

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0292	Case Officer:	Joanne Fisher
Application Type:	Full Application		
Proposal:	Full planning application for the retention of and further works for the erection of two residential dwellings (Use Class C3) with supporting infrastructure including access, parking and landscaping.		
Site:	Land To The North Of Lyndon, Reeds Lane, Sayers Common, West Sussex, BN6 9LS, , ,		
Validation Date	12 Feb 2025	Overall Expiry Date:	11 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	3 Apr 2025
Target Date:	9 Apr 2025	Recommending Officer Signature:	<i>Joanne Fisher</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	4 Apr 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0292

Land To The North Of Lyndon, Reeds Lane, Sayers Common, West Sussex, BN6 9LS, , Full planning application for the retention of and further works for the erection of two residential dwellings (Use Class C3) with supporting infrastructure including access, parking and landscaping.

Elivia Homes Limited

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

MSDC Drainage

No objection subject to condition concerning foul and surface water drainage works.

PARISH COUNCIL OBSERVATIONS

The committee's recommendation is that MSDC should give permission.

INTRODUCTION

Permission is sought for the retention of and further works for the erection of two residential dwellings (Use Class C3) with supporting infrastructure including access, parking and landscaping within the site of land to the north of Lydon, Reeds Lane, Sayers Common.

RELEVANT PLANNING HISTORY

DM/22/0640 - Hybrid application consisting of a) Full application for 36 one, two, three and four bedroom dwellings (including 30% affordable housing), associated infrastructure, landscaping, pedestrian and vehicular access from Reeds Lane and the demolition of Lyndon. b) Outline application for 2 three bedroom self/custom build plots. Approved. This permission approved the access and layout of the two dwellings subject of this current application.

Various applications have been submitted and approved in respect of the discharge of conditions for the above permission. In addition there are some outstanding pre-commencement conditions which are pending consideration due to further information awaited.

DM/24/2296 - Amendment to the s106 to change the tenure of affordable rent dwellings to shared ownership. Pending consideration.

SITE AND SURROUNDINGS

The site has been cleared as part of the wider development site approved under reference DM/22/0640 and several piles have been driven and the foundations laid in accordance with the approved layout. The Agent has confirmed that contamination remediation has also been fully completed. The surrounding market dwellings have been constructed to slab level.

The former dwelling Lydon has been demolished and the site access has been constructed as has the dwelling which fronts on to Reeds Lane.

There are a number of mature trees on the northern and eastern boundaries of the site. These are however, not protected by Tree Preservation Orders.

To the south of the site are dwellings forming linear ribbon development along Reeds Lane as well as Kings Business Centre. Construction is being undertaken to the east of the site of Kingsland Laines which is a consented scheme of 133 dwellings and a 70-bed care home.

To the northwest outside of the application site there is an area of deciduous woodland, and to the northeast is an area consisting of woodland, grassland, and wetland ponds. In addition, there is a field to the west of the site also within the ownership of the applicant.

The site is within the built up area boundary of Sayers Common as defined in the Site Allocations DPD (SAPDP).

APPLICATION DETAILS

The proposed dwellings already benefit from outline planning permission under DM/22/0640. This application seeks to amend the two self/custom build dwellings on plots 10 and 11 to market dwellings. The planning use class of the dwellings will remain as Use Class C3.

Apart from the dwellings being amended from self/custom build to market dwellings, there is no material difference in the provision of these two units. The dwellings would be located in the exact position as approved under DM/22/0640 and would replicate dwellings (plots 21, 22, 23 and 34) that have been approved under the same permission in terms of design.

