

MID SUSSEX DISTRICT COUNCIL

PLANNING COMMITTEE B

12 APR 2018

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MID SUSSEX DISTRICT COUNCIL

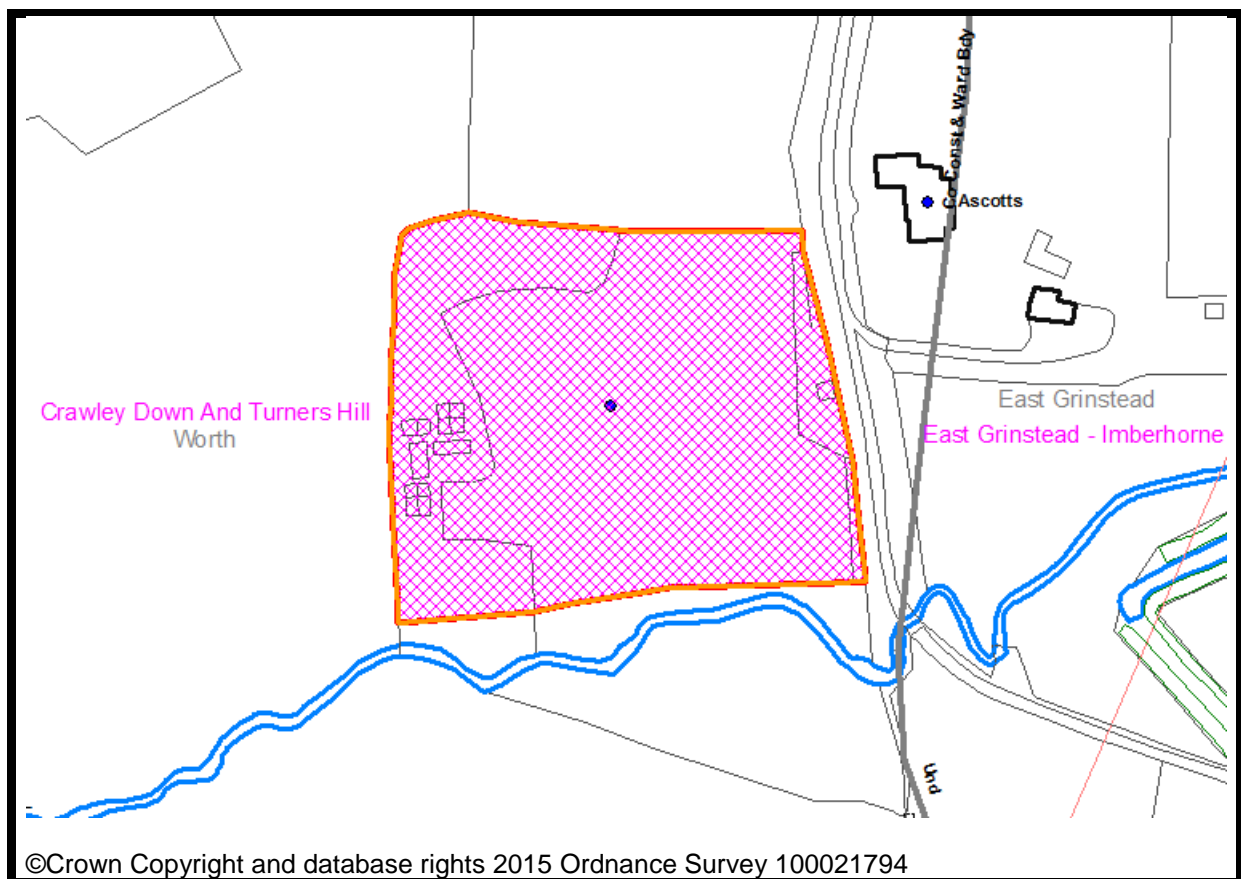
PLANNING COMMITTEE B

12 APR 2018

PART I – RECOMMENDED FOR APPROVAL

Worth

1. DM/17/3647



LAND SOUTH WEST OF ASCOTTS CRAWLEY DOWN ROAD FELBRIDGE WEST SUSSEX

CONSTRUCTION OF A NEW 4 BEDROOM, TWO STOREY DWELLING WITH SEPARATE GARAGE.

MR AND MRS NELSON

GRID REF: EAST 535992 NORTH 139070

POLICY: Ancient Woodland / Areas of Special Control for Adverts / Ashdown Forest SPA/SAC / Countryside Area of Dev. Restraint / Flood Map - Zones 2 and 3 / Aerodrome Safeguarding (CAA) / Strategic Gaps / Archaeological Notification Area (WSSC) /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 30th March 2018

WARD MEMBERS: Cllr Phillip Coote / Cllr Bruce Forbes / Cllr Neville Walker /

CASE OFFICER: Ms Susan Dubberley

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

Full planning permission is sought for the construction of a new 4 bed two storey dwelling with separate garage on land South West of Ascotts, Crawley Down Road, Felbridge.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. As the proposed scheme does not comply with certain aspects of the Development Plan, other material considerations need to be considered in determining the application, including the National Planning Policy Framework (NPPF).

In this case the development lies outside of the built up area of Crawley Down, but is situated close to the defined built up area boundary of East Grinstead in an area where there is existing development. The site is in a highly sustainable location close to a Category 1 settlement.

Weighing in favour of the scheme is that the development will provide 1 new dwelling and is highly sustainable location in terms of its location to a Category 1 settlement. The development will provide positive economic and social benefits through the New Homes Bonus, construction jobs and an increased population likely to spend in the community. It is considered to accord with policy CDNP05 of the Neighbourhood Plan which supports new residential development.

There would be a limited adverse impact on the landscape as a result of the proposed development on a greenfield site but this is an inevitable outcome of building on an undeveloped site. The proposed layout, scale and appearance are considered to be in keeping with the character of the existing development, and will not harm the landscape character of the area.

There will be a neutral impact in respect of a number of issues such as the design, highways, landscaping, drainage, sustainability and on the Ashdown Forest.

However, weighing against the scheme is that the fact that dwellings are being

proposed outside the built up area and would normally be restricted under the relevant Local Plan emerging District Plan policies due to the site being within the countryside and the Council being able to demonstrate a 5 year housing land supply.

Given the limited adverse impact of the scheme on the landscape and the existing character of the area, Officers conclude that there are material considerations which outweigh the fact that the development site is just outside the built-up area boundary of East Grinstead.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP13, DP21, DP26, DP27, DP37, DP38 and DP41 of the emerging District Plan, Policies CDNP04.2, CDNP05, CDNP08, CDNP11 of the Neighbourhood Plan as well as the broader requirements of the NPPF

RECOMMENDATION

It is recommended that planning permission be approved subject to the conditions set out in Appendix A.

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTATIONS

(Full responses from Consultees are included at the end of this report as Appendix B)

MSDC Street Naming and Numbering

No objection subject to informative.

Aboriculturist

No objection.

WSCC Highways

No objection subject to conditions.

MSDC Drainage Engineer

No objection subject to conditions.

PARISH COUNCIL OBSERVATIONS

Object as no cumulative traffic impact assessment onto narrow lane. Contrary to Policy 10 of the CDNP.

Introduction

This application is seeking planning consent for the construction of a new 4 bed two storey dwelling with separate garage on land South West of Ascotts, Crawley Down Road, Felbridge.

Relevant Planning History

None on the site itself, however there is consent for two houses on land to the north of the site which are now almost complete (DM/16/1966) and permission has been granted for a two dwellings to the north of Ascotts (DM/17/0360).

Site and Surroundings

The application site consists of a large open field with mature trees and vegetation on the boundaries. The site is accessed via a single track lane off Crawley Down Road. The site is relatively level at the northern end of the site, where the proposed dwelling is proposed and the land then slopes down towards a stream at the southern end of the plot.

To the north of the site are two houses at an advanced stage of construction, to the east on the opposite side of the lane is Ascotts a detached dwelling to the south and west is open countryside.

The application site is designated within the countryside in the District Plan and the site is within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The application site is close to the defined built up area boundaries of East Grinstead located in Crawley Down Road.

Application Details

The proposal is seeking consent for the construction of a 4 bedroom two storey dwelling with a separate garage. The design of the building is contemporary with large floor to ceiling windows and full height sliding doors at first and second floors with balconies at first floor. At the rear a single storey projection is proposed above which would be the balcony to the main master bedroom.

The detached garage would be single storey with a pitched roof.

The proposed materials would be white rendered walls with blue/grey brick plinth, slate tiles for the roof and timber windows and doors.

