

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2770	Case Officer:	Rachel Richardson
Application Type:	Full Application		
Proposal:	Removal of existing outbuilding and holiday let building. Erection of detached dwelling with associated landscaping and access.		
Site:	Stumble Ridge, Oldlands Avenue, Balcombe, Haywards Heath, West Sussex, RH17 6LP, ,		
Validation Date	26 Nov 2024	Overall Expiry Date:	8 Jan 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	27 Jan 2025
Target Date:	21 Jan 2025	Recommending Officer Signature:	Rachel Richardson

Date Legal Agreement Completed: (if applicable)		No of Representations:	9
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Signed and Agreed By:	Steven King	Date:	29 Jan 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2770

**Stumble Ridge, Oldlands Avenue, Balcombe, Haywards Heath, West Sussex, RH17 6LP,
Removal of existing outbuilding and holiday let building. Erection of detached dwelling with
associated landscaping and access.**

Mr And Mrs S Baker

SUMMARY OF REPRESENTATIONS

Letters of representation have been received from 9 households including 8 objections. Their comments are summarised below:

Objections

- o Overlooking/loss of privacy to 6 Stumble Mead
- o Damage to trees and hedgerows
- o If adjoining boundaries are compromised their security will be affected
- o Harm to residential amenity and AONB from noise and disturbance, light and dust pollution
- o How will construction traffic be managed (highway safety)
- o Overbearing impact by reason of height, building mass and proximity to neighbouring boundary
- o No consideration for others with access rights to the track
- o Negative impact on the character of the archaic meadow (ancient woodland) at the rear
- o Part of the application site lies outside of the built up area boundary and in countryside
- o Previous planning history seeks to prevent the creation of an independent dwelling on the site
- o Permission was previously granted to remove a blue atlas cedar tree but the replacement deodar cedar was not planted
- o Harm to conservation area, out of keeping with character of area
- o Harmful impact on wildlife
- o Substandard access. The access isn't wide enough for emergency vehicles

SUMMARY OF CONSULTEES

MSDC Conservation Officer: In my opinion the proposal will detract from the character and appearance of the Balcombe Conservation Area. This will be contrary to the requirements of District Plan Policy DP35. In terms of the NPPF, the proposal will result in less than substantial harm to the Conservation Area, at the lower end of that scale, such that the balancing exercise set out in paragraph 215 will apply.

MSDC Tree Officer: No objection provided the arboricultural method statement/ tree protection measures are complied with. To be conditioned.

MSDC Drainage: No objection recommends conditions.

WSCC Highway Authority: No unacceptable impact on highway safety and no transport grounds to resist this proposal.

Place Services Ecology: Recommends approval subject to conditions.

NatureSpace Partnership: Unlikely to have an impact on great crested newts and/or their habitats. Recommends an informative if permission is granted.

Natural England: No objection.

Southern Water: No objection.

PARISH COUNCIL OBSERVATIONS

Objection and recommends refusal on the following grounds:

- o Would not conserve the special character of the conservation area
- o The garden of the proposed dwelling would be within the countryside
- o It would have an adverse effect on views within the AONB (in terms of noise, light, ecological and landscape harm)
- o The proposal is within the AONB and does not meet a local need (not an allocated site and is larger than a 3 bed house, which is stipulated in NP)
- o Impact on nearby ancient woodland
- o The access is in shared ownership with the adjoining property to the west. The other houses in Oldlands Avenue to the west also have a right of access via this track to the field at the rear. This access is likely to be damaged during construction and there are no proposals for it to be resurfaced.
- o Noise and outlook would be compromised from use of this track (and proposed access) for the occupants of the property to the west
- o Excavation works would result in the likely loss of the boundary hedgerow to the east which provides screening and amenity to the adjoining garden and allotments
- o The excavation and foundations needed would be extremely noisy when installing
- o The new dwelling would have a narrow access which might not be compliant with fire/emergency vehicle regulations nor waste collection.
- o Loss of privacy/overlooking and overbearing impact to Stumble Mead

INTRODUCTION

Permission is sought for subdivision of Stumble Ridge and the construction of a detached dwelling with associated landscaping and access, all following removal of holiday let building.

