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20 March 2019

Dear Councillor,

A meeting of **PLANNING COMMITTEE B** will be held in the **Council Chamber** at these offices on **THURSDAY, 28TH MARCH, 2019 at 7.00 pm** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

**A G E N D A**

	<b>Pages</b>
1. To note Substitutes in Accordance with Council Procedure Rule 4 - Substitutes at Meetings of Committees etc.	
2. To receive apologies for absence.	
3. To receive Declarations of interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the meeting of the Committee held on 28 February 2019.	<b>3 - 10</b>
5. To consider any items that the Chairman agrees to take as urgent business.	
<b>Items Recommended for Approval.</b>	
6. DM/18/4132 - Pump House, Valebridge Road, Burgess Hill, RH15 0RT.	<b>11 - 22</b>
7. DM/18/4746 - Land Rear of Chippendale, Gatehouse Lane, Burgess Hill, RH15 9XD.	<b>23 - 44</b>
8. DM/18/4994 - Haywards Heath Cricket Club, The Pavilion, Perrymount Road, Haywards Heath, RH16 3BW.	<b>45 - 52</b>

- |     |  |                |
|-----|--|----------------|
| 9.  | DM/19/0071 - Land North of Lindfield Common Bowling Green Car Park, Backwoods Lane, Lindfield. | <b>53 - 74</b> |
| 10. | DM/19/0092 - Jasper Wood, Cuttinglye Road, Crawley Down, Crawley, West Sussex, RH10 4LR.       | <b>75 - 82</b> |
| 11. | DM/19/0165 - The Triangle Leisure Centre, Triangle Way, Burgess Hill, West Sussex, RH15 8WA.   | <b>83 - 92</b> |
| 12. | DM/19/0180 - 11 The Stennings, East Grinstead, West Sussex, RH19 1PF.                          | <b>93 - 96</b> |

**Items Recommended for Refusal.**

**None.**

**Other Matters.**

- |     |   |                 |
|-----|---|-----------------|
| 13. | TP/18/0007 - Butchers Shaw, Street Lane, Ardingly                                   | <b>97 - 102</b> |
| 14. | Questions pursuant to Council Procedure Rule 10 due notice of which has been given. |                 |

**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

**Minutes of a meeting of Planning Committee B  
held on Thursday, 28th February, 2019  
from 7.00 pm - 9.40 pm**

**Present:** C Hersey (Chairman)  
A Watts Williams (Vice-Chair)

P Coote  
S Hatton

N Mockford  
P Moore

A MacNaughton

**Absent:** Councillors C Holden, R Salisbury and R Whittaker.

**Also Present:** Councillors N Webster, A Barrett-Miles, M. Hersey and E Matthews.

**1. TO NOTE SUBSTITUTES IN ACCORDANCE WITH COUNCIL PROCEDURE  
RULE 4 - SUBSTITUTES AT MEETINGS OF COMMITTEES ETC.**

Councillor M. Hersey substituted for Councillor Salisbury and Councillor Matthews substituted for Councillor Holden

**2. TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillors Salisbury, Holden and Whittaker.

**3. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF  
ANY MATTER ON THE AGENDA.**

Councillor Moore declared a predetermined interest in DM/18/3627 - Land North of Maple Drive, Burgess Hill, West Sussex, RH15 8DJ as she is the Ward Member. She confirmed that she will speak as Ward Member on the application and would remove herself from meeting for the duration of the discussion and voting on the item.

Councillor M. Hersey declared a predetermined interest in DM/18/4002 - 7 Hickmans Close, Lindfield, Haywards Heath, West Sussex, RH16 2PS as she is the Ward Member. She confirmed that she will speak as Ward Member on the application and would remove herself from meeting for the duration of the discussion and voting on the item.

Councillor Matthews declared a predetermined interest in DM/18/4821 - Land to the East of Yew Tree Cottage, Wallage Lane, Rowfant, West Sussex, RH10 4NG as he is the Ward Member. He confirmed that he will speak as Ward Member on the application and would remove himself from meeting for the duration of the discussion and voting on the item.

**4. TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON  
31 JANUARY 2019.**

The minutes of the Committee held on 31 January 2019 were agreed as a correct record and signed by the Chairman.

**5. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

None.

**DM/18/3627 - LAND NORTH OF MAPLE DRIVE, BURGESS HILL, WEST SUSSEX, RH15 8DJ.**

Joseph Swift, Planning Officer, introduced the report for the erection of a new church and community facility including all associated external works forming car, motorcycle and cycle parking and associated hard and soft landscaping at land north of Maple Drive, Burgess Hill. He drew Members attention to the Agenda Update Sheet which detailed amendments to Condition 8. It was also confirmed that the development will not affect the proposed neighboring developments at Freeks Farm or Burgess Hill Town Football Club.

Councillor Pru Moore, Ward Member for Burgess Hill Leylands, spoke in favour of the application. She explained that the church is currently based in the primary school which is too small however the new building will be able to accommodate the Church, the Friends of Burgess Hill Green Network and the local youth club. She felt that one small community centre outside of the ward but intended to serve the ward was inadequate. It was also noted that the area that is to be developed is rough grassland, so she believed the loss of the land would not be of concern.

As there were no Members wishing to speak on this item, the Chairman took Members to the recommendation to approve, as set out in the report and subject to the rewording of Condition 8 as per the Agenda Update Sheet, which was agreed unanimously.

**RESOLVED**

That planning permission be approved subject to conditions outlined at Appendix A and Agenda Update Sheet.

**DM/18/4002 - 7 HICKMANS CLOSE, LINDFIELD, HAYWARDS HEATH, WEST SUSSEX, RH16 2PS.**

Andrew Morrison, Senior Planning Officer, introduced the report which sought planning permission for the erection of a two-storey side and single-storey rear extension to form accessible bedroom suite and therapy room with en-suite bathroom over; enlargement of kitchen and living areas plus conversion of existing garage to form an enlarged detached annexe. He drew Member's attention to the Agenda Update Sheet which detailed the removal of Condition 3.

Jonathan Sewell-Rutter, speaking on behalf of the applicant, spoke in favour of the application.

Councillor M. Hersey, Ward Member for Lindfield, raised concerns over the application. She and other Members of the Lindfield Parish Council believed the application to be contrary to Policy DP26 of the Mid Sussex District Plan as the character and design of what is proposed will cause significant harm to the street scene. It was felt that the application would be acceptable if the roof was lowered and the extension was not able to be viewed from the street.

The Business Unit Leader for Development Manager and the Senior Planning Officer explained the appearance of the pitched roof to the single storey extension.

A Member said that he couldn't see the extension having a harmful impact to the public realm and believed that re-designing the application would be unnecessary.

The Chairman noted that no Member wished to speak so moved to the recommendation to approve the application which was agreed unanimously.

## **RESOLVED**

That planning permission be approved subject to the conditions outlined at Appendix A.

### **DM/18/4746 - LAND AT REAR OF CHIPPENDALE, GATEHOUSE LANE, BURGESS HILL, WEST SUSSEX, RH15 9XD.**

Andy Watt, Senior Planning Officer, introduced the report which sought to vary Condition 2 of planning permission DM/17/0537, an application that was approved by the committee for the erection of a detached dwelling, detached garage and access. The effect of the variation was to substitute revised plans to reflect retrospective amendments to the position of dwelling. He drew attention to the Agenda Update Sheet and an additional letter of objection that also provide supplementary photographs of the application site. He highlighted the variation to the dwelling and stated that it had moved approximately 5 metres south and rotated 20 degrees clockwise relative to the development allowed at appeal.

