

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1040	Case Officer:	Hamish Evans
Application Type:	Full Application		
Proposal:	Retrospective application for the erection of two new residential dwellings with detached garages, to regularise the proposal following construction changes to what was approved under DM/22/3241.		
Site:	Earthingleigh, College Road, Ardingly, Haywards Heath, West Sussex, RH17 6SA, ,		
Validation Date	19 May 2025	Overall Expiry Date:	14 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	28 Aug 2025
Target Date:	14 Jul 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Steven King	Date:	29 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1040

**Earthingleigh, College Road, Ardingly, Haywards Heath, West Sussex, RH17 6SA,
Retrospective application for the erection of two new residential dwellings with detached
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DM/22/3241.**

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SUMMARY OF REPRESENTATIONS

No third-party letters of representation have been received in respect of this application.

SUMMARY OF CONSULTEES

MSDC Tree Officer

No objection subject to conditions.

WSCC Highways

No objection.

Southern Water

No objection.

PARISH COUNCIL OBSERVATIONS

Ardingly Parish Council

Concern regarding reduction in visibility splay.

INTRODUCTION

The application seeks planning permission for the erection of two dwellings at Earthingleigh College Road Ardingly RH17 6SA. The application has been submitted under section 73A of the Town and Country Planning Act, as such it is a retrospective planning application. It has been confirmed that the works have been started but have not been completed. The application has been submitted to regularise the development, following the development not being built in accordance with the development permitted under DM/22/3241.

RELEVANT PLANNING HISTORY

DM/15/4899. Erection of two residential dwellings with detached garages. Permission.

DM/17/2458. Erection of two new residential dwellings with detached garages. Permission.

DM/19/3477. Variation of Condition No: 1. of planning permission DM/17/2458 to replace approved plans to allow for changes in design. Permission.

DM/21/2950. Non-material amendment relating to planning reference DM/19/3477, to change external material and profile of consented garages. Refused.

DM/21/3176. Variation of Condition 1 of planning permission DM/19/3477 to allow for change in design. Permission.

DM/21/3902. Discharge of planning conditions 3, 7, 9 and 11 relating to application DM/21/3176. Permission.

DM/22/3241. Variation of condition 1 of application DM/21/3176 to allow for change in design. Permission.

DM/22/3498. Discharge of Condition No: 11 of planning permission DM/22/3241 to allow for change in design. Permission.

SITE AND SURROUNDINGS

The application site is located within the countryside, the High Weald Area of Outstanding Natural Beauty and within 7km of the Ashdown Forest. The site is considered to be adjacent to the built up area of Ardingly which is located to the east of the site and to the north of the properties that are north of the application site. There is also an area of Ancient Woodland located to the west of the site.

The application site currently has two partially constructed dwellings on it which were built as part of the previously permitted scheme DM/22/3241. There are residential properties to the north, east and south of the site and the site is accessed from the south of site by a private road that joins College Road to the east. The dwellings within the surrounding area are relatively significant in their scale and are characterised by a variety of external materials. The surrounding area is semi-rural in its nature.

APPLICATION DETAILS

The application seeks planning permission for the erection of two dwellings at Earthingleigh College Road Ardingly RH17 6SA. The application has been submitted under section 73A of the Town and Country Planning Act, as such it is a retrospective planning application. It has been confirmed that the works have been started but have not been completed. The application has been submitted to regularise the development, following the development not being built in accordance with the development permitted under DM/22/3241. The alterations between this application and DM/22/3241 are the inclusion of solar PV panels on the front facing roof slopes of the dwellings and garages, alterations to the existing access driveway and access to College Road and the permitted hard and soft landscaping details.

The two dwellings are semi-detached 5 bedroom dwellings with detached garages.

Each dwelling would measure some 13.6 metres in width, by a maximum of 14 metres in depth, with an eaves height of 6.2 metres and an overall height of 8.4 metres. The dwellings form a kitchen/breakfast area, sitting room, reception hall, study, snug, dining room and WC at ground floor level and 5 bedrooms, family bathroom and balcony at first floor. It has been shown that the proposed dwellings are to be constructed of handmade Buff bricks and render walls, slate roof and lead roll roofing and timber framed windows and timber doors.