RELEVANT PLANNING HISTORY

DM/20/2508 Change of use of outbuilding to holiday let. Permission 25.11.2020

DM/15/1832 for: Retrospective application for the decking area surrounding the garden office.
Permission 20.07.2015

13/01221/FUL Erection of a detached garden office/gym. Permission 06.06.2013

SITE AND SURROUNDINGS

The site comprises a large detached two-storey dwellinghouse set within a substantial and lengthy plot on the southern side of Oldlands Avenue in Balcombe, opposite the junction with Stockcroft Road. The site is in a residential area of mainly large detached houses of mixed character. It adjoins a cul-de-sac to the east (Stumblemead), which consists of 2-storey semi-detached dwellings. Further south is an allotment. The site wraps around this and the southernmost part of the plot consists of woodland, set on lower ground than the house. There is a track in between the site and the neighbouring property to the west, Lamb Cottage. The rear garden is bound primarily by a length of mature hedging to the east and west.

The application site is located in part within the built up area boundary of Balcombe as well as countryside, as defined by the Mid Sussex District Plan. The site also lies within the Balcombe Conservation Area and the High Weald Area of Outstanding Natural Beauty, now known as National Landscapes.

APPLICATION DETAILS

The application site area totals 0.15 ha.

The application proposes the subdivision of Stumble Ridge and the construction of a self-build detached dwelling with landscaping and access, all following the demolition of the holiday let building in the rear garden of the existing dwelling.

The application boundary edged in red would sit approximately 62m to the rear (and south) of the boundary of the existing dwelling which abuts Oldlands Avenue. The proposed plot is rectangular in shape measuring around 22m across (east-west) on its northern boundary and 27m across the southern rear proposed boundary. Its total proposed plot depth is about 53m. Access is existing and lies to the west and between the application site and Lamb Cottage.

The proposed dwelling would sit back and around 5m from the proposed northern boundary. It would maintain distances of approximately 1m to the east and 2m to the western boundaries. The footprint of the dwelling is 'L' shaped measuring 17m wide (east-west) and 17.3m deep along its eastern side, and 9m deep to the west before stepping in by around 8.4m. It is single storey to the north and two storey to the rear following the downward sloping contours of the land. It would have a flat grassed roof.

This is a scandia hus proposal so of contemporary appearance with vertical timber boarding at the upper level (rear) and ground (front) and rendered at lower level.

Landscaping is proposed and the proposed site plan illustrates a parking/turning area to the rear of the proposed dwelling comprising an eco grass/grid system with a lawn area beyond and to the south. A landscaped courtyard area is proposed in the infill quadrant to the rear of the property. The perimeter would be defined with a 1.8m high close boarded fence and hedgerow planting. Some fruit trees are proposed to be removed.

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 Balcombe 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:

DP12: Protection and Enhancement of Countryside
DP16: High Weald Area of Outstanding Natural Beauty
DP17: Ashdown Forest (SPA and SAC)
DP21: Transport
DP26: Character and Design
DP27: Dwelling Space Standards
DP29: Noise, Air and Light Pollution
DP35: Conservation Areas
DP37: Trees, Woodland and Hedgerows
DP38: Biodiversity
DP39: Sustainable Design and Construction
DP41: Flood Risk and Drainage

Site Allocations Development Plan Document

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

There are no relevant policies.

Neighbourhood Plan

BALCOMBE NEIGHBOURHOOD PLAN (Made on 22 September 2016)

Relevant policies:

Policy 1: Built Up Area Boundary
Policy 3: Design
Policy 11: Renewable Energy

Other Legislation

Countryside and Rights of Way Act (CRoW) 2000

Planning (Listed Buildings and Conservation Areas) Act 1990

Other Material Considerations

Mid Sussex District Plan 2021-2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to the majority of Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS1: Climate Change
DPS2: Sustainable Design and Construction
DPS4: Flood Risk and Drainage
DPN2: Biodiversity Net Gain
DPN4: Trees, Woodland and Hedgerows
DPN7: Noise Impacts
DPN8: Light Impact and Dark Skies
DPC1: Protection and Enhancement of the Countryside
DPC4: High Weald Area of Outstanding Natural Beauty
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPB3: Conservation Areas
DPT1: Placemaking and Connectivity
DPT3: Active and Sustainable Travel
DPT4: Parking and Electric Vehicle Charging Infrastructure
DPH1: Housing
DPH3: Sustainable Development - Inside the Built-Up Area
DPH9: First Homes
DPH11: Dwelling Space Standards
DPH12: Accessibility

