

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0413	Case Officer:	Hamish Evans
Application Type:	Permission in Principle		
Proposal:	Construction of a new residential dwelling		
Site:	Land Adjacent To The Brook, Coombe Hill Road, East Grinstead, West Sussex, RH19 4LZ, , ,		
Validation Date	25 Feb 2025	Overall Expiry Date:	20 Mar 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	10 Apr 2025
Target Date:	1 Apr 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	1
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Signed and Agreed By:	Stephen Ashdown	Date:	10 Apr 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0413

**Land Adjacent To The Brook, Coombe Hill Road, East Grinstead, West Sussex, RH19 4LZ, ,
Construction of a new residential dwelling
Mr S Streatfield**

SUMMARY OF REPRESENTATIONS

Two letters of representation have been received. One neither objects or supports the proposal but it provides advice on the Internal Drainage District of the Upper Medway Internal Drainage Board. The other objects to the proposal due to the following points:

- The proposals impact on the Countryside,
- Impact on the AONB,
- Impact on existing drainage issues,
- Increase in traffic levels, and
- Impact on existing residents wellbeing.

SUMMARY OF CONSULTATIONS

MSDC Tree Officer

No tree information provided.

WSCC Highways

No objection subject to sufficient information being submitted at Technical Details Stage.

MSDC Flood Risk and Drainage Team

No Flood Risk and Drainage information provided.

Southern Water

Advice on a New Sewer Connection application.

MSDC Street Name and Numbering

Recommend informative.

MSDC Contaminated Land

No comment.

TOWN COUNCIL OBSERVATIONS

East Grinstead Town Council

Recommend approval, with concerns regarding precedence for further residential development.

INTRODUCTION

The application seeks Permission in Principle for one dwelling at Land Adjacent to the Brook Coombe Hill Road East Grinstead RH19 4LZ.

RELEVANT PLANNING HISTORY

DM/21/3119. Proposed erection of replacement storage building of same footprint. Permission.

SITE AND SURROUNDINGS

The site is located on the northern side of Coombe Hill Road, within the countryside and outside the built up area of East Grinstead which is located to the north east of the site. The northern area of the site is located within an area which is at high risk of surface water flooding.

The land has a site area of 0.1 hectares and consists of a field which is relatively clear and consists of grassland. The site would be accessed by an existing closed board timber gate and the existing boundary treatment to the south, east and west of the site consists of closed board timber fencing. There are residential properties located to the east and west of the site with Coombe Hill Road being located to the south of the site and open fields being located to the north of the site.

The immediate locality of the site has a semi-rural character with sporadic residential development located to the south, east and west of the site and open fields and the built up area boundary of East Grinstead located to the north of the site.

APPLICATION DETAILS

The application seeks Permission in Principle for one dwelling at Land Adjacent to the Brook Coombe Hill Road East Grinstead.

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 northern side of Coombe Hill Road. Indicative concept plans of a two-storey dwelling have also been provided and a Design and Access Statement and Planning Statement have been provided.

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 East Grinstead Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan (adopted March 2018)

Relevant policies:

DP6 - Settlement Hierarchy
DP12 - Protection and Enhancement of the Countryside
DP15 - New Homes in the Countryside
DP16 - High Weald Area of Outstanding Natural Beauty
DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
DP21 - Transport
DP26 - Character and Design

Site Allocations Development Plan Document (adopted June 2022)

There are no relevant policies.

East Grinstead Neighbourhood Plan (made November 2016)

Relevant policies:

EG1 - Protection of the High Weald AONB
EG2a - Areas of Development Constraint
EG3 - Promoting Good Design
EG5 - Housing Proposals

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 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:

DPC1: Protection and Enhancement of the Countryside
DPC3: New Homes in the Countryside
DPC4: High Weald Area of Outstanding Natural Beauty
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPH1: Housing
DPH2: Sustainable Development - Outside the Built-up Area
DPH7: Housing Mix

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.

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

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

The High Weald Area of Outstanding Natural Beauty Management Plan 2024-2029

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, biodiversity, flood risk and drainage 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, a planning statement, design and access statement and indicative concept plans. These state the application proposes the erection of one dwelling. In addition, the submitted plans show the indicative siting and scale 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.

A similar ethos is contained within policy EG2a of East Grinstead Neighbourhood Plan. It also in part states that:

'Planning permission will not normally be granted for development which:

- (1) Results in the coalescence of East Grinstead with Crawley Down or Ashurst Wood;*
- (2) Results in the perception of openness being unacceptably eroded within this area; or*
- (3) Contributes towards the ad hoc or isolated development of dwellings outside the built up area, including infilling of built up frontages or linear development along roads.'*

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 East Grinstead nor is the site allocated. The proposed site is located outside the built up area and the development would contribute to the ad hoc development of dwellings including the infilling of linear developments along roads.

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.