Both dwellings have a detached garage constructed of timber clad walls, grey slate roof tiles and timber window and door frames. The garage for plot one measures some 8.0 metres in width, by 6.7 metres in depth, with an eaves height of 2.0 metres and an overall height of 4.0 metres. The garage for plot two measures some 6.5 metres in width, by 6.8 metres in depth, with an eaves height of 2.0 metres and an overall height of 4.0 metres.

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 Ardingly Neighbourhood Plan.

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

Mid Sussex District Plan

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

Relevant policies:

DP4: Housing
DP6: Settlement hierarchy
DP12: Protection and Enhancement of Countryside
DP16: High Weald Area of Outstanding Natural Beauty
DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
DP21: Transport
DP26: Character and design
DP27: Dwelling space standards
DP29: Noise, air and light pollution
DP39: Sustainable Design and Construction
DP41: Flood Risk and Drainage

Site Allocations DPD

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

None relevant policies.

Ardingly Neighbourhood Plan

The Ardingly Neighbourhood Plan was made in March 2015.

Relevant policies:

ARD2: Spatial Plan for the Parish
ARD5: Housing Design

Other Legislation

Other Material Considerations

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

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

Relevant policies:

DPS1: Climate Change
DPS2: Sustainable Design and Construction
DPS4: Flood Risk and Sustainable Drainage
DNP3: Green and Blue Infrastructure
DNP6: Pollution
DPN7: Noise Impacts
DNP9: Air Quality
DPN10: Land Stability and Contaminated Land
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPT1: Placemaking and Connectivity
DPT3: Active and Sustainable Travel
DPT4: Parking and Electric Vehicle (EV) Charging Infrastructure
DPH1: Housing
DPH2: Sustainable Development - outside the BUA
DPH11: Dwelling Space Standards

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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

National Planning Policy Framework (NPPF) (December 2024)

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

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

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

Paragraph 12 of the NPPF states;

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

Paragraph 39 of the NPPF states;

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

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

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 Planning Policy Guidance

National Design Guide

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

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

Technical Housing Standards

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows; (As applicable to the application, add others if relevant)

- o Principle
- o Design and Impact on the character and appearance of the area
- o Highways
- o Impact on Residential Amenity
- o Ecology
- o Sustainability
- o Housing Standards
- o Flood Risk and Drainage
- 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 outside of the built-up area of Ardingly as defined by the District Plan. As such the site is located within the defined Countryside.

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

Policy DP6 of the District Plan states in part that:

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

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

A similar ethos is contained within policy ARD2 of the Ardingly Neighbourhood Plan.

The built-up area boundary of Ardingly is located immediately to the north of the site and the proposal is for fewer than 10 dwellings. DP4 of the Mid Sussex District Plan seeks to provide 14,892 dwellings over the plan period, Ardingly is considered to be a category 3 settlement which is considered to be a medium sized village which provides essential services for the needs of its own residents and immediate surrounding communities. A similar development was also permitted under application DM/22/3241. The differences between the previously permitted development and the development that relates to this application consists of the inclusion of solar PV panels to the front facing roof slope and the garage buildings. Taking into account the above the application is considered to maintain the quality of the rural and landscape character of the wider area, maintain the intrinsic and it is considered to be supported by policy DP6 of the Mid Sussex District Plan and Policy ARD2 of the Ardingly Neighbourhood Plan. As such the principle of development is considered acceptable subject to the development complying with the relevant criteria; this will be considered in subsequent sections of this report together with other planning policy considerations.

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 the character of the area

Policy DP26 of the Mid Sussex District Plan relates to design and amenity and states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and

villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- 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.'*

A similar ethos is contained within policy ARD5 of the Ardingly Neighbourhood Plan.

Principle DG38 is also considered to be relevant and states:

'Applicants should establish an architectural approach and identity in the design of building that is borne from the place.

The facade 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. However, this should not result in pastiche replicas of traditional buildings. Instead a re-interpretation of key aspects of their form should be demonstrated.