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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

National Planning Policy Framework (NPPF) (December 2024)

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

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

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

Paragraph 12 of the NPPF states;

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

Paragraph 39 of the NPPF states;

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

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

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

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

National Design Guide

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

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

National Planning Policy Guidance

High Weald AONB Management Plan 2024-2029

High Weald Housing Design Guide

Planning Technical Advice Note: Dark Skies in the High Weald

This dark skies planning technical advice note is a material consideration in planning matters.

ASSESSMENT

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

- o Principle
- o Design and Impact on the character and appearance of the area and AONB
- o Impact on Conservation Area
- o Highways
- o Impact on Residential Amenity
- o Light Pollution
- o Housing Standards
- o Accessibility
- o Flood Risk and Drainage
- o Ecology
- o Sustainability
- o Trees
- o Ashdown Forest
- o Biodiversity Net Gain
- o Planning Balance and Conclusion

Principle

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

In terms of policy designations, the starting point for this assessment is that the application site falls both inside and outside of the built-up area of Balcombe as defined by the District Plan. The proposed dwelling itself would lie within the defined built up area boundary.

The proposed rear garden area is located within the defined Countryside.

As such the countryside related policies do not apply when assessing the principle of the proposed development. The principle of the proposed development is considered to be acceptable.

BNP Policy 1 states that:

'Sustainable development proposals located inside the Built Up Area Boundary will be supported, provided they accord with planning policy, the other provisions of the Neighbourhood Plan and the Mid Sussex development plan. Development proposals outside of the Built Up Area Boundary will be required to conform to development plan policies in respect of the control of development in the countryside.'

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.

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.

Design and Impact on Character of the area and AONB

The proposed dwelling lies within the built up area boundary but lies adjacent to the boundary of the countryside, as defined within the District Plan. As such, while the proposed dwelling is acceptable in principle, the impact of it on the character of the countryside is relevant.

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.

The site is also within the 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 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'.*

The High Weald Management Plan and paragraph 189 of the NPPF are also relevant.

These policies seek to enhance the character of the settlement where viewpoints and spaces are preserved. The Dark Skies Technical Advice Note SPD has objectives to protect and maintain existing dark skies by minimising internal light spill and obtrusive external light pollution.

Policy DP26 of the District Plan relates to character and design. It states:

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

- o is of high quality design and layout and includes appropriate landscaping and greenspace;*
- o contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- o protects open spaces, trees and gardens that contribute to the character of the area;*
- o protects valued townscapes and the separate identity and character of towns and villages;*
- o does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- o creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- o incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- o positively addresses sustainability considerations in the layout and the building design;*
- o take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- o optimises the potential of the site to accommodate development.'*

BNP Policy 3 (design) states:

'The scale, density, massing, height, landscape design, layout and materials of all development proposals, including alterations to existing buildings, will be required to reflect the architectural and historic character and scale of the surrounding buildings and to avoid any significant detrimental effect on the landscape and natural beauty of the High Weald AONB and the significance and character or appearance of the Balcombe Conservation Area, where a building will command a view.

Unless otherwise proposed in Policy 2, development proposals will be expected to demonstrate they accord with the provisions of the Balcombe Village Design Guide and with the following principles:

- i. approximately 75% of the total number of dwellings of the scheme, and especially the affordable homes, are no larger than 3 bedroom dwellings with a proportion suited to occupation by households of retirement age;*
- ii. approximately 25% of the total number of dwellings of the scheme to comprise dwellings of no more than 4 bedrooms;*

iii. they comply with affordable housing requirements of the Mid Sussex development plan;
iv. new and improved utility infrastructure will be encouraged and supported in order to meet the identified needs of the community; and
v. new residential and commercial development will be permitted where there is sufficient infrastructure capacity currently available or where the necessary capacity can be provided to an agreed timetable.

