

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0886	Case Officer:	Andrew Clarke
Application Type:	Change of Use Application		
Proposal:	Retrospective planning application for the partial change of use of land to residential garden area.		
Site:	South Meadow Cottage, Brantridge Lane, Staplefield, Haywards Heath, West Sussex, RH17 6EW, ,		
Validation Date	31 Mar 2025	Overall Expiry Date:	30 May 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	27 Jun 2025
Target Date:	26 May 2025	Recommending Officer Signature:	<i>Andrew Clarke</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	5
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	30 Jun 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0886

South Meadow Cottage, Brantridge Lane, Staplefield, Haywards Heath, West Sussex, RH17 6EW, Retrospective planning application for the partial change of use of land to residential garden area.

Mr Jonathan Bickerdike

SUMMARY OF REPRESENTATIONS

5 letters of representation received raising the following matters:

- impact on national landscape
- principle
- setting of listed building
- domestication
- visual impact
- description
- scope of application
- retrospective status

SUMMARY OF CONSULTEES

MSDC Conservation Officer

The application site is a field which lies to the west of South Meadow Cottage, a semi-detached property located in a rural position outside Staplefield. Just to the south of the is Tyes Place, a Grade II listed 17th century or earlier building, formerly a farmhouse, now a substantial country house. The former farmstead to Tyes Farm, as it was known, lies to the west of the house and includes a number of surviving former farm buildings, including a barn and granary, which would be regarded as curtilage listed. The farmstead is recorded in the West Sussex Historic Farmstead and Landscape Character Assessment.

As a former farmhouse, now country house, the surviving wider rural setting around Tyes Place and its gardens would be considered to make a strong positive contribution to its special interest and how this is appreciated, in particular those parts of that interest which are drawn from historical illustrative and aesthetic values. The same would apply with respect to the curtilage listed buildings within the former farmstead. The application site constitutes a relatively close and prominent part of that wider rural setting, in particular as it is directly adjacent to the driveway approach to Tyes Place from Brantridge Lane.

The current proposal is for the change of use of the area to residential garden.

In my opinion, this proposal is contentious in principle due to the impact that the change of use will have on the historically agricultural/rural character of the field, which will inevitably become domesticated, through the likely introduction of garden-style planting and domestic paraphernalia. This will detract from the positive contribution that the site currently makes, through setting, to the special interests of the listed and curtilage listed buildings at Tyes Place.

This will be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, the proposal will result in less than substantial harm, at around the low-mid range of that scale, such that the balancing exercise set out in paragraph 215 will apply.

PARISH COUNCIL OBSERVATIONS

Council would like to object to this application on the basis that it is in an area of HWAONB and it goes against policies DP10, DP12, DP14, DP16, DP34, C1 and C4.

INTRODUCTION

The application seeks retrospective planning permission for a partial change of use of a paddock associated with South Meadow cottage.

RELEVANT PLANNING HISTORY

13/01132/FUL - To erect a greenhouse on agricultural land in an area of outstanding natural beauty. - Permission granted 4th June 2013

DM/22/3875 - Retrospective application for retention of domestic garden room on agricultural land to north-west of South Meadow Cottage. - Pending consideration.

SITE AND SURROUNDINGS

The land subject to the application forms part of a large parcel of land which lies to the north western (and in front of) of the main dwelling house at South Meadow Cottage. The dwelling itself is a two storey semi-detached dwelling with primary garden to the rear (east).

The application land form a small parcel of this wider parcel of land (with a lawful use as paddock or agriculture) which is distinct and separate from the planning unit of the dwellinghouse and which in total measures approximately 0.35ha and is laid to grass. The area is accessed independently from the main house and has high tree screening to three sides and a close board fence to a height of 1.8m along its eastern edge. The land is open and without man-made boundaries within it with an unauthorised cabin (subject to the concurrent application DM/22/3875) situated in the north-eastern corner of the field.

