

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1864	Case Officer:	Stefan Galyas
Application Type:	Permission in Principle		
Proposal:	Permission in Principle for the development of 3 to 4 residential dwellings (including the existing dwelling)		
Site:	Hurst House, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LG, ,		
Validation Date	28 Jul 2025	Overall Expiry Date:	27 Aug 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	19 Aug 2025
Target Date:	1 Sep 2025	Recommending Officer Signature:	<i>Stefan Galyas</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	2
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Signed and Agreed By:	<i>Steven King</i>	Date:	27 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1864

**Hurst House, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LG,
Permission in Principle for the development of 3 to 4 residential dwellings (including the existing dwelling)
Mr Richard Crane**

SUMMARY OF REPRESENTATIONS

There were two letters of representation letter received in response to the application. One letter raised concerns while the other sought to support the development proposal. The concerns raised in the one letter included:

- The proposals need for appropriate boundary fencing to offset the increased intrusion of a multi occupancy plot.
 - The proximity to existing woodland should not diminish the requirement for adequate boundary fencing.
- The letter sought to support the application for the following reasons:
- The site has a large amount of space which could sufficiently accommodate further dwellings.
 - The application would work towards addressing the significant shortfall in housing across the district.
 - As the development would involve a small site, there is a greater chance of shorter delivery time than larger sites.
 - There being no adverse impacts that would be contrary to the NPPF.
 - Should the application be refused, the decision would open the Council up to a potential appeal and costs.

SUMMARY OF CONSULTATIONS

Highways Authority

WSCC as the County Highway Authority, has considered the proposal above and require modifications to the highways access.

The proposal will intensify the use of an existing access onto the A264 Copthorne Common, which has a 50mph posted speed limit. The site currently provides access to a family home. The access is set back from the edge of the carriageway and is gated.

The proposals are to increase the number of dwellings on this plot to provide a total for 4 residential properties with car parking and turning space. There are no proposals to increase the width of the current access which is only wide enough for a single vehicle.

Whilst this would have been appropriate for a single dwelling, the intensification of use will create a demand for a higher level of trips in the am and pm peak hour. Whilst this will still be relatively low due to the location of the site onto a busy 'A' road we would expect to see the access improved to allow for two cars to enter and exit at the same time. This is to avoid the possibility of waiting in the highway to turn right and potential issues with cars meeting at the access causing waiting in the highway which could lead to rear end shunt type collisions.

Please can the applicant provide visibility splays in line with DMRB standards for a 50mph road which are 2.4m x 147m in both directions and provided an extended access width to allow two cars to enter and exit simultaneously. 4.8m would be the absolute minimum for two cars or a car and HGV/LGV to pass each other.

In terms of sustainability the site is located within a short walk to local bus stops on both sides on the road and access to a local convenience store/petrol station is opposite the site.

An informal crossing at some point from the access over the road to the bus stops and shops would benefit the residents of this site to have safe access to these amenities as the footfall would be higher.

Car parking demand and provision is measured against the WSCC car parking guidance for new residential developments. This is based on the number of bedrooms provided and the table below is used to consider the parking behaviour zone.

Copthorne Common is located in PBZ 2 (Copthorne and Worth) and would need to meet the parking demand based on this table. All spaces should be accessible and visitor spaces would also need to be included in the final provision.

MSDC Contaminated Land Officer

Recommendation: Approval with conditions.

MSDC Street Naming and Numbering

Informative recommended appended to any future permission that may be granted.

PARISH COUNCIL OBSERVATIONS

Concerns raised with regard to overdevelopment, an intensification beyond the site's context and capacity, unsafe access and egress onto a busy A-road and conflicts with the existing infrastructure leading to further risks associated with congestion.

INTRODUCTION

The application seeks Permission in Principle for the development of 3 to 4 residential dwellings within the existing plot.

RELEVANT PLANNING HISTORY

WP/146/80: Two storey extension. Permission 01.10.1980.

WP/183/87: Demolition of 4 properties and erection of 26 four bedroom detached dwellings with associated parking and garages. Refused 15.01.1987.

