

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/0053	Case Officer:	Hamish Evans
Application Type:	Full Application		
Proposal:	Conversion of a storage building to form two dwellinghouses (2 x Use Class C3 Single Family Dwellinghouses).		
Site:	Firs Farm, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LF, ,		
Validation Date	9 Jan 2025	Overall Expiry Date:	4 Feb 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	26 Feb 2025
Target Date:	6 Mar 2025	Recommending Officer Signature:	Hamish Evans

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Steven King	Date:	27 Feb 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/0053

**Firs Farm, Copthorne Common, Copthorne, Crawley, West Sussex, RH10 3LF,
Conversion of a storage building to form two dwellinghouses (2 x Use Class C3 Single Family
Dwellinghouses).
Mr Matt Smith**

SUMMARY OF REPRESENTATIONS

No third-party letters of representation have been received.

SUMMARY OF CONSULTEES

MSDC Tree Officer

Insufficient information provided.

West Sussex County Council Highways

No objections subject to conditions.

MSDC Environmental Protection

No objections subject to conditions.

MSDC Street Name and Numbering

Recommend informative.

Place Services Ecologist

Recommend approval subject to conditions.

PARISH COUNCIL OBSERVATIONS

Worth Parish Council

Defer to officer noting previously refused applications.

INTRODUCTION

The application seeks planning permission for the conversion of a building to form two dwellings at Firs Farm Copthorne Common Copthorne RH10 3LF.

RELEVANT PLANNING HISTORY

DM/25/0047. Conversion of two buildings (Use Class E) to form a three bedroom family dwellinghouse (Use Class C3), associated outbuilding, amenity space and parking provision. Pending Consideration.

DM/24/2053. Conversion of two buildings to 1 x single family dwellinghouse (Use Class C3) with associated amenity space and parking provision. Refused.

DM/24/1234. Proposed Lawful Development Certificate application to resume the lawful uses of a number of buildings at Firs Farm. Permission.

SITE AND SURROUNDINGS

The site is located within the countryside, with the built up area boundary of Copthorne some 600 metres to the west of the site. The site is also considered to be within the setting of The Firs, Turners Hill Road, Crawley Down which is a Grade II Listed Building located to the northeast of the site. The site consists of a single storey building that has been used as storage to support the landscaping business within the surrounding area. The building is single storey in its nature and it is characterised by timber clad and white render walls, corrugated metal roofing and timber window and door frames. There is a significant area of hardstanding to the front of the building and a significant number of trees to the north and east of the application building. The building's lawful use is within B8 use class as a storage building.

A residential property is located to the east of the site, storage buildings are located to the south and east of the site. The site is accessed through a private track to the south and west of the site which leads to Copthorne Common which is to the north of the site. The surrounding area is semi-rural in its nature, with it being characterised by sporadic residential properties, commercial and industrial units and open fields and woodland.

APPLICATION DETAILS

The application seeks planning permission for the conversion of the existing building to two residential properties. Plot 1 consists of a one-bedroom dwelling located to the west of the building and Plot 2 consists of a two-bedroom dwelling located to the east of the building. Plot 1 consists of a lounge/dining room, kitchen, hallway, bedroom and bathroom. Plot 2 consists of an open plan lounge, kitchen and dining room, hallway, a bathroom and two bedrooms.

The building will be characterised by horizontal weatherboard lapped timber clad walls, tile roofing and timber window and door frames.

The proposal would include the installation of five rear facing ground floor windows and four rear facing doors, one side facing ground floor window, four ground floor front facing windows and two front facing doors.

It is proposed that the private amenity space to be used in association with the dwellings would be located to the north and south for plot 1 and north, south and east of plot 2. Three off-street car parking spaces are proposed to the south of the building adjacent to the access track.

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) 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 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

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

Relevant policies:

DP4 - Housing

DP6 - Settlement Hierarchy

DP12 - Protection and Enhancement of 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

DP34 - Listed Buildings and Other Heritage Assets

DP37 - Trees, Woodland and Hedgerows

DP38 - Biodiversity

DP39 - Sustainable Design and Construction

DP41 - Flood Risk and Drainage

Site Allocations DPD

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

No relevant policies.

