

## Delegated Decision

### Sign off Sheet

|                                              |                                                                                                                       |                                        |                    |
|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------|--------------------|
| <b>Ref. No:</b>                              | DM/26/0432                                                                                                            | <b>Case Officer:</b>                   | Steven King        |
| <b>Application Type:</b>                     | Full Application                                                                                                      |                                        |                    |
| <b>Proposal:</b>                             | Retrospective application for the internal reconfiguration to provide 1no additional self-contained residential unit. |                                        |                    |
| <b>Site:</b>                                 | Development Site At Former Tower Car Sales, Tower Close, East Grinstead, West Sussex, RH19 3JX, , ,                   |                                        |                    |
| <b>Validation Date</b>                       | 31 Mar 2026                                                                                                           | <b>Overall Expiry Date:</b>            | 29 Apr 2026        |
| <b>Pre-Commencement Conditions Required:</b> |                                                                                                                       | <b>Pre-Com Conditions Date Agreed:</b> |                    |
| <b>Recommendation:</b>                       | Refusal                                                                                                               | <b>Recommendation Date:</b>            | 22 May 2026        |
| <b>Target Date:</b>                          | 26 May 2026                                                                                                           | <b>Recommending Officer Signature:</b> | <i>Steven King</i> |

|                                                        |  |                               |   |
|--------------------------------------------------------|--|-------------------------------|---|
| <b>Date Legal Agreement Completed: (if applicable)</b> |  | <b>No of Representations:</b> | 9 |
|--------------------------------------------------------|--|-------------------------------|---|

|                              |                        |              |             |
|------------------------------|------------------------|--------------|-------------|
| <b>Signed and Agreed By:</b> | <i>Stephen Ashdown</i> | <b>Date:</b> | 26 May 2026 |
| <b>Comments:</b>             |                        |              |             |

## MID SUSSEX DISTRICT COUNCIL

**DM/26/0432**

**Development Site At Former Tower Car Sales, Tower Close, East Grinstead, West Sussex, RH19 3JX, ,**

**Retrospective application for the internal reconfiguration to provide 1no additional self-contained residential unit.**

**Mr P Duthie**

### **SUMMARY OF REPRESENTATIONS**

8 letters of objection:

- developer has significantly breached the original planning permission
- this retrospective application was the developers plan all along
- the plans have destroyed important parts of the approved building, namely the bin and bike store and the dedicated entrance into the block of flats
- the bin and bike store as constructed are insufficient and not fit for purpose
- refuse bins now have to be placed in the undercroft as the bin store is too small and stored on the pavement
- an extra unauthorised car parking space has been created
- proposed flat is of very poor quality, does not meet the space standards and has a poor aspect

### **SUMMARY OF CONSULTEES**

#### **County Planning Officer**

Requires infrastructure contributions:

Education Primary £2,588

Education Secondary £2,543

Education 6th Form £549

Libraries £409

Total Access Demand £1,780

#### **Local Highway Authority**

##### Cycle Parking

I note that the previously approved plans included designated cycle stores for each of the units, providing at least ten cycle parking spaces. The current plans do still propose cycle parking, but this seems to have been significantly reduced in scale. I ask whether there is scope to provide replacement cycle parking provision elsewhere within the site, so that each of the approved/proposed residential units have designated cycle parking. It is unclear from the proposed plans whether the current proposed cycle store would be sufficiently sized to store such an amount.

Please raise the above with the applicant and reconsult.

Additional comment: Yes, I am of the view that the demonstrated cycle parking provision is insufficient for the proposed development. I would be happy to accept if they are able to provide alternate provision elsewhere on site, hence my request for such, but at present it is certainly lacking in that regard.

#### **MSDC Infrastructure Manager**

##### Background

This application is for "Retrospective application for the internal reconfiguration to provide 1no additional self-contained residential unit ".

The application relates to a previous application DM/22/0921 at the site. This application received permission on 6 May 2022 for 9 apartments.

This application seeks retrospective permission for a 10th dwelling (2 bedroom dwelling), which was constructed within the same building as the 9 dwellings, which were granted permission under DM/22/0291.