List of Policies

Worth Crawley Down Neighbourhood Plan

Policy CDNP04.2: Infill Housing
CDNP05 (Control of New Developments)

CDNP08 (Prevention of Coalescence)
CDNP11 (Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA))

Mid Sussex District Plan

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

The most relevant policies are:

Policy DP1: Sustainable Economic Development
Policy DP4: Housing
Policy DP6: Settlement Hierarchy
Policy DP12: Protection and Enhancement of Countryside
Policy DP13: Preventing Coalescence
Policy DP17: Ashdown Forest SPA and SAC
Policy DP21: Transport
Policy DP26: Character and Design
Policy DP27: Space Standards
Policy DP37: Trees, Woodland and Hedgerows
Policy DP39: Sustainable Design and Construction
Policy DP38: Biodiversity
Policy DP41: Flood Risk and Drainage

National Policy and Legislation

National Planning Policy Framework (NPPF) (March 2012)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth, providing a supply of housing and creating a high quality environment with accessible local services, and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Paragraph 12 of the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 17 of the NPPF sets out 12 principles that the planning system should play that underpin both plan making and decision taking. This paragraph confirms that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. It also confirms that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.

With specific reference to decision-taking the document provides the following advice:

Para 150 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 196 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198 states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

Planning Practice Guidance

Technical Housing Standards

Assessment (Consideration of Key Issues)

Principle of Development

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) And 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."

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 in Mid Sussex consists of the District Plan and the Crawley Down Neighbourhood Plan.

The District Plan has been adopted and has superseded the MSLP, other than the policies in the MSLP which relate to site specific allocations.

As the proposed development is located within the Countryside the proposal is contrary to Policy DP12 of the District Plan. However, it is important to understand the intention behind the policy, which is set out as follows:

In this case the development would be seen in the context of the existing development in the area and the extant permissions granted near to the site, therefore it is considered that the proposal would not tangibly conflict with this general aim.

The principal aim of Policy DP12 of the District Plan states: *"The countryside will be protected in recognition of its intrinsic character and beauty."* The supporting text sets out the following:

"The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well-designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside."

The proposal must also be assessed against the Crawley Down Neighbourhood Plan Policy CDNP05 states:

Policy CDNP05: Control of New Developments Subject to the other policies of this Neighbourhood Plan, Within the Crawley Down Neighbourhood Plan Area, planning permission will be granted for residential development subject to the following criteria:

- a) The scale height and form fit unobtrusively with the surrounding buildings and the character of the area or street scene and where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character.*
- b) Individual developments will not comprise more than 30 dwellings in total, with a maximum density of 25 per Ha and spacing between buildings to reflect the character of the area.*

- c) *Amenities such as access, noise, privacy, daylight, sunlight and outlook of adjoining residents are safeguarded.*
- d) *The individual plot sizes are proportionate to the scale of the dwelling.*
- e) *Open green spaces are provided in accordance with the Local Plan standard provisions. Where practical open spaces should provide linkage/connection to elements of the local footpath network.*
- f) *Construction materials are compatible with the materials of the general area and are locally sourced where practical.*
- g) *The traditional boundary treatment of the area is provided and where feasible reinforced.*
- h) *Suitable access and on-site parking is provided without detriment to neighbouring properties.*
- i) *The development is arranged such that it integrates with the village.*
- j) *Housing need is justified.*
- k) *The development does not impact unacceptably on the local highway network.*
- l) *Issues raised in the local housing supply document site assessment are satisfactorily addressed.*
- m) *Has a range of dwelling sizes and in particular provides dwellings that are suited to the needs of both young families and older residents.*
- n) *Includes affordable homes as required by District policy.*
- o) *Proposals for new housing developments must meet the standards set out in Appendix 1*
- p) *Developments of 6 or more dwellings should provide a mix of dwelling sizes (market and affordable) that fall within the following ranges: Market Housing At least 75% 2-3 bedroom houses and up to 25% other sizes Affordable Housing At least 80% 2-3 bedroom houses and Up to 20% other sizes¹³*

It is considered that the proposal would comply with criteria a), b), c), f), g), h) and k), o). Due to the small scale nature of the proposal, criteria d), e,) g) i), l), m) n) and p) are not considered to apply, so overall, it is considered that the application would comply with this policy.

Policy DP6 of the District Plan relates to Settlement Hierarchy and designates East Grinstead as a Category 1 Settlement,. It states:

"The growth of settlements will be supported where this meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements will be supported where:

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

As the application site is not contiguous with the built-up area of East Grinstead, then this policy is not relevant to this application.

Material considerations

Turning to other relevant material considerations, all aspects of the development must be weighed up in the planning balance, as set out in the NPPF as a whole. In particular, this development must be assessed against the 3 limbed definition of sustainable development at paragraph 7, in which the planning system should perform an economic, social and environmental role.

The Economic Role

Part 6 of the Localism Act was enacted on 16th January 2012. This requires the Local Planning Authority to have regard to local finance considerations (so far as material to the application) as well as the provisions of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and will match fund the additional council tax raised for new homes and empty properties brought back into use, with an additional amount for affordable homes, for the following six years. The New Homes Bonus is a material planning consideration and if permitted the Local Planning Authority would receive a New Homes Bonus for the unit proposed.

The economic dimension is met by this proposal owing to the New Homes Bonus, the provision of construction jobs and an increased population likely to spend in the community.

The Social Role

The NPPF seeks to promote a *"strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports its health, social and cultural well-being"*. The provision of one dwelling on the site will make a minor but positive contribution to the district's housing supply.

The provision of 1 new dwelling on the site will make a minor but positive contribution to the district's housing supply, and this should be afforded some weight.

Due to the location of the site close to the built-up edge of East Grinstead where there are a number of services, it is considered that the location of the site is sustainable. Overall it is considered that the proposal would satisfy the social role of sustainable development.

It is therefore considered that the development meets the social role of sustainable development.

The Environmental Role

The proposed development is on land that is free from national designations, i.e. Area of Outstanding Natural Beauty or National Park, which cover 60 per cent of the district. There is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to

protecting and enhancing the natural, built and historic environment. Given the fact that there is existing development adjacent to the site and the proposed layout, scale and appearance is considered to be in keeping with the character of the existing development, it is not considered that in this case there would be a significant adverse impact on the wider countryside. The proposal would not result in any highway safety problems.

It is considered that the impact on the character of the area will be acceptable and that the environmental role as set out in the NPPF is satisfied.

Design and visual impact

Policy DP26 in the District Plan seeks to ensure a high standard of design in all new development and requires new development to demonstrate a sensitive approach to urban design by respecting the character of the locality in which they take place. These requirements are also reflected by the aims of the NPPF which states:

"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." (Para 56).

Neighbourhood Plan policy CDNP05 (a) requires developments to fit unobtrusively with the surrounding character of the area.

The dwelling would be located within an area where there are a mix of styles including materials. The former Felbridge nurseries site has recently been developed and is now known as Coppice Vale and there are also two houses under construction on the adjoining field to the north of the site that are almost complete (DM/16/1966) and approval for a two dwellings to the north of Ascotts was granted under ref: DM/17/0360.

While the site was located within a Strategic Gap, as defined by the now superseded 2004 MSLP, having regard to paragraph 17 of the NPPF, it is necessary to consider whether the proposal would have any impact on the issue of coalescence. Policy DP13 of the District Plan seeks to prevent coalescence. The proposed dwellings would be seen in the context of the recent planning approval and development in the area, therefore it is not considered to impact on the gaps between neighbouring settlements.

As such, it is considered that no harmful impact would be caused to the visual amenities of the area and accordingly the application would comply with the Policies DP13 and DP26 of the District Plan, policies CDNP05(a) and CDNP08 of the Neighbourhood Plan and the requirements of the NPPF.

Standard of accommodation

Policy DP26 of the District Plan stipulates that development does not cause significant harm to the amenities of future occupants of new dwellings. Policy DP27 requires all new dwellings to meet minimum nationally described space standards,

other than in exceptional circumstances, where clear evidence will need to be provided to show that the internal form or special features prevent some of the requirements being met.

The government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015 and replaced the council's adopted Dwelling Space Standards Supplementary Planning Document on 1 October 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents, as follows:

The plans show that the proposed scheme can achieve these standards and would be in excessive of these standards.

Impact on neighbouring amenity

Policies DP26 of the District Plan aims to protect amenity. A similar ethos is found within CDNP04.2 (f) of the Neighbourhood Plan.

In terms of overlooking and loss of privacy the dwelling on would be in excess of 50m from the nearest property to the north and there are mature trees along the northern boundary. Therefore the proposal is not considered to cause a significant impact upon nearby properties in terms of overlooking and loss of privacy. Furthermore, due to the distances and boundary treatment, it is not considered that the proposal would impact upon sunlight and daylight and loss of outlook. Consequently, it is considered that the above mentioned policies would be met and the proposal would not cause a significant detrimental impact upon the neighbouring residential amenities.

