
5 December 2018

Dear Councillor,

A meeting of **PLANNING COMMITTEE B** will be held in the **COUNCIL CHAMBER** at these offices on **THURSDAY, 13TH DECEMBER, 2018 at 7.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

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Human Rights Act

The reports and recommendations set out in this agenda have been prepared having regard to the requirements of the Human Rights Act 1998.

Risk Assessment

In formulating the recommendations on the agenda, due consideration has been given to relevant planning policies, government guidance, relative merits of the individual proposal, views of consultees and the representations received in support, and against, the proposal.

The assessment of the proposal follows the requirements of the 1990 Town and Country Planning Act and is based solely on planning policy and all other material planning considerations.

Members should carefully consider and give reasons if making decisions contrary to the recommendations, including in respect of planning conditions.

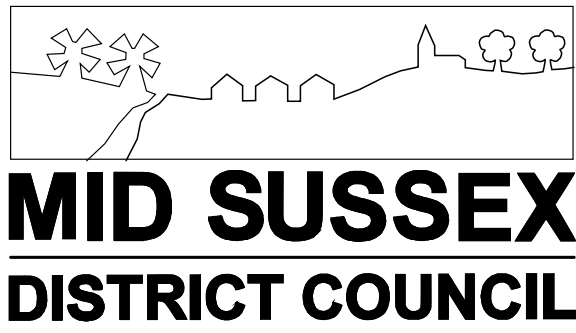
Where specifically relevant, for example, on some applications relating to trees, and on major proposals which are likely to have a significant impact on the wider community, potential risks associated with the proposed decision will be referred to in the individual report.

NOTE: All representations, both for and against, the proposals contained in the agenda have been summarised. Any further representations received after the preparation of the agenda will be reported verbally to Members at the meeting. Any other verbal or additional information will be presented at the meeting.

The appropriate files, which are open to Member and Public Inspection, include copies of all representations received.

Members are also reminded the representations, plans and application file will also be available for inspection at these offices from 6.00 p.m. on the day of the meeting.

To: **Members of Planning Committee B:** Councillors C Hersey, A Watts Williams, P Coote, S Hatton, C Holden, A MacNaughton, N Mockford, P Moore, R Salisbury, L Stockwell and R Whittaker



Agenda Update Sheet

Planning Committee B

Date: 13th December 2018

PART I – RECOMMENDED FOR PERMISSION

ITEM 6

APPLICATION DM/18/4118

P.9 - SUMMARY OF CONSULTATIONS

MSDC Conservation Officer

I remain of the opinion that these [cycle and refuse stores] will be somewhat of an intrusion into the street scene, however if it is considered that no more can be done at this stage about their height and bulk. I would definitely like to see soft landscaping around them as part of a landscaping condition.

MSDC Drainage Engineer

Recommendation:

No objection subject to conditions

Summary and overall assessment

It is proposed to either infiltrate surface water or attenuate surface water. If percolation is shown to be effective, then soakage is suitable. If soakage is not suitable, then we would prefer a hybrid system that looks to try and percolate, but with a restricted discharge to the existing watercourse. (Any discharge to the watercourse will require Ordinary Watercourse Consent).

The proposed discharge is at QBar. We would not accept this, and would prefer discharge restricted to the 1:1 Greenfield rate.

The proposed development is within close proximity to a site that was subject to a landslip in the 90's. The MSDC Drainage Engineers do not have the sufficient skills, knowledge or experience to assess if the proposed construction methods are suitable for any complex ground conditions here. This may need to be looked at by a suitable geo-engineer.

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 possible 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.

Any proposed run-off to a watercourse or sewer system will need to be restricted in accordance with the Non-statutory Technical Standards for SuDS, so that run-off rates and volumes do not exceed the pre-existing greenfield values for the whole site between the 1 in 1 to the 1 in 100 year event.

As this is for multiple dwellings, we will need to see a maintenance and management plan that identifies how the various drainage systems will be managed for the lifetime of the development, who will undertake this work and how it will be funded.