The site is an a highly rural location designated as countryside by the Mid Sussex District Plan and lies within the High Weald National Landscape. To the east lies the similar property at North Meadow Cottage whilst to the south, and sitting at a higher level, lies the grade II listed building at Tyes Place.

APPLICATION DETAILS

The application seeks retrospective permission for the partial change of use of a small parcel of the wider paddock area. The area the permission is being sought for is approximately 0.047ha in size and represents a triangular strip of land on the eastern side of the paddock and which also contains the unauthorised cabin subject to application DM/22/3875.

The application was originally submitted as seeking retrospective permission for to regularise the use of the land as '*residential paddock*'. Noting the land may already be considered paddock and that residential and paddock uses may be considered entirely separate uses, this description did not accurately reflect the use of the land as actually taking place. The description of the application has therefore been amended to refer to the use as *residential garden* which better reflects the use actually taking place.

The application is for change of use only and does include any means of enclosure nor other development upon the land.

The use is already taking place and therefore the application is made under s.73a of the Town and Country Planning Act 1990.

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 Ansty, Staplefield and Brook Street 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:

DP12 - Countryside
DP16 - High Weald National Landscape
DP26 - Design
DP34 - Setting of listed building

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.

Ansty, Staplefield and Brook Street Neighbourhood Plan

The Ansty, Staplefield and Brook Street Neighbourhood Plan has been made and is a material planning consideration with full weight. The relevant policies are:

AS3 - High Weald Area of Outstanding Natural Beauty

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

Other Material Considerations

None

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
DPS4 - Drainage
DPN4 - Trees
DPB1 - 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.

Development Infrastructure and Contributions Supplementary Planning Document (SPD)

Affordable Housing Supplementary Planning Document (SPD)

Development Viability Supplementary Planning Document (SPD)

National Planning Policy Framework (NPPF) (December 2024)

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

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

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

Paragraph 12 of the NPPF states;

' The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with

an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

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

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

With respect to the NPPF (December 2024) paragraph 189 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues.

Protection of National Landscapes is further enhanced by s.245 of The Levelling-up and Regeneration Act (2023) which places a duty on relevant authorities to seek to further the purpose of conserving and enhancing the natural beauty of the area.

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

The primary considerations relating to the application relate to:

- Principle
- Impact on National Landscape
- Impact on setting of Listed Building
- Bio-diversity net gain
- Other material considerations

Principle

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

In terms of policy designations, the starting point for this assessment is that the application site is located within the defined Countryside. Policy DP12 is relevant and states:

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:

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

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

The policies contained within the NPPF are material considerations which should be taken into account in the determination of this application. This is confirmed within paragraph 231 of the NPPF.

Paragraph 232 clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The application does not involve the delivery of any new housing and in respect of this proposal, it is considered that Policy DP12 can be given full weight.

The application is related to a residential property and seeks the change of use of land from agriculture or paddock to a use in association with a residential property. It is therefore not compliant with the requirements of DP12 and as noted below does not seek to protect the intrinsic character and beauty of the countryside through the likely introduction of residential paraphernalia and artificial field boundaries.

The development is therefore not compliant with the requirements of policy DP12 of the District Plan.

Impact on the character and appearance of the National Landscape

Policy DP16 of the District Plan states that development will only be permitted where it conserves or enhances natural beauty and has regard to the High Weald Management Plan and that small scale proposals which support the economy and social well-being of the AONB (now National Landscape) that are compatible with the conservation and enhancement of natural beauty will be supported.

Policy AS3 of the Neighbourhood Plan contains a similar ethos and that development should seek to further the aims of the High Weald Management Plan.

Objectives FH2 and FH3 of the High Weald Management Plan relate to fieldscapes and heath and in respect of FH2 seeks to 'maintain the pattern of small irregularly shaped fields bounded by hedgerows and woodlands.' whilst FH3 seeks to 'protect and enhance the ecological function of field and heath as part of the complex mosaic of High Weald habitats.'

Objective PQ2 relates to the aesthetic quality of the landscape and that development should 'protect the unspoilt rural landscape with its intrinsic sense of naturalness, valued views, and the extent of green space which foster experiences of rurality and tranquillity.'