Access, parking and impact on highway safety

Policy DP21 the District Plan requires development to: be sustainably located to minimise the need for travel, promote alternative means of transport to the private car, including provision of suitable facilities for secure and safe cycle parking, not cause a severe cumulative impact in terms of road safety and increased traffic congestion, be designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages, and provide adequate car parking in accordance with parking standards as agreed by the Local Planning Authority or in accordance with the relevant Neighbourhood Plan.

The LHA has raised no objection and has noted that the site is accessed via a private track. The LHA do not consider that the development would cause an unacceptable intensification of traffic and there are no visibility concerns.

It is noted that Worth Parish Council have objected to the proposal in regards to CDNP10 as there is no cumulative traffic impact assessment onto narrow lane.

However as stated above the Highway Authority has been consulted on this application and have raised no objection to the application, subject to conditions

securing the car parking and cycle parking. Therefore, the proposal is considered to comply with the above mentioned policies.

Drainage

Policy DP41 of the District Plan requires development proposals to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. In areas that have experienced flooding in the past, use of Sustainable Drainage Systems should be implemented unless demonstrated to be inappropriate.

The Drainage Engineer has raised no objection and considers that this matter can be suitably dealt with by condition, so there should be no conflict with these policies.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to satisfy itself that any plans or projects that they regulate (including plan making and determining planning applications) is not likely to have a significant effect on a European site of nature conservation importance. For most developments in Mid Sussex, the European sites of focus are the Ashdown Forest Special Protection Area (SPA) and Ashdown Forest Special Area of Conservation (SAC). Planning permission cannot be granted by the District Council where the likelihood of significant effects exists. The main issues are recreational disturbance on the SPA and atmospheric pollution on the SAC, particularly arising from traffic emissions.

This application has been screened for its potential effects on the SPA and SAC. This exercise has indicated that there is no likelihood of a significant effect on the SAC. However, as this proposed development site lies within 7km of the Ashdown Forest SPA, mitigation is required. In this case, the SAMM Strategy would require the payment of £3,140 and the SANG contribution would be £2,033.

Policy WHP10 of the WHNP also states that all residential development proposals that result in housing growth should provide for one or more Suitable Alternative Natural Greenspace(s) that meet the requirements of the local planning authority.

The District Council now has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition. The

proposed SANG Condition provides for a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the payment of a financial sum towards a SANG managed by the District Council. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (Paragraph 206 of the National Planning Policy Framework). All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions as set out in National Planning Policy Guidance (NPPG). In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition. Furthermore, the mitigation is required in order to ensure compliance under the Habitats Regulations.

The NPPG (Paragraph 005 Reference ID 21a-005-20140306) allows for the use of a negatively worded condition to: "prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure)". It is considered, therefore, in the circumstances of this case and in the light of the guidance on the use of planning conditions set out in the NPPG, that the use of a negatively worded condition is an appropriate approach to securing the necessary mitigation in relation to SANG in order to mitigate any likely significant effect on the Ashdown Forest SPA required by the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

The NPPG (Paragraph 010 Reference ID 21a-010-20140306) addresses the use of a condition requiring an applicant to enter into a planning obligation or an agreement under other powers. The guidance states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.
2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.

3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.
4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

Natural England has also confirmed it is content with the SANG Condition approach to secure mitigation in terms of SANG.

In this case, the applicant has agreed to enter into a legal agreement securing the necessary SAMM mitigation and a condition can be used securing the SANG mitigation. The necessary legal agreement has not yet been completed, but the decision will not be issued until it is completed and thus any impact on the Ashdown Forest will be mitigated so that no harm will result to its integrity and importance.

As it is considered that the recreational impact to the Ashdown Forest can be secured, the proposal therefore accords with Policy DP17 of the District Plan.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study (Updated Transport Analysis) as a committed scheme such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Trees

Policy DP37 of the District Plan states that: *"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."* The Arboriculturist initially raised some concerns regarding the proposed location of the detached garage and its proximity to a tree group. Amended plans have now been received with the garage moved into a position clear of the trees and the Arboriculturist is now satisfied with the proposals.

On this basis, it is therefore considered that the proposal would comply with the above policies.

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.

National planning policy states that planning should be genuinely plan led. The Council is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

As the proposed development is located within the Countryside is contrary to Policy DP12 of the District Plan. It does, however, accord with policy CDNP05 of the Neighbourhood Plan. Given the circumstances of this particular case other material considerations are relevant and all aspects of the development must be weighed up in the planning balance, as set out in the NPPF.

It is considered that there are economic and social benefits, the site is highly sustainable in terms of its location to a Category 1 settlement (the most favourable category in the Mid Sussex District), it is located in an area where there is existing development, the proposed layout, scale and appearance is considered to be in keeping with the character of the existing development, and will not harm the landscape character of the area. There will be a neutral impact in respect of a number of issues such as the design, highways, landscaping, drainage, sustainability and on the Ashdown Forest. These material considerations are considered to outweigh the fact that the development site is just outside the built-up area boundary of East Grinstead.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP4, DP6, DP13, DP17, DP21, DP26, DP27, DP37 and DP39 of the District Plan, Policies CDNP04.2, CDNP05, CDNP08, and CDNP11 of the Neighbourhood Plan as well as the broader requirements of the NPPF.

APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls and roof of the proposed building have been submitted to and approved by the Local Planning

Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the District Plan and Policy CDNP05.02 of the Neighbourhood Plan.

3. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development and these works shall be carried out as approved.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the District Plan and Policy CDNP05.02 of the Neighbourhood Plan.

4. No part of the development hereby permitted shall be occupied until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2017.

5. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The proposed dwellings shall not be occupied until all the approved drainage works have been carried out in accordance with the agreed details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan

6. The building shall not be occupied until the car parking and cycle parking on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking and turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways and to accord with Policy DP21 of the District Plan

Approved Plans

7. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

8. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the District Plan and Policy CDNP05.02 of the Neighbourhood Plan.

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. The applicant is advised that to satisfy condition 4 above there are likely to be two options:

The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended.

The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.

3. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to: Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Proposed Site Plan	02	B	31.01.2018
Existing Site Plan	SP01		06.09.2017
Proposed Floor Plans	02		06.09.2017
Proposed Floor Plans	03		06.09.2017
Proposed Elevations	04		06.09.2017
Proposed Floor and Elevations Plan	G01	Garage	06.09.2017

Proposed Floor Plans	06	Basement	06.09.2017
Tree Survey			06.09.2017
Location Plan			06.09.2017
Design and Access Statement	INC SUSTAINABILITY+ DRAINAGAE		06.09.2017
Tree Survey			06.09.2017
Other	TREE MAP		06.09.2017

APPENDIX B – CONSULTATIONS

Worth Parish Council

Object as no cumulative traffic impact assessment onto narrow lane. Contrary to Policy 10 of the CDNP

MSDC Street Naming and Numbering

Please could I ask you to ensure that the following informative is added to any decision notice granting approval:

Informative: Info29

The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and advice for developers can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.

MSDC Arboriculturist

No objection.

WSCC Highways

This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. A site visit can be arranged on request.

The proposal is for 4-bedroom dwelling accessed via privately maintained access road (also footpath no. 44W). It is conceivable that the Public Right of Way (PROW) will be affected by an increase in vehicular traffic either before or after the development is completed. Developers/landowners should ensure that public use of the PROW takes precedence over private vehicular traffic. It is a criminal offence to damage the surface of a PROW and the consent of the County Council must be sought for the route to be resurfaced even if the surface is to be improved. The applicant would be liable for any damage to the surface arising from his exercise of private access rights.

The existing vehicle access will be utilised to serve the dwelling. The plans show that a triple garage and sufficient space for turning within the site will be provided, so that a car can exit in a forward gear.

The PROW joins with the public highway on to Felbridge Road approximately 150 metres to the north and is split by the county boundary. There is no apparent visibility concern to the west, within the West Sussex county boundary. The LHA has reviewed data supplied to WSCC by Sussex Police over a period of the last five years. There has been a recorded injury accident in the vicinity. However, from an inspection of accident data it is clear that this was not due to any defect with the junction.

No highway safety or capacity concerns.

If the LPA are minded to approve the application the following conditions would be advised:

Car parking space (details approved)

No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use

Cycle parking

No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

MSDC Drainage Engineer

Recommendation:

No objection subject to conditions.

Summary and overall assessment

This proposed development will need to fully consider how it will manage surface water run-off. Guidance is provided at the end of this consultation response for the various possibly methods. However, the hierarchy of surface water disposal will need to be followed and full consideration will need to be made towards the development catering for the 1 in 100 year storm event plus extra capacity for climate change.

The proposed development drainage will need to:

- Follow the hierarchy of surface water disposal.