#### Planning Application DM/22/0921

This application was assessed for developer contributions under the 'Development Infrastructure and Contributions' Supplementary Planning Document" (adopted July 2018).

The Unilateral Undertaking associated with this application includes the following developer contributions (7 March 2022):

- o £14,344 for children's play space (£7,790 for play equipment and £6,544 for kickabout)- for King George's Field and Mount Noddy)
- o £8,922 for formal sport- for King George's Field and /or Mount Noddy and/or East Grinstead Sports Club
- o £5,522 for community buildings for Jubilee Community centre and/or King George's Church Hall and/or 1st East Grinstead Scouts Hall.
- o £4,589 for local community infrastructure for Queens Road cemetery improvements in East Grinstead

It is considered that because the 10th dwelling was constructed within the same building as the other 9 dwellings, that a further contribution should be sought for this additional dwelling, for the same purposes as requested on 28 October 2021, using the 'Development Infrastructure and Contributions' Supplementary Planning Document" (adopted July 2018).

It is also considered that the purposes should remain the same as previously.

Therefore, the following totals and purposes should be sought as follows:

- o £15,994 for children's play space (£8,693 for play equipment and £7,302 for kickabout)- for King George's Field and Mount Noddy)
- o £10,662 for formal sport- for King George's Field and /or Mount Noddy and/or East Grinstead Sports Club
- o £6,115 for community buildings for Jubilee Community centre and/or King George's Church Hall and/or 1st East Grinstead Scouts Hall.
- o £6,938 for local community infrastructure for Queens Road cemetery improvements in East Grinstead

Total = £39,710

#### **Environmental Protection Officer**

EP does not have any significant concerns regarding this retrospective application unless the flat is adjacent to or directly below a plant room or lift, which could have noise implications. Any recommended conditions from EP re the original block could also be relevant, although it looks from the plan as though the bedroom faces away from Aldi's delivery bay. So, assuming those items are not an issue, we have no objection.

#### **Waste Management Officer**

The bins are put out onto Leppard Walk for all waste collections. Whittaker House like to keep the gates permanently locked for security. We had an initial issue with the collections, but this was soon resolved. We presently have no collection issues.

#### **Natural England**

No objection subject to Ashdown Forest mitigation being secured.

## **TOWN COUNCIL OBSERVATIONS**

Recommended for refusal

## **INTRODUCTION**

This application seeks retrospective planning permission for the internal reconfiguration of part of the building at the former Tower Car Sales site at Tower Close in East Grinstead to provide 1no additional self-contained residential unit.

## **RELEVANT PLANNING HISTORY**

There is an extensive planning history on the site that is of relevance to this application. This is set out below:

DM/19/4331. Demolition of car sales office and workshop and erection of three storey building comprising 10 apartments with 8 parking spaces, 10 cycle spaces, waste and recycling enclosure. This application was refused a subsequent appeal was dismissed on 27th August 2020.

DM/20/1455. Demolition of car sales office and workshop and erection of part two/part three storey building comprising 9 apartments with parking spaces, cycle spaces and refuse enclosure. This application was refused a subsequent appeal was dismissed on 11th February 2021.

DM/21/3534. Demolition of car sales office and workshop and erection of part 2/part 3 storey building comprising 8 apartments with 8 parking spaces. 'Amended plans received 11th November showing a revised design of the proposed building and one additional flat (9 in total).' This was approved on 7th March 2022.

DM/22/0921. Variation to Condition 16 relating to DM/21/3534. Revised plans submitted to accommodate changes (see application form for details). This was approved on 6th May 2022 and was implemented.

DM/24/1404. Variation of Conditions 6 and 15 relating to DM/22/0921. This was approved on 27th September 2024. This application approved a revision to the external materials on the building, replacing the approved cladding at the upper floor levels with render. It is the render that has been constructed on site.

## **SITE AND SURROUNDINGS**

The site of the application was a former car sales yard located on the south side of Tower Close in East Grinstead.

To the east of the site are semidetached houses on Moat Road. To the south is a Council public car park. To the west there is the access to the public car park and beyond this is the car park for the nearby Aldi store. Directly to the north of the site there is a line of flat roofed garages. To the northeast there is a fairly modern development of flats that are 3 and 4 storeys in height.