AP/87/0126: Demolition of 4 properties and erection of 26 four bedroom detached dwellings with associated parking and garages. Appeal dismissed.

DM/15/5105: Outline application and consideration of access details for the demolition of existing buildings and the construction of up to 50no. dwellings with associated access. Refused 15.04.2016.

AP/16/0058: Outline application and consideration of access details for the demolition of existing buildings and the construction of up to 50no. dwellings with associated access. Withdrawn.

DM/22/0525: Demolition of existing dwelling and re-development with 6x2 bedroom flats and 1x3 bedroom self-build dwelling, together with improved access and parking within curtilage of site. Refusal 13.04.2022.

AP/23/0020: Demolition of existing dwelling and re-development with 6x2 bedroom flats and 1x3 bedroom self-build dwelling, together with improved access and parking within curtilage of site. Appeal dismissed.

SITE AND SURROUNDINGS

Hurst House is a large detached Georgian style house located to the northern side of Copthorne Common Road, the site has a wide frontage along Copthorne Common Road, to the southern (front) with the site narrowing to the northern (rear). The site has an area of approximately 0.44 hectares and comprises of an outbuilding, formal gardens and a tennis courts in addition to the main dwellinghouse.

The application site shares a mutual boundary with Beauport House on the north western/ western side and a shared boundary with South Place to the eastern (side), while the northern (rear) boundary joins the garden of Christmas House. On the opposite side of Copthorne Common Road is Tamarind and a petrol filling station and associated store.

The application site is situated within a Countryside area, as designated within the Mid Sussex District Plan. The surrounding area is semi-rural in character, with irregularly-shaped plots of varying sizes and varying styles of dwellings, dominated by vegetation along the road, except for the commercial elements such as the Esso garage and an Indian takeaway further west.

APPLICATION DETAILS

The application seeks Permission in Principle for the development of 3 to 4 residential dwellings within the existing plot.

LEGAL FRAMEWORK AND LIST OF POLICIES

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

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document and the Copthorne Neighbourhood Plan.

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

Mid Sussex District Plan (Mar 2018)

The Mid Sussex District Plan 2014-2031 was adopted by Full Council on 28 March 2018. Relevant policies:

Policy DP4: Housing

Policy DP6: Settlement Hierarchy

Policy DP12: Protection and Enhancement of Countryside

Policy DP15: New Homes in the Countryside

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

Policy DP21: Transport
Policy DP26: Character and Design
Policy DP29: Noise, Air and Light Pollution
Policy DP37: Trees, Woodland and Hedgerows
Policy DP41: Flood Risk and Drainage

Site Allocations Development Plan Document (Adopted June 2022)

There are no relevant policies.

Copthorne Neighbourhood Plan

The Copthorne Neighbourhood Plan was made September 2021 and forms part of the development plan. The relevant policies are considered to be:

Policy CNP1: General Development Requirements
Policy CNP2: Redevelopment and Infill Development
Policy CNP10: CA3: Copthorne Common and Woodland
Policy CNP14: Sustainable Transport
Policy CNP16: Car Parking

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.

DPS1: Climate Change
DPS2: Sustainable Design and Construction
DPS4: Flood Risk and Drainage
DPN1: Biodiversity, Geodiversity and Nature Recovery
DPN2: Biodiversity Net Gain
DPN4: Trees, Woodland and Hedgerows
DPN7: Noise Impacts
DPC1: Protection and Enhancement of the Countryside
DPC3: New Homes in the Countryside
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPT4: Parking and Electric Vehicle Charging Infrastructure
DPH1: Housing
DPH2: Sustainable Development - Outside the Built-up Area
DPH7: Housing Mix
DPH11: Dwelling Space Standards

Mid Sussex Design Guide Supplementary Planning Document (November 2020)

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.