Claire Pickford, local resident, spoke against the application.

Mark Best, agent of the applicant, spoke in favour of the application.

Andrew Barrett Miles, Ward Member for Dunstall, spoke against the application and drew attention to the planning history of the application site. He explained that his concerns of the significant impact to neighbouring amenity due to overbearing and lack of privacy was confirmed when he attended the site. The dwelling could be seen between the properties of 5, 6 and 7 The Oaks and was found to be overbearing more so when in the garden of an adjoining property.

The Chairman sought further clarification on the planning history of the application site.

Nick Rogers, Business Unit Leader for Development Management, explained that the Council refused an application in 2012 however the Planning Inspector allowed the appeal and granted planning permission.

He advised that the Council approved the subsequent application in 2017. These permissions are material considerations. Aside from the repositioning of the building, lowering of the roof lights and replacement of a half window with a rooflight the application is the same as previously approved.

The Chairman enquired whether the trees would be more protected with the house moved back to the position seen in the current application compared to the approved application.

The Business Unit Leader for Development Management confirmed that the resided house is further from the trees on the northern boundary than that allowed on appeal...

A Member expressed that she was not comfortable with the application. She enquired the distance of the dwelling from the boundary of the site that adjoins 6 The Oaks.

The Senior Planning Officer confirmed that the distance is 11 metres.

A Member questioned the impact of overlooking on the neighbouring properties.

The Senior Planning Officer explained the rear elevation to rear elevation for 7 The Oaks is 21 metres; 22 metres for 6 The Oaks and 25 metres for 5 The Oaks but there would be no significant overlooking from the windows in the northern elevation.

The Vice-Chairman felt unsure about his decision as he could not visualise the proposed application position in the presentation provided to the committee.

The Business Unit Leader for Development Management outlined that he did not want the committee to make a decision if they felt like that did not have suitable information to make a decision. He added that he can contact the applicant to provide a further single drawing to show the relative positions of the house approved on appeal, by the Council in 2017 and that subject of the current application and advised that in those circumstances the application could be deferred.

Tom Clark, Solicitor to the Council, clarified that the committee cannot make a decision if they do not feel they have the right information.

The Chairman noted that the committee wished to defer the application pending further information so moved to the recommendation to defer which was agreed unanimously.

## **RESOLVED**

That the application be deferred to request further information from the applicant about the exact location of the property.

### **DM/18/2702 - LAND REAR OF 5 HIGH STREET, EAST GRINSTEAD, WEST SUSSEX, RH19 3AG.**

Andrew Morrison, Senior Planning Officer, introduced the report which sought planning permission for the erection of 1 no. detached 2 storey dwelling and 1 no. detached 3 storey dwelling (with landscape gardens), within a walled Victorian garden at land to the rear of 5 High Street, East Grinstead. He drew attention to the Agenda Update Sheet which revised the eastern site boundary to reflect the true position of the boundary. He noted that the application site sits just outside the boundary of the East Grinstead conservation area. He explained that Officers do not consider the visual impact of the proposal to be acceptable, including a harmful impact upon the setting of the conservation area and adjacent listed building. He also explained that Officers furthermore consider the impact upon neighbouring amenity and future occupier amenity to be unacceptable.

Councillor Julie Mockford, East Grinstead Town Council, spoke in favour of the application.

Paul Carter, agent of the applicant, spoke in favour of the application.

Luke Mosley, local resident, spoke in favour of the application.

Several Members commended the design of the proposal.

A Member noted that the Conservation Officer raised an objection to the application. She sought clarification on the degree of harm to the conservation area.

Nick Rogers, Business Unit Leader for Development Management, drew attention to the Conservation Officer's comments which considered the proposal to have less than substantial harm to the conservation area and adjacent listed building.

Tom Clark, Solicitor to the Council, added that less than substantial harm should be given considerable weight.

A Member raised his concerns over the impact on the conservation area and listed buildings. He believed that the committee should give the impact considerable weight.

A Member enquired whether the development could be seen from East Grinstead War Memorial.

The Senior Planning Officer confirmed that the development can only be seen from the street scene if viewed through the gap between the buildings for the access point.

The Chairman believed the design to be bold however felt that the development is too large for the small area for which it is planned.

A Member drew attention to National Planning Policy Framework Paragraph.195d which detailed that less than substantial harm might be outweighed if the site is brought back into use and believed that the application should be recommended for approval.

The Business Unit Leader for Development Management advised that there were four strong reasons to refuse the application; harmful effect on listed building and conservation area; significant harm to the residential amenities of existing residents due to loss of outlook and privacy, significant harm to amenities of future residents resulting from lack of privacy and; no Section 106 agreement in relation to the Ashdown Forest. He added that the Council can demonstrate a five-year land supply and that officers do not feel that the harm outweighs the limited benefits of the development.

A Member enquired whether there have been any objections to the application.

The Senior Planning Officer explained that the neighbouring properties 11b, 11c and 11d have raised objections to the application.

Councillor N Mockford proposed to move to the recommendation to approve the application as he felt that the benefits of improving the site outweigh any harm of development. This was seconded by Councillor E Matthews as he believed the current site is visually harmful to the surrounding area.

The Chairman moved to the recommendation to approve the application which was agreed with 5 votes in favour of the application and 4 against.

## **RESOLVED**

That planning permission be approved subject to competition of a satisfactory S.106 Legal Agreement and planning conditions to be agreed with the Chairman of the Committee.

### **Reason for granting planning permission**

The committee considered that the development would enhance the character of the conservation area because of the design of the proposed buildings and condition of the application site, it would not cause significant harm to the amenities of existing residents nor would it cause significant harm to the amenities of future residents through lack of privacy. It was thus in accordance with policies DP26 and DP34 and DP35 of the District Plan and EG3 and EG4 of the East Grinstead Neighbourhood Plan.

### **DM/18/4821 - LAND TO THE EAST OF YEW TREE COTTAGE, WALLAGE LANE, ROWFANT, WEST SUSSEX, RH10 4NG.**

Andrew Clarke, Senior Planning Officer, introduced the report which sought retrospective planning permission for the retention of a single dwelling for a period of one year which has been constructed within an area of woodland within a rural location. The development has been completed and occupied without planning permission and represents a breach of planning control. He drew attention to the Agenda Update Sheet which detailed additional comments from West Sussex County Council whom reject the proposal over the safety of the access to the application site. Officers have raised their concerns over the retention and ecology of the ancient woodland and do not feel that personal circumstances outweigh. The planning harm of the development,

David Collins, agent of the applicant, spoke in favour of the application.

Edward Matthews, Ward Member for Copthorne and Worth, spoke in favour of the application. He expressed his concerns over the welfare of the applicant's mother and felt that it is an exceptional case. He did not believe that any harm could come of granting temporary planning permission and asked the committee to look at the application with a compassionate eye.

A number of Members agreed with Councillor Matthews and felt that the committee should grant permission based on humanitarian grounds.

A Member raised his concerns about granting temporary permission to the application as if it were to be extended at a later stage then it might set a precedent for permanent permission. He felt that there should be a 6 month review process with another 6 month notice period for enforcement as enforcement action would not necessarily have to be carried out immediately. He sought legal advice from the Solicitor of the Council.