- Protect people and property on the site from the risk of flooding
- Avoid creating and/or exacerbating flood risk to others beyond the boundary of the site.
- Match existing greenfield rates and follow natural drainage routes as far as possible.
- Calculate greenfield rates using IH124 or a similar approved method. SAAR and any other rainfall data used in run-off storage calculations should be based upon FEH rainfall values.
- Seek to reduce existing flood risk.
- Fully consider the likely impacts of climate change and changes to impermeable areas over the lifetime of the development.
- Consider a sustainable approach to drainage design considering managing surface water at source and surface.
- Consider the ability to remove pollutants and improve water quality.
- Consider opportunities for biodiversity enhancement.

Flood Risk

The proposed development is within flood zone 1 and is deemed as low fluvial flood risk.

The proposed development is not within an area identified as having possible pluvial flood risk.

There are not any historic records of flooding occurring on this site and in this area. This does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

Surface Water Drainage Proposals

It is proposed that the development will utilise soakage (application)

Foul Water Drainage Proposals

It is proposed that the development will utilise on-site treatment (application)

Suggested Conditions

C18D - Single Dwelling

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The extension/building shall not be occupied until all the approved drainage works have been carried out in accordance with the agreed details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

Further Drainage Advice

Applicants and their consultants should familiarise themselves with the following information:

Flood Risk and Drainage Information for Planning Applications

The level of drainage information necessary for submission at each stage within the planning process will vary depending on the size of the development, flood risk, site constraints, proposed sustainable drainage system etc. The table below provides a guide and is taken from the Practice Guidance for the English non-statutory SuDS Standards

Pre-app	Outline	Full	Reserved	Discharge	Document submitted
√	√	√			Flood Risk Assessment / Statement (checklist)
√	√	√			Drainage Strategy / Statement & sketch layout plan (checklist)
	√				Preliminary layout drawings
	√				Preliminary "Outline" hydraulic calculations
	√				Preliminary landscape proposals
	√				Ground investigation report (for infiltration)
	√	√			Evidence of third party agreement for discharge to their system (in principle / consent to discharge)
		√		√	Maintenance program and on-going maintenance responsibilities
		√	√		Detailed development layout
		√	√	√	Detailed flood and drainage design drawings
		√	√	√	Full Structural, hydraulic & ground investigations
		√	√	√	Geotechnical factual and interpretive reports, including infiltration results
		√	√	√	Detailing landscaping details
		√	√	√	Discharge agreements (temporary and permanent)

		√	√	√	Development Management & Construction Phasing Plan
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Additional information may be required under specific site conditions or development proposals

Useful links:

Planning Practice Guidance - Flood Risk and Coastal Change

Flood Risk Assessment for Planning Applications

Sustainable drainage systems technical standards

Water.People.Places.- A guide for master planning sustainable drainage into developments

Climate change allowances - Detailed guidance - Environment Agency Guidance

Further guidance is available on the Susdrain website at

<http://www.susdrain.org/resources/>

Guidance for the level of information required is set out below:

For a development located within Flood Zone 2, Flood Zone 3, which is greater than 1 hectare in area, or where a significant flood risk has been identified:

A Flood Risk Assessment (1) will need to be submitted that identifies what the flood risks are and how they will change in the future. Also whether the proposed development will create or exacerbate flood risk, and how it is intended to manage flood risk post development.

(1) This level of assessment will need to be carried out to our satisfaction by a suitably qualified person.

For the use of SuDS (1) (2) (3):

Written Statement (HCWS 161) - Department for Communities and Local Government - sets out the expectation that sustainable drainage systems will be provided to new developments wherever this is appropriate.

Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the development will be able to cater for the 1 in 100 year storm event plus climate change percentages, for some developments this will mean considering between 20 and 40% additional volume for climate change but scenarios should be calculated and the worst case taken as this will be precautionary (4). A maintenance and management plan will also need to be submitted that shows how all SuDS infrastructure will be maintained so it will operate at its optimum for the lifetime of the development. This will need to identify who will undertake this work and how it will be funded. Also, measures and arrangements in place to ensure perpetuity and demonstrate the serviceability requirements, including scheduled maintenance, inspections, repairs and replacements, will need to be submitted. A clear timetable for the schedule of maintenance can help to demonstrate this.

(1) Suitable SuDS Guidance can be found using CIRIA Guidance Document C697 "SuDS Manual"

(2) Climate Change consideration should be calculated following Environment Agency Guidance

(3) Approved method of soakaway design include BRE - Digest 365 "Soakaway Design"

(4) Submitted SuDS designs will need to be undertaken by a suitably qualified person

For the use of attenuation, swales and soakaways (1):

Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the development will be able to cater for the 1 in 100 year storm event plus have 40% capacity for climate change(2).

(1) Approved method of soakaway design include BRE - Digest 365 "Soakaway Design"

(2) Climate Change consideration should be calculated following Environment Agency Guidance

For the use of Public Sewers (1):

Copies of the approval of the adoption of foul and surface water sewers and/or the connection to foul and surface water sewers from the sewerage undertaker, which agrees a rate of discharge, will need to be submitted.

(1) Any design and construction of sewers should follow the standards of the WRC guidance "Sewers for Adoption" and should be agreed with the appropriate sewerage authority.

For the proposal of works to an Ordinary Watercourse:

If works (including temporary works) are undertaken within, under, over or up to an Ordinary Watercourse these works are likely to affect the flow in the watercourse and an Ordinary Watercourse Consent (OWC) may need to be applied for. OWC applications can be discussed and made with Mid Sussex District Council, Scott Wakely, 01444 477 005. There is guidance and a form available here

For the use of watercourse to discharge surface water (1):

Calculations, plans and details will need to be submitted that demonstrate that discharge from the proposed development will be restricted to Greenfield run-off rate or QBar run-off rate, whichever provides the better rate of discharge(2). This will need to be for up to the 1 in 100 year storm event plus 40% capacity for climate change.

(1) In accordance with The Land Drainage Act 1991.

(2) Approved methods to calculate this include:

Institute of Hydrology - Report 124 - "Flood Estimation for Small Catchments"

Centre for Ecology and Hydrology 1999 - "Flood Estimation Handbook" - (FEH)

WinDes Software - Generated FEH Output

(For Highway) DMBR Standards HA106/04 - "Drainage of Runoff from Natural Catchments"

For the presence of an Ordinary Watercourse running through or adjacent to the site:

Consultation will need to be made with Mid Sussex District Council if there is a watercourse running through or adjacent to the proposed development. It is common practice to require the development to leave a strip of land, at least 5 to 8 metres wide, in order to provide access for future maintenance.

For the presence of a Public Sewer running under or adjacent to the proposed development:

Consultation will need to be made with the sewerage undertaker if there is a Public Sewer running under or adjacent to the proposed development. Building any structure over or within close proximity to such sewers will require prior permission from the sewerage undertaker (1). Evidence of approvals to build over or within close proximity to such sewers will need to be submitted.

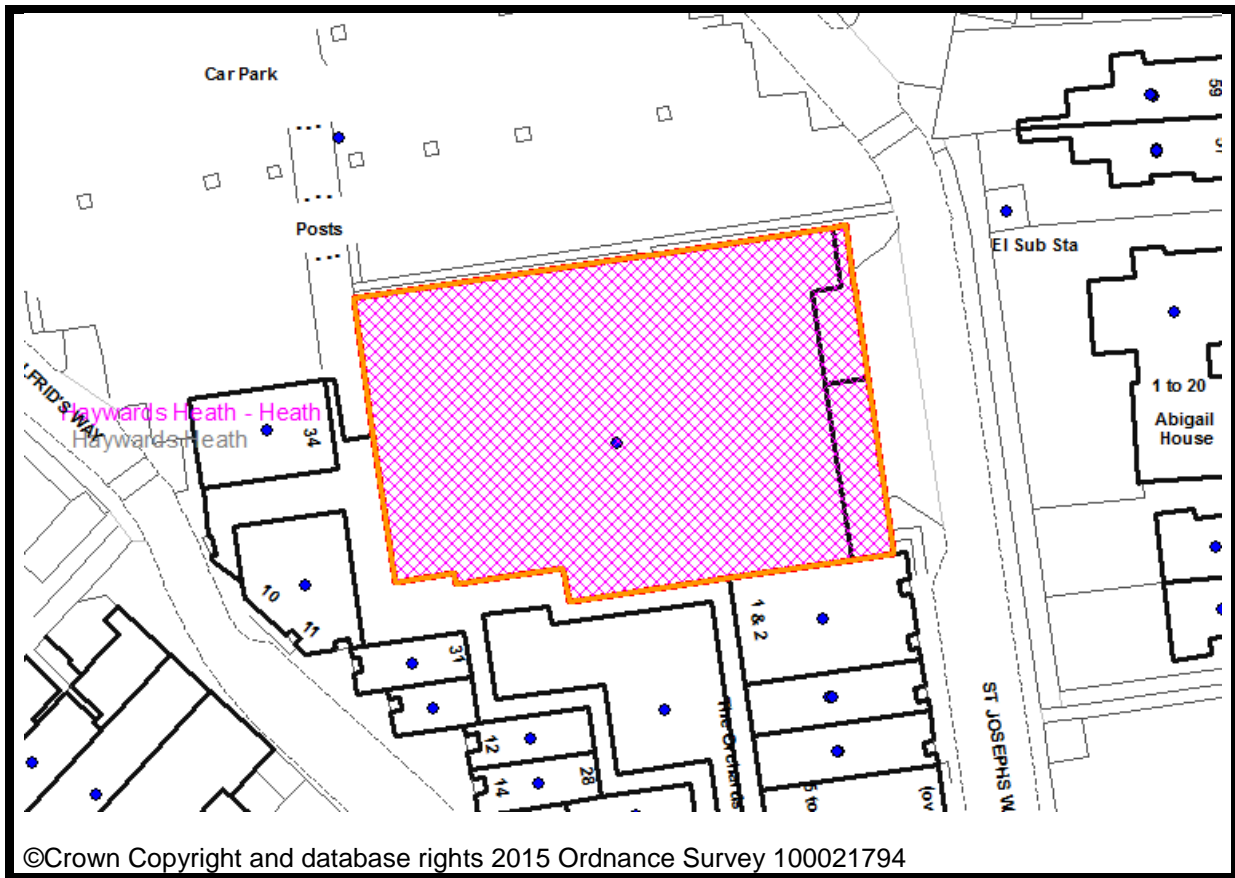
(1) Southern Water and Thames Water provide suitable online guidance notes for the building over or near Public Sewers.