The site lies within the built-up area of East Grinstead as defined in the Mid Sussex District Plan (MSDP).

## **APPLICATION DETAILS**

This application seeks retrospective planning permission for the internal reconfiguration of part of the building at the former Tower Car Sales site at Tower Close in East Grinstead to provide 1no additional self-contained residential unit.

The plans approved under DM/22/0921 were for a 3 storey building containing a total of 9 flats. At the ground floor, the approved plans show an undercroft car parking area for 8 cars, together with one flat containing one bedroom. At the front of the building facing towards Tower Close, the approved plans showed an enclosed entrance area with a cycle store and refuse store together located behind this.

The building has not been constructed in accordance with the approved plans at the ground floor level. In place of the approved entrance area, cycle and refuse store, a two bedroom flat has been constructed. This has been fitted out and at the time of the site visit on 19th March 2026, was not occupied. The flat has its front door on the southeast elevation and comprises a dual aspect living/kitchen/diner together with two bedrooms, one of which faces onto the access path to the southeast, with the other facing onto the undercroft to the northwest.

At the front elevation, facing towards Tower Close, is a small refuse store and cycle store.

It was noted at the site visit that an additional unauthorised car parking space has been marked out, parallel to flat 1 and opposite spaces 1 and 2.

## **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 Mid Sussex District Plan (MSDP), Site Allocations Development Plan Document (SADPD) and the East Grinstead Neighbourhood Plan (EGNP).

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:

DP17 Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

DP20 Securing Infrastructure  
DP21 Transport  
DP26 Character and Design  
DP27 Dwelling Space Standards

### **Site Allocations DPD**

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

SA38 Air Quality

### **East Grinstead Neighbourhood Plan**

The East Grinstead Neighbourhood Plan (EGNP) was made on 2nd November 2016 and forms part of the development plan for this part of Mid Sussex. Relevant policies:

Policy EG3 Promoting Good Design  
Policy EG12 Car Parking  
Policy EG16 Ashdown Forest Special Area of Conservation and Special Protection Area

### **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 hearings were concluded on the 19th March 2026. The District Plan remains at Examination until the Inspector has published his report, until that time 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:

DPB1: Character and Design  
DPC6: Ashdown Forest SPA and SAC  
DPI1: Infrastructure Provision

#### *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.

#### *Development Infrastructure and Contributions Supplementary Planning Document (SPD)*

#### 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;

- Principle
- Design and impact on character and appearance of the area
- Quality of accommodation
- Transport
- Infrastructure
- Ashdown Forest
- Biodiversity Net Gain
- Planning balance and conclusion

## Principle

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

The site lies within the built-up area of East Grinstead, which is categorised as a tier 1 settlement in the MSDP. Tier 1 settlements provide a comprehensive range of employment, retail, health, education, leisure services and facilities. As such, as a matter of principle, and in accordance with policy DP6 of the MSDP, the location of the site is considered to be acceptable for residential redevelopment. The key issue therefore is whether this proposed change to create this additional dwelling is appropriate and the issues associated with this will be assessed in the next sections of this report.

As per planning legislation, a decision must be made in accordance with the development plan unless there are 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 or 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.

Policy DP6 (Settlement Hierarchy) is relevant to this application. This policy is considered to be a policy relating to the supply of housing and as such can be considered to be out-of-date, having regard to the NPPF tests. As such, this policy can be given limited weight in the determination of the application.

Policy DP26 is a design policy, and it is considered that this accords with the aims of the NPPF and can be afforded full weight. Policy EG3 in the EGNP has similar aims in relation to design and again it is considered it can be afforded full weight.