The dwellings are to form detached two-storey dwellings measuring some 5.6 metres in width, 10.26 metres in depth with an eaves height of some 4.9 metres and an overall ridge height of some 8.4 metres. Plot 10 is to be constructed in brick with hardie plank weatherboarding to the front elevation, contrasting brick detailing to the rear and side windows and a slate effect pitched roof. Plot 11 is to be constructed in brick with vertical tile hanging to the first floor front elevation, contrasting brick detailing to the rear and side windows and a slate effect pitched roof. Both properties would have a canopy front porch and a detached single pitched roof garage to the side of the dwelling. The detached garage would measure some 3.2 meters in width, 6.4 metres in depth, with an eaves height of some 2.3 metres and a ridge height of some 4.3 metres. The garage is to be constructed in brick to match the dwelling with a slate effect roof.

The dwellings would comprise of a living room, kitchen/dining room and toilet at ground floor with 3 bedrooms (one with en-suite) and a family bathroom at first floor.

To the side of each dwelling in front of the garage would be off road parking.

Landscape details accompany the application detailing the rear garden would be laid to grass enclosed by 1.8 metre high fencing, with planting to the front of the dwellings.

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 Hurstpierpoint and Sayers Common 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
DP21 - Transport
DP26 - Character and Design
DP27 - Dwelling Space Standards
DP30 - Housing Mix
DP38 - Biodiversity
DP39 - Sustainable Design and Construction
DP41 - Flood Risk and Drainage

Site Allocations DPD

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

Relevant policy:

SA30 - Land to the north of Lyndon, Reeds Lane, Sayers Common.

Hurstpierpoint and Sayers Common Neighbourhood Plan

The Hurstpierpoint and Sayers Common Neighbourhood Plan was made in 2015.

Relevant policies:

HurstH1 - Housing
HurstH5 - Development Principles

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 Drainage
DPN1 - Biodiversity, Geodiversity and Nature Recovery
DPN2 - Biodiversity Net Gain
DPN6 - Pollution
DPB1 - Character and Design
DPT3 - Active and Sustainable Travel
DPT4 - Parking and Electric Vehicle Charging Infrastructure
DPH1 - Housing
DPH3 - Sustainable Development - Inside the Built-Up Area
DPH11 - Dwelling Space Standards

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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

National Planning Policy Framework (NPPF) (December 2024)

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

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

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

Paragraph 12 of the NPPF states;

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

depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

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

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

National Design Guide

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

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

Technical Housing Standards

ASSESSMENT

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

- Principle
- Loss of Self / Custom Build plots
- Design and Impact on the character and appearance of the area
- Highways
- Impact on Residential Amenity
- Housing Standards
- Flood Risk and Drainage
- Ecology
- Sustainability
- Ashdown Forest
- Biodiversity Net Gain
- 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.

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

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

The application seeks to amend two plots which were granted outline approval under DM/22/0640 to be self/custom build dwellings to be market dwellings.

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 HurstH1 relates to housing and is relevant to this application. This policy does not relate to the supply of housing but supports housing provided it enhances the existing settlement pattern. As such this policy can be given 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.

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.

Assessment

Loss of Self / Custom Build plots

The plots subject of this application were approved under DM/22/0640 as self / custom build plots as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). This was identified as a positive benefit to the proposed development.

Policy DP30 of the District Plan states that to support sustainable communities, housing development will provide a mix of dwelling types and sizes from new development that reflects current and future housing needs. This could include the provision of serviced self-build plots.

The site is allocated under Policy SA30 in the SADPD. Within this there is no specific requirement to provide self / custom build plots as part of the development of the site.

Whilst the loss of the self/custom build plots within the development is regrettable, due to the location of these plots to be brought forward as phase 3 of the development, it is considered that this is not practicable in this instance and that these need to be constructed at the same time as the adjoining dwellings.

This application will bring forward the development of these plots which will still be for dwellings. As there is no specific policy requirement to ensure that self/custom build dwellings are brought forward on this site, it is considered that in this instance the change to market dwellings would be acceptable. However, there may be a requirement for the applicant to provide a deed of variation to the legal agreement secured under DM/22/0640 which specifies the self and custom build dwellings to plots 10 and 11 within the development.

