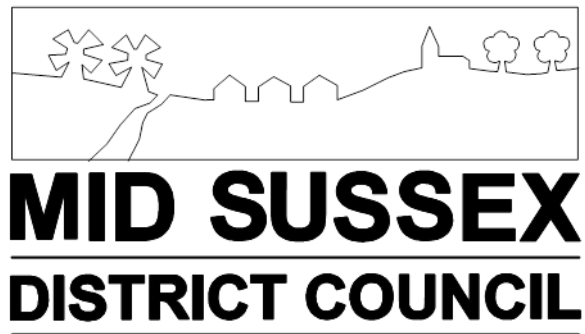




## **Agenda Update Sheet**

**District Planning Committee**  
**21<sup>st</sup> August 2025**

## **Agenda Item 6 (Recommended for approval)**

### **APPLICATION DM/25/0445**

Para's 2.31 and 13.29 replace the first line with the following: *It is your Planning Officer's view that having regard to para 11d of the NPPF, that the adverse impacts of granting consent would not significantly and demonstrably outweigh the benefits of this development, as highlighted within this report, many of which will in any event be mitigated for as far as is possible. It is therefore considered....*

In the executive summary and planning balance and conclusion an additional two paragraphs should be inserted between paras 2.20 and 2.21 and 13.17 and 13.38 to as follows:

*'It is acknowledged that the site is not a highly sustainable location due to it being on the edge of Haywards Heath. Whilst it is within a 15-minute walk to the nearest primary school, it is over a 20 minutes' walk to the local health services and the main service centre within the town. There are no bus stops outside the site. As such, a significant proportion of journeys from the site would be made by car. The proposal is seeking to provide measures to encourage other sustainable options of cycle vouchers and off-site highway works to encourage walking. Notwithstanding this, it is considered the sustainability of the location of the site does weigh against the proposal within the planning balance. However, it is considered that the sustainability of its location does not sufficiently tip the balance when applying para 11d of the NPPF in that the location would not significantly and demonstrably outweigh the benefits.*

*Weighing against the development is the loss of trees including a number of trees to create the access into the site. However, in terms of the NPPF these have not been identified as ancient woodland, ancient or veteran trees. Replacement planting (albeit not of the same size) can be carried out on the site to mitigate the loss. As such it is considered that the loss of the trees does not sufficiently tip the balance when applying para 11d of the NPPF in that this would significantly and demonstrably outweigh the benefits.'*

## **4.0 Summary of representations**

1 additional letter advising of the following:

- There is an ongoing Police Investigation in relation to sections of hedgerow within this site had been cut down by the developer while surveying the field, in contravention of Schedule 5 of the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.
- Hazel Dormice were found in the 4 locations in the hedgerows surrounding the fields and have been found in additional locations approximately 30 metres from the proposed access road.
- Believe the damage took place in in late 2024/early 2025 after the discovery of Hazel Dormice.

- No license was sought from Natural England before disturbing the Hazel Dormouse, the work was carried out during the hibernation period of the Hazel Dormouse, in contradiction of the Miller's Homes' mitigation proposals, cut marks on the hedgerows have the appearance of a chainsaw, in contradiction of the Miller's Homes' mitigation proposals and the material removed has been left on site, in contradiction of Miller's Homes' mitigation proposals

1 further late representation has been submitted which Members should have received yesterday on planning matters in respect of heritage, landscape, trees and hedgerows, ecology, BNG and planning balance.

### **12.180 Biodiversity:**

Representations have been raised in respect of Hedgehog and Deer on the site and the impact the development would have on these species. Representations raise concerns on the impact of deer which graze freely on the site and road safety to them once the site is opened onto Lewes Road.

Whilst Hedgehog are identified as priority species, they are not protected species under Schedule 5 of the Wildlife and Countryside Act, 1981 (as amended). They are however identified within Schedule 6 as animals which may not be killed or taken by certain methods. As priority species Hedgehogs are of national conservation importance. Under the Natural Environment and Rural Communities Act (NERC), 2006 there is a statutory duty to consider the conservation and enhancement of hedgehog populations when considering planning applications. The impact on Hedgehogs should be avoided or mitigated where possible. The submitted Ecological Impact Assessment identifies that the site is considered to support high potential for Hedgehogs. It identifies that during the construction phase there would be indirect impacts to the disruption of habitat connectivity. Para 12.125 of the report sets out that there would be enhancement measures of at least 2 gaps within gravel boards/bases of each fence line to allow movement of hedgehogs between gardens and into the wider area.