Therefore, the key test that must be undertaken when assessing this application is as set out within paragraph 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 Quality of accommodation**

Policy EG3 in the EGNP seeks to promote good design. It states:

*'Planning permission will be granted where development proposals meet the following criteria:*

- a) The form of the proposed development is proportionate and in keeping with the scale, height, materials and site coverage of the surrounding area;*
- b) The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity;*
- c) The proposal does not result in the loss of buildings or spaces that would have an unacceptable impact on the character of the area;*
- d) The proposal ensures satisfactory means of access for vehicles and pedestrians and provides adequate parking, cycle storage and refuse facilities on site;*
- e) The design of new buildings and the layout of spaces, including footways, car and cycle parking areas, should be permeable and provide connectivity with neighbouring areas;*
- f) New development must be inclusive and where appropriate make satisfactory provision for the safe and easy access for those with mobility impairment; and*
- g) The design of new developments must result in the creation of a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour; and*
- h) Proposals make provision for green infrastructure and biodiversity enhancement.*

*Due to infrastructure constraints within the town, all new development proposals, which generate a net increase in traffic (excluding householder applications), will be required to contribute towards improving the walking and cycle network related to the development and be of a recognised acceptable standard.'*

A similar aim is carried forward in policy DP26 of the MSDP which states:

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

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

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

It is considered that the key issues arising from the change that has taken place relate to the quality of accommodation provided and the amenity of the overall flatted development.

In terms of the external changes that are proposed, whilst the works that have taken place make minor changes to the external appearance of the building compared to what was originally approved, it is nonetheless considered that these changes result in a retrograde design to the approved scheme. On the northeast elevation facing onto Tower Close, the approved post room entrance showed a window and door facing onto the street. This is now replaced with an inadequately sized bin and bike store. This is a retrograde design in terms of the impact on the character of the street scene and is also a retrograde design in terms of the amenities of the occupiers of the flats. The entrance into the block is now through the undercroft rather than the block being directly accessible from the street.

In dismissing the appeal for application DM/19/4331, (appeal ref APP/D3830/W/20/3249364), the Inspector was concerned about the quality of accommodation that would have been provided, with the two proposed apartments on the ground floor would each have both their large bedroom windows and, for apartment 1, a kitchen window, looking out onto the access road and parking area underneath the upper floors. The Inspector stated '*Whilst bedrooms are primarily used for sleeping, for which an absence of light would be unlikely to be problematic, a lack of natural light in the mornings upon waking would represent a poor living environment for future occupiers. Furthermore, the bedrooms may also be used for studying or as home offices rather than bedrooms during the day, for which natural light would be beneficial. Neither the adequacy of natural sunlight and daylight for the other habitable rooms in these properties nor the surveillance of the access and parking area overcomes or outweighs the harmful deficiency in natural light for these single-aspect rooms in these apartments facing onto the undercroft.*' The Inspector concluded that proposed development would fail to provide satisfactory living conditions for the future occupiers of the two proposed ground floor apartments.

In dismissing the appeal for application DM/20/1455, (appeal ref APP/D3830/W/20/3256808), the Inspector was concerned about the quality of accommodation that would have been provided for the two ground floor apartments. The Inspector stated '*Units 1 and 2 are proposed to be served by an array of windows which would face the covered undercroft parking area. This will include windows serving the living / kitchen area and the bedroom of unit 1. These windows would serve little purpose as very little natural light would reach the windows and the aspect from them would be very poor, being essentially of parked cars enclosed within the building, with perhaps some glimpse of daylight through the metal screens on the north-west elevation.*'

It is considered that similar issues arise with this retrospective application. The aspect from the living/kitchen diner would be poor, as would the aspect from the bedroom facing onto the undercroft. It is not considered that this would represent the high quality living environment for future occupiers that is sought by policies DP26 and EG3 or by the NPPF.

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 2-bedroom 3-person, 1 storey dwelling is required to provide a minimum gross internal floor area of 61 square metres and 2 sqm of built-in storage and a 2-bedroom 4-person, 1 storey dwelling is required to provide a minimum gross internal floor area of 70 square metres and 2 sqm of built-in storage. The flat that has been constructed provides some 58 square metres of floorspace and as such, falls below the space standards. It is considered that this deficiency, combined with the concerns regarding the aspect from the flat and the levels of light that would be received further highlight the poor quality of accommodation that would be provided by this proposal.

