

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/2502	Case Officer:	Catherine Cardin
Application Type:	Full Application		
Proposal:	Proposed installation of two Daikin EWYE070CZN-A2 air source heat pump units, to be contained within a dedicated acoustic enclosure, to serve a 22-dwelling residential property.		
Site:	Cherry Tree Court, School Close, Burgess Hill, West Sussex, , , ,		
Validation Date	30 Oct 2025	Overall Expiry Date:	20 Nov 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	1 Dec 2025
Target Date:	25 Dec 2025	Recommending Officer Signature:	<i>Catherine Cardin</i>

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

MID SUSSEX DISTRICT COUNCIL

DM/25/2502

**Cherry Tree Court, School Close, Burgess Hill, West Sussex, , ,
Proposed installation of two Daikin EWYE070CZN-A2 air source heat pump units, to be contained within a dedicated acoustic enclosure, to serve a 22-dwelling residential property.
Mr Liam Dwyer**

SUMMARY OF REPRESENTATIONS

Following the submission of the first set of plans, three letters of representation were received. These raised concerns regarding:

- the height and overall size of the enclosure
- noise
- impact on views

Following the submission of revised plans, no letters of representation were received.

SUMMARY OF CONSULTEES

MSDC Environmental Protection

Recommend approval with condition.

TOWN COUNCIL OBSERVATIONS

The Committee of 17th November recommend approval subject to the condition recommended by the Environmental Protection Team's review being applied.

INTRODUCTION

The application seeks planning permission to install two air source heat pump units and to construct a dedicated acoustic enclosure.

RELEVANT PLANNING HISTORY

BH/234/94- New external glazing at ground floor level to provide additional floor space and enclosure of open corridor. Permission.

BH/001/95- 1 no flat signboard attached to fence. Permission.

11/00258/FUL- Erection of 56 assisted living extra care accommodation with communal facilities and car parking; the erection of 46 retirement living apartments with communal facilities and car parking with access from the brow and the erection of 22 age restricted affordable apartments with car parking and access from School Close. (Amended description 04.02.2011). Amended plans received on 15th March 2011 showing design changes to the exterior of the proposed buildings. Permission.

SITE AND SURROUNDINGS

Cherry Tree Court is a four-storey block of flats which provides 22 residential dwellings. The property is characterised by red brick and grey upvc windows. The property has parking spaces for up to 18 cars to the north of the site. The existing ASHPs are enclosed adjacent to the building.

The development site is located within the built-up area boundary of Burgess Hill. The surrounding area is predominantly residential with similar low rise apartment buildings. Neighbouring properties are located to the east and south. Highway is located to the west and south. A public footpath and primary school are located to the north.

APPLICATION DETAILS

Planning permission is sought to install two air source heat pump units and to construct a dedicated acoustic enclosure.

The air source heat pumps would measure some 3.5 metres in width, some 0.8 metres in depth, with a maximum height of some 1.8 metres.

The acoustic enclosure would measure some 4.8 metres in width, some 4.8 metres in depth and would have a maximum height of some 3 metres. The screen should be of solid construction with a minimum surface density of 15-20 kg/m² and lined on the plant side with 50 mm mineral wool or similar absorptive treatment. The air source heat pump units and acoustic enclosure would be located with two existing parking spaces to the north of the application site. The air source heat pumps would serve the properties at Cherry Tree Court.

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 Burgess Hill Neighbourhood Plan.

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

Mid Sussex District Plan

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

Relevant policies:

DP21: Transport

DP26: Character and Design

DP29: Noise, Air & Light Pollution

DP39: Sustainable Design and Construction

DP40: Renewable Energy Schemes

Site Allocations DPD

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

There are no relevant policies.

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made in 2016.

There are no relevant policies.

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

DPS3 - Renewable and Low Carbon Energy Schemes

DPB1 - Character and Design

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

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.

ASSESSMENT

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

- o Design and Impact on the character and appearance of the area
- o Impact on Residential Amenity
- o Parking arrangements
- o Sustainability
- o Biodiversity Net Gain
- o Planning Balance and Conclusion

Design and Impact on the character and appearance of the area

DP26 of the District Plan states:

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

- o *is of high-quality design and layout and includes appropriate landscaping and greenspace;*

- o contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- o creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- o protects open spaces, trees and gardens that contribute to the character of the area;*
- o 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'*

During the course of the application, concerns were raised regarding the lack of detail submitted in terms of the proposed acoustic enclosure. Revised plans were submitted which provided details for all of the proposed elevations.

