

## Delegated Decision

### Sign off Sheet

<b>Ref. No:</b>	DM/25/0045	<b>Case Officer:</b>	Katherine Williams
<b>Application Type:</b>	Permission in Principle		
<b>Proposal:</b>	Planning in Principle to develop an area of land to five residential dwellings.		
<b>Site:</b>	Land At Mill Lane, Sayers Common, West Sussex, , , , ,		
<b>Validation Date</b>	14 Jan 2025	<b>Overall Expiry Date:</b>	7 Feb 2025
<b>Pre-Commencement Conditions Required:</b>		<b>Pre-Com Conditions Date Agreed:</b>	
<b>Recommendation:</b>	Refusal	<b>Recommendation Date:</b>	17 Feb 2025
<b>Target Date:</b>	18 Feb 2025	<b>Recommending Officer Signature:</b>	<i>Katherine Williams</i>

<b>Date Legal Agreement Completed: (if applicable)</b>		<b>No of Representations:</b>	2
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<b>Signed and Agreed By:</b>	<i>Stephen Ashdown</i>	<b>Date:</b>	18 Feb 2025
<b>Comments:</b>			

## MID SUSSEX DISTRICT COUNCIL

**DM/25/0045**

**Land At Mill Lane, Sayers Common, West Sussex, , , ,  
Planning in Principle to develop an area of land to five residential dwellings.  
Anthony And Chris Harris**

### **SUMMARY OF REPRESENTATIONS**

Two letters of representation have been received which raise the following points:

- On one attempted to contact the Christ Church regarding this application
- The redline site boundary includes within the church grounds (*Officer Comments: matters regarding land ownership is a private matter and not a planning consideration*)
- Wooded site acts as a noise barrier to the A23
- Access to the site is across National Highways land to the A23 slip road, 60mph speed limit
- Concerns regarding highway safety
- Proximity to A23 is likely to cause the residents to be subject to undesirable air and noise pollution

### **SUMMARY OF CONSULTATIONS**

Flood Risk and Drainage Team: No comments received

WSCC Highways Authority: no objection, concerns noted which would be a consideration at technical details stage

WSCC Section 106: Advice that infrastructure contributions would be required at technical details stage

Southern Water: insufficient information provided to provide comments

Environmental Health: Concerns raised

### **PARISH COUNCIL OBSERVATIONS**

The Committee's recommendation is that MSDC should refuse the application. Due to the following:

- o Concerns around access onto and off the land from Mill Lane on safety grounds.
- o Noise pollution from the A23 if the woodland is removed.
- o Concerns for the wildlife corridor being destroyed.
- o Historical refusal for housing on this site.

### **INTRODUCTION**

The application seeks Permission in Principle for five dwellings at Land at Mill Lane, Sayers Common.

### **RELEVANT PLANNING HISTORY**

HP/076/91 - Outline application alternative access (scheme B) to the site subject of planing consent  
HP/108/90. Refused (dismissed at appeal)  
HP/057/91 - Outline application - Alternative access to the site subject of planning consent no.  
HP/108/90. Refused (dismissed at appeal)

### **SITE AND SURROUNDINGS**

The site is located on the southern side of Mill Lane, within the countryside and outside the built up area of Sayers Common.

The land has a site area of 0.19 hectares and consists of a field which has become overgrown with trees and planting. The site would be accessed by an existing gated access, which is currently overgrown. The site would be located on land between the A23 (to the east) and the existing properties which face onto London Road to the west. The built up area of Sayers Common is located to the south and extends around the properties of Oakhurst and The Acorns and is physically separate from the application site.

The immediate locality of the site has a semi-rural character with the built up urban form of the village located to the south. This rural character is combined by the existing verdant character of the site, which can be viewed from Mill Lane and the A23.

## **APPLICATION DETAILS**

The application seeks Permission in Principle for five dwellings at Land at Mill Lane, Sayers Common.

Due to the type of application limited information has been provided. However, a location and block plan has been provided showing that the red line of the application site including access onto the southern side of Mill Lane.

## **LEGAL FRAMEWORK AND LIST OF POLICIES**

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

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

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

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

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

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

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

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document and the Hurstpierpoint and Sayers Common 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 (adopted March 2018)**

Relevant policies:

DP6 - Settlement Hierarchy  
DP12 - Protection and Enhancement of the Countryside  
DP15 - New Homes in the Countryside  
DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
DP20 - Securing Infrastructure  
DP21 - Transport  
DP26 - Character and Design  
DP27- Dwelling Space Standards  
DP29 - Noise, Air and Light Pollution  
DP37 - Trees, Woodland and Hedgerows  
DP38 - Biodiversity  
DP39 - Sustainable Design and Construction  
DP41 - Flood Risk and Drainage

### **Site Allocations Development Plan Document (adopted June 2022)**

There are no relevant policies.