Copthorne Neighbourhood Plan

The Copthorne Neighbourhood Plan was made in September 2021.

Relevant policies:

CNP1 - General Development Requirements

CNP10 - CA3: Copthorne Common and Woodland

CNP15 - Car Parking

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

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 the majority of 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:

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

DPC1: Protection and Enhancement of the Countryside

DPC3: New Homes in the Countryside

DPC6: Ashdown Forest SPA and SAC

DPB1: Character and Design

DPB2: Listed Buildings and Other Heritage Assets

DPT4: Parking and Electric Vehicle Charging Infrastructure

DPH1: Housing

DPH2: Sustainable Development - Outside the Built-up Area

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 objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective.

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 Design Guide/Code

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

Technical Housing Standards

ASSESSMENT

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

Principle

Design and Impact on character of the area

Impact on Heritage Assets

Highways

Impact on Residential Amenity

Housing Standards

Flood Risk and Drainage

Ecology

Trees, Woodland and Hedgerows

Sustainability

Ashdown Forest

Biodiversity Net Gain

Planning Balance and Conclusion

Principle

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

In terms of policy designations, the starting point for this assessment is that the application site falls outside of the built-up area of Copthorne as defined by the District Plan. As such the site is located within the defined Countryside.

Policy DP12 of the District Plan refers to the protection of the Countryside 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.

Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.

The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.

Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council.
Economically viable mineral reserves within the district will be safeguarded.'

There is a requirement in policy DP12 for development to maintain or enhance the quality of the rural and landscape character of the district and to be supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan. As will be set out later in this report, it is not considered that the proposal is supported by the most relevant policy in the development plan which relates to this application.

Policy DP6 of the District Plan states in part that:

'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 proposed residential development does not meet any of these criteria.

Policy DP15 of the Mid Sussex District Plan is most relevant to this application and states:

'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:

- o 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*
 - o 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*
 - o Affordable housing in accordance with Policy DP32: Rural Exception Sites; or*
 - o The proposed development meets the requirements of Policy DP6: Settlement Hierarchy.*
- Permanent agricultural (includes forestry and certain other full time rural worker) dwellings will only be permitted to support existing agricultural activities on well-established agricultural units where:*
- o The need cannot be fulfilled by another existing dwelling on or any other existing accommodation near the agricultural unit; and*
 - o It can be proven that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times; and*
 - o It can be proven that the farming enterprise is economically viable; and*
 - o It can be proven that the size of the dwelling is commensurate with the established functional requirement of the agricultural unit.*

Temporary agricultural dwellings essential to support a new farming activity either on a newly created agricultural unit or on an established one will be subject to the criteria above and should normally be provided by temporary accommodation.

Applications for the removal of agricultural occupancy conditions will only be permitted where it can be proven that there is no longer any need for the dwelling for someone solely, mainly or last working in agriculture or forestry or other rural based enterprise. This will be based on an up to date assessment of the demand for farm (or other occupational) dwellings in the area as a whole, and not just on a particular holding.

New 'granny annexes' that are physically separate to the dwelling are defined as a new home and are subject to the same requirements as above.

Re-use of rural buildings for residential use

The re-use and adaptation of rural buildings for residential use in the countryside will be permitted where it is not a recently constructed agricultural building which has not been or has been little used for its original purpose and:

- o the re-use would secure the future of a heritage asset; or*
- o the re-use would lead to an enhancement of the immediate setting and the quality of the rural and landscape character of the area is maintained.*

Replacement dwellings in the countryside

Replacement dwellings in the countryside will be permitted where:

- o The residential use has not been abandoned;*
- o Highway, access and parking requirements can be met; and*
- o The replacement dwelling maintains or where possible enhances the quality of the natural and/or built landscape particularly in the High Weald Area of Outstanding Natural Beauty, especially if a significant change in scale from the existing dwelling is proposed.'*

A similar ethos is contained within paragraph 84 of the NPPF which states:

'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential building; or*
- e) *the design is of exceptional quality, in that it:*
 - i. *is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - ii. *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

For the conversion of a rural building to a residential use to comply fully with policy DP15, the proposal would need to demonstrate that it is not an agricultural building which has been recently constructed or has been little used for its original purpose and that it would secure the future of a heritage asset or that its re-use would lead to an enhancement of the immediate setting.

