundary of the site. The relationship between the proposed dwelling and neighbouring properties would be side by side which reflects the existing arrangements within the surrounding area. The rear elevation of the dwellings are some 40 metres from the dwelling to the north of the site. The ground level of the site to the north is set higher than the application site and as such it is not considered that the proposed opening would have direct views into the private amenity space of the dwelling to the north. The proposal would result in the loss of private amenity space for 19 Estcots Drive however the resulting arrangement at 19 would still consist of a relatively significant private amenity space that would reflect similar arrangements within the surrounding area.

The proposed first-floor side facing windows would service hallways and would only have direct views of the existing side elevations of the neighbouring dwellings. Whilst there are front and rear windows, this would provide oblique views of neighbouring gardens which is expected in such residential locations. It is not considered that the proposal would result in a loss of privacy to neighbouring amenities.

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.

A number of representation letters have been received which object to the proposal due to its impact on amenities of nearby residents, specifically loss of views from properties, noise and disturbance during construction, impact on privacy and light and overbearing impact. These comments are noted however given the above assessment and that any construction works would be temporary, the proposal is not considered to cause significant harm to the amenities of nearby residents and future occupiers.

Housing Standards

Policy DP27 of the District Plan requires compliance with nationally described space standards.

The proposal is to provide a 2 4-bed, 7 person dwellings. The applicable minimum gross internal floor area set by the Nationally Described Space Standard March 2015 for such a dwelling is 115 square metres with 3 square metres of built in storage.

The submitted floor plans show that the dwellings would provide an internal floor area of some 175 square metres each.

The proposal thereby complies with Policy DP27 of the District Plan and the National Dwelling Space Standards.

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 very low flood risk, with the surface water drainage to be managed via permeable surfacing and a shared soakaway and attenuation tank, with the foul water utilising the existing foul water drainage connection which is considered acceptable in principle subject to the detailed design. Therefore they have raised no objections to the proposal, subject to a condition. The proposal, subject to the recommended conditions it is therefore considered to comply with Policy DP41 of the Mid Sussex District Plan.

A representation letter has been received which objects to the proposal because of its impact on drainage and flood risk, however given the above assessment the proposal is considered to be acceptable in this regard.

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 report which has set out that the proposal would include the following measures:

- Comply with Approved Document L1 of the building regulations
- Compliance with Part F Ventilation and Part L Thermal of the Building Regulations
- Internal water use will be limited to 110 litres/person/day.
- Mechanical and Electrical systems will surpass the requirements of the Domestic Building Services Compliance Guide
- 100% low energy lighting
- Heat pumps

Details of which 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.

Impact on the Ashdown Forest

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

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

A Habitats Regulations Assessment has been undertaken for the proposed development in this planning application.

☐ recreational disturbance

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

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

This planning application is within the 7km zone of influence and generates a net increase of 2 dwellings, and as such, **mitigation is required**.

An appropriate scale of SAMM mitigation for the proposed development is £2,340, and if the approved scheme provides for a strategic SANG contribution, this would be £10,506.

The applicants have agreed that they would be prepared to make a financial contribution towards the SAMM Strategy and strategic SANG mitigation. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

The strategic SANG is located at Hill Place Farm in East Grinstead and Natural England has confirmed that it is suitable mitigation for development in Mid Sussex. The SANG is managed in accordance with the Management Plan and this document sets out the management objectives for the site and the management activities. Financial contributions for the strategic SANG will be spent in accordance with the Management Plan.

The financial contributions for SAMM and SANG mitigation have been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation").

In this case however, the Planning Obligation securing the SAMM contribution has not been completed on the basis that Officers are not supporting the application on separate grounds.

Therefore, on the basis of an absence of the Planning Obligation, a reason for refusal is required in respect of a failure to mitigate against any possible effects on the Ashdown Forest SPA.

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

☐ Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.

The provision of mitigation in the form of both SANG and SAMM is essential to the proposals within the planning application to ensure the Ashdown Forest SPA is protected from any potential recreational disturbance impact arising from this proposed new development.

The development proposed however does not currently provide sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA on the basis that the necessary Planning Obligation has not been completed. As result, the requirements of Policy DP17 of the District Plan and Policy EG16 of the Neighbourhood Plan are not met.

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

Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development.

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 could be 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. In this case Officers are not supporting the application on separate grounds and as such a condition securing the above is not considered to be necessary.

OTHER MATTERS

Representation letters have been received which object to the proposal due to a previous application on the site being refused and that the development is for financial gain. Each application is assessed on its own merits so just because a previous application was refused does not mean subsequent applications have to be refused. Whether the application is for financial gain or not is not a material planning consideration.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the East Grinstead Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP4, DP6, DP21, DP39 and DP41 and East Grinstead Neighbourhood Plan policies EG5, EG11 and EG12.

The assessment has identified conflict with some policies within the development plan. This being in respect of what types of development are allowable under policies DP17, DP26, DP34 and DP35 of the District Plan and East Grinstead Neighbourhood Plan policy EG3, EG4 and EG16.

As a result, it is considered that, having regard for to the above, the application conflicts 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.

In terms of the benefits of the proposal the proposed development would result in the creation of construction jobs during the build period. The additional, albeit limited, population could help generate more local spending in the local community, provision of infrastructure and services as well as additional Council Tax receipts. These are all material considerations that weigh in favour of the development. The provision of two new dwellings will make a limited, but positive contribution to the district's housing supply and would help meet the identified need for housing.

Whilst mandatory, the fact that the proposal will deliver a net gain in biodiversity (in this case above the mandatory 10%) should be given positive weight in the planning balance.

It is considered that by virtue of the size of the proposed dwellings in comparison to the application site, that the proposal would not address the character and scale of the surrounding buildings, would represent an overdevelopment of the site and appear as a discordant feature within the area.. It is also considered that less than substantial harm to the Estcots Conservation Area, the historic Estcots farmstead and the Grade II listed building Estcots Farmhouse and the public benefits of the proposal are not considered to outweigh this harm. The proposal does not adequately mitigate the potential impact on the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) and would it cannot be demonstrated that the development would not have a likely significant impact.

The proposal would have a neutral impact in respect of highways safety, impact on residential amenities, housing standards and sustainability in relation to building construction.

In weighing up these issues, when taken together, it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal.

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

Decision: Refusal

Case Officer: Hamish Evans