Proposals that involve the change of use of listed buildings within the settlement boundary for housing as 1, 2 or 3 bedroom units, including buildings judged to make a positive contribution to the special historic or architectural interest or character and appearance of the conservation area, will be supported provided it can be demonstrated they will sustain the significance of these heritage assets.'

It is considered that design policies DP26 in the District Plan and policy 3 in the Neighbourhood Plan accord with the aims of the NPPF in seeking a high standard of design in new development and in accordance with paragraph 232 of the NPPF, can be afforded full weight.

The Council's Design Guide sets out a number of design principles to deliver high quality, new development that responds appropriately to its context and is inclusive and sustainable. 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.

The NPPF refers to design under chapter 12, achieving well-designed places. Paragraphs 131 and 135 are of particular relevance.

Paragraph 189 of the NPPF 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. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks.'

As said above, the proposed dwelling will be sited in the same position as the holiday building proposed for demolition. However, the holiday let building is ancillary to Stumble Ridge, is one unit and lies within the curtilage of Stumble Ridge. There are restrictive planning conditions (2 and 3) on the change of use permission DM/20/2508 to stipulate that the holiday let should only be used as a holiday let and for no other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. Also that the holiday let building must not be occupied by any one person for a continuous period exceeding 28 days. These conditions were put on to comply with planning policies DP1, DP6, DP16, DP21, DP26 and DP35 (in relation to small scale tourism in the countryside, protecting the character and function of the settlement, conserving the AONB, highways, addressing character/design of locality and to conserve the special character of the conservation area).

The proposed development involves subdivision of the plot and the creation of a self contained dwelling within a separate curtilage. Unlike the holiday let building, the proposed dwelling will cover virtually the entirety of the width of the existing garden measuring some 17m wide and 17.3m deep (on its eastern half). Where the levels fall away significantly to the south, the proposed property reads as being two storey in height. The ground floor elevation will be rendered and painted in a white/cream colour.

The proposed dwelling would be situated in an elevated position and therefore more prominent in views from the south and to the west there is a public right of way (BAL/13Ba/2). There are public allotments to the south east where the site is also likely to be visible.

In terms of impact on the character and appearance of the area, there are no other dwellings in a backland position and to the rear of the existing ribbon development which fronts onto Oldlands Avenue. The character of the area is very much of a spacious verdant setting, with generous sized houses in large plots with large rear gardens. The proposed development is in contrast to the grain and pattern of existing development.

It is therefore considered that the proposed development is out of keeping with the character and pattern of existing development within the immediate locality therefore conflicting with policy DP26. It does not contribute positively to, public and private realms and is not designed with an active building frontage facing a street and public open space. It does not create a sense of place while addressing the character and scale of the surrounding buildings and landscape. Nor does it protect the garden which contributes to the character of the area.

It would also conflict with paragraph 135 c of the NPPF which requires development to be sympathetic to the local character and history, including the surrounding built environment and landscape setting. Para 139 also states that development that is not well designed should be refused where it fails to reflect local design policies and government guidance on design.

Policy DP16 in part refers to development having regard to the character and local distinctiveness, settlement pattern, sense of place and setting of the AONB. Para 189 of the NPPF stipulates that great weight should be given to conserving and enhancing landscape and scenic beauty because they have the highest status of protection.

As said above, the development would be prominent, particularly when viewed on lower ground from the south and south west, and due to its elevated position and two storey height and overall scale and appearance. Its ground floor would be rendered and the drawings illustrate its white/cream painted appearance, thus making it appear more prominent in its setting in contrast to the smaller timber clad holiday let building. That said, on balance, it is not likely to detract from the visual qualities and essential characteristics of the AONB. It is unlikely to adversely affect views from within the AONB because it would be seen against the backdrop of existing houses within the settlement.

The Countryside is protected in recognition of its intrinsic character and beauty and development is only considered to be acceptable where it either maintains or enhances the quality of the rural landscape character. The proposed rear garden of the property lies within the countryside as defined in the DP. However this is already part of the garden for the existing dwelling and it is therefore considered that subdivision of Stumble Ridge for the creation of a new dwelling, will maintain the intrinsic character and beauty of the countryside. Any permission could also include a planning condition to remove permitted development rights for garden buildings to be constructed.