The proposal would be seen within the context of the existing car park and would be of a proportionate form and scale. The form of the proposed development is considered to be in keeping with the scale, height, materials and site coverage of the surrounding area. Whilst it is noted that the proposed location of the development would be visible within the street scene, it has been advised that it would not be possible to site the proposal where the existing air source heat pumps are. The existing system which failed was undersized and the proposed units require a larger footprint, whilst the existing location would not be sufficient to accommodate them. Alternative areas were reviewed, with an acoustic investigation concluding that these areas would result in noise disturbance. In addition, the proposed screening would mean that there would be restricted views of the proposal from the street scene. Although the 3m fence is not considering to be in keeping with the surrounding area, on balance, the design is considered to be acceptable.

As such the proposal would comply with the requirements of Policy DP26 of the District Plan.

Impact on Residential Amenity

In terms of impact upon neighbouring amenities, Policy DP26 in part seeks to ensure that development: *'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 DP29);'*

To the south is 1-22 Cherry Tree Court. Given the modest scale of the proposal and that the development would be offset from these neighbours by some 10.9 metres, it is not considered that the proposal would be harmful to the light and outlook of these neighbours.

To the east is 1-47 Clayton Court. The development would be offset from these neighbours by some 40 metres.

It is noted that neighbours have raised concerns regarding the potential noise impact of the air source heat pumps. MSDC Environmental Protection were consulted on the application. They have advised that whilst the acoustic report could benefit from greater clarity regarding the specific sound pressure levels of the proposed units, the report appears to be robust and that the proposed mitigation is considered appropriate to achieve appropriate mitigation levels. They have recommended approval with a condition to ensure the mitigation proposed is installed. It is considered that the proposed mitigation would mitigate the harm to the amenities of these neighbours.

The proposal therefore accords with policy DP26 of the District Plan.

Parking arrangements

Policy DP21 of the District Plan states that to meet the objectives of the West Sussex Transport Plan 2011- 2026, decisions on development proposals will take account of whether: *'the scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;'*

It is noted that the proposal would result in the loss of two parking spaces associated with the property.

West Sussex County Council Parking Standards Guidance (2020) outlines the County Council's approach to parking at new developments to ensure that sufficient parking is provided to meet the needs of the development while maintaining highway network operations, protecting surrounding communities and pursuing opportunities to encourage use of sustainable modes of transport. The property currently has 12 1-bed properties and 10 2-bed properties. West Sussex County Council Parking Standards Guidance (2020) outlines that for this dwelling in this location that 24 parking spaces should be provided. The property would have an external parking spaces that would accommodate 16 cars, which would remain. In addition, there are no car parking restrictions on the west side of School Close. In this case, given the remaining number of spaces and street parking available, it is not considered that there would be grounds to refuse the application on this basis.

It is therefore considered that, in this instance, the proposal would be acceptable in terms of highways impact. Therefore, the proposal is deemed to comply with policy DP21 of the Mid Sussex District Plan and the WSCC Parking Standards Guidance.

Sustainability

Policy DP39 of the Mid Sussex District Plan relates to sustainable design and construction and encourages that development proposals use renewable sources of energy.

Policy DP40 relates to renewable energy schemes and states in part that:

'Proposals for new renewable and low carbon energy projects (other than wind energy development - see below), including community-led schemes, will be permitted provided that any adverse local impacts can be made acceptable, with particular regard to:

o Landscape and visual impacts, including cumulative impacts, such as on the setting of the South Downs National Park and High Weald Area of Outstanding Natural Beauty, and the appearance of existing buildings;

o Ecology and biodiversity, including protected species, and designated and non-designated wildlife sites;

o Residential amenity including visual intrusion, air, dust, noise, odour, traffic generation, recreation and access.

Principle DG37 of the Mid Sussex Design Guide SPD also encourages the incorporation of renewable energy such as air source heat pumps.

The proposal will significantly improve the sustainability of the property, reducing its environmental impact. The proposal therefore accords with policies DP39 and DP40 of the District Plan, and the Mid Sussex Design Guide SPD.

Other matters

It is noted that concerns were raised regarding the impact on views from Clayton Court. Given that the loss of a view is not a material planning consideration, this cannot be taken into consideration as part of the application.

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 is 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 Burgess Hill Neighbourhood Plan.

Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.

The proposal is considered to be appropriate in terms of design, size and scale to the building and locality, and would not cause harm to the surrounding area or to the amenities of neighbouring properties. The proposal is considered to be sustainable and would not have an unacceptable impact on the existing parking arrangements.

In conclusion, the proposal would accord with the requirements of policies DP21, DP26, DP29, DP39 and DP40 of the Mid Sussex District Plan and the relevant provisions of the NPPF. The application is therefore recommended for approval.

Decision: Permission

Case Officer: Catherine Cardin