Tom Clark, Solicitor to the Council, explained the potential risks of granting temporary planning permission and confirmed that enforcement action does not have to be carried out immediately.

A Member suggested that the committee formally ask that the enforcement action be carried out in 6 months from the committee's decision and then conducted after 6 months instead of granting temporary permission for a year. He added that he is no rush to carry out the enforcement action however he is hesitant of granting permission on the application.

Nick Rogers, Business Unit Leader for Development Management, outlined that, the development of a dwelling in the countryside was clearly contrary to the Council's planning policy, effect on ancient woodland, which had been strengthened in the new NPPF, and concerns of safety of the site's access. He advised that it was possible to postpone any enforcement action and monitor the situation as requested by a Member.

The Chairman wished for it to be noted that the Committee requests for enforcement action to be carried out at the direction of the Business Unit Leader for Development Management based on the discussion of the application in this Committee. The Chairman took Members to the recommendation to refuse the application which was agreed unanimously.

**RESOLVED**

That planning permission be refused for the reason as laid out in Appendix A.

**7. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN.**

None.

The meeting finished at 9.40 pm

Chairman

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MID SUSSEX DISTRICT COUNCIL

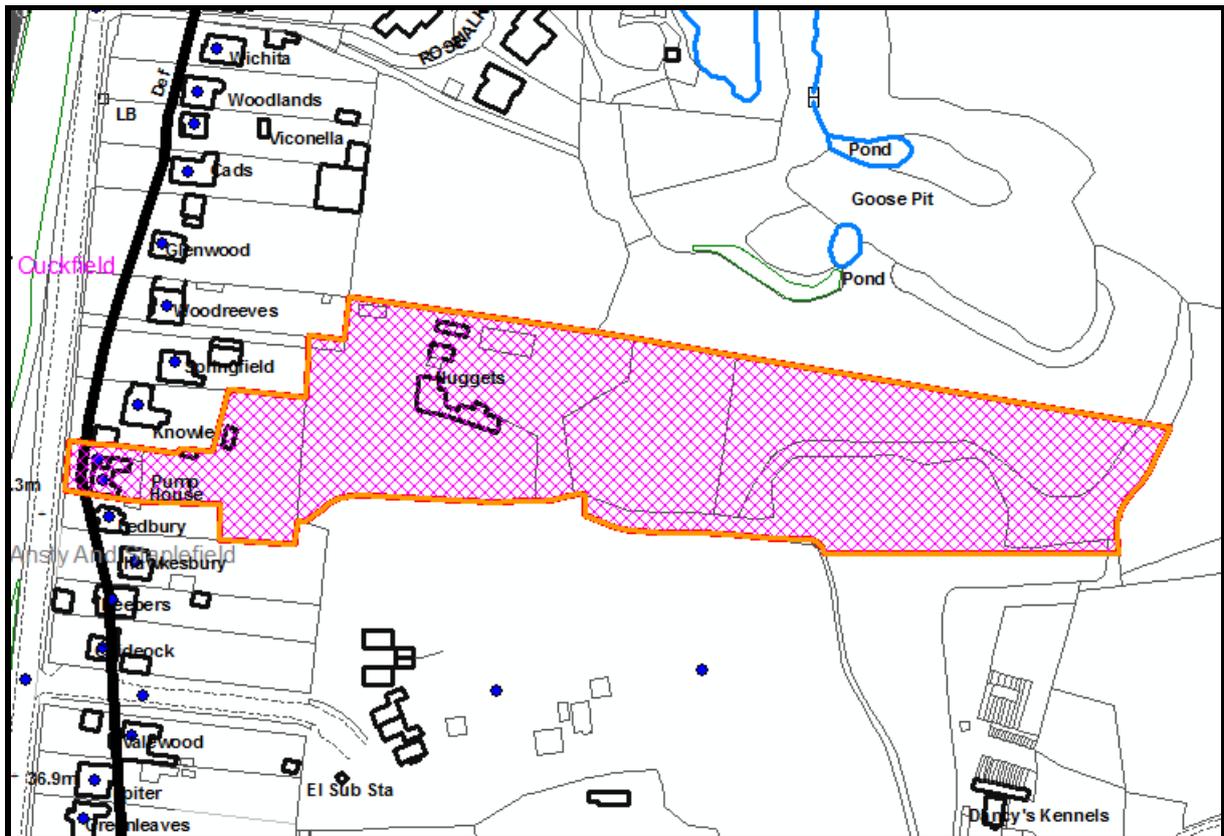
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

**Ansty And Staplefield**

**DM/18/4132**



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**PUMP HOUSE VALEBRIDGE ROAD BURGESS HILL WEST SUSSEX  
PROPOSED DEVELOPMENT OF 25 RESIDENTIAL DWELLINGS ON LAND  
EAST OF VALEBRIDGE ROAD WITH THE DEMOLITION OF PUMP  
HOUSE AND NUGGETS.  
MR JULIAN WALKER**

POLICY: Ancient Woodland / Areas of Special Control for Adverts /  
Countryside Area of Dev. Restraint / Classified Roads - 20m buffer /  
Aerodrome Safeguarding (CAA) / SWT Bat Survey /

ODPM CODE:            Smallscale Major Dwellings

13 WEEK DATE: 16th January 2019

WARD MEMBERS: Cllr Robert Salisbury / Cllr Pete Bradbury /

CASE OFFICER: Andrew Morrison

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader, Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

This application seeks full planning permission for the erection of 25 residential dwellings on land east of Valebridge Road, Burgess Hill following the demolition of Pump House and Nuggets dwellings.

The application site is located within the administrative areas of both Lewes District Council (within East Sussex) and Mid Sussex District Council (within West Sussex). The vast majority of the site however, including all proposed dwellings, falls within the administrative area of Lewes District Council. A duplicate planning application has been submitted to the Lewes District Council and remains pending consideration. It is for Lewes District Council only to consider the principle of development, together with all other planning issues except for the suitability of the access in highway safety and capacity terms. It is only the access into the site that is within the administrative area of Mid Sussex District Council and accordingly this is the only aspect of the proposal that requires planning permission from Mid Sussex District Council.

It is considered that a satisfactory access can be achieved into the site. The Local Highway Authority has raised no objection to the proposal, either in relation to matters of highway safety or in respect of capacity issues on the local highway network. Whilst it is undoubtedly the case that there will be an increase in vehicular movements along Valebridge Road, it is not considered that this will result in a significant loss of residential amenity to existing occupiers along the road.

In conclusion it is considered that the proposal is satisfactory in relation to access arrangements and complies with the requirements of Policies DP21 and DP26 of the Mid Sussex District Plan. The application is therefore recommended for approval.

### **RECOMMENDATION**

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

## **SUMMARY OF REPRESENTATIONS**

6 letters received raising the following issues:

- Unrestricted roadside parking would interfere with proposed visibility sight lines
- Boundary treatments need to be considered following demolition
- Rainfall runoff needs to be considered due to existing problems with blocked drains
- Impact upon existing water pressure
- Impact upon broadband infrastructure
- Impact upon the environment
- Impact upon already busy road
- Pavements along road in poor condition
- Lack of existing street lighting
- Speed limited should be reduced
- Inadequate infrastructure

## **SUMMARY OF CONSULTATIONS (full comments in Appendix B)**

### **West Sussex County Council Highways:**

No objection; recommended condition.