The development has resulted in a reduced refuse store from that shown on the permitted scheme. Objections from those living in the development have raised concerns about the adequacy of this refuse store and have stated that at present, bins are stored in the undercroft. The Councils Waste Contracts Manager has advised that the bins are out onto the street on collection days and that they have no collection issues.

Whilst there may not be a collection issue, it is considered that the area that has now been provided for refuse storage is not satisfactory. At the time of your officers site visit, there were eight bins stored within the undercroft. Photographs from objectors to the application show that the bins within the current refuse store are cramped together and this means that the accessibility and useability of the store is sub optimal. It is not considered that this is indicative of a well designed building with adequate space for refuse storage. This is a retrograde step from the approved scheme.

## **Transport**

Policy DP21 in the MSDP states in part that decisions on development proposals will take account of whether *'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;'* Policy EG12 in the EGNP states in part *'Planning permission will only be granted where vehicle-parking provision, including cycle parking, is in accordance with West Sussex County Council adopted parking standards.'*

It is recognised that the site is in a highly sustainable location, with good access to shops, services and employment opportunities. The sustainable nature of the site was a factor that contributed to the approved plans showing 8 car parking spaces for the approved 9 flats, as it was considered that there were alternatives to the private car, so it was not necessary to provide an allocated car parking space for each flat. There was a requirement to provide cycle parking to allow prospective residents the opportunity to have an alternative to the private car.

A concern that now arises relates to the size of the cycle store that has been created on site. The cycle store is much smaller than the approved cycle store and only allows a limited number of bicycles to be stored vertically.

The Local Highway Authority (LHA) provide guidance on the level of cycle parking provision for new developments. For flatted developments of 4 or more units, the guidance refers to 1 cycle space per unit. The cycle provision that is now on site does not provide space for 10 cycles. Given the fact that this is a sustainable site in the town centre, and that the originally approved plans provided 8 car parking spaces for 9 units, it is considered that it is important for there to be adequate cycle parking provision to provide residents with a real choice of modes of transport. The LHA have advised that the cycle parking that has been installed is inadequate for the development. It is considered that the cycle parking that has been

provided is deficient in terms of the number of spaces that are provided, and secondly, the vertical hanging of cycles will not be as attractive to use as the cycle store that was shown on the originally approved plans.

Whilst the LHA asked about the re-provision of the cycle parking elsewhere within the development, it is not considered that it would be the correct course of action to seek to provide the lost cycle parking elsewhere within the site for several reasons. Firstly, for the reasons outlined in this report, the design and layout of the ground floor with the additional flat is not acceptable and simply relocating some of the cycle parking would not overcome these concerns. Secondly, it is not considered that there is any other satisfactory location to provide the cycle parking

It is therefore considered that the proposal conflicts with policy DP21 in the MSDP and policy EG12 in the EGNP.

## **Infrastructure**

Policy DP20 of the MSDP seeks to ensure that development is accompanied by the necessary infrastructure. Policy DP20 sets out that infrastructure will be secured through the use of planning obligations. The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:

- a) A Development Infrastructure and Contributions SPD which sets out the overall framework for planning obligations
- b) An Affordable Housing SPD
- c) A Development Viability SPD

The NPPF sets out the government's policy on planning obligations in paragraphs 56 and 58 which state:

*'56 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

and:

*'58 Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

*Footnote 25: Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.'*

The Council's Development and Infrastructure SPD were adopted in July 2018. Since that time, the PPG has been amended so as to discourage the use of SPDs for setting out formulaic approaches to contributions, on the grounds that these should be the subject of independent examination and should therefore be included in a Development Plan Document. This is the approach the Council has taken with regards to the Submission Draft District Plan, which is currently at examination.

Appendix 5 of the Submission Draft District Plan sets out the Council's approach for securing infrastructure under this plan. As part of the evidence base for the Submission Draft District Plan, the Council has produced an Infrastructure Delivery Plan (IDP). The IDP (which underpins Appendix 5) sets out the key infrastructure that will be required to support the objectives, spatial strategy and the delivery of the District Plan over the Plan period to 2039, identify where and when the infrastructure is required, who is responsible for delivering it, the cost of provision (if known) and how these costs are expected to be funded.

