

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1014	Case Officer:	Caroline Grist
Application Type:	Change of Use Application		
Proposal:	Change of use from agricultural land to domestic garden associated with The Garden House.		
Site:	The Garden House, Cuckfield Lane, Warninglid, Haywards Heath, West Sussex, RH17 5SN, ,		
Validation Date	15 Apr 2025	Overall Expiry Date:	14 May 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	9 Jun 2025
Target Date:	10 Jun 2025	Recommending Officer Signature:	<i>Caroline Grist</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	10 Jun 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1014

**The Garden House, Cuckfield Lane, Warninglid, Haywards Heath, West Sussex, RH17 5SN,
Change of use from agricultural land to domestic garden associated with The Garden House.
Mr And Mrs T And Z Billington**

SUMMARY OF REPRESENTATIONS

No representations have been received in response to this application.

SUMMARY OF CONSULTEES

No representations have been received from consultees.

PARISH COUNCIL OBSERVATIONS

SPC - No objection. However, but would ask for a condition to restrict the use to a domestic garden.

INTRODUCTION

Planning permission is sought to change the of use of agricultural land to domestic garden, associated with The Garden House.

RELEVANT PLANNING HISTORY

SV/007/76 - Retention of 2-storey dwelling without condition requiring occupation by agricultural worker only. Refused.

SV/030/95 - Application for certificate of lawful development for use as a dwelling house without complying with agricultural occupancy condition no 1 on Permission F52/103. (This is an application to establish whether the existing use is lawful). Permission.

14/02031/FUL - Demolition of outbuilding/garage replaced by a two storey side extension. Permission.

DM/16/3821 - Change of use from agricultural land to use within residential curtilage. Permission.

SITE AND SURROUNDINGS

The Garden House is a detached, two storey dwelling located to the south of Cuckfield Lane. The property currently has garden space to the rear of the dwelling, which has been previously enlarged under application DM/16/3821. The agricultural land in question is to the west of The Garden House and there is additional agricultural land to the south. To the north is Cuckfield Lane, whilst Colwood Lane is to the west.

The application site lies outside of the built up area of Warninglid and is therefore within the countryside. It is also within the High Weald Area of Outstanding Natural Beauty (also known as National Landscape). The neighbouring dwellinghouse to the east, Coldhardbour, is a Grade II Listed Building. Due to the nature and location of the proposed development, it is not considered to impact the setting of this listed building.

APPLICATION DETAILS

The proposal is seeking to convert an area of agricultural land to domestic garden. The area in question measures approximately 100 metres in depth by 51 metres in width.

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 Document (DPD) and Slaugham Neighbourhood Plan.

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

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP12 - Protection and Enhancement of Countryside
DP16 - High Weald Area of Outstanding Natural Beauty
DP26 - Character and Design

Site Allocations Development Plan Document

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

There are no relevant policies.

Slaugham Neighbourhood Plan

The Slaugham Neighbourhood Plan was formally made on 25th September 2019.

Relevant policies:

Policy 1 - Protecting the Area of Outstanding Natural Beauty

Other Legislation

Countryside and Rights of Way Act (CRoW) 2000
Levelling-Up and Regeneration Act 2023

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) was published for public consultation on 12th January 2024 for six weeks and as a result of this consultation there are unresolved objections to the some of the policies in the draft District Plan. As such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS2 - Sustainable Design and Construction
DPS6 - Health and Wellbeing
DPC1 - Protection and Enhancement of the Countryside
DPC4 - High Weald Area of Outstanding Natural Beauty
DPB1 - Character and Design

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.

High Weald AONB Management Plan 2024 - 2028

National Planning Policy Framework (NPPF) (December 2023)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

Paragraph 12 of the NPPF states *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

Paragraph 38 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 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

ASSESSMENT

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

- Principle and impact on the character of the surrounding area;
- Impact on neighbouring amenity; and
- Biodiversity Net Gain.