## **ANSTY AND STAPLEFIELD PARISH COUNCIL COMMENTS**

The Parish Council object to this application because the site was not allocated in the Neighbourhood Plan. If the application were to get permission, they request that s106 money is allocated to the Ansty Village Centre project.

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## **INTRODUCTION**

The application seeks full planning permission for the erection of 25 residential dwellings on land east of Valebridge Road, Burgess Hill following the demolition of Pump House and Nuggets dwellings.

The vast majority of the application site falls outside the district and within the administrative boundaries of Lewes District Council, who have the same application to determine.

## **RELEVANT PLANNING HISTORY**

There is a pending application with Lewes District Council reference LW/18/0566 for the same proposed development.

Two applications have been permitted in recent years for similar developments nearby to the south along Valebridge Road. In both these cases the vast majority of the sites were within the boundaries of Lewes District Council.

DM/16/5511 Demolition of The Rosery and the erection of 55 residential homes, with associated access, car parking, cycle parking, refuse/recycling storage and landscaping.

14/01673/FUL Demolition of Sunnybrae and Medway Gardens and erection of 29 residential homes, with associated amenity space, access, car parking, cycle parking, refuse/recycling facilities and landscaping

## **SITE AND SURROUNDINGS**

The site is located east of Valebridge Road to the north of Burgess Hill, outside of the built up area boundary of the town as defined by the development plan.

The large majority of the application site falls within Lewes District, with a very small area at the western edge of the site adjacent to Valebridge Road falling within Mid Sussex District.

The application site is an irregular shape and extends to approximately 2 hectares. The site includes the entire property known as Pump House fronting onto Valebridge Road together with the entire property known as Nuggets which sits to the north east, tucked behind front fronting development and is accessed separately by a private drive to the north. The site area within Mid Sussex consists of the access only onto Valebridge Road.

To the north and south of Pump House are dwellings lining the eastern side of Valebridge Road. To the north of Nuggets is an area of Ancient Woodland. There is also an area of Ancient Woodland within the eastern part of the site which is to be undeveloped. To the south of the main part of the site is a new residential development 'The Millrose' currently under construction. On the opposite western side of the road is a narrow area of woodland, beyond which lies the main London-Brighton railway line.

## **APPLICATION DETAILS**

The element of application within Mid Sussex District Council's administrative area is simply the formation of a new vehicular access onto Valebridge Road to serve the proposed development to the east.

## **LIST OF POLICIES**

### **Mid Sussex District Plan 2014-2031**

Adopted as part of the development plan.

Relevant policies:

DP21 Transport

DP26 Character and Design

### **Neighbourhood Plan**

The site is not within a Neighbourhood Plan area.

## **National Policy and Legislation**

### *National Planning Policy Framework (NPPF) (February 2019)*

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. 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 states that 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. It is highly desirable that local planning authorities should have an up-to-date plan in place.

Paragraph 38 of the NPPF states that Local Planning Authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

With specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

### *National Planning Policy Guidance*

## **ASSESSMENT**

Given that the majority of the site falls within Lewes District Council administrative boundaries, consideration by Mid Sussex District Council is limited to the matters that fall within its administrative area, which in this case expressly relate to the repositioned/improved access onto Valebridge Road which would serve the proposed dwellings.

## **Highways**

MSDP Policy DP21 states:

*'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:*

- *A high quality transport network that promotes a competitive and prosperous economy;*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- *Access to services, employment and housing; and*
- *A transport network that feels, and is, safer and healthier to use.*

*To meet these objectives, decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

*Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*

*Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'*

The reference to development not causing a severe cumulative impact reflects the advice in paragraph 109 of the NPPF, which states:

*'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

The application is supported by a Transport Statement which includes trip generation data and proposed visibility splay plans. The splays show 2.4m x 160m sightlines to the north and south which do not rely on third party land. The applicant has provided West Sussex County Council Highways with additional information on request, including an access dimension plan and Stage 1 Road Safety Audit.

The proposed development would be served by an access in the form of a T-junction. The new access would be flanked by a 2m wide footway on its southern side.

In the location of the access the posted speed limit is 60mph. A 7 day speed survey has been undertaken to determine the actual 85th percentile traffic speeds. The recorded 85th percentile speeds are 49.5mph northbound and 46.8mph southbound. The proposed visibility splays take into the account these speeds.

West Sussex County Council as the Local Highway Authority for Valebridge Road has been consulted on the application and is satisfied that the design of the access and visibility from this is satisfactory. They are also of the view that the forecast additional trips generated from the development will be unlikely to have a significant and noticeable effect on traffic flows on Valebridge Road.

In light of the above it is considered that there is no conflict with the requirements of Policy DP19 of the Mid Sussex District Plan or the National Planning Policy Framework as concerns highway safety and congestion.

## **Other Issues**

### *Impact on neighbouring residential amenity*

Policy DP26 of the Mid Sussex District Plan seeks to protect residential amenity from significant harm.

Whilst there will be an increase in the number of vehicles using Valebridge Road, it is not considered that it could reasonably be argued that this would cause a significant loss of amenity that would conflict this policy.

### *Infrastructure provision*

It is considered that the proposal is likely to increase demand on infrastructure within Mid Sussex because prospective residents are likely to be using facilities within Mid Sussex. Normally, with applications of this scale for residential developments, applicants would be required to mitigate the impacts of their proposals by making contributions towards infrastructure provision.

In this case, the entire development, with the exception of the access point is within Lewes District. Lewes has an adopted community infrastructure levy (CIL) charge

and this will be paid by the developer to Lewes District Council. The CIL is essentially a tariff that requires monies to be paid by developers to go towards the costs of providing infrastructure to mitigate the impacts of their developments.

In order for Mid Sussex District Council to secure infrastructure monies to go towards the costs of providing infrastructure within Mid Sussex, it will be necessary for Mid Sussex District Council to put forward a case and to bid for those monies from Lewes District Council. It would therefore not be appropriate for Mid Sussex District Council to try and seek to obtain further infrastructure monies in addition to that secured through the CIL in this case, as there is no housing development that is being constructed within Mid Sussex.

### *Ashdown Forest*

Given that the residential development element of the application sits solely within the administrative area of Lewes District Council, it is the responsibility of this neighbouring authority and not Mid Sussex District Council to satisfy itself in relation to the Conservation of Habitats and Species Regulations 2017, and specifically the issue of atmospheric pollution on the Ashdown Forest Special Area of Conservation in relation to traffic emissions.

All the other issues raised during the consultation period have been taken into account and these other issues are either considered not to warrant a refusal of permission in relation to the matters under assessment for this authority, are items that could be dealt with effectively by planning conditions or other legislation or are not material planning considerations.

## **PLANNING BALANCE AND CONCLUSION**

This application seeks full planning permission for the erection of 25 residential dwellings on land east of Valebridge Road, Burgess Hill following the demolition of Pump House and Nuggets dwellings.