### **Hurstpierpoint and Sayers Common Neighbourhood Plan (made June 2020)**

Relevant policies:

HurstC1 - Conserving and enhancing character of the countryside  
HurstH1 - New Housing Development  
HurstH3 - Sayers Common Housing Sites  
HurstH5 - Development Principles  
HurstH6 - Housing Sites Infrastructure and Environmental Impact Assessment  
HurstH8 - Small Dwellings

### **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 stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to the majority of 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 Drainage  
DPN1: Biodiversity, Geodiversity and Nature Recovery  
DPN2: Biodiversity Net Gain  
DPN4: Trees, Woodland and Hedgerows  
DPN7: Noise Impacts  
DPC1: Protection and Enhancement of the Countryside  
DPC3: New Homes in the Countryside  
DPC6: Ashdown Forest SPA and SAC  
DPB1: Character and Design

DPT4: Parking and Electric Vehicle Charging Infrastructure  
DPH1: Housing  
DPH2: Sustainable Development - Outside the Built-up Area  
DPH7: Housing Mix  
DPH11: Dwelling Space Standards  
DPI1: Infrastructure Provision

#### *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.

#### *Development Infrastructure and Contributions Supplementary Planning Document (SPD)*

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

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

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

Paragraph 12 of the NPPF states;

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

Paragraph 39 of the NPPF states;

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

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

*National Planning Policy Guidance* (Where being referred to)

#### *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**

Issued in support of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017, the Ministry of Housing, Communities and Local Government Guidance on Permission in Principle (published 28 July 2017 updated March 2019) sets out matters within the scope of a decision, which are limited to: 'location, land use and amount of development' (NPPG Paragraph: 012 Reference ID: 58-012-20180615).

The application should take into consideration issues relevant to these 'in principle' matters; other matters should be considered at the technical details stage. A decision on whether to grant a permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the NPPF and National Guidance, which indicate otherwise.

This means that matters such as siting, design, scale, accessibility, impact on neighbouring occupiers or impact on trees and biodiversity cannot be considered at this stage. They would however be considered at the technical details stage instead.

The application as submitted contains a location plan denoting the extent of the application site along with an application form and planning statement. This states the application proposes the erection of five dwellings. In addition, the block plan shows the indicative siting of the proposed dwelling.

Taking each of the matters for consideration in order:

#### location

The application site is designated as being within the countryside. Policy DP12 of the District Plan refers to the protection of the Countryside and states, in part, that development will be permitted in the countryside provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and is necessary for the purposes of agriculture or is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.

Policy HurstC1 of the Neighbourhood Plan echoes the ethos of this policy.

Policy DP6 of the District Plan states in part that:

*'Outside defined built-up area boundaries, the expansion of settlements will be supported where:*

1. *The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and*
2. *The site is contiguous with an existing built up area of the settlement; and*
3. *The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.'*

The proposed residential development does not meet these criteria as the site is not contiguous with the existing built up area of Sayers Common nor is the site allocated.

Policy DP15 of the District Plan refers to new homes in the countryside and sets out the special justifications where new homes would be permitted. Special justification would include;

- Essential agricultural or forestry workers accommodation
- Exceptional design quality for isolated new homes
- Rural exception sites

- DP6 requirements being met

The proposed residential development does not meet any of these special justifications.

Policy HurstH1 of the Neighbourhood Plan states:

*'To meet the future needs in the Neighbourhood Plan Area new housing development will be supported in areas which:*

- (a) Enhance the existing settlement pattern of the village;*
- (b) In Hurstpierpoint, can also provide significant areas of parkland adjacent to the built zones, to be owned and managed by the local community;*
- (c) In Sayers Common, can enhance the flood and drainage management in the village.'*

There are no other relevant policies in the District Plan, any other development plan documents such as the Site Allocations document, or the Neighbourhood Plan that would explicitly support the residential development of this site. The principle of the application does conflict with the development plan, in terms of what type of development is allowable under Policies DP6, DP12 and DP15.

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

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

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

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

*'For decision-taking this means;*

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

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

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

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

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

Footnote 8 of paragraph 11 clarifies that for applications involving the provision of housing, in situations where the local planning authority cannot demonstrate a five year land supply of delivery housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that delivery of housing has

been substantially below (less than 75%) of the housing requirement for the last three years, then relevant policies for the supply of housing should be considered out-of-date.