Overall, in terms of design and character, it is considered that the proposed development would be in conflict with Policy DP26 of the MSDP and Policy 3 of the BNP. This is by reason of its backland siting, scale and appearance which would be out of keeping with the pattern of existing development within the immediate vicinity and wider locality.

Impact on Conservation Area

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states 'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.

As the application affects a Conservation Area, the statutory requirement to have special regard to the desirability of preserving the area, its setting and any features of special interest must be taken into account when making any decision. In addition, in enacting section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the desirability of preserving the or enhancing the character and appearance of the area should be given 'considerable importance and weight' when the decision taker carries out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable.

Policy DP35 states:

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

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

Paragraphs 212 to 215 of the NPPF considers the potential impacts of the proposed development on the significance of a designated heritage asset, giving great weight to the asset's conservation. This is irrespective of whether the potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The Conservation Officer has commented as follows:

'Stumble Ridge is an unlisted modern (c.2012) detached house, replacing a previously existing smaller 20th century dwelling, which is located to the southern side of Oldlands Avenue within the Balcombe Conservation Area, although the southern end of the extensive rear gardens are outside the Area but within its setting. There is not an adopted character appraisal for the Balcombe Conservation Area, but I would consider its significance to lie in its nature as the heart of a rural Sussex village which has developed over many centuries in close contact with the surrounding countryside. The Council's document 'Conservation Areas in Mid Sussex' contains a brief high level analysis of the key features of the Area, which include

- '- the large detached houses, set predominantly in spacious gardens, and the extensive grass verges bordering wide roads which contribute to the overall open character of the residential area of Stockcroft Road, Deanland Road and Oldlands Avenue;... and*
- the attractive views of rolling countryside.'*

The surviving rural setting of the Conservation Area, which directly abuts the Area to parts of its northern, eastern and southern boundaries, therefore makes a strong positive contribution to the character and appearance of the Area. The development to the south of Oldlands Avenue within the Conservation Area backs directly onto open countryside, including the application site.

Planning permission was granted in 2020 for the conversion of an existing outbuilding within the rear garden of Stumble Ridge (and the Conservation Area) to use as a holiday let. The current proposal is for the demolition of the existing holiday let building and its replacement with a new detached dwelling. Access would be via an existing trackway to the west of Stumble Ridge, with a new opening formed in the adjacent hedgerow to access the rear gardens. The proposal also includes associated re-grading of the land, and hard and soft landscaping.

The existing holiday let building is not of any particular architectural merit and makes at best a neutral contribution to the character and appearance of the Conservation Area. Its demolition is therefore not considered contentious in principle.

The principle of a new dwelling within the rear gardens to Stumble Ridge is however in my opinion contentious. Notwithstanding Stumblemead, which is a cul-de-sac development immediately to the east of the application site (and outside the Conservation Area), the well-established pattern of development along this southern side of Oldlands, within the Conservation Area, is of a single depth of houses, with no precedent for backland development of the type now proposed. The majority of development to the east, within the setting of the Area, is also of this nature. The proposal is therefore contrary to the established grain of development within this part of the Conservation Area and its setting.

Furthermore, the scale of the proposed dwelling is such that it will detract from the currently largely open and verdant character of this part of the rear garden to Stumble Ridge. This southern part of the garden to the property seems to have been annexed from the field to this side of Oldlands Avenue relatively recently, and retains a semi-rural character which contributes positively to the Conservation Area and its setting. This again will detract from the significance of the Conservation Area. The associated hardstanding area, notwithstanding that it is shown as grass grid system, will exacerbate the impact on the character of the Area, as will any work to upgrade the access track from Oldlands Avenue.

I note the point made in the submitted Heritage Statement regarding the discrete and relatively well screened nature of the site, however there are views obtainable from adjoining properties and from the allotments to the rear (south) of Stumblemead. Private, and semi-public views will also be considered to contribute to the character and appearance of the Conservation Area.

For these reasons in my opinion the proposal will detract from the character and appearance of the Balcombe Conservation Area. This will be contrary to the requirements of District Plan Policy DP35. In terms of the NPPF, the proposal will result in less than substantial harm to the Conservation Area, at the lower end of that scale, such that the balancing exercise set out in paragraph 215 will apply.'