The application site is located within the administrative areas of both Lewes District Council (within East Sussex) and Mid Sussex District Council (within West Sussex). The vast majority of the site however, including all proposed dwellings, falls within the administrative area of Lewes District Council. A duplicate planning application has been submitted to the Lewes District Council and remains pending consideration. It is for Lewes District Council only to consider the principle of development, together with all other planning issues except for the suitability of the access in highway safety and capacity terms. It is only the access into the site that is within the administrative area of Mid Sussex District Council and accordingly this is the only aspect of the proposal that requires planning permission from Mid Sussex District Council.

It is considered that a satisfactory access can be achieved into the site. The Local Highway Authority has raised no objection to the proposal, either in relation to matters of highway safety or in respect of capacity issues on the local highway network. Whilst it is undoubtedly the case that there will be an increase in vehicular

movements along Valebridge Road, it is not considered that this will result in a significant loss of residential amenity to existing occupiers along the road.

In conclusion it is considered that the proposal is satisfactory in relation to access arrangements and complies with the requirements of Policies DP21 and DP26 of the Mid Sussex District Plan. The application is therefore recommended for approval.

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#### **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. Before the development is occupied the proposed vehicular access to Valebridge Road shall be designed and constructed and provided with visibility zones in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The access shall be permanently maintained to a specification to be agreed with the Local Planning Authority and the visibility zones shall be kept permanently clear of any obstruction to a height of 600mm above the level of the road surface.

Reason: In the interests of road safety and to comply with Policy DP21 of the Mid Sussex District 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 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.
2. The applicant will require a Section 278 minor works agreement and/or crossover licence in order to put the access in place.

## 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
Location Plan	17027-S101	A	22.10.2018
Proposed Site Plan	17027-P101	M	04.02.2019
Street Scene	17027-P105	A	09.10.2018
Proposed Floor and Elevations Plan	17027-P110	C	04.02.2019
Proposed Floor and Elevations Plan	17027-P111	C	09.10.2018
Proposed Floor and Elevations Plan	17027-P112	A	09.10.2018
Proposed Floor and Elevations Plan	17027-P113	A	09.10.2018
Proposed Floor and Elevations Plan	17027-P117	B	09.10.2018
Proposed Floor and Elevations Plan	17027-P118	B	09.10.2018
Proposed Floor and Elevations Plan	17027-P119	A	09.10.2018
Proposed Floor and Elevations Plan	17027-P121	-	09.10.2018
Proposed Floor and Elevations Plan	17027-P122	-	09.10.2018
Proposed Floor and Elevations Plan	17027-P123	a	04.02.2019
Highways Plans	17007-SK03		02.01.2019
Landscaping Details	BRO21295 11E	SHEET 1	02.01.2019
Landscaping Details	BRO21295 11E	SHEET 2	02.01.2019
Planning Layout	BRO21295 11E	SHEET 3	02.01.2019
Highways Plans	17007-SK01		09.10.2018
Highways Plans	17007-SK02		09.10.2018

## APPENDIX B – CONSULTATIONS

### Parish Consultation

The Parish Council object to this application because the site was not allocated in the Neighbourhood Plan. If the application were to get permission, they request that s106 money is allocated to the Ansty Village Centre project.

### Local Highway Authority – WSCC Highways

*Initial comments:*

The applicant's consultant has made detailed estimates of the likely trip attraction of the proposal shown in the extract from the transport statement below:

Mode of Travel	Weekday AM Peak (08:00-09:00)		Weekday PM Peak (17:00-18:00)		Weekday Daily Movements	
	Arr	Dep	Arr	Dep	Arr	Dep
Total Person Trip Rates	0.243	0.779	0.592	0.261	4.228	4.315
Total Person Trips	6	19	15	7	106	108
Vehicular Trip Rates	0.140	0.377	0.340	0.154	2.322	2.422
Vehicular Trips	4	9	9	4	58	61

Table 5.1: Residential Trip Rates and Associated Proposed Trips

The method used to derive the trip numbers is sound and is accepted by the highway authority. It is unlikely that the additional trips will have a significant and noticeable effect on traffic flows on Valebridge Road.

The transport statement noted a cluster of road traffic collisions near the junction with Jesters well north of the site. A further, later accident was recorded in November 2017 just north of the site. This seems to have been due to factors that are not related to the road and its alignment.

An hourly bus service runs past the site and bus stops are 340 metres south of the site entrance. Further bus stops are available about 1 kilometre south of the site, together with trains at Wivelsfield Station. There are several shops at the same location. Burgess Hill's main shopping area is approximately 3 kilometres to the south, which is beyond an acceptable walking distance. There are no special facilities for cycling. Pavements provide for journeys on foot. Taking all these factors into account, the site has to be described as "sustainable" in transport terms.

The north and south visibility achievable from the proposed site entrance is adequate given the road alignment and measured vehicle speeds. However, it would be helpful if a detailed and dimensioned drawing could be provided to show the site entrance so that the junction's measurements can be checked, etc. That drawing should also be put to a road safety auditor, along with all the other necessary information, and a Road Safety Audit (RSA) and RSA response report provided via the planning system.

#### *Further comments*

Having examined in detail the road safety audit, access plan and revised site plan, the highway authority has no objection to the application. The safety audit raised no issues with any aspect of the proposal with the proviso that full details of road signs, carriageway markings and lighting should be prepared for the purposes of a Stage 2 audit. Please see our previous response for details of traffic demand, etc.

The following condition is recommended:

#### **NEW ACCESS**

Before the development is occupied the proposed vehicular access to Valebridge Road shall be designed and constructed and provided with visibility zones in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The access shall be permanently maintained to a specification to be agreed with the Local Planning Authority and the visibility zones shall be kept permanently clear of any obstruction to a height of 600mm above the level of the road surface.

The applicant will require a Section 278 minor works agreement and/or crossover licence in order to put the access in place.