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 either percolate or attenuate surface water.

Foul Water Drainage Proposals

It is proposed that the development will utilise local foul system

Suggested Conditions

C18F - Multiple Dwellings

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. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved 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.

MSDC Corporate Estates (Property) Team

No comments received.

MSDC Tree Officer

Further to reviewing the submitted AIA/AMS report that accompanies this application, please find my comments below.

All of the trees that are within influencing distance of the development have been: plotted, measured, identified and classified as per BS 5837.

The RPA of each tree has been calculated and displayed on the plan provided.

The site currently has no trees subject to TPOs but is within the local Conservation Area.

The site is also partially within an area of designated ancient woodland. Additional buffer planting may be required in these areas.

Several trees/tree groups (G2 partial- G3 partial – G11 & G12) are to be removed to facilitate the development.

The majority of trees recommended for removal have been classified grade C, this is due to the trees being young, having low amenity/landscape value or being in poor health and condition. Trees of this classification (C) should not act as constraint upon the development.

However, The report does mention that trees recommended for removal are to be replaced (G11 for example). The complete removal; of G12 will leave the front of the site void of any trees. Consequently, I would suggest native replacement planting in this area.

I would request that the maintenance and aftercare of all replacement trees is conditioned to insure that the trees establish well and grow to maturity. Detail of: position, size, planting, feeding, support and aftercare are required. All of this information should be submitted within a full landscape plan.

Protection measures for retained trees have been detailed within the submitted AMS report, including: Construction Exclusion Zones using suitable fencing/signage

All of the above is suitable and in accordance with BS 5837.

In conclusion, I do not object to the development in principle and would likely support the application subject to the receipt of the above mentioned replanting detail/landscape plan.

MSDC Waste Services

Having viewed the plans for the bin stores for the 2 blocks, I can confirm that the location of the bin stores adjacent to the road meet with the requirements of Waste Services and our contractors will have no issues with servicing the bins from these locations.

If each bin store will service 12 flats, we would recommend that each store has 4 x 1100 bins (2 for refuse and 2 for recycling) in total to provide sufficient storage capacity for the waste from all residents. The plans appear to show 2 bins of 1 size and 2 smaller bins in each store, so it is not clear what size bins they are planning to use? We are concerned that the bin stores are slightly too small?

The dimensions of the bin stores would need to be checked to ensure 4 x 1100 bins could be housed in each area and the bins should be positioned so that residents can easily use them. If each bin store can house the 4 bins needed then there would be no further issues or concerns with the plans.

Consultant Ecologist

Recommendation

In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions:

No development shall commence until the following details have been submitted to, and approved by, the local planning authority:

a construction-phase method statement to ensure protection of surrounding habitats and avoid harm to protected or notable species (eg. nesting birds);

details of semi-natural woodland edge habitat to be created within the 15m buffer zone of the ancient woodland and provision for ongoing management to ensure that it is maintained in perpetuity. This should include prohibitory planting (eg. holly) in the corner to prevent access and any fencing should be permeable to wildlife (eg. mammals).

details of any external lighting to the rear and mitigation measures to minimise impact on wildlife; and

details of wildlife enhancements (eg nest boxes and wildlife-friendly landscaping).

The approved details shall be implemented in full unless otherwise approved in writing by the local planning authority.

Reason: to ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with DP38 of the District Plan and 175 of the NPPF.

P.14/15 LIST OF POLICIES

Add Policy DP28 of the Mid Sussex District Plan (Mar 2018)

Policy DP28 of the Mid Sussex District Plan states:

"All development will be required to meet and maintain high standards of accessibility so that all users can use them safely and easily.

This will apply to all development, including changes of use, refurbishments and extensions, open spaces, the public realm and transport infrastructure, and will be demonstrated by the applicant.

With regard to listed buildings, meeting standards of accessibility should ensure that the impact on the integrity of the building is minimised.