The existing building use was confirmed with the certificate of lawful use that was issued under reference DM/24/1234. The main building's lawful use is within B8 use class as a storage. The site is located within the countryside and the appearance of the buildings is considered to be relatively rural. Taking into account the above, the building is considered to be a rural building. It has not been proposed that the proposal would secure the future of a heritage asset and, therefore, the proposal would need to lead to an enhancement of the immediate setting.

The existing building is dilapidated in its appearance and the proposal would repair the building. The proposal also seeks to replace the existing white render walls with horizontal weatherboard lapped timber cladding and the existing corrugated metal roofing with tiled roofing.

Whilst this would improve the appearance of the building as it is currently dilapidated, this is considered to only be the case because the building has been left to fall into disrepair and a dilapidated appearance. Due to the nature of the proposed use, it would create additional residential paraphernalia surrounding the existing buildings. It is considered that these works on their own would not lead to an enhancement. Whilst the proposal does include some landscaping works, limited details of these have been provided and the proposal would result in additional hardstanding at the site. No further works are proposed to the site to indicate how the conversion would lead to an enhancement of the immediate setting as there is to be no improvement to the surrounding site. As such the proposal is not considered to lead to an enhancement of the immediate setting of the area.

An appeal decision has been provided with the application which relate to the enhancement of the immediate setting of sites as contained within policy DP15 of the Mid Sussex District Plan and paragraph 84 of the NPPF. This decision shows circumstances where facilitative works were considered to provide an enhancement. Whilst this decision is noted, it does not state that all proposals that would repair existing buildings constitute an enhancement. It is considered that this matter should be assessed on a case by case basis and given the above assessment the proposed works are not considered to lead to an enhancement of the immediate setting of the area.

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. Whilst there is some compliance with Policy DP12, insofar as the development is deemed to maintain the quality of the rural and landscape character, as demonstrated in the design and visual amenity sub-section, the principle of the application does conflict with the development plan, in terms of what type of development is allowable under Policies DP6, DP12 and DP15.

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.

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 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 deliverable 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 paragraph 11 (c) and (d) of the NPPF and it is considered necessary to assess whether the housing policies within the Mid Sussex District Plan are up-to-date or not.

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. While 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 para 11(d) of the NPPF.

The following sections of the report will consider the relevant matters associated with the proposed development in the context of the development plan and other material considerations, including the NPPF in order to undertake the necessary tilted balance assessment outlined above.

Design and Impact on the Character and Appearance of the Area

Policy DP12 of the Mid Sussex District Plan in part 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.'

Paragraph 187 of the NPPF contains a similar ethos and states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:
a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;'

Policy DP26 of the Mid Sussex District Plan in part 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.'*

A similar ethos is contained within policies CNP1 and CNP10 of the Copthorne Neighbourhood Plan and the Mid Sussex Design Guide SPD.

The proposed external materials will be predominantly similar in appearance to existing buildings within the locality and they are considered to be common outside the built-up area. Details of which can be secured by a suitably worded condition. The proposed windows and doors will be modest in their scale and would be similar in scale to the existing openings.

The proposed works would not increase the size of the existing building and it is considered to be relatively modest in their nature. The proposal would remain of a relatively modest single storey nature.

Taking into account the above the proposed works are considered to address the character and scale of the existing and surrounding buildings and landscape and it would maintain the quality of the rural and landscape character. The existing highways access will remain unchanged which considered acceptable and the proposed parking arrangement is to be assessed in a subsequent section of this report. Therefore, it is considered to comply with the above part of policy DP26 of the Mid Sussex District Plan, policies CNP1 and CNP10 of the Copthorne Neighbourhood Plan and the Mid Sussex Design Guide SPD.