Good architecture involves the successful co-ordination of proportions, materials, colour and detail. Buildings should therefore be holistically designed with each part in harmony with its whole while appropriately responding to both its context and modern living requirements. This includes:

- o The elevational treatment and overall façade design;*
- o The placement, proportions and design of windows, doors and balconies;*
- o A roofscape and form that creates a harmonious composition and minimises the visual impact of downpipes and guttering;*
- o The appropriate incorporation of dormer windows and chimneys;*
- o An appropriate palette of good quality materials that are preferably locally sourced.'*

The site is located 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.

Paragraph 189 of the NPPF states that *'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.'*

A similar ethos can be found within both policies DP16 of the District Plan and 1 of the Neighbourhood Plan, which state in part that development within the High Weald AONB *'will only be permitted where it*

conserves or enhances natural beauty and has regard to the High Weald AONB Management Plan, in particular... character and local distinctiveness, settlement pattern, sense of place and setting of the AONB...'

A similar development was also permitted under application DM/22/3241. The alterations to the approved dwellings include solar panels to the front facing roof slopes and the garage buildings. The resulting appearance of the dwellings is not considered to be significantly altered and the inclusion of solar panels would not be an uncommon inclusion within the surrounding area. Taking into account the above, the proposal is considered to address the character and scale of the surrounding buildings and landscape and it would maintain the quality of the rural and landscape character of the District. Therefore, the proposal complies with policies DP12 and DP26 of the Mid Sussex District Plan, policy ARD5 of the Ardingly Neighbourhood Plan and the Mid Sussex Design Guide SPD.

In relation to the impact upon the wider AONB, the proposed development would not form an isolated form of development, it is surrounded by dwellings to the north, south and east, which it will be viewed in context of. Furthermore, it is considered to be of an appropriate design, size and scale and as such it is also considered to preserve the character of the AONB in accordance with policy DP16 of the District Plan and paragraph 189 of the NPPF.

Highways Matters

Policy DP21 of the District Plan relates to transport and states in part that:

'...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.'*

Paragraph 115 of the NPPF states; *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

The Local Highways Authority (LHA) at West Sussex County Council has provided detailed comments regarding the proposal. They have noted that suitable visibility splays can be achieved, the proposed parking spaces meets the requirements as stipulated within the WSCC Parking Demand Calculator and that the small increase in vehicle movements may occur, however, it is not considered to adversely impact the wider road network. The Parish Council have raised concern regarding the amended visibility

splays, however given that the Local Highways Authority have raised no objection to the visibility splays that have been provided they are considered to be acceptable. Therefore, it is your Planning Officers view that there are no transport grounds to resist the proposal.

Residential Amenity

When considering impact upon neighbouring amenities, policy DP26 of the District Plan states in part that development proposals should *'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);'*.

A similar ethos is found within Principles DG45, DG46, DG47 and DG48 of the Mid Sussex Design Guide.

Policy DP29 states in part 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:

Noise pollution:

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

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

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

The application relates to a similar development that was permitted under application DM/22/3241. The alterations between the previous permission and this application are not considered to impact the amenities of nearby residents.

The dwellings are sited 19 metres from the dwellings along Stanbridge Way, with a side to rear relationship, while being set at an oblique angle from Greenfields at a distance of 14 metres and approximately 40 metres from Pilbeam Cottage. Consideration has been given to the neighbouring amenities and the development only includes one first floor side facing window to the north eastern (side) elevation and one first floor side facing window to the south western (side) elevation. Nonetheless, both of these windows are serving a bathroom and can be secured by condition to be obscure glazed and non-opening up to 1.7 metres above the floor level in which they are installed.

The development does include a balcony to the north western (rear) elevations, however, the plans show 2.2 metre screening to the sides of the balcony which can be secured by condition. As such it is not considered to cause a significant impact in terms of overlooking and loss of privacy.

Due to the distance to the surrounding dwellings, combined with existing and proposed boundary treatment the resulting relationships are not considered to cause a significant detrimental impact in terms of reduction in sunlight and daylight and a loss of outlook. For the above reasons, it is considered that the above policies would be met by this application.

Ecology, Trees, Woodland and Hedgerows

Paragraph 192 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. Paragraph 193 states in part that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. This stance is reflected under policy DP38 of the District Plan which states in part that:

'Biodiversity will be protected and enhanced by ensuring development:

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and...'