National Planning Policy Guidance

Permission in Principle

ASSESSMENT

Issued in support of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017, the Ministry of Housing, Communities and Local Government Guidance on Permission in Principle (published 28 July 2017 updated March 2019) sets out matters within the scope of a decision, which are limited to: 'location, land use and amount of development' (NPPG Paragraph: 012 Reference ID: 58-012-20180615).

The application should take into consideration issues relevant to these 'in principle' matters; other matters should be considered at the technical details stage. A decision on whether to grant a permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the NPPF and National Guidance, which indicate otherwise.

This means that matters such as siting, design, scale, accessibility, impact on neighbouring occupiers or impact on trees and biodiversity cannot be considered at this stage. They would however be considered at the technical details stage instead.

There is a site plan which has been submitted as part of the application which demonstrates an indicative layout of the proposed site, along with an existing site plan, a planning statement and an application form.

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.

Paragraph 232 of the NPPF 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.

Policy DP12 (Protection and Enhancement of the Countryside) seeks to protect the intrinsic character and beauty of the countryside. Whilst it does seek to restrict certain forms of development, it is not considered to be a policy directly related to the supply of housing, however it is recognised that given the Council's is unable to demonstrate a five year land supply and given the aim of the NPPF to boost significantly the supply of housing, the weight that can be afforded to this policy is moderate.

Policy DP15 (New Homes in the Countryside) identifies the types of new homes that will be permitted in the countryside, where special justification exists. While this policy relates to the provision of housing, the aims are consistent with paragraphs 82 - 84 of the NPPF and as such this policy can be given full weight.

Therefore, the key test that must be undertaken when assessing this application is as set out within paragraph 11(d) of the NPPF.

Taking each of the matters for consideration in order:

Location

The application site is designated as being within the countryside within the countryside. Policy DP12 of the District Plan refers to the protection of the countryside and states (in part):

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

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

The proposal would develop 3 to 4 residential dwellings on site and is not for agricultural purposes. Policy DP6 of the Mid Sussex District Plan notes:

'The growth of settlements will be supported where this meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements will be supported where:

- *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*
- *The site is contiguous with an existing built up area of the settlement; and*
- *The development is demonstrated to be sustainable, including by reference to the settlement hierarchy. The developer will need to satisfy the Council that:*
- *The proposal does not represent an underdevelopment of the site with regard to Policy DP26: Character and Design; or*
- *A large site is not brought forward in phases that individually meet the threshold but cumulatively does not.'*

The site has not been found to be contiguous to the built-up area under the previous refusal (DM/22/0525) and dismissed appeal (APP/D3830/W/22/3308571) and this view remains unchanged for the current application.

In association with Policy DP12 is Policy DP15 of the District Plan which relates to new homes in countryside locations and states as follows:

'Provided that they would not be in conflict with Policy DP12: Protection and Enhancement of the Countryside, new homes in the countryside will be permitted where special justification exists. Special justification is defined as:

- Where accommodation is essential to enable agricultural, forestry and certain other full time rural workers to live at, or in the immediate vicinity of, their place of work; or
- In the case of new isolated homes in the countryside, where the design of the dwelling is of exceptional quality and it enhances its immediate setting and is sensitive to the character of the area; or
- Affordable housing in accordance with Policy DP32: Rural Exception Sites; or
- The proposed development meets the requirements of Policy DP6: Settlement Hierarchy.'

Accordingly, there is no 'special justification' for the application proposal and thus is contrary to policy DP15.

There are no other relevant policies in the District Plan, any other development plan documents such as the Site Allocations document or the Neighbourhood Plan that would explicitly support the residential development of this site. The principle of the application conflicts with the development plan, in terms of what type of development is allowable under Policies DP6, DP12 and DP15.

Policy CNP2 of the Copthorne Neighbourhood Plan seeks to provide criteria for development within the defined built-up area for Copthorne with regard to redevelopment and infill development. Whilst the District Plan Policy DP6 allows for neighbourhood plans to allocate sites for development, the Copthorne Neighbourhood Plan does not provide support at policy level for development outside of the built up area boundary.