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MID SUSSEX DISTRICT COUNCIL

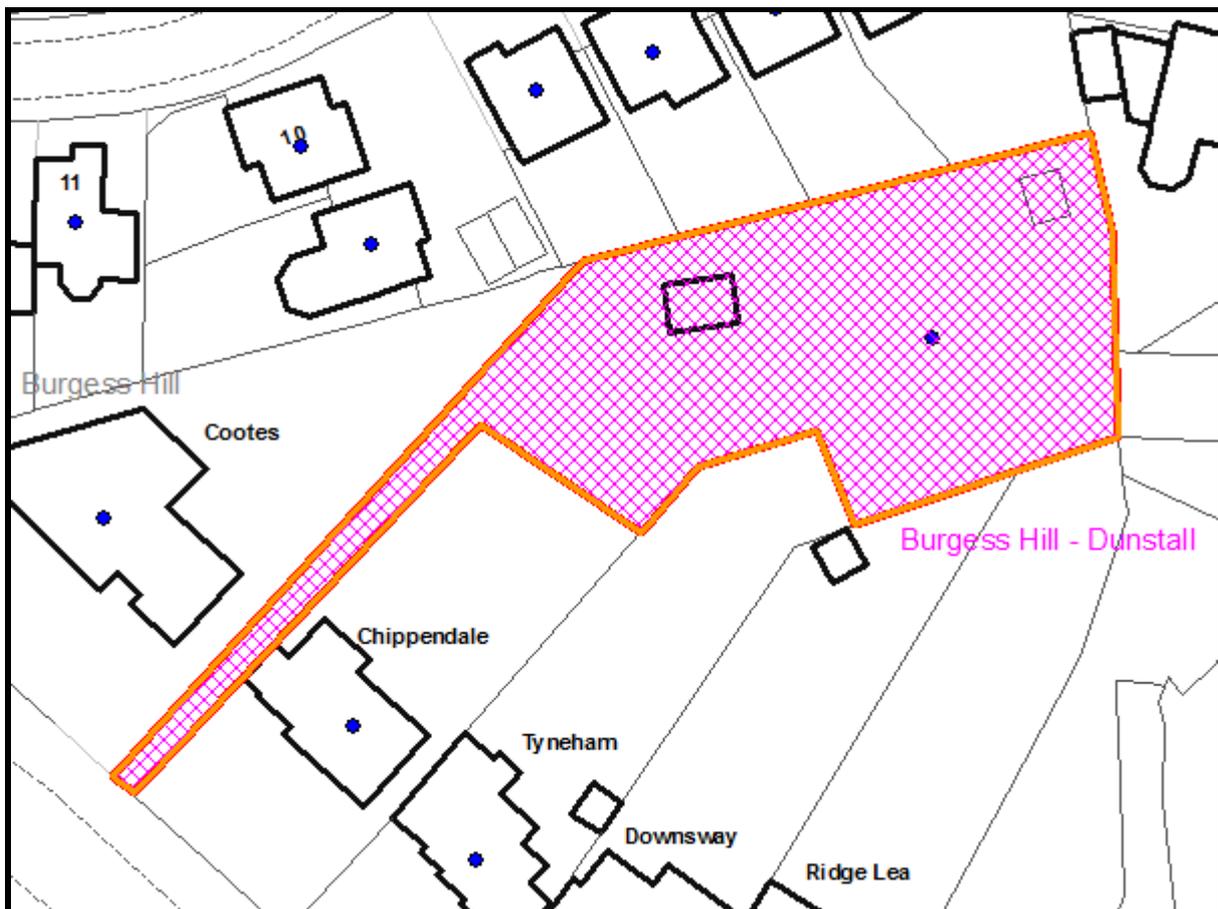
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

**Burgess Hill**

**DM/18/4746**



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**LAND AT REAR OF CHIPPENDALE GATEHOUSE LANE BURGESS HILL  
WEST SUSSEX**

**VARIATION OF CONDITION 2 OF DM/17/0537 TO AMEND THE POSITION  
OF THE DWELLING AND REPOSITIONED ROOFLIGHTS AND SOLAR  
PANELS ON FRONT (NW) AND REAR (SE) ELEVATIONS. AMENDED  
PLANS RECEIVED 05.03.2019.**

**MR ROBERT RAYMOND**

POLICY: Built Up Areas / Planning Agreement / Planning Obligation /  
Aerodrome Safeguarding (CAA) / Tree Preservation Order Points /  
Highways and Planning Agreement (WSCC) /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 4th March 2019

WARD MEMBERS: Cllr Andrew Barrett-Miles / Cllr Jacqui Landriani /

CASE OFFICER: Andrew Watt

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader for Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

The application is to vary condition 2 of planning permission DM/17/0537, which was for the erection of a detached dwelling, detached garage and access. The effect of this variation is to substitute revised plans to reflect the amendments that have taken place retrospectively.

The application has been called-in for determination at committee by Cllr Barrett-Miles, and seconded by Cllr Landriani, for the reasons set out in the report below.

The application was deferred from committee on 28 February to obtain an additional site plan from the developers showing the differences in siting of the dwelling as approved (twice) and as built. This drawing has now been received and clarifies that the position of the building as built is further away from the northern boundary and the protected trees than allowed on appeal in 2013.

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. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

Weighing in favour of the scheme is that the development will provide 1 additional residential unit in a sustainable location at a time where there is a general need for Local Authorities to boost significantly the supply of housing and this should be given

positive weight. 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 planning history of this site remains a significant material consideration that weighs in favour of this scheme.

It is also a highly important material planning consideration that the principle of a residential development has been accepted on the site by the Council by virtue of the fact that planning permission was granted for a detached dwelling and garage at this site in 2017 and this permission is still extant.

Weighing against the scheme is the fact that this dwelling is located in a backland location, which is generally resisted under the relevant Neighbourhood Plan policy.

There will, however, be a neutral impact in respect of a number of issues, such as the design, landscaping, drainage and sustainability. There will be no adverse impact on the Ashdown Forest.

For the above reasons, the scheme is deemed to comply with Policies DP4, DP6, DP17, DP21, DP26, DP27, DP37, DP39 and DP41 of the Mid Sussex District Plan, Policies S4, H2 and H3 of the Burgess Hill Neighbourhood Plan and the objectives of the National Planning Policy Framework. Planning permission should therefore be granted.

### **RECOMMENDATION**

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

### **CONSULTATIONS**

#### **MSDC Tree Officer**

Variation to condition 2 has no further impact on the surrounding trees.

#### **WSCC Highways**

The slightly altered position of the dwelling does not impact on the access and parking arrangements which have previously been accepted.

### **TOWN COUNCIL OBSERVATIONS**

RECOMMEND REFUSAL - it was a back garden development which was overbearing. Planning agreement had not been followed - it was not in the right place and should be sited as per the agreed plans. The Tree Officer stated that it was too close to trees.

## LETTERS OF REPRESENTATIONS

5 letters of objection (from 4 neighbouring residents):

- Developers have not followed the planning permission they were granted;
- Previous tree officer objected to siting of the dwelling;
- Inconsistent decision-making;
- Overbearing impact;
- Planning conditions ignored;
- House is sited in the wrong position;
- Windows have been added which were not in the final approved plan;
- Building should be taken down and a new application submitted for a bungalow;
- Overlooking;
- Damage to TPO'd trees;
- Lowered skylights now face our property at eye level;
- If this decision is rubber-stamped, it is an abuse of process;
- Planning permission should never have been granted in the first place

3 additional letters of objection/comment following receipt of amended plans on 5 March:

- Difficult to understand new plans;
- The 2013 permission is not relevant;
- Building appears too big for the plot;
- Not a variation/amendment, it is a new application;
- Plans misleading as the breach relates to the 2017 permission, not the 2013 permission;
- Development is minimum of 1.2m closer to boundary of The Oaks than it should be;
- Photos make this impact clear - it is overbearing and takes away privacy;
- Significant detrimental impact on street view from The Oaks;
- Proposed skylight on NW side is a window, not a skylight, and would it be openable or obscure glazed.

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## INTRODUCTION

The application is to vary condition 2 of planning permission DM/17/0537, which was for the erection of a detached dwelling, detached garage and access. The effect of this variation is to substitute revised plans to reflect the amendments that have taken place retrospectively.

The application has been called-in for determination at committee by Cllr Barrett-Miles, and seconded by Cllr Landriani, as follows:

*'Jacqui Landriani and I would like to call-in the above application. We believe that the revised application for this development does not meet the criteria in the NPPF for sustainable development. The building is unneighbourly with respect to numbers 5 and 6 The Oaks and Corbiere and Ridge Lea in Gatehouse Lane. Further the house*

*is an overdevelopment of the site occupying a significantly larger amount of the site compared with the surrounding houses in Gatehouse Lane and The Oaks. Finally the development is contrary to the Burgess Hill Neighbourhood Plan policy regarding back garden developments which is now current given the approval of the District Plan.'*

The application was deferred from committee on 28 February to obtain an additional site plan from the developers showing the differences in siting of the dwelling as approved (twice) and as built. This drawing has now been received and clarifies that the position of the building as built is further away from the northern boundary and the protected trees than allowed on appeal in 2013.

