

## Delegated Decision

### Sign off Sheet

<b>Ref. No:</b>	DM/25/2379	<b>Case Officer:</b>	Deborah Lynn
<b>Application Type:</b>	Permission in Principle		
<b>Proposal:</b>	Residential development of up to 2 self-build houses.		
<b>Site:</b>	Land At And To Rear Of 3 Heathview Cottages, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LF, ,		
<b>Validation Date</b>	18 Sep 2025	<b>Overall Expiry Date:</b>	27 Nov 2025
<b>Pre-Commencement Conditions Required:</b>		<b>Pre-Com Conditions Date Agreed:</b>	
<b>Recommendation:</b>	Permission	<b>Recommendation Date:</b>	28 Nov 2025
<b>Target Date:</b>	23 Oct 2025	<b>Recommending Officer Signature:</b>	<i>Deborah Lynn</i>

<b>Date Legal Agreement Completed: (if applicable)</b>		<b>No of Representations:</b>	5
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<b>Signed and Agreed By:</b>	<i>Stephen Ashdown</i>	<b>Date:</b>	1 Dec 2025
<b>Comments:</b>			

## MID SUSSEX DISTRICT COUNCIL

**DM/25/2379**

**Land At And To Rear Of 3 Heathview Cottages, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LF,  
Residential development of up to 2 self-build houses.  
John And Elizabeth Smith**

DM/25/2379

### **SUMMARY OF REPRESENTATIONS**

A total of 4 letters have been received from 3 households, 2 objecting, 1 in support and 1 neutral:

- No detail provided as to where the proposed houses will be sited, therefore difficult to assess impact on surrounding properties and trees.
- Disagree with point made in statement at 1.17. It should be noted that there has been no vehicular use of the access for a significant amount of time. The access is dangerous on this busy fast road, will increase risk of accidents, especially at peak times.
- The lack of a gas line and un-built nature of area provides questions about sustainability and infrastructure capacity.
- Amended address is not correct.
- Should description include proposed road? Will create noise and dust during initial build.
- Area offers seclusion and security from main road, although a 6 foot fence would help with concerns and make garden less exposed.
- Maintaining overgrowth and trees from the land has been a struggle; area definitely needs attention.
- 100% in favour of approval of application.

### **SUMMARY OF CONSULTATIONS**

#### WSCC Highway Authority

No objection subject to sufficient information being submitted at the Technical Details stage.

#### MSDC Drainage

No objection in principle on flood risk grounds. Further information required at the Technical Details stage.

#### MSDC Street Naming and Numbering

Add informative.

#### Southern Water

The development is not within Southern Water's Supply area.

#### NatureSpace Partnership

Further information would be required at the Technical Detail's stage to likely impact on great crested newts.

### **WORTH PARISH COUNCIL OBSERVATIONS**

Worth Parish Council has deferred to MSDC to determine the application.

## **INTRODUCTION**

This application seeks permission in principle for the construction of two self-build houses on land at and to the rear of 3 Heathview Cottages, Copthorne Common, Copthorne.

## **RELEVANT PLANNING HISTORY**

WP/027/85 - Outline application - Erection of 6 dwellings - 4 semi-detached and 2 detached all with garages. Refused 26.04.1985.

WP/225/88 - Two detached houses. Refused 09.12.1988. Appeal Dismissed 24.08.1989.

05/00156/OUT - Erection of two 4 bedroom quality houses with associated driveways on land to rear. Refused 18.03.2005. Appeal Dismissed 26.01.2006.

## **SITE AND SURROUNDINGS**

The site predominantly comprises a parcel of land to the rear of houses on the southern side of Copthorne Common Road (A264) and is located approximately 360 metres west of the Dukes Head roundabout. The site also includes a section of land with existing vehicular access from Copthorne Common Road; on plans this is shown to form part of the curtilage of no. 3 Heathview Cottages, however in reality, this part of the site has been separated from no. 3 by wire / close boarded fencing and vegetation. The site is accessed via a 5 bar gate located between 3 Heathview Cottages and Four House.

The site is bordered to the north by Copthorne Common Road, to the north-east by the curtilages of nos. 1 & 3 Heathview Cottages, to the east by undeveloped land to rear of properties fronting Cottage Place, to the south by an adjacent parcel of land alongside the curtilages of dwellings fronting Pembley Green, and to the west by the curtilages of the remaining properties on Pembley Green, including the property known as Four House (previously called Orchard House) which is an allocated existing employment site (Policy SA34, Mid Sussex Site Allocations DPD).

For the purposes of planning policy, the site lies outside the built-up area boundary of Copthorne as defined by the District Plan, and within a countryside area.

## **APPLICATION DETAILS**

This application seeks permission in principle for the residential development of up to two self-build homes.