For the presence of a Mid Sussex District Council (MSDC) owned culvert running under or adjacent to the site:

Consultation will need to be made with Mid Sussex District Council if there is a MSDC owned culvert running under or adjacent to the proposed development. Building any structure over or within close proximity to such culverts will require prior permission from Mid Sussex District Council. Normally it will be required that an "easement" strip of land, at least 5 to 8 metres wide, is left undeveloped to ensure that access can be made in the event of future maintenance and/or replacement. This matter can be discussed with Mid Sussex District Council, Scott Wakely, 01444 477055.

Haywards Heath

2. DM/17/4068



MARKS AND SPENCER UNIT LSU1 THE ORCHARDS HAYWARDS HEATH

PROPOSED SITING OF 3 NO. REFRIGERATED 3X20FT STORAGE CONTAINERS FROM 01 NOVEMBER TO 31 JANUARY ANNUALLY.

MARKS AND SPENCER GROUP

GRID REF: EAST 533256 NORTH 123795

POLICY: Built Up Areas /

ODPM CODE: Minor Other

8 WEEK DATE: 13th April 2018

WARD MEMBERS: Cllr Sandra Ellis / Cllr Jonathan Ash-Edwards /

CASE OFFICER: Mr Joseph Swift

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

This application seeks planning permission for the proposed siting of 3 No. refrigerated 3x20 ft storage containers from 01 November to 31 January annually at Marks and Spencer, Unit LSU1, The Orchards, Haywards Heath.

The proposed temporary siting of three refrigerated storage containers are considered to be of an appropriate design, size and scale that is in-keeping with the character of the loading bay and the wider street scene. It is not considered to cause a significant detrimental impact upon neighbouring residential amenities and would not result in any highways safety issues. The proposal is considered to support and enhance the existing town centre shopping facility, with the provision of additional storage over the busy Christmas period.

The proposal therefore complies with policies Policies DP1, DP21 and DP26 of the District Plan, Policy E9 and B3 of the Haywards Heath Neighbourhood Plan and the requirements of the National Planning Policy Framework.

RECOMMENDATIONS

It is recommended that permission is granted subject to the conditions outlined at appendix A.

SUMMARY OF REPRESENTATIONS

No third party letters of representation have been received in regards to this application.

(Full responses from Consultees are included at the end of this report as Appendix B)

CONSULTATIONS

WSCC Highways

No highway/transport grounds to resist this application.

Environmental Protection Officer

Records approval provided mitigation recommended in the Sharps Redmore report is in place.

TOWN COUNCIL OBSERVATIONS

Haywards Heath Town Council - no comments.

Introduction

This application seeks planning permission for the proposed siting of 3 No. refrigerated 3x20 ft storage containers from 01 November to 31 January annually at Marks and Spencer, Unit LSU1, The Orchards, Haywards Heath.

Relevant Planning History

No relevant planning history.

Site and Surroundings

The site is located within the built up area of Haywards Heath, within an area characterised by a mix of retail units on ground floor with storage above to the first floor, some of the units have residential above. The site is designated within the District Plan as being within the built up area boundaries of Haywards Heath and within the primary shopping frontage. Unit LSU1 currently has a A1 retail use.

The LSU1 retail unit faces south (inward) into the pedestrian shopping centre, with a central area designated for seating for the Bay Tree Café, on the opposite side of the seating area are a number of existing retail units. The Orchards site has two main car parks serving it. Both of the car parks are located along St Joseph's Way, with one to the north (rear) of the application site and the other car park is located to the east of the application site. A loading bay is accessed off St Joseph's Way and is located to the eastern (side) elevation of Marks and Spencer's.

Application Details

This application seeks planning permission for the proposed siting of 3 No. refrigerated 3x20 ft storage containers from 01 November to 31 January annually. The application is going to committee as the application site is on Mid Sussex owned land.

The proposed storage containers would be located to the eastern (side) of the building within the existing loading bay, with each unit measuring some 6.04 metres in length, by 2.4 metres in width, with an overall height of 2.59 metres. The proposed storage containers would be constructed from steel, with a white painted finish.

Within the supporting documentation it sets out that the proposed refrigerated storage containers are required to provide additional storage support to the store over the Christmas period.

List of Policies

National Policy

National Planning Policy Framework (NPPF)

District Plan

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

DP1 Sustainable Economic Development
DP21 Transport
DP26 Character and design

Haywards Heath Neighbourhood Plan

The Haywards Heath Neighbourhood Plan has been made, therefore it carries full weight. The relevant policies are considered to be:

Policy E9 (Design)
Policy B3 (redevelopment of commercial sites)

"Policy B3: The modernisation/redevelopment of existing commercial sites to create an improved commercial offer in the Town and proposals which seek to improve existing employment areas, including a possible small business park will be granted planning permission provided that:

- there would be no adverse impacts on the amenities of surrounding uses
- the improvements maintain or enhance pedestrian and cycle access
- the improvements maintain or enhance access to bus stops
- adequate servicing and parking provision is made
- there is no increased risk of local flooding.

The Council would be supportive of an innovative design approach to such properties."

Assessment (Consideration of Key Issues)

On the basis that the proposal would support and enhance the existing commercial use of the site, providing 45 square metres of additional storage required over the busy Christmas period, it is considered that the principle of the proposal is acceptable and would comply with DP1 of the District Plan and Policy B3 of the Haywards Heath Neighbourhood Plan. It is therefore considered that the main issues for consideration will be:

- The impact on neighbouring amenity
- Design
- Highways

Impact on amenities of adjacent residents

Policy E9 of the Haywards Heath Neighbourhood Plan supports development that:

"Will not result in unacceptable levels of light, noise, air or water pollution,"

And within DP26 of the District Plan which states:

"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."

The proposal is seeking to introduce three refrigerated storage units, owing to the size and relation to the closest neighbouring properties it can be reasonably concluded that the proposal would not cause a significant impact in terms of overlooking, loss of privacy, reduction in sunlight and daylight and a loss of outlook.

In regards to noise and disturbance the application has been submitted with a noise assessment, the Councils Environmental Protection officer has raised no objections to the proposal on the ground of noise and disturbance, subject to a condition on the proposal being carried on in compliance with this report. Therefore, it is not considered that the proposal will cause a detrimental impact on the neighbouring amenities. The application therefore complies with the requirements of Policy DP24 of the District Plan and Policy E9 of the Neighbourhood Plan.

Design

Policy DP26 of the District Plan seeks to ensure a high standard of design in all new development. These requirements are also reflected by the aims of the NPPF which states:

"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." (Para 56).

A similar ethos is found within Policy E9 of the Neighbourhood Plan.

The proposed storage containers will be located within an existing loading bay, combined with only being temporary it is considered that the proposal would be of an appropriate design, size and scale that is both in-keeping with the character of the existing building and that of the wider street scene in accordance with the above mentioned policies.

Highways

Policy DP21 of the District Plan sets out transport requirements for new development. Finally, paragraph 32 of the NPPF provides that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The proposal would not alter the existing highways access, as a result the existing arrangement for deliveries and services vehicles will not be altered. WSCC Highways have been consulted on this application and have no highways/transport grounds to resist the application.

The proposal is thereby considered to comply with policy DP21 of the Mid Sussex District Plan.