## **RELEVANT PLANNING HISTORY**

In November 2012, planning permission was refused for the erection of a new detached dwelling and detached double garage with new drive and access to the highway (12/02838/FUL). The reasons for refusal were as follows:

- 1. The proposed backland development is unacceptable in principle, due to its location within a private residential garden, which is classified as greenfield land, and is considered to be harmful to the character of the area, where such backland developments are not characteristic features. As such, the proposal is contrary to paragraphs 14, 53 and 58 of the National Planning Policy Framework.*
- 2. The access to serve the dwelling, being located immediately adjacent to the flank wall of Chippendale and to the boundary of Cootes Veterinary Clinic, is considered to be cramped and harmful to the character and appearance of the area, contrary to paragraphs 56 and 58 of the National Planning Policy Framework and policies B1 and H3 of the Mid Sussex Local Plan.*

An appeal was lodged against this decision (AP/13/0022) and allowed in July 2013. However, this permission was not lawfully implemented within the approved 3 year time period and therefore lapsed.

In September 2017, planning permission was granted for the erection of a new detached dwelling and detached garage with new driveway and access to the highway (DM/17/0537). This permission was implemented, but not in accordance with the approved plans.

## **SITE AND SURROUNDINGS**

The site is an amalgamation of the northernmost parts of rear gardens of Chippendale and Tyneham, both large 2-storey detached dwellings set within sizeable dog-legged plots. These plots have been severed from the host dwellings for some time and a detached 2-storey dwelling is currently under construction, now externally complete.

The site is located on the northern side of Gatehouse Lane in the built-up area of Burgess Hill. Gatehouse Lane has a semi-rural character, particularly on the northern side where the houses, while spaced closely together, are set within

similarly generous plots. This semi-rural character is apparent, despite being enclosed by modern, higher density residential development on all sides, such as The Oaks to the north and Foxglove Close to the east.

Along the northern boundary of the site are two trees with Preservation Orders (HP/2/TPO/95), with two further Preserved trees within Cootes Veterinary Clinic immediately west. The eastern boundary is similarly screened by mature deciduous trees.

## **APPLICATION DETAILS**

The application is to vary condition 2 of planning permission DM/17/0537, which was for the erection of a detached dwelling, detached garage and access. Condition 2 states:

*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.*

*Plans Referred to in Consideration of this Application:*

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

<i>Plan Type</i>	<i>Reference</i>	<i>Version</i>	<i>Submitted Date</i>
<i>Site Plan Comparative</i>			<i>13.07.2017</i>
<i>Other SUPPLEMENTARY PLANNING Statement</i>		<i>~</i>	<i>13.07.2017</i>
<i>Site Plan</i>	<i>001/01</i>	<i>A</i>	<i>13.07.2017</i>
<i>Location Plan</i>			<i>02.02.2017</i>
<i>Proposed Floor Plans</i>	<i>001/02-3</i>		<i>02.02.2017</i>
<i>Proposed Elevations</i>	<i>001/04</i>		<i>02.02.2017</i>
<i>Proposed Floor and Elevations Plan</i>	<i>001/05-06</i>	<i>garage</i>	<i>02.02.2017</i>
<i>Proposed Roof Plan</i>	<i>001/05-06</i>		<i>02.02.2017</i>

The effect of this variation is to substitute revised plans to reflect the amendments that have taken place retrospectively in terms of:

- Repositioning the building further to the north;
- Lowering the height of a double set of rooflights to the north elevation;
- Replacing a window on the south elevation with a rooflight; and
- Raising the height of the solar panels on the south elevation.

## **POLICY CONTEXT**

### **Mid Sussex District Plan (Mar 2018)**

The Mid Sussex District Plan 2014-2031 was adopted by Full Council on 28 March 2018. Relevant policies:

Policy DP4: Housing  
Policy DP6: Settlement Hierarchy  
Policy DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
Policy DP21: Transport  
Policy DP26: Character and Design  
Policy DP27: Dwelling Space Standards  
Policy DP28: Accessibility  
Policy DP37: Trees, Woodland and Hedgerows  
Policy DP39: Sustainable Design and Construction  
Policy DP41: Flood Risk and Drainage

Development Infrastructure and Contributions Supplementary Planning Document (Jul 2018)

Dormer Window and Rooflight Design Guidance (Aug 2018)

### **Burgess Hill Neighbourhood Plan (Jan 2016)**

Mid Sussex District Council formally 'made' the Burgess Hill Neighbourhood Plan part of the Local Development Plan for the Neighbourhood Plan area of Burgess Hill as of 27 January 2016. The policies contained therein carry full weight as part of the Development Plan for planning decisions within the Burgess Hill Neighbourhood Plan area.

Relevant policies include:

Policy S4: Parking Standards for new developments

*'New housing developments that include the provision of garage space must be of the minimum size for cars - 7.0m x 3.0m (internal dimension) for this to be counted as a parking space. All new housing developments must comply with the new parking standards for Burgess Hill contained in Appendix D. If a garage is proposed then the drive way must be of sufficient length to allow a second car to park clear of the pavement whilst providing space for the garage door to open.'*

*In cases where planning permission is necessary for alterations and extensions to properties, support will not be given for the conversion of garage space to habitable rooms / residential use unless there is adequate space to park cars off street in line with the parking standards.'*

*Design and layout of off-site parking areas, on street parking areas, garage/parking blocks will be designed to allow ease of access from driveways and accessibility to parking areas without causing obstruction.'*

Policy H2: Back Garden Development

*'Development in back gardens in residential areas of Burgess Hill will generally not be supported. Exceptionally, proposals to intensify existing residential areas will only be supported where this can be achieved through good design and without harming'*

*local amenities. Any attractive prevailing character and appearance of the area must be protected.*

*Where back garden development is proposed; special regard must be paid to:*

- i. The density and height of the proposal;*
- ii. The privacy and outlook from existing dwellings and, in particular, gardens;*
- iii. Any proposed demolition of existing dwellings or parts of dwellings to form access. If this would create an unattractive breach in a consistent street frontage then this will not be permitted;*
- iv. Access arrangements that would cause significant nuisance to neighbouring properties will not be permitted;*
- v. Sufficient garden depth and area should be retained by existing dwellings commensurate with their size and character;*
- vi. The layout, scale and form of housing visible from the street should be compatible with the predominant scale of housing on the street; and,*
- vii. The effect and cumulative impact of the development on the loss of garden habitat/biodiversity.'*

### Policy H3: Protect Areas of Townscape Value

*'Proposals for development and redevelopment within Areas of Townscape Value will require special attention to be paid to preserving and enhancing the existing character of the area in terms of spaciousness, building heights, building size and site coverage, building lines, boundary treatments, trees and landscaping.*

*The areas of townscape value are identified on the Proposals Map and are:*

- 1. Folders Lane*
- 2. Keymer Road*
- 3. Gatehouse Lane*
- 4. Malthouse Lane (south side) - area around Grasmere*
- 5. Oakwood Road*
- 6. Janes Lane*
- 7. Leylands Road (from Marle Place to St John's Avenue)'*

### **National Policy and Other Documents**

#### **National Planning Policy Framework (NPPF) (Feb 2019)**

The National Planning Policy Framework (NPPF) 2019 is also a material consideration and paragraphs 8 (overarching objectives), 11 (presumption in favour of sustainable development), 12 (status of development plan), 38 (decision-making), 47 (determining applications), 54 and 55 (use of conditions), 102 and 103 (promoting sustainable transport), 108 and 109 (highways matters), 124 and 127 (design), 130 (refusal on design grounds), 148 (transition to low carbon future), 153 and 154 (sustainability), 155, 158, 159, 160, 161 and 163 (flood risk), 170 (enhancing the natural and local environment) and 177 (habitats sites) are considered to be relevant to this application.