The application represents a retrospective application under s73a of the Town and Country Planning Act, the site has already been developed and as such it is not considered to be of any particular habitat or ecological interest and as part of this application no significant areas of trees or vegetation would need to be removed to facilitate the development. The Council's Tree Officer has commented on the application advising that the landscaping is acceptable subject to an amendment to include native planting. Details of which have been included by the applicant and as such are considered to be acceptable.

Taking into account the above the proposal is considered to comply with the policies DP37 and DP38 of the Mid Sussex District Plan and the relevant paragraphs of the NPPF.

It should be noted that biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This requirement is assessed in a subsequent section of the report.

Sustainability

Policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate measures including minimising energy use through the design and layout of the scheme; maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation; and also to limit water use to 110 litres/person/day.

At national level Paragraph 161 of the NPPF states:

'The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

While Paragraph 166 states:

'In determining planning applications, local planning authorities should expect new development to:
a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'

The application has been supported by a sustainability statement which has set out that the proposal would include the following measures:

- Practical and hygienic water saving measures such as flow restrictors, reduced bath volumes, water efficient white goods and dual flush toilets,
- Solar PV panels,
- Sustainable drainage techniques,
- Refuse and recycling bins,

- Soft landscaping to encourage biodiversity, and
- High quality materials.

Photographs have been provided to show that the above details have been implemented at the site. As such the development is deemed to comply with Policy DP39 of the District Plan and the relevant provisions of the NPPF.

Dwelling 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.

A 5-bedroom 8-person, 2 storey dwelling is required to provide a minimum gross internal floor area of 128 square metres and 3.5 sqm of built-in storage. Each of the dwellings provide a gross internal floor area of 274.32 square metres. Therefore, the meets the requirement of the above standards. It should also be noted that a similar scheme was permitted at the site under application DM/22/3241. Taking into account the above the standard of living for future occupiers would be acceptable and the development complies with policy DP27 of the Mid Sussex District Plan and the Government's Technical Housing Standards - Nationally Described Space Standards document.

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.

Para 170 of the NPPF relates to planning and flood risk and states:

'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

The site is at very low flood risk and a similar scheme was permitted at the site under application DM/22/3241. The Council's Drainage and Flood Risk Engineer raised no objection to that application and it is not considered that this application differs from the previous permission in relation to flood risk and drainage measures. As such the application is considered to comply with Policy DP41 of the Mid Sussex District Plan.

Impact on 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 process for the Mid Sussex District Plan. 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 under application DM/22/3241.

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

This planning application is within the 7km zone of influence and generates a net increase of 2 dwellings, and as such, **mitigation is required**.

An appropriate scale of SAMM mitigation for the proposed development is £2,340, and the strategic SANG contribution is £10,506.

The strategic SANG is located at Hill Place Farm in East Grinstead and Natural England has confirmed that it is suitable mitigation for development in Mid Sussex. The SANG is managed in accordance with the 10-year Management Plan and this document sets out the management objectives for the site and the management activities. Financial contributions for the strategic SANG will be spent in accordance with the Management Plan.

The applicant has already paid the financial SAMM and SANG contributions under the previous approvals which can be linked to this application by condition. It is considered that the mitigation of the recreational impact to the Ashdown Forest has been secured and hence the development accords with Policy DP17 of the Mid Sussex District Plan.

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 (Updated Transport Analysis) as a **committed scheme** such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that the development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.

The provision of mitigation in the form of both SANG and SAMM is essential to the proposals within the planning application to ensure the Ashdown Forest SPA is protected from any potential recreational disturbance impact arising from this proposed new development. The development provides sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA. No mitigation is required in relation to the Ashdown Forest SAC.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted for a retrospective application. This application is therefore exempt from the requirement to provide biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

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

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP4, DP6, DP12, DP16, DP17, DP21, DP29, DP35, DP38, DP39 and DP41 and Ardingly Neighbourhood Plan policies ARD2 and ARD5.

As a result, it is considered that the application complies 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.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, the proposal would result in the provision of 2 new dwellings 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 development of this site for two dwellings has been permitted previously, the site is considered to be contiguous with the built up area of Ardingly and within a sustainable location. This is positive in the planning balance.

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

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

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

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

Decision: Permission

Case Officer: Hamish Evans