Conclusion

The proposed temporary siting of three refrigerated storage containers are considered to be of an appropriate design, size and scale that is in-keeping with the character of the loading bay and the wider street scene. It is not considered to cause a significant detrimental impact upon neighbouring residential amenities and would not result in any highways safety issues. The proposal is considered to support and enhance the existing town centre shopping facility, with the provision of additional storage over the busy Christmas period.

The proposal therefore complies with policies Policies DP1, DP21 and DP26 of the District Plan, Policy E9 and B3 of the Haywards Heath Neighbourhood Plan and the requirements of the National Planning Policy Framework.

APPENDIX A – RECOMMENDED CONDITIONS

Approved Plans

1. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

2. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

3. When the proposed units / containers are in place they shall have 2.5 metre barriers around them, as well as a 2 metre barrier around the existing staircase to the south, as laid out in the Noise Assessment Report by Sharps Redmore (ref: 1717527), dated the 12th December 2017. Specifically the barriers will need to be placed in the locations outlined in figure 3 of said report.

Reason: To safeguard the neighbouring amenities and to comply with Policy DP26 of the District Plan and Policy E9 of the Haywards Heath Neighbourhood Plan.

4. The approved sitting of the three storage containers are not permitted on site except between the 1st November and 31 January Annually.

Reason: To protect the amenities of neighbouring properties to accord with policy DP26 of the District Plan and Policy E9 of the Haywards Heath Neighbourhood Plan

INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to: Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Existing Floor Plans	000	-	05.10.2017
Proposed Floor Plans	000	-	05.10.2017

APPENDIX B – CONSULTATIONS

Haywards Heath Town Council

No comment.

WSCC Highways

"This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. A site visit can be arranged on request.

Approval is sought for 3 x 20ft refrigerated storage containers on land east of the large retail unit with the nearest adjoining road being the privately maintained St Josephs Way. From an inspection of the plans and documentation available online the proposals are not anticipated to disrupt the safe operation of the nearby publically maintained road network.

No highway/ transport grounds to resist the application."

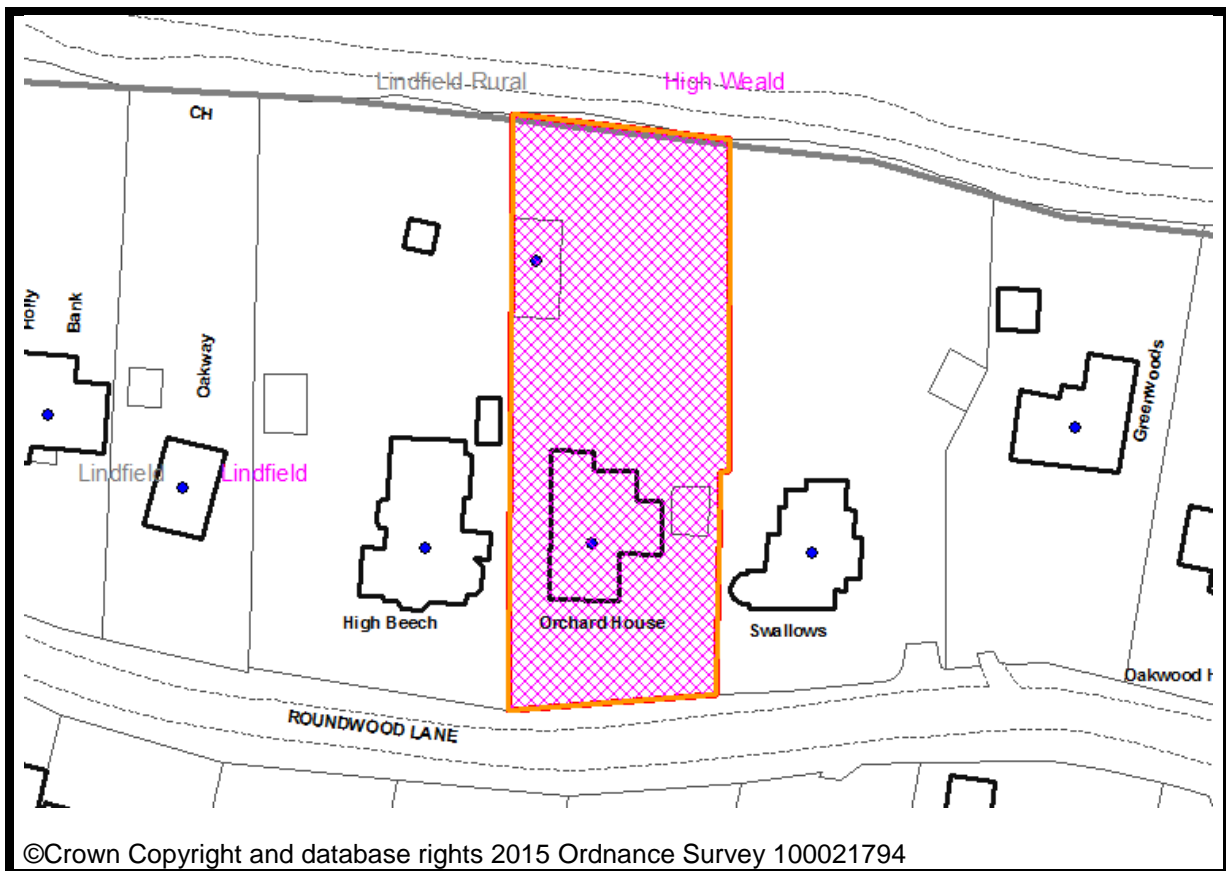
Environmental Protection Officer

"I am now recording approval provided the mitigation recommended in the Sharps Redmore report is put in place.

1. When the proposed units / containers are in place they shall have 2.5 metre barriers around them, as well as a 2 metre barrier around the existing staircase to the south, as laid out in the Noise Assessment Report by Sharps Redmore (ref: 1717527), dated the 12th December 2017. Specifically the barriers will need to be placed in the locations outlined in figure 3 of said report. "

Lindfield

3. DM/17/4865



**ORCHARD HOUSE ROUNDWOOD LANE LINDFIELD HAYWARDS HEATH
DEMOLITION OF EXISTING DETACHED GARAGE AND LINKING
PASSAGEWAY, RE-MODELLING, CONSTRUCTION OF SINGLE STOREY
REAR UTILITY EXTENSION, FRONT ENTRANCE HALL WITH CANOPY
AND TWO-STOREY SIDE EXTENSION TOGETHER WITH ASSOCIATED
INTERNAL AND EXTERNAL ALTERATIONS (AMENDED DRAWINGS
RECEIVED 14/02/2018.)**

MR AND MRS ROGERS

GRID REF: EAST 533695 NORTH 125994

POLICY: Areas of Special Control for Adverts / Areas of Townscape
Character / Built Up Areas / Countryside Area of Dev. Restraint /
Aerodrome Safeguarding (CAA) /

ODPM CODE: Householder

8 WEEK DATE: 26th January 2018

WARD MEMBERS: Cllr Margaret Hersey / Cllr Andrew Lea / Cllr Anthea Lea
/

CASE OFFICER: Mr Andrew Horrell

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

Planning permission is sought for the demolition of existing detached garage and linking passageway, re-modelling, construction of single storey rear utility extension, front entrance hall with canopy and two-storey side extension together with associated internal and external alterations at Orchard House, Roundwood Lane, Lindfield, Haywards Heath.

The proposed development complies with policy DP26 of the Mid Sussex District Plan and 7 of the Lindfield and Lindfield Rural Neighbourhood Plan. The application is therefore recommended for approval subject to the conditions listed in Appendix A.

RECOMMENDATION

It is recommended that planning permission be approved subject to the conditions outlined at Appendix A.

SUMMARY OF REPRESENTATIONS

The application has been amended from original submission. The amended plans have been through a further period of advertisement for comment.

There have been three letters of support and three letters of objection to the amended scheme. The following issues have been raised in objections:

- Loss of light, loss of outlook, overbearing impact, loss of privacy and increased surface water run off to adjacent Swallows. The impact of loss of light in relation to swallows was outlined in a separate documentation received from the neighbour.
- Detrimental impact to Area of Townscape Character

SUMMARY OF CONSULTATIONS

None.

PARISH COUNCIL OBSERVATIONS

Lindfield Parish Council objects to this (revised) application which it considers to remain overbearing and creating a significant loss of light to the neighbour east of the subject property. The design also radically changes the frontage of the property

which will impact on the established street scene in an Area of Townscape Character.

INTRODUCTION

Planning permission is sought for the demolition of existing detached garage and linking passageway, re-modelling, construction of single storey rear utility extension, front entrance hall with canopy and two-storey side extension together with associated internal and external alterations at Orchard House, Roundwood Lane, Lindfield, Haywards Heath.