Build costs have risen substantially since the "Development Infrastructure and Contributions" SPD was adopted in July 2018. It is critical that new development mitigates its impact on local residents and communities. The Council revoked the SPD on 14th July 2025 and now relies on more up-to-date evidence on infrastructure costs by using Position Statement 2: Infrastructure, which has been approved

by the Council as a material consideration. This Position Statement applies to all application received from 11th December 2025. As this application was received in October 2025, Appendix 5 of the Submission Draft District Plan has been used to calculate all Section 106 contributions due as this is based on the IDP, which (although it has not been the subject of examination) is the most up-to-date evidence available and is considered by officers to be robust, and your Planning Officer notes that there were no objections to Appendix 5 of the Submission Draft District Plan, which is also relevant to the weight that can be given to it.

Whilst this proposal is for only one unit, which is below the threshold for the number of units which applies for the collection of infrastructure payments for District and County Council infrastructure as set out in Appendix 5 of the Submission Draft District Plan, it is considered that in this case it would be appropriate for the proposed development to make infrastructure contributions to mitigate its impact. Whilst the applicant has stated in a Planning Contravention Notice that the works to construct the flat commenced on 30th May 2025 and completed on 31st August 2025, notwithstanding this, the reality on the ground is that the additional flat is part of the whole development at Whittaker House. Had the original planning permission been for 10 flats, infrastructure payments would have been required to mitigate the impacts of those 10 flats. It is not considered that it would be appropriate for the proposal to seek to avoid infrastructure payments that would mitigate the impact of the additional flat. The additional flat created is part of the Whittaker House building and it would not be correct for the proposal to avoid mitigating its impact on infrastructure simply because it had been formed later than the other 9 flats, but in the same overall building.

It should be noted that a satisfactory legal agreement was completed for the originally approved scheme, so the impact of the consented 9 flats was suitably mitigated.

As the application is being recommended for refusal, there is no legal agreement in place to secure the required infrastructure contributions. Therefore, it is considered that this should form a standalone reason for refusal.

## **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 in this planning application.

### Recreational disturbance

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

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

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

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

The applicants have not completed a legal agreement to make a financial contribution towards the SAMM Strategy and strategic SANG mitigation. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

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

The financial contributions for SAMM and SANG mitigation have not been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation").

The proposal therefore fails to accord with policy DP17 of the Mid Sussex District Plan and policy EG16 of the Neighbourhood Plan.

Natural England has been consulted on the appropriate assessment of this proposed development and raise no objection, subject to the required Ashdown Forest mitigation being secured.

#### 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. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

#### Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that the proposed development would have an adverse effect on the integrity of the Ashdown Forest SPA and would 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 does not provide sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA.

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

Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development.

#### **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 development below the de-minimis threshold meaning that this development 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 East Grinstead Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application conflicts with Mid Sussex District Plan policies DP17, DP20, DP21, DP26 and DP27 and Neighbourhood Plan policies EG3 and EG16.

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.

Paragraph 125 of the NPPF states in part (at criteria c) that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. In this case substantial harm has been demonstrated from the poor quality of the accommodation proposed and the adverse impact on the design of Whittaker House in respect of the bin and bike store that have now been created at the site.

In this case, there would be a benefit in principle from providing an additional unit of accommodation within a sustainable location, in terms of its access to shops, services and employment opportunities. There would also be additional Council tax revenue. However the weight to be attached to these benefits are limited by the fact that this is only one unit of accommodation and secondly, because of the poor quality of the accommodation that has been provided.

It is considered that proposed development is a retrograde step compared to the previously approved scheme. The flat fails to meet the dwelling space standards and provides poor quality accommodation. The reduced bin and bike store are inadequate to serve the development and the loss of the dedicated entrance feature results in a poor quality entrance to the block of flats for its residents.

As there is no legal agreement in place to secure the required mitigation in respect of the Ashdown Forest and no mitigation in relation to other infrastructure, the proposal conflicts with policies DP17 and DP20 of the Mid Sussex District Plan 2014-2031 and policy EG16 of the East Grinstead Neighbourhood Plan.

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

Decision: Refusal

Case Officer: Steven King