The proposed development would utilise the existing access onto Copthorne Common Road.

As a 'Permission in Principle' application, no detailed layout, form or design of the proposed dwellings, or landscaping details are provided. All such relevant details would be provided and confirmed at the technical details stage. A location plan detailing the red line of the application site has been provided.

## **LEGAL FRAMEWORK AND LIST OF POLICIES**

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

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

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

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

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

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

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

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the 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 (March 2018)**

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

Relevant policies:

- DP6 - Settlement Hierarchy
- DP12 - Protection and Enhancement of the Countryside
- DP15 - New Homes in the Countryside
- DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)
- DP21 - Transport
- DP26 - Character and design
- DP27 - Dwelling Space Standards
- DP29 - Noise, Air and Light Pollution
- DP37 - Trees, Woodland and Hedgerows
- DP38 - Biodiversity
- DP39 - Sustainable Design and Construction
- DP41 - Flood Risk and Drainage

### **Site Allocations Development Plan Document (June 2022)**

No relevant policies.

### **Copthorne Neighbourhood Plan**

The Copthorne Neighbourhood Plan was made on 29th September 2021.

Relevant policies:

- CNP1 - General Development Requirements
- CNP2 - Redevelopment and Infill Development
- CNP10 - CA3: Copthorne Common and Woodland
- CNP14 - Sustainable Transport
- CNP15 - 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.

Relevant policies:

DPS1: Climate Change

DPS2: Sustainable Design and Construction

DPS4: Flood Risk and Drainage

DPS6: Health and Wellbeing

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 Infrastructure

DPH1: Housing

DPH2: Sustainable Development - Outside the Built-up Area

DPH6: Self and Custom Build Housing

DPH7: Housing Mix

DPH11: Dwelling Space Standards

### **Mid Sussex Design Guide Supplementary Planning Document (SPD)**

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

### **National Planning Policy Framework (NPPF) (December 2024)**

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

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

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

Paragraph 12 of the NPPF states:

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

Paragraph 39 of the NPPF states:

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

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

### 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, biodiversity, flood risk and drainage cannot be considered at this stage. They would, however, be considered at the technical details stage instead.

The application as submitted contains a location plan denoting the extent of the application site along with an application form, a planning statement and self-build statement.

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. Policy DP12 of the District Plan refers to the protection of the Countryside and states in part that:

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

- 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 development proposes to erect up to two self-build houses on the land and is not for agricultural purposes.

Policy DP6 of the District Plan states in part that:

*'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:*

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

The site is not contiguous with the existing built-up area of Copthorne nor is it allocated.

Policy DP15 of the District Plan refers to new homes in the countryside and sets out special justifications where new homes would be permitted:

*"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.'*

The proposed development does not meet with the above criteria.

Furthermore, policy CNP2 of the Copthorne Neighbourhood Plan supports redevelopment and infill development within the defined built-up area of Copthorne, subject to compliance with certain criteria. There are no policies in the Neighbourhood Plan that support development outside of the built-up area boundary.

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 of the Mid Sussex District Plan.

Whilst the proposed development falls outside the development boundary of Copthorne, the proposal for two houses would not represent isolated development within the countryside by reason of the site being surrounded to the north, west and south by existing properties located on Copthorne Common Road and Pembley Green. Properties at Cottage Place lie further to the east, between 20 and 65 metres from the site. The design and scale of the proposed dwellings would be considered at the technical consent

stage, however, with the above in mind, it is considered that the proposal would maintain the quality of the rural and landscape character of the District.

The site is in Flood Risk Zone 1. Details concerning how the site would be drained if it were to be developed is a matter which would be considered at the technical matters stage.

The sustainability of the site is also a consideration. The NPPF recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural areas, however it also encourages development to be focused on locations that limits the need for travel as set out with paragraph 115 of the NPPF. This aligns with the aims of Policy DP21 of the District Plan. As policy DP21 accords with the aims of the NPPF, it can be afforded full weight. A similar ethos can be found in policy CNP14 of the Neighbourhood Plan.

Whilst the site falls outside the built-up area boundary of Copthorne which lies approximately 235 metres to the west, there are pavements on both sides of Copthorne Common Road as well as pedestrian islands providing pedestrian access to the village. Several bus stops are also located on both sides of the road, with a small shop at the nearby Esso service station as well as an Indian takeaway close by.