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

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

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

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

Policy DP12 (Protection and Enhancement of the Countryside) seeks to protect the intrinsic character and beauty of the countryside. While it does seek to restrict certain forms of development, it is not considered to be a policy directly related to the supply of housing, however it is recognised that given the Council's is unable to demonstrate a five year land supply and given the aim of the NPPF to boost significantly the supply of housing, the weight that can be afforded to this policy is moderate.

Policy HurstC1 of the Neighbourhood Plan, shares the ethos of this policy and seeks to maintain or where possible enhances the quality of the rural and landscape character, and not directly related to housing supply. Therefore, as with policy DP1, policy HurstC1 is considered to have moderate weight.

Policy DP15 (New Homes in the Countryside) identifies the types of new homes that will be permitted in the countryside, where special justification exists. While this policy relates to the provision of housing, the aims are consistent with paragraphs 82 - 84 of the NPPF and as such this policy can be given full weight.

Policy HurstH1 of the Neighbourhood Plan seeks new housing development to enhance the existing settlement pattern of the village as well as the flood and drainage management in the village. Paragraph 181 requires developments to not increase flood risk else were and paragraphs 135 and 139 requires development to be well designed and to add to the overall quality of the area and sympathetic to the character of the area. Given the level of similarities between the requirements of this policy and the NPPF this policy is considered to have moderate weight.

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

Due to the location of the site within the countryside, the principle of the development of the site for dwellings in this location is contrary to the above policies in the District Plan as the intrinsic character and beauty of the countryside would be harmed by the proposal.

In addition, the sustainability of a site is a consideration. Policy DP21 of the District Plan relates to transport and requires schemes to be 'sustainably located to minimise the need for travel' and take *'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'*. In addition it requires 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 para 115 of the NPPF.

In terms of whether the site is within a sustainable location, the site is not contiguous with the built up area boundary of Sayers Common, but is located within close vicinity with a footpath and street lights along Mill Lane and London Road into the village. Sayers Common is a Category 3 settlement, as set out within policy DP4 of the District Plan, that includes key facilities although limited. There are bus stops along London Road, which provide alternative sustainable transport modes with other local services. However, there is likely to be a reliance on the use of motor vehicles to access local services due to limited facilities within the village. Due to this it is thereby considered that the proposal would not promote a sustainable form of development as well as Policy DP21 of the District Plan and para 115 of the NPPF which seeks to actively manage patterns of growth limiting the need to travel and offering a genuine choice of transport modes.

The site falls within Flood Zone 1 and is therefore not at risk to flooding. Details concerning how the site would be drained if it were to be developed is a matter which would be considered at the technical matters stage.

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:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *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;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *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);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *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;*
- *optimises the potential of the site to accommodate development.'*

Policy DP29 in part relates to noise pollution and states:

*'The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

*Noise pollution:*

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- *If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

- an assessment of the impact of noise generated by a proposed development; or
- an assessment of the effect of noise by an existing noise source upon a proposed development;'

The Council's Environmental Health Officer has been consulted on the application and has provided the following comment:

*'The proposal is to develop a parcel of land which is adjacent to the A23 for residential use. The main environmental impact on the proposed dwellings would be from noise from the traffic on the A23 which is about 12 metres from the site boundary. I have concerns that the high noise levels would result in unacceptable adverse impact to future residents.*

*The ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise New Residential Development (May 2017) is pertinent in this case. This guidance encourages early consideration of noise issues and assists proper consideration where the acoustic environment is challenging. It recommends an initial noise risk assessment to provide an indication of the likely risk of adverse effects from noise and is expected to be completed before any planning application is submitted. It is accepted that a full application has not been submitted at this stage, however, in order to fully consider the suitability of the site for residential development, this initial assessment is considered as an essential preliminary step. Without such an assessment, and given the noise levels that I experienced when I visited the site, my recommendation is that of the four options the ProPG guidance recommends to decision makers (grant without conditions, grant with conditions, "avoid" or "prevent") I would opt for "prevent".'*

The site is located adjacent to the to the north bound carriageway of the A23 with a narrow strip of planting and trees in between. Due to the proximity of the site to this dual carriageway it is likely that the high level of noise generated by this highway would result in significant harm to the amenities of the future occupiers of the dwellings.