Principle and impact on the character of the surrounding area

The application site is located within the countryside, as defined by the Mid Sussex District Plan. Policy DP12 establishes that:

'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:

- o it is necessary for the purposes of agriculture; or*
- o it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan'.*

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'.*

Policy DP16 of the Mid Sussex District Plan relates to the AONB and states that:

'Development within the High Weald Area of Outstanding Natural Beauty (AONB), as shown on the Policies Maps, will only be permitted where it conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan, in particular:

- o the identified landscape features or components of natural beauty and to their setting;*
- o the traditional interaction of people with nature, and appropriate land management;*
- o character and local distinctiveness, settlement pattern, sense of place and setting of the AONB;*
- and*
- o the conservation of wildlife and cultural heritage'.*

Policy 1 of the Slaugham Neighbourhood Plan and paragraph 182 of the NPPF reflect the requirements of policy DP16. 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.

In terms of design, policy DP26 of the Mid Sussex District Plan states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- o is of high quality design and layout and includes appropriate landscaping and greenspace;*

- o contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;
- o protects open spaces, trees and gardens that contribute to the character of the area;
- o protects valued townscapes and the separate identity and character of towns and villages;
- o does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP27);
- o creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;
- o incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;
- o positively addresses sustainability considerations in the layout and the building design;
- o take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;
- o optimises the potential of the site to accommodate development'.

As noted above, the garden associated with this property has been previously enlarged to the south. When assessing this application, the delegated report set out:

'The proposed change of use of part of the existing agricultural field would approximately double the size of the residential curtilage of the existing dwellinghouse. However, it is set to the south of the existing residential dwelling, with agricultural land retained to the south and east (rear and side) elevations, combined with the existing boundary treatment surrounding the field and the fact it will be viewed in context of the curtilage of Coldharbour to the eastern (side) elevation, it is not considered to result in a reduction of character of the locality. Each application is to be considered on its own merits and it is not therefore considered that an approval would set a harmful precedent in the Parish'.

Additionally, in relation to the impact on the AONB it states:

'The section of field to be changed into residential curtilage is set within a well screed plot, while also being viewed in context of the existing dwelling and neighbouring residential curtilage. Consequently, it is considered to preserve the character of the wider High Weald Area of Outstanding Natural Beauty'.

The application currently under consideration seeks to further enlarge the garden into an adjoining field. This would extend the garden space to the boundaries with Cuckfield Lane, to the north, and Colwood Lane, to the west. These roads both form part of the public highway and offer direct, public views to the application site. The field is currently undeveloped and left to grass, with two rows of trees adjacent to the existing garden. There is currently a post and rail fence between the garden and field, providing a clear distinction between these spaces. This parcel of land visually connects to further undeveloped fields surrounding the application site. It also marks the end of a pocket of development on the approach to Warninglid that, overall, has rural and verdant character that reflects its countryside location.

Policy DP12 is therefore the starting point for the proposed change of use of the countryside to garden area. The proposed change of use is therefore only acceptable in principle if it is considered to protect the intrinsic character and beauty of the countryside by maintaining the quality of the rural and landscape character of the surrounding area. It also has to be necessary for the purposes of agriculture or be supported by other relevant policies in the development plan.

The applicant is a keen gardener and the Planning Statement provides additional details as to the proposals for this land, including dividing it into distinct zones with a central axis or pathway. Whilst the intent of the applicant is acknowledged, the proposal would result in a substantial area of land being converted to domestic garden. This would include the planting of flower beds and landscaping and, in time, could also give rise to additional domestic paraphernalia. A visible and harmful alteration to the landscape would therefore occur to an area of land that is considered to make a positive contribution to the character of the area. As such the proposal would not be considered to protect the intrinsic character

and beauty of the countryside nor conserve or enhance the natural beauty of the AONB. It is therefore to be recommended for refusal.

Impact to neighbouring amenity

Policy DP26 of the Mid Sussex District Plan states:

'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);'

Due to the nature of the proposal and the distance to neighbouring properties, it is considered that the development would not have a harmful impact on the amenities of neighbouring residents.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application is comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

In conclusion the proposal would substantially increase the size of the residential curtilage, for which there is no policy justification, resulting in the harmful erosion and domestication of the countryside, thereby failing to protect its intrinsic character or beauty, and would not conserve or enhance the natural beauty of the High Weald Area of Outstanding Natural Beauty. This would also affect the public experience of the landscape to users of the adjoining public highways to the north and west of the site.

The proposal therefore fails to comply with Policies DP12, DP16 and DP26 of the Mid Sussex District Plan, Policy 1 of the Slaugham Neighbourhood Plan, the Mid Sussex Design Guide SPD and the National Planning Policy Framework.

Decision: Refusal

Case Officer: Caroline Grist