Recent appeal decisions (APP/D3830/W/25/3361012, APP/D3830/W/25/3366245 and APP/D3830/W/25/3366246) concerning the conversion of existing buildings at Firs Farm to dwellinghouses are deemed relevant when considering the sustainability of the site. Firs Farm is located to the southwest of the Dukes Head roundabout, approximately 280 metres to the east of the application site. All three appeals were allowed earlier this year, with the Planning Inspector noting the following in the most recent appeal decision dated 20th August 2025:

*"12. The parties agree that Firs Farm is located outside of the settlement boundary of Copthorne. Although the sites are within the Countryside, the dwellings in both appeals would not be isolated.*

*13. Whilst Copthorne Common Road is busy with narrow pavements, the dwellings in both Appeal A and B would be within walking distance of the nearest village where there are a variety of services and facilities. In addition, there is a nearby takeaway, pub and convenience store, which although unlikely to fulfil day to day needs, would provide a top up function.*

*14. Cycling would also be an option for proficient cyclists as although the road is busy, it is wide enough to allow vehicles to pass cyclists safely. A nearby bus stop would provide another viable mode of transport, with good links provided for a rural location.*

*15. As such there would be a variety of modes of transport available to future residents, such that they would not be reliant on private car for their day-to-day journeys.*

*16. Consequently, I conclude that the appeal site in both Appeal A and Appeal B would be an appropriate location for new housing having regard to the accessibility of services and facilities and sustainable transport options. The proposals would accord with Policy DP21 of the MSDP where it requires development to encourage a healthy and enjoyable lifestyle by providing opportunities to walk, cycle or ride to common destinations and reduce carbon emissions. Similarly, it would accord with the aims of the Framework."*

With the above in mind, the principle of development is deemed acceptable in relation to location. Matters relating to the above criteria will in part form consideration of 'amount of development' below. However, a more detailed assessment of matters such as the dwelling design, layout, construction materials and neighbouring amenity would be considered at the 'technical details consent' stage should permission in principle be approved.

It is noted that a local resident has commented on the lack of a gas line and unbuilt nature of the site in respect of sustainability and infrastructure capacity, however such matters are not considered a planning consideration when assessing the proposal.

Land use

As noted above the application site is located within the countryside. 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 application site consists of an overgrown area of land set behind dwellings and accessed off Copthorne Common Road. It is not considered as previously developed land as set out under the NPPF.

As previously noted, the proposed land use is considered to be acceptable as a sustainable form of development which accords with relevant NPPF guidance and would be within an enclave of development. Based on the surrounding residential properties, it is considered that the principle of the use of the site for residential purposes is acceptable.

#### Amount of development

In relation to amount of development and in the absence of specific national guidance that would undermine this approach, consideration will be given to matters which could render the proposal for two dwellings on the site unacceptable in principle.

In the absence of supporting information, the Local Planning Authority and relevant consultees have drawn on the resources available at the time of the application in order to inform their consideration of these matters.

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

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

- *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 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 (Cophorne 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 Cophorne 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 Cophorne Heritage and Character Assessment (May 2019).'*

Policy CNP1.2 of the Cophorne 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 Cophorne 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.

Whilst details in respect of scale and design are reserved for the technical details consent stage, it is considered that the size and shape of the plot is suitable to accommodate two dwellings whilst retaining adequate distances and providing adequate parking and access to the site. The size and shape of the plot and the potential to accommodate two dwellings on the site would not cause harm to the character of the area.

In relation to access, the proposal would utilise the existing vehicular access on Cophorne Common Road. Whilst local representations in respect of highway safety are noted, the Local Highways Authority at West Sussex County Council has raised no objections to the application in principle, subject to the submission of sufficient information at Technical Details Stage.

In view of the above, it is considered that the amount of development of two dwellings on the site is acceptable in principle.

### 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 Cophorne Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP21 and DP26 and policies CNP1 and CNP14 of the Cophorne Neighbourhood Plan.

Although the application must be assessed against the policies of the development plan taken as a whole, this assessment has identified conflict with the development plan. There is partial conflict with District Plan Policy DP12 but the proposal could maintain the quality of the landscape character.

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 undertaking the balancing exercise the following benefits, harms and neutral impacts are as follows:

In terms of the scheme's benefits, the proposal would form two dwellings. Socially, the provision of the new dwellings will bring about positive impacts to the local community. The construction of the development will provide local jobs and employment opportunities which is a positive impact. From an environmental view, and in view of recent appeal decisions, the proposed development is considered sustainably located within close proximity to facilities, services and public transport. These are positive considerations in the planning balance.

Whilst the proposal conflicts with some policies in the development plan, it is not considered that it would lead to any adverse effects that would outweigh the benefits of the presumption in favour of sustainable development. Notwithstanding that, while this is only two new dwellings, it would still contribute to the Council's much needed housing supply and make effective use of the land.

The neutral impacts relate to the impact on the Ashdown Forest.

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

In these circumstances the NPPF states that permission should be granted, and this is a material consideration of sufficient weight to overcome the proposal's conflict with the development plan.

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

Decision: Permission

Case Officer: Deborah Lynn