The principle of development is therefore deemed to not be acceptable in relation to location and conflicts with policies DP6, DP12, DP15 of the District Plan and policies HurstC1 and HurstH1 of the Hurstpierpoint and Sayers Common Neighbourhood Plan. In addition to this, due to the location of the site and its proximity to the A23 significant harm would be caused to the amenities of the future occupiers of the dwellings by noise, contrary to policies DP26 and DP29. The proposal is thus contrary in principle to the Development Plan.

and use

As noted above the application site is located within the countryside. Previously developed land is defined within the NPPF as:

*"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."*

The application site consists of a field which has become overgrown overtime. As such the application site cannot be considered as previously developed land as set out under the NPPF. Comments have been received from the agent stating that the site is allocated within the Neighbourhood Plan, however there are no sites allocated within Sayers Common within the Neighbourhood Plan, and the site has not been allocated within any other document.

Whilst there is residential development within the surrounding area and the built up area boundary of Sayers Common is within close proximity to the site, it is not contiguous with this boundary and is located within the countryside, such a proposal is not supported within the development plan as set out above within the location section of the report.

As also stated within the above section of the report, the site is located adjacent to the to the north bound carriageway of the A23 with a narrow strip of planting and trees in between. Due to the proximity of the site to this dual carriageway it is likely that the high level of noise generated by this highway would result in significant harm to the amenities of the future occupiers of the dwellings.

Therefore, the proposed land use is not considered to be acceptable in principle and would be contrary to Policies DP6, DP12, DP15, DP26 and DP29 of the District Plan.

#### □mount of development

In relation to amount of development and in the absence of specific national guidance that would undermine this approach, consideration will be given to matters which could render the proposal for one dwelling on the site unacceptable in principle.

In the absence of supporting information, the Local Planning Authority and relevant consultees have drawn on the resources available at the time of the application in order to inform their consideration of these matters.

In relation to the size and shape of the plot and its possibility to accommodate five dwellings, Policy DP26 of the District Plan relates to character and design 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:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *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;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *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);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *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;*
- *optimises the potential of the site to accommodate development.'*

Details of the scale, design and relationship with neighbouring properties are matters reserved for the technical details consent stage. It is acknowledged that there are a number of constraining features due to the size of the site and trees on the site that will affect the design and scale of any proposed dwellings. These matters would fall to be properly considered as part of the technical detail consent stage. However, it is reasonable to assume that five dwellings could fit onto the site in any instance and that the size and shape of the plot could be suitable to accommodate five dwellings on the site.

In relation to access, the site is accessed off the southern side of Mill Lane. It is considered that the additional traffic resulting from one dwelling would not result in material harm to the highway network and the local highways authority have not raised an objection to the proposal at this stage.

## **Ashdown Forest**

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

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

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

### *Recreational disturbance*

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

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

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

### *Atmospheric pollution*

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

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

### *Conclusion of the Habitats Regulations Assessment*

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

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

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

## **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 Hurstpierpoint and Sayers Common Neighbourhood Plan.

The application must be assessed against the policies of the development plan taken as a whole, this assessment has identified conflict with the development plan. This being in respect of what types of development are allowable under policies DP4, DP6, DP12, DP15, DP26 and DP29 of the District Plan and Neighbourhood Plan policies HurstC1 and HurstH1 of the Hurstpierpoint and Sayers Common Neighbourhood Plan.

As a result, it is considered that 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.

When judged against policies relating to settlement pattern, accessibility to services, and countryside character, the location and land use of the development proposed would conflict with policies DP4, DP6, DP12, and DP15 of the District Plan and policies HurstC1 and HurstH1 of the Hurstpierpoint and Sayers Common Neighbourhood Plan. In addition to this, due to the location and proposed land use of the site and its proximity to the A23 significant harm would be caused to the amenities of the future occupiers of the dwellings by noise, contrary to policies DP26 and DP29 of the District Plan. As there are no policies in the District Plan which positively favour development of this kind in this location, there would be a conflict with the development plan as a whole.

These factors weigh heavily against the proposal.

On the positive side the provision of a net increase in 5 No. dwellings on the site will make a minor but positive contribution to the district's housing supply. The proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community. Because, however, of the small scale of the development proposed these benefits would have limited weight.

The proposal would also result in a new homes bonus.

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 and the proposal does not represent sustainable development as defined by the NPPF. The application of the policies relating to heritage assets in the NPPF provides a strong reason for refusing the development proposed. The proposal is considered to be contrary to District Plan policies DP4, DP6, DP12, DP15, DP26, DP29 and Neighbourhood Plan policies HurstC1 and HurstH1 and there are no other material planning considerations to justify a decision otherwise than in accordance with the development plan.

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

Decision: Refusal

Case Officer: Katherine Williams