In this case, it is necessary to consider whether according to Para 215 of the NPPF, sufficient public benefits would offset the harm which must be given significant importance and weight in accordance with S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The views of the Conservation Officer are agreed with in respect of the harm caused to the conservation area, and it is considered that the proposed development is not compliant with policy DP35. In terms of the NPPF, and para 215, there are no public benefits of the proposal for one dwelling which would outweigh the less than substantial harm to the significance of this designated heritage asset.

Highways

Policy DP21 of the District Plan relates to transport and requires proposals to be sustainably located and provide adequate parking. It states:

'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:

- A high quality transport network that promotes a competitive and prosperous economy,*
- A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time,*
- Access to services, employment and housing, and*
- A transport network that feels, and is, safer and healthier to use.*

To meet these objectives, decisions on development proposals will take account of whether:

- The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy),*
- Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up,*
- The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages,*
- The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport, and with the relevant Neighbourhood Plan where applicable,*
- Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded,*

- The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements,
- The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation,
- The scheme protects the safety of road users and pedestrians, and
- The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.
Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.
Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'

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.'

WSCC Highway Authority has commented that:

'The proposal would not have an unacceptable impact on highway safety or result in severe cumulative impacts on the operation of the highway network, therefore is not contrary to the NPPF (para 116), and that there are no transport grounds to resist the proposal.

It was considered that the proposed dwelling would not give rise to a material intensification of use of the existing access and that the access works will be subject to form approval from the private roads' proprietor.

The proposed parking to be facilitated within the integral garage and externally would meet with the parking demand calculator.

Although tight, turning can be achieved within the site. There is also acceptable provision for cycle storage.'

As such, from a highways point of view, the proposal is considered to be acceptable and is compliant with the criteria of policy DP21 and the NPPF.

Impact on Residential Amenity

DP26 states in part that development is required to demonstrate that it:

'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);'

Privacy/Overlooking

There is one window proposed at the upper level on the eastern side elevation which is a utility room window.

This window would be positioned to the southern side of the rear gardens in StumbleMead. A utility room window is also not a habitable room. As such, there would be no substantial harm by reason of overlooking and or loss of privacy to properties adjoining the site to the east.

The windows on the western side of the proposed dwelling would be facing towards the hedgerow, private driveway to serve this property and rear end of Lamb Cottage. As such there be no significant harm by reason of overlooking and or a loss of privacy.

In terms of the relationship with the existing dwelling, there would be at least 32m separation distance back to back. The proposed front elevation is also single storey and will be set behind the proposed perimeter fencing. As such, there will be no significant harm by reason of loss of privacy or overlooking.

Outlook/Overbearing Impact

Given the above and generous spacing between adjoining properties and backland siting, there would not be any significant harm to adjoining properties by reason of outlook and overbearing impact.

Loss of daylight/sunlight/Overshadowing

Again, given its backland siting, the proposed dwelling would not result in any significant harm to the residential amenity of adjoining properties by reason of overshadowing.

Noise

It is considered that the creation of one dwelling would not amount to significant harm as a result of noise disturbance to the residential amenity of adjoining properties. The proposed house would result in the increased use of the shared track however, any noise generated by the irregular movements of one dwelling would also be mitigated by the boundary hedgerows.

Air and Light Pollution

The above (in relation to noise pollution) is also considered the same for air pollution. Any emissions generated by vehicles of the occupants of the proposed dwelling would not amount to significant harm. In terms of residential amenity there is no significant harm in relation to light pollution. The headlamps of cars using the shared track would be mitigated by boundary vegetation.

As such, in terms of residential amenity, the proposed dwelling is considered to be compliant with Policy DP26.

Light Pollution

Policy DP29 in part states that:

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

Light pollution:

- o The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- o The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;'*

Objective DS1 of the Technical Note for Dark Skies in the High Weald seeks to: *'preserve the dark skies of the High Weald AONB by minimising light pollution, obtrusive external lighting and internal light spill from domestic, commercial, and public premises in both existing and new developments within the High Weald, and from highways lighting. underpinned by the following rationale: To protect and maintain the existing dark skies within the High Weald for the benefit of all, including future generations for our health and wellbeing, and enjoyment, to increase our understanding and sense of place in the universe; and for the benefit of wildlife and to reduce energy consumption.'*

The south and west facing elevations are two and one a half storey high and the majority of these elevations are covered with glazing. These elevations are facing towards the open countryside. Although the west facing elevation is shown as having vegetation obscuring this side. The proposed dwelling (southern facing building line) would be up against the boundary of the countryside as defined in the DP.