The proposal thereby complies with policy DP30 of the District Plan and policy SA30 of the SADPD.

Design and Impact on the character and appearance of the area

Policy DP26 of the District Plan relates to character and design. In part it requires developments to be well designed, be of a high quality design and layout with appropriate landscaping and greenspace; contribute positively to and clearly define public and private realms as well as creating a sense of place whilst addressing the character and scale of surrounding buildings and landscape. In addition, it requires development to incorporate well integrated parking that does not dominate the street environment.

Within the Design Guide there is support for high quality buildings that minimise their environmental impact under principle DG37. Principle DG38 requires architectural integrity and a sense of place where the façade 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.

Paragraph 131 of the NPPF states that:

'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

The dwellings are to be sited within the centre of the previously approved development which is currently under construction. The siting and access have previously been considered as part of this application when the dwellings were to be self/custom build plots. The design of the dwellings are to be similar to other detached dwellings within the development and will relate well to the immediate area. Details of materials have been provided which will match other properties in the development. The proposal is considered to address the character and scale of the area.

The proposal is thereby considered to comply with policy DP26 of the District Plan, the requirements of the Design Guide and the provisions of the NPPF.

Highways

Policy DP21 of the District Plan seeks to ensure that schemes are sustainably located to minimise the need for travel, and protect the safety of road users and pedestrians, and seeks to provide adequate parking in relation to development proposals.

Paragraph 115 of the NPPF is relevant in respect of transport matters and states that:

'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

In addition, para 116 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 dwellings would be accessed off Reeds Lane from the estate road approved under DM/22/0640. The principle of these dwellings and their access has previously been accepted under this permission.

Each plot would have three parking spaces located to the north side of the dwellings comprising 2no. tandem spaces and 1no. detached garage. This complies with the West Sussex County Council's Guidance on Parking at New Developments (September 2020).

The Highways Authority raised no objection to the previous application for the wider site. As there are no changes to that previously considered at the outline stage and plans show that there is sufficient parking proposed for each property it is considered that the proposal is acceptable in highway terms and complies with Policy DP21 of the District Plan.

Impact on Residential Amenity

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

The siting of the dwellings are the same as that approved under DM/22/0640 where the only matters reserved were landscaping, scale, and appearance of the site. The dwellings are to be sited on a residential estate where some overlooking would be expected from the front and rear windows. There are to be no side windows on the southern elevations closest to the neighbours. On the northern elevation there would be a ground floor secondary living room window and a first floor window to serve the bathroom. A planning condition could be placed on the approval to ensure that the first floor window is obscure glazed.

Due to the spacing between the proposed dwellings and surrounding neighbours, and the boundary treatments, it is considered that the proposal would not result in significant harm to the occupiers of neighbouring properties.

The proposal is thereby considered to comply with Policy DP26 of the District Plan.

Housing Standards

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

The floor plans submitted with the application show both properties are to be a 3-bed 4 person dwellings.

Technical Nationally Described Housing Standards requires a 3 bed 4 person single storey dwelling to have a minimum internal floor area of 84 sqm with 2.5 sqm of storage. Plans show that the proposed dwellings will have an internal floor area of some 96sqm including storage area which exceeds the minimum requirements.

As such, the application complies with Technical Standards and policy DP27 of the District Plan.

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.

The site falls within flood zone 1.

The application is supported by Surface Water Drainage Strategy, Foul Water Drainage Strategy, Exceedance Flow Plan and Foul and Surface Water Maintenance and Management Plan.

The Council's Drainage Engineer has considered the proposal and raise no objection subject to a pre-occupation condition that requires drainage to be built as per the submitted plans.

The proposal is thereby considered to comply with Policy DP41 of the District Plan.

Ecology

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Act, all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Act, certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the District Plan relates to Biodiversity and seeks proposals to protect and enhance biodiversity

Ecology has already been considered as part of the approval for the development under DM/22/0640 which included these two dwellings.