Policy EG1 of the East Grinstead Neighbourhood Plan in part states:

'Planning permission for other forms of development will be granted where the proposals are for the:

- (i) Conversion of redundant buildings;*
- (ii) Replacement, on a like for like basis, of existing buildings; or*
- (iii) Extension of an existing dwelling house, relate to agricultural development or some other minor recreational use;'*

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

In addition, Policy EG5 relates to housing and states:

'The East Grinstead Neighbourhood Plan area is subject to significant environmental and infrastructure constraints and as a result new housing development on land defined as 'previously developed,' where the site is predominantly previously developed or is green infrastructure that can be demonstrated to be surplus to requirements will be supported subject to the criteria below and compliance with other policies within the plan.

Other proposals for new housing development will only be supported if:

- a) The proposed development contributes to sustainable development;*
- b) An application is supported by robust assessment of the environmental and visual impact of the proposal and include as necessary appropriate mitigation measures.*
- c) An application is supported by a robust assessment of the impact of the proposal upon the local highway network and it can be demonstrated that the proposal will not cause a severe cumulative impact in terms of road safety and increased congestion after proposed mitigation is taken into account;*
- d) The proposal complies with design guidance contained in policy EG3 or a relevant Development Brief;*
- e) The proposal provides a mix of tenure types including private, social rented and shared equity (intermediate);*
- f) Contributions are made towards SANG and Strategic Access Management and Monitoring (SAMM);*
and
- g) The proposal meets its own infrastructure needs.*

Where proposals comply with Policy EG5, relevant site-specific policies and mitigate their highway and other infrastructure impacts, the following sites (EG6A and EG6B) will be encouraged to come forward for residential development.'

As set out further within this report the residential development of this site as proposed is not considered to contribute to sustainable development.

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 of the Mid Sussex District Plan and policies EG1, EG2a and EG5 of the East Grinstead Neighbourhood 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 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.

DP6 (Settlement Hierarchy) is relevant to this application. This policy is considered to be a policy 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, this policy 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 EG1 of the Neighbourhood Plan seeks to ensure that development does not negatively impact the existing quality of the High Weald Area of Outstanding Natural Beauty and its setting taking account of locally important features. 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 EG2a of the Neighbourhood Plan, seeks to prevent coalescence between the settlements of East Grinstead, Crawley Down and Ashurst Wood. It also seeks to restrict development within 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 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 EG5 of the Neighbourhood Plan 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.

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 a dwelling 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. The NPPF recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural area, however it also encourages development to be focused on locations that limits the need for travel as set out with paragraph 115 of the NPPF. This aligns with the aims of Policy DP21 of the MSDP. As policy DP21 accords with the aims of the NPPF, it can be afforded full weight. It is considered that the occupiers of the proposed dwelling would be reliant on the private car for access to shops, services and employment opportunities and this would conflict with the aims of the Framework and policy DP21. The built-up area boundary of East Grinstead is located some 250 metres to the north-east of the site. The nearest bus stop to the site is located within the East Grinstead built-up area boundary and the nearest shop consists of a convenience store off Dunnings Road some 565 metres to the northeast of the site. As such any future occupiers would be highly reliant on relatively significant journeys for day-to-day services.

The site would be accessed through Coombe Hill Road which is a relatively narrow road subject to a 15 mph speed restriction. There are no street light or footpaths along Coombe Hill Road which is considered to be a narrow road. The combination of the darkness of the routes for part of the year, especially on autumn and winter evenings and the significant distance to local services is likely to be unattractive to families with small children, the elderly, or those with mobility issues. As a result, future occupiers would have a high dependence on the use of motor vehicles to access local services. As such the proposed dwelling is not considered to be located within a sustainable location.

The site is also located within an area of increased flood risk 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.

The principle of development is therefore deemed to not be acceptable in relation to location and conflicts with policies DP6, DP12 and DP15 of the District Plan and policies EG1, EG2a and EG5 of the East Grinstead Neighbourhood Plan. The proposal is thus contrary in principle to the Development Plan.

Land 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 been cleared following a previous permission for the erection of a storage building under reference DM/21/3119. The submitted documents state that the previous permission has been implemented and the Local Planning Authority have no information to the contrary. As such the application site is considered as previously developed land as set out under the NPPF. Whilst it is noted that a previous permission granted consent for a storage building on the site, this did not grant permission for a residential use on the site, and taking into account the previous section's assessment the site is located within an unsustainable location which would be contrary to the policies contained within the Development Plan and the principles of the NPPF.

Therefore, the proposed land use is not considered to be acceptable in principle and would be contrary to Policies DP6, DP12 and DP15 of the District Plan and policies EG1, EG2a and EG5 of the East Grinstead Neighbourhood Plan.

Amount 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 a single dwelling, 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 the northern area of the site being located within an area which is at high risk of surface water flooding. That may affect the design and scale of any proposed dwelling. These matters would fall to be properly considered as part of the technical detail consent stage. However, it is reasonable to assume that one dwelling could fit onto the site in any instance and that the size and shape of the plot could be suitable to accommodate one dwelling on the site.