On balance though, the level of light pollution and light intrusion is not considered to cause significant impact and harm on the countryside setting. This is because the location is not an isolated one where the sky is especially dark. The proposed dwelling would be sited within the built up area boundary (as defined in the DP) and would therefore be viewed against other existing houses within the settlement.

That said, it is considered that the design could be improved to reduce glazing on prominent elevations and further mitigate the impact of light spillage by, for example introducing louvres to windows, where proposed.

On balance though, the proposal by virtue of its location is not therefore considered to be of significant harm in relation to policy DP29 and the technical note for dark skies. This is because of it being situated within the built up area boundary and viewed against existing housing.

Housing (Space) 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.

Technical Nationally Described Housing Standards requires a 3 bedroom two storey house (the application form states that the proposed dwelling is a 3 bedroom house) to have a minimum internal floor area of between 84 and 102 sqm with 2.5 sqm of storage. The proposed dwelling will have an internal floor area of 347 sqm including storage area.

As such, the application is over and above the minimum internal floor area required and complies with Technical Standards and DP27.

Accessibility

In addition, Policy DP28 of the District Plan relates to accessibility and requires all development to meet and maintain high standards of accessibility so all users can use them safely and easily.

The proposed dwelling would need to be compliant with building regulation standards to ensure that it is accessible.

The proposal would therefore provide a satisfactory standard of accommodation for future occupiers of the units proposed and thereby comply with Policy DP28 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 consultee comments from the Councils Drainage Engineer are as follows:

'The site is in flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The site is shown to be at very low surface water flood risk (comparable to flood zone 1).

Mid Sussex District Council's records do not contain records of the site flooding. Our records also contain no records of flooding within the area immediately surrounding the site.

Mid Sussex District Council's records are not complete, and flooding may have occurred which is not recorded. A site having never flooded in the past does not mean it won't flood in the future.

Sewers on Site

The Southern Water public sewer map does not show any public sewers located within the redline boundary of the site.

There may be sewers located on the site not shown on the plan which are now considered public sewers. Any drain which serves more than one property, or crosses into the site from a separate site may be considered a public sewer. Advice in relation to this situation can be found on the relevant water authority's website.

Surface Water Drainage Information

Surface water drainage will ultimately need to be designed to meet the latest national and local planning and drainage policies and guidance. The drainage system will need to consider climate change, the allowances for which should be based on the climate change guidance from the Environment Agency at the time of detailed design.

Detailed drainage design should consider the impact a flooded outfall could have on the proposed drainage system.

The recommendation for a drainage condition to be utilised for an application does not preclude the need for updated calculations or alterations to a drainage strategy. Recommendation for a drainage condition shows that the Flood Risk and Drainage Team are of the opinion that the development has shown that, in principle, drainage could successfully be provided on the site.

Application specific comment

The BGS infiltration potential map shows the site to be in an area with moderate infiltration potential. Therefore, the use of infiltration drainage such as permeable paving or soakaways may be possible on site. To ensure the drainage hierarchy is followed this will need to be confirmed through infiltration testing on site as part of detailed drainage design.

It is proposed that the development will manage surface water via a garden rainwater harvesting system tank with an overflow to a geo-cellular soakaway. The geo-cellular soakaway has been designed with an overflow to a proposed rain garden. The system has been designed to cater for the 1 in 100-year storm plus 45% allowance for climate change with an assumed infiltration rate of 5.0×10^{-6} m/s. Onsite infiltration testing will be required at the Detailed Design stage.

The driveway area is to be freely drained into the ground via porous construction.

A maintenance plan has been provided.

Information into our general requirements for detailed surface water drainage design is included within our 'General Drainage Information Guide'. This level of information will be required to address the recommended drainage condition.