In the consideration of the previous approval, the Council's Ecology Consultant raised no objection and it was concluded that the scheme would not adversely affect any protected species and that conditions could be used to ensure wildlife mitigation and enhancements and result in a net gain to biodiversity. This larger development is under construction. There is no reason to come to a different conclusion from the previous approval for the wider site.

The proposal thereby complies with Policy DP38 of the District Plan.

Sustainability

Policy DP21 of the District Plan relates to transport. In part it 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.*'

Policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development. It states:

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

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

Policy SA GEN (General Principles for Site Allocations) of the SADPD sets out the following in respect of sustainability;

o 'Design development to be resilient to climate change, minimise energy and water consumption and mitigate against flood risk in line with DP39: Sustainable Design and Construction, DP41: Flood Risk and Drainage and DP42: Water Infrastructure and the Water Environment.

o Address sustainability at the conception stage of development proposals to exploit the benefits of passive design and orientation, fabric performance, energy efficiency measures and low carbon solutions; and wherever possible include on-site low or zero carbon technologies in accordance with District Plan policies DP39: Sustainable Design and Construction and DP40: Renewable Energy Schemes.'

Principle DG37 of the Council's Design Guide deals with 'sustainable buildings' and states;

'The Council welcomes innovative and inventive designs that respond to the sustainability agenda by minimising the use of resources and energy both through building construction and after completion.'

It lists a number of issues that designers should consider, including, amongst others, the incorporation of renewable energy technologies.

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.'

In addition, 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 is accompanied by a Sustainability Statement. This details that the dwellings by a combination of passive design measures and active design measures, a strategy often referred to as a 'fabric first approach', will result in exceeding existing minimum Building Regulations requirements. This approach considers the following in the design and construction of each dwelling;

Passive Design Measures

- Passive solar gain
- Natural daylighting

Efficient Building Fabric

- Building envelope
- Air leakage
- Thermal bridging
- Natural Ventilation

Active Design Measures

- Air source heat pumps
- Efficient appliances, lighting, fixtures and fittings.

It sets out that that the 'Fixtures, appliances and fittings plus rainwater recycling measures will be specified in the development which considerably reduce potable water use so that the daily potable/wholesome water use will be calculated to not exceed 110 litres per person per day.'

In addition, the accessibility of the site, or the sustainable location of it, is a key consideration.

The development is situated in a sustainable location within a category 3 settlement. There is a continuous footpath on the opposite side of Reeds Lane which leads to the village centre as well as a bus stop.

Therefore, it is considered that the proposal complies with the relevant criteria policies DP21 and DP39 of the District Plan, policy SA GEN of the Site Allocation DPD, the principles of the Council's Design Guide, as well as the provisions of the NPPF. The proposal is considered to be acceptable in sustainability terms.

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 **development allocated through the Site Allocation DPD under policy SA30** such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

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

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

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

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. The original planning permission which included the principle of these two dwellings was approved before the 12th February 2024 under reference DM/22/0640. As this application is to amend two dwelling from being self/custom build to market housing with no net increase in dwellings it is exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

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

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP21, DP26, DP27, DP30, DP38, DP39 and DP41, policy SA30 of the SADPD, and Neighbourhood Plan policies HurstH1 and HurstH5.

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.

Outline permission has previously been granted for the two dwellings as part of planning reference DM/22/0640. This application seeks to amend the dwellings from self/custom build to market dwellings. Whilst the loss of the self-build dwellings on the site is regrettable, as the Council is currently unable to demonstrate a five year supply of deliverable housing sites, the proposal would still result in the provision of 2 dwellings on the site which will make a minor but positive contribution to the district's housing supply and requirement.

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

In weighing up these issues, when taken together, it is not considered that there are adverse impacts of the development which would significantly or demonstrably outweigh the benefits of the proposal.

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

Decision: Permission

Case Officer: Joanne Fisher