Accessible and Adaptable Dwellings

Developments of 5 or more dwellings will be expected to make provision for 20% of dwellings to meet Category 2 –accessible and adaptable dwellings under Building Regulations – Approved Document M Requirement M4(2), with the following exceptions:

1. Where new dwellings are created by a change of use;
2. Where the scheme is for flatted residential buildings of fewer than 10 dwellings;
3. Where specific factors such as site topography make such standards unachievable by practicable and/ or viable means;
4. Where a scheme is being proposed which is specifically intended for the needs of particular individuals or groups, where a greater proportion may be appropriate.

Wheelchair-user dwellings

Category 3 – Wheelchair-user dwellings under Building Regulations – Approved Document M Requirement M4(3) will be required for a reasonable proportion of affordable homes, generally 4%, dependent on the suitability of the site and the need at the time.

The Requirement will also apply to private extra care, assisted living or other such schemes designed for frailer older people or others with disabilities and those in need of care or support services."

The applicant's agent has made the following comments in response to this policy:

"The site is steeply sloping, the change of level from the road to the entrance of both blocks or the point of access measures at 1.8 metres for Block A and 2.1 metres for Block B. If we were to provide a step-free approach, even with the minimum gradient, it would still require an excessively lengthy ramp that would be impractical and unviable. To then provide accessible dwellings internally, even though we cannot provide accessibility to the building would be unnecessary and add unnecessary build costs to an already expensive build. It should also be noted that the extant permission, does not provide accessible access / lifts.

Therefore as per item no. 3 in DP28 policy the development is considered exempt from this requirement."

P.31 APPENDIX A - RECOMMENDATION CONDITIONS

P.35 - Delete condition 17 and replace with:

No part of the development hereby permitted shall be occupied until details of the refuse/recycling storage facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be implemented in accordance with the approved details and thereafter retained.

Reason: In the interests of the amenities of the area, to comply with Policy DP26 of the Mid Sussex District Plan and Policies E8 and E12 of the Haywards Heath Neighbourhood Plan.

P.36 - Add condition 20:

No development shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority:

- a construction-phase method statement to ensure protection of surrounding habitats and avoid harm to protected or notable species (e.g. nesting birds);
- details of semi-natural woodland edge habitat to be created within the 15m buffer zone of the ancient woodland and provision for ongoing management to ensure that it is maintained in perpetuity. This should include prohibitory planting (e.g. holly) in the corner to prevent access and any fencing should be permeable to wildlife (e.g. mammals).
- details of any external lighting to the rear and mitigation measures to minimise impact on wildlife; and
- details of wildlife enhancements (e.g. nest boxes and wildlife-friendly landscaping).

The approved details shall be implemented in full unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with DP38 of the Mid Sussex District Plan and paragraph 175 of the NPPF.

RECOMMENDED FOR REFUSAL

ITEM 7

APPLICATION DM/18/2093

P.55 EXECUTIVE SUMMARY

Delete final sentence in top paragraph, which reads:

"Additionally, insufficient information has been provided at this stage to demonstrate that the proposal would not adversely impact on Badgers, and so the application would fail to comply with Policy DP38 of the Mid Sussex District Plan and paragraph 175 of the NPPF."

P.55 SUMMARY OF REPRESENTATIONS

Additional letter from neighbouring occupier at Littlehurst (forwarded to Members earlier on 13 December), as follows:

Dear Mr Watt.

Inaccuracies and omissions with planning report DM/2093 dated 05.12.2018.

Please find below my comments on your report to the committee. I would urge you to correct these errors or omissions in this report or bring my comments to the committee's attention. It is important that your report accurately reflect the facts on the ground and the representations made to you by the objectors. It is also important that your report can be clearly understood by the committee members who will be looking at this proposal for the first time based on information contained within your report.