Due to the location of the site within the countryside, the principle of the development of the site for dwellings in this location is contrary to the above policies in the District Plan as the intrinsic character and beauty of the countryside would be harmed by the proposal.

In addition, the sustainability of a site is a consideration. Policy DP21 of the District Plan relates to transport and requires schemes to be '*sustainably located to minimise the need for travel*' and take '*opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking*'. In addition it requires where '*practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*' A similar ethos is contained within policy CNP14 of the Copthorne Neighbourhood Plan and paragraph 115 of the NPPF.

With regards to whether the application site is set within a sustainable location, the site is not contiguous with the built-up area boundary of Copthorne. There are footways on both sides of the A264 Copthorne Common Road as well as a number of pedestrian islands. It is also noted that there are nearby bus stops on either side of the road which provide alternative sustainable transport modes. Copthorne is listed as a Category 2 settlement as set out within Policy DP4 of the District Plan that includes a good range of facilities and services. However, as previously found in the aforementioned refusal and dismissed appeal on site, an intensification of development on site is likely to be a reliant on the use of the private motor vehicle by virtue of the lack of services within a walking distance. The footpath is adjacent to the busy A264 and is not likely to be an attractive walking route for many prospective users. In addition, the A264 is likely to be an attractive cycling route only to confident and experienced cyclists. Accordingly, it is considered that the proposal would not promote a sustainable form of development as referred to in Policy DP21 of the District Plan and Paragraph 115 of the NPPF, which seeks to actively manage patterns of growth, limiting the need to travel and offering a genuine choice of transport modes.

The site falls within Flood Zone 1 and details concerning how the site would be drained if it were to be developed is a matter which would be considered at the technical stage.

The principle of development is therefore deemed to not be acceptable in relation to location and conflicts with policies DP6, DP12, DP15 of the District Plan.

Land Use

As noted above, the application site is located outside of a built up area boundary and not found to be contiguous. Accordingly the site is considered to be set within the countryside and would develop 3 to 4

residential dwellings within Hurst Houses' existing residential curtilage. Previously developed land is defined within the NPPF as:

'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

The existing tennis court on site is considered to constitute as previously developed land as well as the existing access and outbuildings further to the south of the site. However, there is undeveloped grassed garden amenity space to the west and very north of the site which is considered to be classified as undeveloped land. Furthermore, the site location plan is only indicative and whilst one property appears to be sited at a greater distance from the previous tennis court, it is not clear where a fourth property would be sited within the plot.

Whilst there are residential properties within the surrounding area, owing to the site's location within the countryside, the proposed development is not supported within the development plan as set out above with the location segment of the report.

Therefore, the proposed land use is not considered to be acceptable in principle and would be contrary to Policies DP6, DP12 and DP15 of the District Plan.

Amount of Development

In relation to size and shape of the plot and its possibility to accommodate 3 to 4 dwellings, Policy DP26 of the District Plan relates to character and design. It states:

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

All applicants will be required to demonstrate that development:

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

Policy CNP1 of the Copthorne Neighbourhood Plan states that:

'Proposals will be supported where they sustain or reinforce the positive aspects that make up the individual character and distinctiveness of each Character Area, as defined on the Policies Map, in which they sit.'

The site is located with the CA3 area (Copthorne Common and Woodland) and Policy CNP10 in part states:

'As appropriate to their scale and nature development proposals within the defined Character Area 3 - The Copthorne Common and Woodland Character Area (as shown on the Policies Map) should deliver high quality development which takes account of their immediate locality. In particular development proposals should sustain and where practicable reinforce the positive aspects of the character area and respond positively to the identified sensitivity to change matters included in sections 4.6 and 4.7 of the Copthorne Heritage and Character Assessment (May 2019).'

Policy CNP1.2 of the Copthorne Neighbourhood Plan requires that development does not cause unacceptable harm to neighbouring amenities whereas policy DP26 of the Mid Sussex District Plan states that development 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. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect.

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. As such, policy CNP1.2 of the Copthorne Neighbourhood Plan is considered to take precedence and therefore the test in this instance is whether the development causes unacceptable harm to neighbouring amenities as outlined above.