This is further supported by the requirement of the NPPF and The Levelling-up and Regeneration Act (2023) where the development must further the purpose of conserving and enhancing the natural beauty of the area and the objectives of the Management Plan

The land subject to the application form part of a wider historic field in use as a paddock or for agriculture. The wider parcel of land is open and bordered with high trees and fencing along historic boundaries and whilst the land is not open to substantial wider views its size and openness contribute to the character of the National Landscape and the setting both of the nearby residential properties at North and South Meadow Cottage and the listed building at Tyes Place.

The proposed development, seeking permission to change the use of only a small parcel of the wider land would require and likely a facilitate the introduction of artificial boundaries into the field to separate the residential and agricultural uses and which would disrupt the historic field pattern and cause harm to the appearance of the area. Whilst a condition could be imposed restricting the erection of means of enclosure this cover neither the planting of hedges and with no demarcation it would not be possible to

ascertain, or control, the extent of the change of use permitted. The subdivision of the field would therefore be contrary to the aims of policies DP16, AS3 and the contents of the High Weald Management Plan.

The change of use would also permit the use of the land as garden with the level of intensity of use and paraphernalia it brings. Again whilst conditions could restrict the construction of incidental buildings upon the land, they could not restrict the siting of and placement of items which one might associate with residential use. This would include children's play equipment, BBQs and temporary swimming pools; all items already evident on the land currently being used, in the Council's opinion, without planning permission as residential garden. These items cause harm to the visual amenity and lies at odds with the open agriculture / paddock use to which the land should be kept. The development would therefore cause visual harm to the National Landscape contrary to the aims of policies DP16, AS3 and the contents of the High Weald Management Plan.

Setting of the Listed Building

The land lies within the setting of the grade II listed building at Tyes Place which lies directly south of the land and which benefits from mutual views in and out of the land directly associated with Tyes Place.

Policy DP34 of the District Plan states:

Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:

- o A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- o Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of a listed building retain its significance and character whilst ensuring that the building remains in a viable use;*
- o Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- o Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- o Special regard is given to protecting the setting of a listed building;*
- o Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric*

The contents of the NPPF must also be applied and paras 212 - 215 states:

'212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional*

214. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be

demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use*

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The Council's Conservation Officer has made comments on the application and notes the contribution the land makes to the setting of the heritage asset and that the likely visual impact of the change of use, through the likely introduction of garden-style planting and domestic paraphernalia, will detract from the positive contribution that the site currently makes to the special interests of the setting of the listed and curtilage listed buildings at Tyes Place.

The harm identified is considered to be less than substantial harm, at around the low-mid range of that scale, such that the balancing exercise set out in paragraph 215 will apply.

The residential use will relate solely to South Meadow Cottage and is not considered to the optimum use of the land noting the harm it would create. The use will be solely private and therefore there is no public benefit to outweigh the harm to the openness and character and appearance of the setting of the listed building such that the application is considered contrary to policy DP34 of the District Plan and the requirements of the NPPF.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted on an application made under Section 73a of the Town and Country Planning Act 1990 and as retrospective development and relates solely to change of use the application exempt from the requirement to provide biodiversity net gain.

Other material considerations

The contents of the planning statement submitted with the application are noted but does not introduce or provide any reasons why the policies of the development plan should not be applied in full. There are therefore no additional material considerations to take into account.

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 content of the application and 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 Ansty, Staplefield and Brook Street 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.

For the reasons set out within the assessment section, it is considered that the application does not comply with Mid Sussex District Plan policies DP12, DP16, DP24 and DP26 and Neighbourhood Plan policy AS3

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'.

Harm has been identified to the setting of Tyes Place, and in terms of the NPPF this harm is considered to be in the less than substantial range. Para 215 of the NPPF sets out that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (of the heritage asset). The proposal does not give rise to any public benefits that would outweigh the identified harm to the setting of Tyes Place.

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

Decision: Refusal

Case Officer: Andrew Clarke