Impact on Heritage Assets

The LPA is under a duty by virtue of s.66 of the Listed Building and Conservation Area (LBCA) Act 1990 (Decision on application): to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Recent case law has stated that "As the Court of Appeal has made absolutely clear in its recent decision in Barnwell, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."

The Courts further stated on this point "This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering."

Policy DP34 of the Mid Sussex District Plan states:

'Listed Buildings

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.*

Other Heritage Assets

Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.

The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic.

Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.'

The Firs Turners Hill Road Crawley Down RH10 4HH is a grade II listed building which is located to the northeast of the site.

The proposed external materials will be predominantly similar in appearance to existing buildings within the locality and they are considered to be common outside the built-up area. Details of which can be secured by a suitably worded condition. The proposed windows and doors will be modest in their scale and would be similar in scale to the existing openings.

The proposed works would not increase the size of the existing buildings and they are considered to be relatively modest in their nature. The existing buildings would remain of a modest single storey nature.

There is a degree of separation between the application site and the listed building due to the existing boundary treatment. Given the separation between the sites and that the proposed works do not seek to enlarge the existing buildings, the proposal is considered to protect and preserve the setting of the listed building to the northeast and complies with policy DP34 of the Mid Sussex District Plan.

Transport

Policy DP21 of the Mid Sussex District Plan in part states:

'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;

The scheme protects the safety of road users and pedestrians;'

Policy CNP15 of the Copthorne Neighbourhood Plan in part states:

'New development should include car parking spaces in accordance with the greater of:

- *The latest WSCC guidance¹¹ at the time the application is submitted. OR*
 - *For residential units, provision of on-plot / off-street car parking spaces in accordance with the following table:*
- 1-bedroom - 2 off-road car parking spaces*
2-bedroom - 2 off-road car parking spaces
3-bedroom - 3 off-road car parking spaces
4+bedroom - 4 off-road car parking spaces'

The West Sussex County Council Parking Guidance advises that for two dwellings of this size in this location some 3.1 off-street parking spaces should be provided. The proposed plans show three off-street parking spaces to be sited to the front of the building. The proposal would use the existing vehicular access to the site. It should also be noted that the Local Highways Authority have been consulted on the application and they have raised no objection to the proposal. As such the proposed parking arrangement is considered to comply with the above part of policy DP21 of the Mid Sussex

District Plan, policy CNP15 of the Copthorne Neighbourhood Plan and the West Sussex County Council Parking Guidance.

The Local Highways Authority have recommended a condition to secure the construction of the parking spaces prior to the occupation of the proposal which is considered appropriate.

With regards to sustainability, the NPPF recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural area, however it also encourages development to be focused on locations that limits the need for travel. This aligns with the aims of Policy DP21. As policy DP21 accords with the aims of the NPPF, it can be afforded full weight.

It is considered that the occupiers of the proposed dwellings would be reliant on the private car for access to shops, services and employment opportunities and this would conflict with the aims of the Framework and policy DP21 as set out above. On three joint appeals in 2021 on a site some 200m to the west of this application, an Inspector found the site to be unsustainably located (appeal references APP/D3830/W/20/3260708, APP/D3830/W/21/3268144, APP/D3830/W/21/3268145). In dismissing those appeals the Inspector stated:

'19. The convenience store is close by and provides a reasonable range of goods, a cashpoint and post box. However, it is extremely likely that future occupiers would seek out a wider range of services and facilities to provide for their day-to-day needs and the convenience store would act as a top-up store rather than act as the main shopping destination for future occupiers.

20. Although the takeaway is close by and the pub/restaurant is within a 5-minute walking distance, these would not provide for the day-to-day needs of occupiers. Walking to the nearby village is possible where there are a range of services and facilities and would be within a 26-minute walking distance. Nevertheless, the busy nature of the highway with fast moving traffic and narrowness of the pavements would make walking feel unsafe and an extremely unattractive option for this reason, particularly for elderly occupiers of the proposed developments or those with young children.