In respect of Deer, these are not protected species under the Wildlife and Countryside Act 1981. However, the Act does offer some protection to deer, such as prohibiting the use of certain traps and snares, it also acknowledges that deer can be legally hunted under specific circumstances. Deer are protected under the Deer Act 1991 and only native red and roe deer are considered priority species for conservation. The submitted Ecological Impact Assessment identifies that the site is heavily grazed by deer.

A representation notes that further evidence of Hazel Dormouse has been found on the site outside of the tube locations during the surveys undertaken which are identified in the submitted Ecological Impact Assessment which accompanies the application. Whilst this is acknowledged, the Councils Ecology Consultant has raised no objection to the proposal on ecology grounds and as detailed in Appendix B in their consultation response of the 28<sup>th</sup> July they advise that as Hazel Dormouse have been identified within the red line boundary and the proposals will include the removal of hedgerow / mature trees and bramble scrub that a European Protected Species Mitigation Licence for Hazel Dormouse will be required prior to commencement and a copy of the licence submitted to the Local Planning Authority. This is set out as condition 6 in Appendix A of the report with the amended wording as detailed below in this update sheet.

In terms of Badgers, the submitted Ecological Impact Assessment identifies the presence of a Badger sett and foraging and commuting Badgers. The illustrative masterplan shows that

there would be a 20-metre buffer zone retained around the Badger sett. The Council's Ecologist has considered the submitted Assessment and in their final consultation response they raise no ecological objection subject to conditions including a construction environmental management plan for biodiversity, a biodiversity enhancement strategy and a wildlife sensitive lighting design scheme.

Overall the Council's Ecology Consultant considered that there is sufficient ecological information available to support determination of this application and that this provides certainty for the Local Planning Authority of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

#### **APPENDIX A – RECOMMENDED CONDITIONS**

Condition 6 – page 80 to be re-worded as follows:

'Any works which will impact the breeding / resting place of Hazel Dormouse, shall not in any circumstances commence unless the local planning authority has been provided with either:

a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or

a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s17 Crime & Disorder Act 1998.'

The Council's Ecology Consultant has confirmed that a separate licence is not required for bats for this application and was meant to refer to only Hazel Dormouse and not bats.

#### **APPENDIX B – CONSULTATIONS**

The Highways Authority have included a summary to their detailed comments of the 7<sup>th</sup> July to make clear their conclusions. This does not however alter their detailed comments. Their additional comments are as follows:

##### **'Summary**

*WSCC has considered the proposal for 80 residential dwellings at Land North of Colwell Farm and based on the information presented and viewed against paragraphs 115 and 116 of the National Planning Policy Framework, WSCC Highways are satisfied that this proposal would not result in any severe or otherwise unacceptable highway safety impacts.*

*As such, no objection would be raised.'*

#### **Agenda Item 8 (Recommended for approval)**

##### **APPLICATION DM/25/0090**

Para 12.1 should read flood risk/drainage

##### **5.0 Summary of Consultees**

## **South Downs National Park Authority**

(07.08.2025) Objection.

### **APPENDIX A – RECOMMENDED CONDITIONS**

Insert condition 14.

14. No development shall take place unless and until details of the existing and proposed site levels (in particular relating to the proposed buildings) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policies DP12, DP18 and DP26 of the District Plan 2014 - 2031 and Policies ALC1 and ALC2 of the Albourne Neighbourhood Plan.

15. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR136, or a 'Further Licence') and with the proposals detailed on plan "Land at Eastwood Farm: Impact plan for great crested newt District Licensing (Version 1)", dated 19th August 2025.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR136, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006 and policy DP38 of the Mid Sussex District Plan 2014-2031.

16. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR136, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence.

The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts, and in line with section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006 and policy DP38 of the Mid Sussex District Plan 2014-2031.

17. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence (WML-OR136, or a 'Further Licence') and in addition in compliance with the following:

- Works to existing ponds onsite may only be undertaken during autumn/winter, unless otherwise in accordance with the Great Crested Newt Mitigation Principles.

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR136, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006 and policy DP38 of the Mid Sussex District Plan 2014-2031.

### **Informatives**

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. It is recommended that the NatureSpace Best Practice Principles are considered and implemented where possible and appropriate.
3. It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.
4. It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority which permits the development to proceed under the District Licence (WML-OR136, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newts are thereby committed then criminal investigation and prosecution by the police may follow.
5. It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority).