The application has been referred to committee because it was called in by local member Cllr Anthea Lea with Cllr Stockwell seconding that recommendation. The reason provided for calling the application is that 'the revised application may still constitute an overbearing development and adversely affect the neighbours with a loss of light and secondly it will impact on the established street scene in an area of townscape character'

RELEVANT PLANNING HISTORY

LF/034/90 - CONVERSION OF EXISTING GAMES ROOM WITHIN BARN TO GRANNY ANNEXE.

LF/096/98 - SINGLE STOREY REAR EXTENSION.

SITE AND SURROUNDINGS

Orchard House is a large two storey detached four bedroom dwelling built around 1973, situated within generous sized rectangular plot on the north side of Roundwood Lane. The dwelling is broadly built on a I-shaped footprint and characterised by a part hipped and part gabled plain tiled roof, face brickwork and hanging tiles walls, white upvc windows and a mix of upvc and timber doors. There is a pitched roof single storey extension across part of the rear.

There is a detached pitched roofed garage to the east side of the dwelling which is set in line with the rear section of the dwelling, with a driveway in front of this and the eastern part of the house.

Ground levels rise to the west.

To the north of the site is the rear garden of Orchard House with a golf course beyond, to the south of the site is the driveway with conifer screening to the highway beyond, to the east of the site is close boarded fencing and tree screening to Swallows beyond and to the west of the site is high hedged screening to High Beech beyond.

The application lies in the built up area of Haywards Heath and Lindfield and an Area of Townscape Character. Roundwood Lane is a private road characterised by a wide variety of a large detached dwellings in spacious plots.

APPLICATION DETAILS

The proposal is for the demolition of the existing detached garage and the construction of a two storey side extension, front rear extensions together with associated internal and external alterations.

To allow for this development a Lawson Cypress tree is to be removed.

The main roof is to be extended to the east over the majority of the existing garage and constructed with a subordinate front and rear gable design, with a roofline which set below the existing ridge height. This provides for two new bedrooms above a games room.

The rear extension is to be modified to expand the existing kitchen to create a combined kitchen/dining area and also encompasses an infill utility extension between the existing extension and proposed two storey side extension. It will be flat roofed with a Velux roof lantern. Plans also show a front roof extension to create an enlarged entrance hall and canopy.

The amended plans moved the two storey side extension backwards, further from the mutual boundary with Swallows, lowered the eaves and ridge heights and removed the proposed zinc cladding, with timber instead. New and replacement windows and bi-fold doors are proposed across the building. On the eastern side elevation the existing first floor windows will be removed to accommodate the proposed side extension and on the western side elevation some of the existing windows will be blocked up. There is a large feature double height window to the front gable of the side extension.

The proposed two storey side extension measures 10.3m in depth, 5.2m in width with a height to eaves of 4.5m and an overall height of 8m. The resulting single storey rear extension following modification measures 5m in depth, 13.15m in width with a flat roofed height of 3m with the roof lantern creating an overall height of 3.5m. The single storey flat roofed front extension measures 2.1m in depth, 5.3m in width with an overall height of 3.5m.

It is proposed to change the materials for the entire house to a mix of timber cladding, render and face brickwork walls, plain concrete tiles, dark grey aluminium windows and doors and a hardwood front door.

LIST OF POLICIES

Mid Sussex District Plan

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

DP26 - (Character and Design)

Lindfield and Lindfield Rural Neighbourhood Plan

On Wednesday 23rd March 2016 Mid Sussex District Council resolved to 'make' the Lindfield and Lindfield Rural Neighbourhood Plan part of the Development Plan for Mid Sussex.

7 (Areas of Townscape Character)

National Planning Policy Framework

ASSESSMENT

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) And 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."

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 in Mid Sussex consists of the District Plan and the Lindfield Neighbourhood Plan.

The main issues are considered to be the design and scale of the scheme and resulting impact on the character and appearance of the area of townscape character, together with the impact upon neighbouring amenities.

Scale, design and character impact

District Plan policy DP26 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.

Neighbourhood Plan Policy 7 states:

The Neighbourhood Plan designates the following areas as Areas of Townscape Character, as shown on the Proposals Map:

- i. Summerhill Lane/West Common
- ii. Sunte Avenue/Hickmans Lane/Denmans Lane
- iii. The Welkin
- iv. The Wilderness
- v. Portsmouth Wood and Portsmouth Wood Close

Development proposals in an Area of Townscape Character will be supported, provided applicants can demonstrate they have had regard to their impact on the character and appearance of the area and have sought to retain features important to the character of the area, as defined in the Lindfield Village Design Statement.

In particular, proposals should:

- i. retain trees, frontage hedgerows and walls which contribute to the character and appearance of the area;
- ii. retain areas of open space, (including private gardens) which are open to public view and contribute to the character and appearance of the area; and

- iii. avoid the demolition of existing buildings which contribute to the character and appearance of the area.

The size and scale of the extensions is not deemed to be inappropriately excessive for the plot. There will be an increase in a separation distance of the building to the eastern side boundary with Swallows and the building will not be closer to the road than at present. Many dwellings within Roundwood Lane have been significantly extended and the resulting massing of the house will not be an overdevelopment.

The scheme's impact on area of townscape character has been cited as a concern in representations, including by the parish council and in the call-in committee. Whilst, the loss of the Lawson Cypress tree to enable the development is regretted, but it is not of significant amenity value or in a prominent location. The materials were updated with the revised plans such to use primarily matching materials to those of neighbouring Greenwoods where 14/00925 was approved for the use of synthetic render, cement weatherboard cladding and aluminium windows. Whilst it is acknowledged that Greenwoods is set further back from Roundwood Lane and so is less visibly prominent, this property is an example of how there is a significant variety to the materiality of dwellings within the road. Whereas some dwellings are of an older and more traditional appearance such as adjacent Swallows, there are also dwellings of more recent construction, such as the subject building Orchard House, which can be considered suitable for a more contemporary approach. In this respect whilst the proposed combination of materials, together with the front entrance hall and large feature front windows architectural elements are of different architecture, it is considered that they do offer a high quality design and that the resulting building will not detract from the character of the streetscene when taken as a whole. Subject to the use of a suitable condition enabling control of specific materials, it is considered that the above design and character policy requirements are met.

Impact on neighbouring amenity

DP26 of District Plan relates to neighbouring amenities and requires 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.

Representations received in respect of neighbouring amenity impact have been carefully considered. Given the positioning of the two storey side extension, the only affected neighbouring property is considered to be Swallows.

It is recognised that Swallows has a number of west facing habitable room windows, as well as a patio space in between the house and boundary.

In respect to the impact on Swallows, the massing of the proposed two storey side extension is such that this will inevitably result in some adverse impact in respect of the closure of outlook and loss of light. In addition, the front facing bedroom window may provide for some angled overlooking. The necessary judgement is however whether a significant degree of harm will be caused.

The overall height of the side extension is lower than the existing property and the overall height and depth has been significantly lessened from the original scheme, moving it further back from the front of the existing building. Coupled to this there are no windows facing Swallows on the side elevation and the windows to the front are significantly smaller in scale than the original scheme. Alongside this the side extension has been moved further away from Swallows (at its closest from corner of side extension to side extension of Swallows) from a previous distance of 3m to a distance of 5m, with the eastern elevation of the side extension at least 8m from Swallows.

Reference has been made to the impact on the proposal on daylight, and in particular the 25 degree BRE rule of thumb as applied on elevation. The applicant has demonstrated that following the repositioning of the extension backwards, only the kitchen window of Swallows is slightly breached by this test. However, this room benefits from a double aspect, and therefore it is cannot be reasonably concluded that a significant loss of light to this room will be caused. In terms of the small lounge, the applicant has demonstrated that with the amended plans with its backwards repositioning did not breach this test and the same for the utility room once the Lawson Cypress tree was removed. The planning officer has considered that conflicting submissions from both the applicant and the neighbours at Swallows and agrees with the findings of the applicant.

Owing to the positioning, massing and design of the amended scheme, it is not considered that the proposals will have a significantly harmful effect upon the amenity of Swallows in respect of any of the considerations outlined in DP26.

It is therefore considered that the scheme is acceptable in respect of its impact upon neighbouring residential amenities.

CONCLUSION

The proposed development complies with policy DP26 of the Mid Sussex District Plan and 7 of the Lindfield and Lindfield Rural Neighbourhood Plan. The application is therefore recommended for approval subject to the conditions listed in Appendix A.

APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Approved Plans

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

3. No development shall be carried out unless and until a schedule and samples of all new facing and roofing materials to be used has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority.

Reason: To safeguard the character of the area and to comply with Policy DP26 of the Mid Sussex District Plan.

INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance. Accordingly, you are requested that:
 - Hours of construction/demolition on site are restricted only to: Mondays to Fridays, 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
 - No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. 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.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Proposed Elevations	146.PL.02	B	28.03.2018
Proposed Floor Plans	146.PL.01	A	14.02.2018
Existing Floor Plans	146.EXG.01		30.11.2017
Existing Elevations	146.EXG.02		27.11.2017
Tree Survey	2017118/TCP0 01		27.11.2017

APPENDIX B – CONSULTATIONS

Lindfield Parish Council

Lindfield Parish Council considers that the proposed development is overbearing and creates a loss of light to the neighbour immediately East of the property. The design also radically changes the frontage of the property which will impact on the established street scene in an Area of Townscape Character.

Lindfield Parish Council

Lindfield Parish Council objects to this (revised) application which it considers to remain overbearing and creating a significant loss of light to the neighbour east of the subject property. The design also radically changes the frontage of the property which will impact on the established street scene in an Area of Townscape Character.

MID SUSSEX DISTRICT COUNCIL

PLANNING COMMITTEE B

12 APR 2018

PART II – RECOMMENDED FOR REFUSAL

NO REPORTS TO BE HEARD “RECOMMENDED FOR REFUSAL”

MID SUSSEX DISTRICT COUNCIL

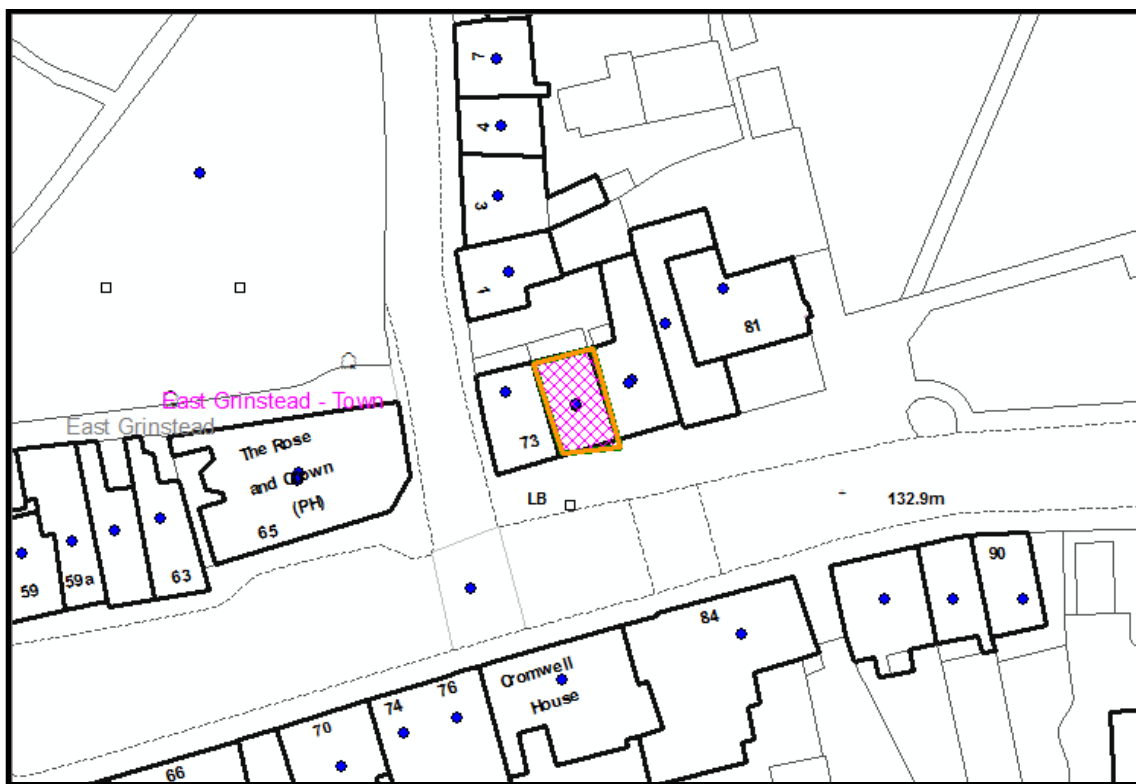
PLANNING COMMITTEE B

12 APR 2018

PART III – OTHER MATTERS

East Grinstead

4. EF/16/0187



SITE: 75 HIGH STREET, EAST GRINSTEAD, WEST SUSSEX, RH19 3DD

INTRODUCTION

This report relates to a planning enforcement investigation and breach of planning control where the land owner has failed to comply with the requirements of an Enforcement Notice

Officers are therefore requesting authorisation from members of the committee to commence prosecution proceedings in relation to the failure to comply with an extant S172 Enforcement Notice.

SITE AND SURROUNDING

The property is a three storey mid-terrace building situated on the High Street in East Grinstead. The building lies within the Conservation Area around the High Street but is not listed. It is a 19th Century building of three storeys, which includes an attic and a basement, with a retail unit on the ground floor and three residential flats above.

The building lies within Conservation Area of East Grinstead at the eastern end of the High Street and backs onto, and has mutual views from, the Grade II* listed building at St Swithen's Church to the north.

PLANNING AND ENFORCEMENT HISTORY

Permission under reference DM/15/2798 was granted on the 11 December 2015 for an A1 retail unit retained at the ground floor fronting the high street with three new flats above with associated stair access at the rear. This permission was been lawfully implemented. This permission included the provision of a single small dormer window to the front elevation and two small dormer windows of the same design to the rear roofslope.

In April 2016 it was noted that two dormer windows were being created to the front elevation and that the dormer windows to the rear roof slope were of a different design and sited closer together than approved.

A planning application under reference DM/16/3355 was submitted on the 8th August 2016 to regularise the development as built. This application was refused on 9th November 2016 for the following reason:

"The proposal will cause less than substantial harm to a heritage asset and this factor needs to be given considerable importance and weight. The less than substantial harm derives from the fact that the new dormer on the front elevation will detract from the established pattern of the adjoining dormers and from the characteristic uniformity of the terrace at roof level. Furthermore, the detailed design of the front dormers does not relate well to that of the windows to the adjoining buildings - the cheeks are too heavy, the casements oversized within the framing structure, and the pitch of the gabled roof too shallow. This exacerbates the negative impact of the windows on the appearance of the building and on the uniformity of the terrace of which it is part and therefore failing to preserve the character and appearance of the conservation area. The prominence of the dormers facing the high street means that the degree of 'less than substantial harm' should be classed as being quite high up the scale particularly when the issue is given the requisite 'considerable importance and weight'. In addition, the bulk and detailed design of the rear dormer are inappropriate, rendering the dormer too prominent in the roof slope, and also appearing out of keeping with the Conservation Area context.

In this regard the proposal conflicts with Policies B12 of the Mid Sussex Local Plan, the Council's dormer design guidance, Policy DP33 of the submission District Plan and EG4 of the Neighbourhood Plan and, in accordance with para 134 of the NPPF, planning permission should be refused."

An appeal against the refusal of the planning permission was dismissed by the Inspectorate on 22nd May 2017.

CURRENT SITUATION

Following the dismissal of the appeal an informal compliance period given to remedy the breach of planning control, however, no work to amend the development in line with the extant planning permission took place and subsequently an Enforcement Notice was issued by the Council on 17th August 2017.

The Enforcement Notice came into effect on 20th September 2017 and required the following steps to be undertaken.

1. Dismantle and remove the Dormer Windows in their entirety;
2. Make good and repair the areas of the roof slope where the Dormer Windows were sited with tiles to match in colour, shape and texture those of the adjoining areas of roof slope.
3. Remove from the Land any other waste or debris resulting from step 1 and 2 above

A period of three months (up until 20th December 2017) was provided for the works to be carried out.

Site visits and discussions with the owner have confirmed that the steps required by the Enforcement Notice to remedy the breach of planning control have not taken place. It is therefore open to the Council to pursue a prosecution against the failure to comply with the requirements of an Enforcement Notice in line with S179 of the Town and Country Planning Act 1990.

The owner has indicated that he does intend to undertake the works either to comply with the requirements of the Notice or else revert the development to its approved form, but that these works will not commence until 1st August 2018. Whilst this intention is noted, the breach of planning control has been carried on for two years and that as previous informal deadlines have not been met, the Council cannot be certain that any additional deadline would be met.

Should the works to remedy the breach of planning control commence prior to any prosecution proceedings being concluded, the Council could choose not to pursue the matter further, however, as the owner has failed to comply with the requirements of the Enforcement Notice, the harm to the character and appearance of the Conservation Area remain and he can be liable to a prosecution under S179 of the Town and Country Planning Act 1990 and on summary conviction, to a fine not exceeding £20,000.

RECOMMENDATION AND CONCLUSIONS

The owner has failed to comply with the requirements of the extant Enforcement Notice. The harm to the character and appearance of the Conservation Area which the Enforcement Notice seeks to remedy therefore remains.

It is therefore recommended that the owner of the land is prosecuted for non-compliance with the Section 172 Enforcement Notice, subject to the Solicitor to the Council being satisfied that there is sufficient evidence to do so.