Summary of representations P55

- 1, Applicant's ecologist reports have been reviewed and criticised for the lack of evidence to record the presence of badgers, Bats, amphibians and reptiles: (suggested revision of your opening sentence)
- 2, The House has three storeys as the stairs to the 2nd floor have been left in on the revised plans. This point should be made to the committee. The Applicant could install a second floor with the installation of Velux windows under permitted development at later stage.
- 3, There is no mention of objector's ecological report (drafted following site access on Ancient Woodland) in the summary of representations.
- 4, Tree report still incorrect. All of the tree position and sizes on western boundary are estimated.
- 5, There is no mention of the large raised decked area to the rear of linden house.
- 6 The fact that the proposed house will be on higher ground than Littlehurst is not made clear.
- 7, The single proposed house is larger than the two houses in previous application (DM/17/2764) combined.
- 8, Light pollution to Ancient Woodland
- 9, There are no details of the large cut required on the western end of the property if the building is built at 82.30.

Relevant Planning History P63

The development area of the site is significantly reduced by 794m² or 1/5th acre as a result of the requirement to provide at least 15m buffer zone to the ancient woodland,....

Site and Surroundings P64

Woodlands house has the largest plot on the sound side of Birch Avenue at over 1.5 acres this figure includes the ancient woodland which forms part of their demise.

Application details P64

The property has a staircase to the 2nd floor, details of the 2nd floor not shown on the plans. (i.e. ground, 1st floor and 2nd floor).

Property dimensions

Depth of western end 11.65 metres

Maximum depth of property 14.55 metres (This figure includes the fully integrated garage).

The property is 22.65 metres long

Ridge Height 9.25 Metres

Maximum height of property to chimney pots is 10.2 metres (this figure should be included as it attributes to the considerable massing of the building when viewed from the West and East. The width of the three chimney stacks is a massive 5.45 metres and adds considerably to the bulk of the property.

Design and Visual impact on the character of the area P 72

The total Roof length of the building is 23.5 metres

The main roof structure length is 14.55 metres

The ridge Length 12.7 metres

Impact on Neighbouring amenity p73

Linden House is actually 25.2 metres from the building. (If you are stating a window to window measurement then this should be implicitly stated so as not to mislead the committee). The window to window measurement is 30.45 metres

Littlehurst is 24.7 metres from the proposed building. (If you are stating a window to window measurement then this should be implicitly stated so as not to mislead the committee). The window to window measurement is 26.86 metres

Incorrect summary of DM/174/2764 (report dated 12th February 2018) in the final paragraph of Impact on Neighbouring amenity p73 of this report

Your statement "it should be noted that the previous application (for 2 dwellings, albeit in outline form), was not refused on grounds of harm to neighbouring amenity" **This statement is incorrect.**

Your report dated 12th February 2018 into the previous two house scheme (DM17/2764) clearly states:-

"Proposed Plot 2 would be indicatively sited 20m obliquely from the rear elevation of Littlehurst. Although the existing dwelling is set on higher ground, the vegetation screening on this boundary would not be sufficient to avoid a loss of privacy to this property when shown indicatively as a multi-storeyed house. This relationship would be more sensitive due to the truncation and wedged nature of this rear garden, such that the rear elevation effectively looks towards this section of garden of Linden House. Therefore a new dwelling in this location is likely to have a greater impact than would be the case for a more conventionally oriented dwelling, particularly as the existing rear garden area is more readily utilised due its proximity to the house. **Accordingly, the scheme would fail to comply with Policy B3 of the Mid Sussex Local Plan and Policy DP24 of the draft Mid Sussex District Plan**".

In your conclusion of you report dated 12th February 2018 you further state the Proposal is contrary to B3 and DP24 as detailed above.

Please correct this serious error in your report to the committee.

Impact on Trees p75

Please correct your report. The Applicants tree report clearly states that all of the positions and sizes of all of the tree plotted on the boundary with Shepherd barn have been estimated. The objectors maintain that the position of all of the tree positions and sizes are incorrect along the boundary with Shepherds Barn. We However recognise that the most important trees are T4, T5 & T11

I hope you will see fit to update your report so the Committee can make their decision based upon as accurate information as possible.