Paragraph 135 of the National Planning Policy Framework states that:

'Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;*
and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users 51 ; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

In respect of future occupants, Policy DP29 of the Mid Sussex District Plan states:

'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;*

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development. 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;

Light pollution:

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

Air Pollution:

- It does not cause unacceptable levels of air pollution;
- Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;
- Development proposals (where appropriate) are consistent with Air Quality Management Plans. The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'

Whilst details of the scale and design are reserved for the technical details stage, it is recognised that there are a number of constraining features due to the size and maturity of the trees which are subject to a blanket tree preservation order over an extensive area to the northern side of the A264 Copthorne Common Road.

The site narrows to the northern end as the tree coverage becomes more dense and well established. As such, it is considered that the site is constrained to an extent in its ability to accommodate 3 to 4 dwellings by virtue of the sites bottleneck layout, particularly to the northern end. It is likely that 3 to 4 dwellings on site would present a cramped overall form of development and would not sufficiently accommodate this specified amount.

The size and density of the trees subject to the tree preservation orders to the north of the site are considered to be a material consideration towards the applications determination. The removal of these trees would be restricted and a dwelling positioned towards the northern end of the site would likely be shrouded to an extent by either their canopy coverage or overall proximity. It is therefore considered that dwellings positioned to the northern side of the site would be hindered in the light levels received.

In light of the above, it is considered that the amount of development for 3 to 4 dwellings on site would present a cramped and uncomfortable form of development within the sites red line boundary. As such the proposal would fail to comply with Policies DP26, DP29 and DP37 of the District Plan and CNP1, CNP1.2 and CA3 of the Copthorne Neighbourhood Plan and Paragraph 135 of the National Planning Policy Framework.

Ashdown Forest

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

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

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

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest. In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

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

Atmospheric pollution

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

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

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

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

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

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 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 Copthorne Neighbourhood Plan.

The application must be assessed against the policies of the development plan taken as a whole, and this assessment has identified conflict with the development plan. This being in respect of what types of development are allowable under policies DP6, DP12 and DP15. Conflict has also been identified with policies and DP26, DP29 and DP37 of the District Plan and policies CNP1, CNP2 and CA3 of the Copthorne Neighbourhood Plan.

As a result, it is considered that the application conflicts with the development plan when read as a whole. This is not the end point as planning law requires that *'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise'*.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, it follows that the relevant policies for the supply of housing from the development plan are out-of-date (footnote 8 of paragraph 11 NPPF). As such, reduced weight should be given to these policies. In these circumstances paragraph 11 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole (having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination), or specific policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development.

When assessed against policies relating to settlement pattern, accessibility to services, and countryside character, the location and land use of the development proposed would conflict with Policies DP12, DP15 and DP21 of the District Plan and Policies CNP1, CNP2 and CA3 of the Copthorne Neighbourhood Plan. As there are no policies in the District Plan which positively favour development of this kind in this location, there would be a conflict with the development plan as a whole. There are also specific concerns as identified above in relation to the ability of the site to accommodate the development proposed.

These factors weigh heavily against the proposal.

On the positive side, the provision of a net increase in 3 to 4 dwellings on the site will make a minor yet positive contribution to the district's housing supply. The proposal would also result in construction jobs during the construction phase and the increase population attracted by the houses are likely to spend in the community. It is also recognised that a future development would be required to make mandatory contributions towards biodiversity net gain. Because of the small scale of the development proposal, these benefits would be attributed limited weight.

The proposal would also result in a new homes bonus.

In weighing up these issues, when taken together, it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal. The proposal does not constitute sustainable development as defined by the NPPF. The proposed development is considered to be contrary to District Plan policies DP6, DP12, DP15, DP21, DP26, DP29 and DP37 and Neighbourhood Plan policies CNP1, CNP2 and CA3 and there are no other material planning considerations to justify a decision otherwise than in accordance with the development plan.

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

Decision: Refusal

Case Officer: Stefan Galyas