21. There are bus stops very close to the site with 9 services. These variously run 7 days a week and provide links to education, services, facilities, public transport links and Gatwick airport at a frequency of services around every 20 to 30 minutes. These links are relatively good for a rural location and would offer an alternative to private travel. However, bus travel limits the amount of goods one can carry and this does not offer a convenient option for catering for the future occupiers' day-to-day needs.

25. For these reasons, I conclude that the proposed developments would not minimise the need to travel and support sustainable transport methods. Therefore, the proposed developments would conflict with Policy DP21 of the District Plan. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural area, however it also encourages development to be focused on locations that limits the need for travel. This aligns with the aims of Policy DP21.'

It is considered the same conclusions can be drawn for this proposed development. It is a well-established principle in planning that consistency in decision making is important. Whilst similar cases do not have to be decided on a like for like basis, where a decision maker departs from a previous decision, they should clearly set out their reasons for doing so. In this case it is not considered that there are any reasons to depart from the findings of the Planning Inspector who concluded that a site in close proximity to this site, was not sustainable.

Therefore, whilst the parking arrangements and access point to the highway would be acceptable, it is considered that as a result of the unsustainable location of the proposal, the proposal would conflict with policy DP21.

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 Policy DP29);'

CNP1.2 of the Copthorne Neighbourhood Plan states:

'Proposals for new development should not cause unreasonable harm to the amenity (including general activity, access, noise, privacy, daylight, and sunlight) of existing and future occupants, both on site and nearby'

Policy CNP1.2 of the Copthorne Neighbourhood Plan requires that development does not cause unreasonable 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 unreasonable harm to neighbouring amenities as outlined above.

A similar ethos is contained within the Mid Sussex Design Guide SPD.

The proposal does not seek to enlarge the existing building and the residential property to the north of the site is set away from the shared boundary. Due to the modest single storey nature of the building it would not include any first-floor side facing windows and due to the location of the proposed ground floor windows, they would not have direct views into residential properties private amenity spaces within the locality. The Council's Environmental Protection team have raised no objection to the proposal. Taking into account the above, it is not considered to cause unreasonable harm to the amenities of existing nearby residents and future occupants including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, are and light pollution. As such the proposal is considered to comply with the policy CNP1.2 of the Neighbourhood Plan and policy DP26 of the Mid Sussex District Plan in respect of neighbour amenity and the Mid Sussex Design Guide SPD.

Housing Standards

Policy DP27 of the District Plan states that all new residential development should comply with minimum nationally described space standards for internal floor space and storage.

Unit 1 includes one bedroom which the plans show have a double bed within. The total internal floor space within unit 1 is 68.08 sqm. For a single storey dwelling with one bedroom with a double bed space the standard is 50 sqm.

Unit 2 includes two bedrooms which the plans show both have a double bed within. One measures some 11.56 sqm in total internal floor space and the other measures some 11.40 sqm in total internal floor space. The space standards state that in order to provide two bedspaces or a double bedroom the internal floor area of the bedroom would need to be at least 11.5 sqm. As such although the plans show a double bed within one of the bedrooms it would be considered to be single rooms due to the floor space. The total internal floor space of the building is 72.02 sqm. For a single storey dwelling with two bedrooms with three bed spaces the standard is 61 sqm. The proposal would meet this standard which is considered acceptable and as such the proposal is considered to comply with the nationally described space standards. Taking into account the above the proposal is considered to provide a satisfactory standard of accommodation for future residents and according with policy DP27 of the District Plan.

Flood Risk and Drainage

Policy DP41 of the Mid Sussex District Plan in part states:

'Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates.'

The site is not located within an area that is considered to be at risk of surface water or flooding and it is located within flood zone 1. No details of the proposed surface and foul water connections have been provided. The Council's Drainage and Flood Risk consultants have raised no objection to the proposal and recommended that a pre-commencement condition be imposed to secure these details. As such the proposal is considered to comply with policy DP41 of the Mid Sussex District Plan.