In relation to access, the site is accessed off a private road to the south of the site which serves a number of dwellings. 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 raised no objection to the proposal at this stage.

High Weald Area of Outstanding Natural Beauty

The legal framework for AONBs, (also known as National Landscapes) in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which at Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty. Section 84 of the CRoW requires Local Planning Authorities to 'take all such action as appears to them expedient for accomplishment of the purpose of conserving and enhancing the natural beauty of the AONB'. The Levelling-up and Regeneration Act (2023) amended section 85 of the CRoW Act, to create a new duty on relevant authorities to 'seek to further the purpose of conserving and enhancing the natural beauty of the area' when discharging their functions in AONBs'. A similar ethos is found within The High Weald Area of Outstanding Natural Beauty Management Plan which is a material consideration in the determination of planning applications in the AONB.

Policy 16 of the District Plan and policy EG1 of the East Grinstead Neighbourhood Plan require proposals in the AONB to conserve or enhance natural beauty.

Paragraph 189 of the NPPF is also relevant. This states:

'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes, which have the highest status of protection in relation to these issues.'

Details of the scale, design and appearance are matters reserved for the technical details consent stage. It is acknowledged that a new residential dwelling at the site may not conserve or enhance the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty. However, these matters would fall to be properly considered as part of the technical detail consent stage.

Ashdown Forest

The site falls within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The PPG in relation to Permission in Principles states:

'Permission in principle must not be granted for development which is habitats development. From 28 December 2018 habitats development means development which is likely to have a significant effect on a qualifying European site or a European offshore marine site, referred to as habitats sites in the

National Planning Policy Framework (either alone or in combination with other plans or projects); is not directly connected with or necessary to the management of the site, and; the competent authority has not given consent, permission, or other authorisation in accordance with regulation 63 of the Conservation of Habitats and Species Regulations 2017. This means for sites where development is likely to have a significant effect on a qualifying European site or a European offshore marine site without any mitigating measures in place, the local planning authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle. If the local planning authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affects the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle.' (Paragraph: 005 Reference ID: 58-005-20190315)

In addition it states:

'Local planning authorities may agree planning obligations at the technical details consent stage where the statutory tests have been met. Planning obligations cannot be secured at the permission in principle stage. Local planning authorities can inform applicants that planning obligations may be needed at the technical details consent stage.' (Paragraph: 022 Reference ID: 58-022-20180615)

Within the PPG for Appropriate Assessments and the guidance on the use of Habitats Regulations Assessment paragraph 009 (Reference ID: 65-009-20190722) states:

'Up to December 2018 legislation did not permit a competent authority to approve a neighbourhood plan, permission in principle, and certain development orders, where screening identifies a 'likely significant effect.' The People over Wind judgment means that it is no longer possible to apply mitigation measures at the screening stage. Therefore, some plans and orders where there could be a likely significant effect on a habitats site were unable to progress, irrespective of what mitigation is proposed, which was not the policy intention. In order to address this issue the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 amend legislation to allow that where a likely significant effect on the environment is identified, a competent authority may undertake an appropriate assessment to consider impacts and any mitigation measures, and then make a decision whether or not to approve the plan or order. This applies to the following plans and orders:

- *neighbourhood plans, where the prescribed basic condition relating to habitats has been amended to take account of the full Habitats Regulations Assessment;*
- *permission in principle;*
- *special development orders;*
- *local development orders;*
- *neighbourhood development orders;*
- *simplified planning zones;*
- *enterprise zones.'*

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 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 1 dwelling, and as such, **mitigation is required**.

An appropriate scale of SAMM mitigation for the proposed development is £1,170, and if the approved scheme provides for a strategic SANG contribution, this would be £5,253.

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 would be secured at the technical detail application stage and not as part of the permission in principle. As such no planning obligation is required as part of this application to secure the contributions and this would be dealt with as part of the technical details consent stage.

Atmospheric pollution

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

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

Conclusion of the Habitats Regulations Assessment

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 would require mitigation to be provided at the technical details consent stage through the completion of a planning obligation to secure the necessary payments to provide sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA. Mitigation is not required at this permission in principle stage.

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 fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development.

Other Matters

One representation letter has been received which objects to the proposed development in part due to the impact on existing drainage issues, increase in traffic levels and impact on existing residents wellbeing. It should also be noted that the Council's Flood Risk and Drainage Team and Tree Officer have requested more information on the application. Due to the nature of this application these issues are not considered at this stage but would be dealt with at the technical detail consent stage.

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.

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 DP6, DP12 and DP15 of the District Plan and policies EG1, EG2a and EG5 of the East Grinstead 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 DP6, DP12, and DP15 of the District Plan and policies EG1, EG2a and EG5 of the East Grinstead Neighbourhood 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 1 No. dwelling on the site will make a limited, 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 proposal is considered to be contrary to District Plan policies DP6, DP12 and DP15 and policies EG1, EG2a and EG5 of the East Grinstead Neighbourhood Plan 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: Hamish Evans