To ensure the final drainage design meets with the latest design requirements we would advise the applicant to confirm the design parameters required in relation to climate change etc prior to undertaking detailed design.

Foul Water Drainage

It is proposed that the development will manage foul water drainage via an onsite package pumping station prior being discharged into the existing foul drainage of Stumble Ridge.

The flood risk and drainage team acknowledge that foul drainage appears possible for this development, subject to design.

Information into our general requirements for detailed foul water drainage design is included within our 'General Drainage Information Guide'. This level of information will be required to address the recommended drainage condition.

To ensure the final drainage design meets with the latest design requirements we would advise the applicant to confirm the design parameters required prior to undertaking detailed design.'

The Planning Officer has no reason to disagree with the above comments and in terms of drainage, the proposed development is considered to be compliant with policy in relation to drainage.

Ecology

DP38: Biodiversity, seeks to avoid damage and protect and enhance the special characteristics of AONB's and ancient woodlands amongst other internationally designated areas.

'Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.

The application is accompanied by an ecological enhancement appraisal.

The ecology consultee supports the proposed reasonable biodiversity enhancements, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a Biodiversity Enhancement Layout and should be secured by a condition of any consent.

In terms of Great crested Newts, NatureSpace Partnership considered that the proposed development is unlikely to have an impact on great crested newts and/or their habitats. However, as the development is within the red Impact Risk Zone, as modelled by district licence mapping, an informative is recommended should permission be granted.

As such, the proposed development is considered to be compliant with policy in relation to matters concerning ecology.

Sustainability

Policy DP21 of the District Plan relates to transport. The full policy is set out above. 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:

- Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation,
- Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible,
- Use renewable sources of energy,
- Maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation,
- Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment,
- 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'

BNP Policy 11 states that:

'Proposals comprising domestic and community-scale renewable energy development will be supported, provided the design of the scheme will avoid any significant detrimental effect on the landscape and natural beauty of the High Weald Area of Outstanding Natural Beauty and takes account of airport safeguarding in relation to wind turbines.'

The application is supported by a sustainability statement.

The statement is written by Scandia-Hus whose proposals try and incorporate renewable technologies in their homes. However, the statement appears to be a fact sheet for Scandia-Hus rather than a statement tailored to the design of the application proposal.

Notwithstanding this, Scandia-Hus is known for its energy efficient designs and given that building regulations also requires development to minimize energy use and maximise and efficient use of resources, in design terms, it is considered that the proposal would be compliant with policy DP39 and BNP Policy 11.

It is also considered that the proposed development would be situated in a sustainable location given that it is within the built up area boundary as defined in the DP.

Trees

Policy DP37 states in part:

'supports the protection and enhancement of trees, woodland and hedgerows, and encourages new planting. In particular, ancient woodland and aged or veteran trees will be protected.'

The application is supported by an arboricultural report and tree constraints and tree protection plans. The Councils Tree Officer has commented that:

'The proposal can be implemented without harm to significant trees, provided the AMS is followed and the tree protection measures put in place during all stages of construction. Please condition these documents.'

The Planning Officer agrees with this view and considers the proposal to be compliant with DP37 and other relevant policies.

Ashdown Forest

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

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

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

Recreational disturbance

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

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

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

Atmospheric pollution

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

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. 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. Under the statutory framework for biodiversity net gain this application comprises self-build development which is exempt from providing 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 Balcombe Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application does not comply with Mid Sussex District Plan policies DP26 and DP35 and Neighbourhood Plan Policy 3. These are considered to be the most important policies for the determination of this application.

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.

In this case significant harm can be demonstrated in respect of design and character and due to scale and siting of the proposed development on a backland plot, which is out of keeping with the grain and pattern of existing development. In addition and also for these reasons it does not seek to conserve the character and appearance of the Conservation Area.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, the proposal would result in the provision of 1 new dwelling which will make a minor but positive contribution to the district's housing supply and requirement. 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 be very limited.

The proposal would have a neutral effect in terms of 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 considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal and the proposal does not represent sustainable development as defined by the NPPF. The application of the policies relating to heritage assets in the NPPF provides a strong reason for refusing the development proposed. The proposal is considered to be contrary to MSDP policies DP26, DP35 and BNP Policy 3 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: Rachel Richardson