Ecology

Policy DP38 of the Mid Sussex District Plan states in part that development:

'Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances)'

Due to the age and nature of the buildings a Bat Survey and Preliminary Ecological Appraisal Report has been provided with the application and the Council's Ecologist has raised no objection to the proposal subject to the imposition of conditions to secure the mitigation measures proposed and to secure a sensitive lighting design scheme. Taking into account the above the proposal is considered to comply with the above part of policy DP38 of the Mid Sussex District Plan.

Trees, Woodland and Hedgerows

Policy DP37 of the Mid Sussex District Plan in part states:

'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'

'Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.'

The proposed works would be within 15 metres of existing trees and hedgerows on the site and at neighbouring sites. A category A oak tree is located to the north of the site. A Tree Survey and Constraints Plan have been submitted with the application. The submitted planning statement advises that no trees shall be removed as part of the proposal however protection details have not been submitted as part of this application. The Council's Tree Officer has requested details of protection measures. The proposal does not seek to increase the size of the existing building and any protection measures for existing trees on the site can be secured by a suitably worded planning condition.

Taking into account the above, the proposal is considered to adequately protect the existing trees on the site and the proposal would comply with policy DP37 of the Mid Sussex District Plan.

Sustainability

Policy DP39 of the District Plan relates to sustainable design and construction and states that:

'All development proposals must seek to improve the sustainability of development and where appropriate and feasible according to the type and size of development and location should incorporate the following measures:

- o 'Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation;*
- o Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible;*

- o *Use renewable sources of energy;*
- o *Maximise efficient use of resources, including minimising waste and maximising recycling/ re-use of materials through both construction and occupation;*
- o *Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment;*
- o *Demonstrate how the risks associated with future climate change have been planned for as part of the layout of the scheme and design of its buildings to ensure its longer term resilience.'*

A sustainability statement has been submitted as part of the application which sets out a number of sustainability measures that could be undertaken as part of the proposal, whilst the details are limited it is considered that a condition can be imposed to secure further details of sustainability measures. As such the proposal is considered acceptable and it would comply with policy DP39 of the Mid Sussex District Plan in relation to the buildings construction. The sustainability of the site in relation to transport matters is assessed elsewhere in this report.

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 process for the Mid Sussex District Plan. 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 screening report 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, and as detailed in the 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 has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as **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. Sufficient windfall capacity exists within the development area. 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 screening report

The screening 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.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Copthorne 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 complies with Mid Sussex District Plan policies DP17, DP26, DP27, DP34, DP37, DP38, DP39 and DP41 and Neighbourhood Plan policies CNP1, CNP10 and CNP15 of the Copthorne 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. This being in respect of what types of development are allowable under policies DP4, DP6, DP12 and DP15 of the District Plan. There is also conflict with policy DP21 in respect of the sustainability of the site in relation to transport.

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.

In terms of the benefits of the proposal the proposed development would result in the creation of construction jobs during the build period. The additional, albeit limited, population could help generate more local spending in the local community, provision of infrastructure and services as well as additional Council Tax receipts. These are all material considerations that weigh in favour of the development. The provision of two new dwellings will make a limited, but positive contribution to the district's housing supply and would help meet the identified need for housing. There are not considered to be any environmental benefits to this proposal.

In this case substantial harm can be demonstrated as the proposed site is located within an unsustainable location which would result in a high reliance on private car use for access to shops, services and employment opportunities.

The proposed re-use and adaptation of the rural building, by reason of its design, appearance and additional hardstanding, would not lead to an enhancement of the immediate setting of the site.

The proposal would have a neutral impact in respect of design and impact on the character and appearance of the area, impact on heritage assets, highways safety, impact on residential amenities, housing standards, flood risk and drainage, ecology and its impact on the Ashdown Forest. The proposal is also exempt from biodiversity due to the development being below the de-minimis threshold.

As a result of this, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, having regard to the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations.

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

Decision: Refusal

Case Officer: Hamish Evans