Officer comments in response:

- The council's Ecological consultant does not object to this application, on grounds of harm to protected species or to the ancient woodland.
- The amended design shows the dwelling to be arranged over 2-storeys.
- The council's Tree Officer acknowledges that the position of T4, T5 and T11 are incorrect, but they do not alter his conclusion that the proposal would be harmful to the health of these trees.
- Measurements to neighbouring properties were taken from the applicant's site layout plan, e.g. the distance from the side elevation of the proposed dwelling to the rear elevation of Littlehurst is 32.47m.
- Penultimate para - delete final sentence, which reads: "It should be noted that the previous application (for 2 dwellings, albeit in outline form), was not refused on grounds of harm to neighbouring amenity." The previous application was in outline form with all matters reserved (including layout, appearance and scale). Nonetheless, Plot 2 (as the nearest property) would have been likely to have an adverse impact on neighbouring amenity to the occupants of Littlehurst, but not Plot 1 (further west). The plan showed Plot 2 being located 20m from its nearest corner to the rear elevation of Littlehurst and 5m from the side elevation to the boundary of the rear garden to Littlehurst.
- Agree that Littlehurst is set on lower ground, as set out in the section drawing.

Letter from Sir Nicholas Soames MP (forwarded to Members earlier on 13 December).

P.57 SUMMARY OF CONSULTATIONS

Consultant Ecologist (12 December)

Further to your request for advice on objections received, I offer the following comments.

Issue raised

"How can the proposed fence on the boundary to the ancient woodland buffer zone be prevented from being dismantled and the buffer zone subsumed in to the formal garden space?"

Response

I refer to my previous comments about the need for the buffer to be clearly outside of the residential curtilage so that the buffer land cannot lawfully be used as garden. Assuming that the buffer can clearly be excluded from the residential curtilage, it is for MSDC to determine whether the risk of unlawful change of use is a material consideration in the determination of this application and, if so, whether a breach is likely to be reported and could be effectively dealt with through enforcement action. If a buffer cannot reliably be secured in the long term, then in my opinion, the requirements of DP37 would not be met and, if the buffer is not clearly excluded from residential curtilage, then the proposal is unacceptable in my opinion.

Issue raised

"The effect of the building above the known badger sett in respect of the excavation required to provide a level site and particularly the effect of the necessary footing construction/piling."

In my previous comments, I recommended that if consent is granted, that a condition is imposed requiring a method statement for wildlife mitigation, which will need to include measures in respect of the badger sett (I note an outline of measures has now been provided, however, these will need updating as conditions could change before ground works

commence, therefore my advice to require a method statement through condition still stands).

Issue raised

“The effect of the inevitable light pollution on the known bat population within the ancient woodland.”

The 15m buffer meets the requirements of DP37 in respect of ancient woodlands and current Natural England / Forestry Commission standing advice. One of the reasons for buffering is to reduce light pollution of the woodland edge, but it needs to be borne in mind in this case that the woodland is already in a built-up area, subject to urban light pollution with no semi-natural buffering on any side at present. I consider it unlikely, therefore, that conditions will be made significantly worse by this proposal.

Issue raised

“The effect of constructing this proposed building within a known ‘Green Corridor’”

I am not aware of any evidence and see no reason to suppose that the site forms a significant component of a green corridor. It is one of several domestic gardens surrounding the ancient woodland, it does not comprise semi-natural habitat and does not link between the adjacent ancient woodland and other semi-natural habitat. However, to ensure that access to and from the woodland for species capable of moving through this type of urban habitat, please see my previous comments regarding the need for a fencing specification to ensure permeability for wildlife.

Consultant Ecologist (13 December)

My original comments, that the badger sett issue can be addressed by conditioned mitigation measures remains my view so I could not support this as a reason for refusal and I don't think it would hold up at appeal. There are welfare and legal requirements that must be met and if impacts cannot be avoided, a licence may be necessary, but even if a complete sett closure were necessary (and I am not saying it would be in this case), there would be negligible impact on local biodiversity from loss of what appears to be a secondary sett. Therefore, I cannot support a view that the proposal would be contrary to DP38 or the NPPF on these grounds.