## **APPENDIX B – CONSULTATIONS**

### **South Downs National Park Authority**

07.08.2025

Although the application site is located outside of the National Park, the Council has a statutory duty to consider the Purposes of the National Park when making its determination.

The two statutory purposes of the SDNP designation are:

- conserve and enhance the natural beauty, wildlife and cultural heritage,
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social wellbeing of the local community in pursuit of these purposes.

Section 245 of the Levelling-Up and Regeneration Act 2023 (S.245 duty) amends and strengthens the Section 11A (2) duty of the National Parks and Access to the Countryside Act 1949 upon relevant authorities, which includes the National Park Authority itself, to 'seek to further the specified purposes of Protected Landscapes'.

The National Park's comments on the development are as follows:

Further to our responses of 17 March 2025 and 30 June 2025, the SDNPA would like to take the opportunity to elaborate on our previous comments regarding the impact upon the landscape setting of the SDNP. In our previous response we have drawn attention to Para 189 of the NPPF and the need for development within the setting to "be sensitively located and designed to avoid or minimise adverse impacts on the designated areas". Policy DP18 of the adopted Mid Sussex Local Plan covers consideration of setting in more detail. Direct and indirect effects of this hence our need to submit these supplemental comments.

The proposed facilities were previously included in a holistic pre-app and three inter-related points were raised at that stage. These three broad considerations remain relevant to this application:

#### **Scale of the proposals**

This is a significant scale of development which requires a considerable amount of change of this site to enable the development to fit. This suggests it has not been landscape-led and results in negative effects that have not or cannot be mitigated for.

#### **Capacity of the site to receive the change**

The definition of Capacity is set out in an approach to landscape sensitivity assessment - to inform spatial planning and land management (Natural England, 2019): 'Landscape capacity refers to the amount of specified development or change which a particular landscape and the associated visual resource is able to accommodate without undue negative effects on its character and qualities'.

The site's character will change as a result of the proposed development, from a pastoral field to an intensive equestrian development and wider use. The result is negative effects on its agricultural character and the qualities, including perceptual of this historic landscape. As a result its capacity would be exceeded.

In earlier advice we have advised that if the principle of the development were accepted, this should be concentrated on the site of the existing yard as this is where harm has already occurred, and so effects would be fewer and easier to mitigate. Re-use of existing buildings would also be beneficial in terms of sustainability.

### **Implications of the change in land use upon landscape character**

Large-scale alterations in landform impose the development upon this sloping site - these changes cannot be mitigated for. Landform is a fundamental element of landscape and determines all other characteristics. The amount of landform change results in a highly engineered character accentuating the incongruous nature of the development upon this historic agricultural landscape.

The proposals are also within close proximity to ancient woodland. A track provides direct access to the ancient woodland.

The setting of the National Park and ancient woodland is currently a surviving historic pastoral field. This existing historic landscape would be lost through:

- Significant landform change, significant cut and fill needed to facilitate development. Knock-on effects on the natural drainage patterns of this site.
- Loss of grassland and pastoral character to equestrian buildings.

The applicants suggest that the new buildings would have an agricultural character, and this makes them acceptable in landscape terms. These are clearly designed as formal / status equestrian buildings with clock towers, formal planting and hard landscape that introduces a formality alien in rural agricultural landscapes. This mitigation measure is not considered to be successful.

There would also be a loss of landscape coherence. When considering the National Park boundary, a key part of the Inspectors consideration was that these medieval field systems are coherent with the ancient woodland. The National Park and its setting in this location are part of the same landscape.

There would also be a detrimental effect upon tranquillity and Dark Night Skies (as set out in our response of 17th March). It is important to remember that dark skies designation and the perceptual qualities of tranquillity do not stop at the SDNP boundary.

In conclusion the scheme proposes a change the land use in the setting of the National Park, from agriculture to equestrian, this change is permanent. The implications of this upon the landscape and its perceptual qualities in the setting of the NP are considered to be significant.

The proposals would therefore conflict with Para 189 of the NPPF and MSLP Policy DP18.

If, notwithstanding these concerns, permission is to be granted, we would recommend conditions to ensure positive, extensive (as opposed to intensive) land management of the

wider holding to support conservation of wildlife, that the use of fencing to subdivide the land is controlled and that external lighting is also controlled via condition.

### **NatureSpace Partnership**

#### **14.08.2025**

DM/25/0090 are joining the District Licence scheme, the current deadline for their report is the day before they're due to go to committee. There will be conditions within the report that need to be included on their decision notice, but I do not know the wording of these until the report is finalised.

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