## Planning Practice Guidance

### Technical Housing Standards: Nationally Described Space Standard (Mar 2015)

#### ASSESSMENT

The main issues for consideration are:

- The principle of development;
- Material considerations;
- The design and visual impact on the character of the area;
- The impact on neighbouring amenity;
- Highways matters;
- Drainage;
- Sustainability;
- The impact on trees;
- Habitats Regulations;
- Standard of accommodation; and
- Planning Balance and Conclusion

#### 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:*

- *The provisions of the development plan, so far as material to application,*
- *Any local finance considerations, so far as material to the application, and*
- *Any other material considerations.'*

Section 38(6) of the 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 Mid Sussex District Plan (2018) together with the Burgess Hill Neighbourhood Plan (2016).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land. The balance to be applied in this case is therefore a non-tilted one.

The site falls within the built-up area of Burgess Hill as designated in the Mid Sussex District Plan and the Burgess Hill Neighbourhood Plan.

Policy DP6 of the Mid Sussex District Plan states (in part):

*'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement.'*

The site is considered suitably sustainable in location and therefore the proposal accords in principle with the broad aims of the Mid Sussex District Plan, specifically Policies DP4 and DP6. The District Plan itself is deemed to be reflective of the aims of the NPPF. The principle of a residential development has been accepted by the Council by virtue of the fact that planning permission was granted for a detached dwelling and garage at this site in 2017 and this permission is still extant.

At neighbourhood plan level, Policies H2 and H3 are relevant, as set out above.

## **Material considerations**

### Appeal decision

The appeal decision issued on 18 July 2013 (APP/D3830/A/13/2195836) is a material consideration, although the weight to be attached is reduced as a result of the permission no longer being extant and that the Neighbourhood Plan has been adopted subsequently.

The Inspector made the following observations:

Access:

*'4. The proposed access to the dwelling would run alongside the boundary with Cootes which, towards the front comprises a close boarded fence above a retaining wall with a high brick wall beyond. The access would require the removal of shrubs near the front boundary but when seen along the street the proposed driveway across the grass verge would appear to be similar to others in the vicinity. The drawings indicate a close boarded fence alongside the rear garden of Chippendale but no fence is indicated for the front garden thereby retaining the open aspect at the front of the house. Whilst the narrow driveway between high fences at the rear would not be characteristic of this area it would be set some distance back from the road and would not be readily in view from the street.*

*5. With a width of about 4m I consider that the driveway would be capable of being enhanced by planting and that subject to appropriate detailing, which could be*

*achieved by a planning condition, this aspect of the proposal would not detract from the character or appearance of the area.'*

#### Development Site:

*'7. When seen from above the pattern of the proposed development would be different from its immediate surroundings; however the retained gardens of the host dwellings would be of a similar size to others in Gatehouse Lane and the substantial trees and most shrubs and hedges would be retained. I saw no other examples of houses behind the main frontages but the new housing to the north and east can clearly be seen from the older rear gardens. I consider that the proposal would not detract from the spacious partly-wooded character at the rear of the houses and seen against the backdrop of the newer houses the proposal would not be materially harmful to the character and appearance of the area.'*

#### Amenity:

*'8. Concern has been expressed about the effect of the proposal on the privacy and outlook of neighbouring dwellings in The Oaks and Foxglove Close. However I consider that the distance between the proposed dwelling and the boundaries of those properties would be sufficient to prevent it from being over-dominant and views of the dwelling would be partly screened by the intervening trees and other vegetation. The upper floor windows facing the houses to the north serve an en-suite and a bathroom and could be obscure glazed. The secondary bedroom window facing east would look out over the ends of the rear gardens of Foxglove Close; I consider that the extent of overlooking would be limited but this could be eliminated by requiring the window to be glazed in obscured glass.'*

#### Other matters:

*'9. I have not seen an arboricultural report but the Council is satisfied that the proposed dwelling would not adversely affect the trees on the site and from what I saw at the site visit I have no reason to disagree with this assessment.*

*The occupiers of Cootes indicate that there are slow worms on their land but I have seen no indication of where or when these were seen. I have seen no evidence to indicate that the observations of the occupiers of Cootes should inhibit the granting of permission for the development of the appeal site.*

*10. Nearby residents have expressed concern about drainage from the site but the Council has indicated that this could be addressed by a planning condition.'*

#### Policy balance:

*11. The National Planning Policy Framework (the Framework) specifically excludes private gardens in built up areas from the definition of "previously developed land"; however it does not rule out the development of garden land. It indicates in paragraph 53 that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example, where the development would cause harm to the local area. The 2007 "saved"*

*Policies B1 and H3 of the Mid Sussex Local Plan (2004) (LP) indicate that residential development should respect the character of its location but the Council has no specific policy concerning the development of garden land.*

*12. The Council does not have a five year supply of housing land and therefore in this respect its LP policies are not up to date. Paragraph 14 of the Framework indicates that in these circumstances planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole; or where specific policies in the Framework indicate that development should be restricted. The Framework also indicates that all housing applications should be considered in the context of the presumption in favour of sustainable development.*

*13. The appeal site is close to local shops and services and bus routes and in my view it is in a sustainable location. The dwelling has been designed to safeguard the living conditions of neighbouring residents and provides sufficient amenity space for its occupiers and the host dwellings. Whilst the development is of a modest scale it would also make a positive contribution to the building industry in the area.*

*14. I consider that the proposal would not materially detract from the character or appearance of the area and would satisfy all three dimensions of sustainability set out in the Framework (economic, social and environmental).'*

### Planning history

The most recent planning permission (DM/17/0537) is also a material consideration. This remains extant, even if it has not been implemented in accordance with the approved plans. It should be pointed out that this scheme was assessed under the same Neighbourhood Plan policies that apply to the current application.

### **Design and visual impact on the character of the area**

Policy DP26 of the Mid Sussex District Plan states (in part):

*'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;*
- 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;*
- positively addresses sustainability considerations in the layout and the building design.'*

Officers agree with the Inspector's previous observations regarding the visual impact of the development when viewed from Gatehouse Lane. The retention of the majority of the frontage hedgerow means that the spacious character of the area, including the spacing between frontage buildings, is respected in accordance with NP Policy H3.

To the rear, it is acknowledged that development in back gardens in residential areas of Burgess Hill are generally not supported in the NP (Policy H2). However, it is important to recognise that the policy does not preclude such development; rather, where they can promote good design and not harm local amenities, exceptions can be supported. The policy ensures that special regard is to be had to the density and height of the proposal; privacy and outlook from neighbouring gardens; the formation of new accesses where they do not create an unattractive breach in the street frontage; and where access arrangements would not cause significant nuisance to neighbouring properties.

It is considered that the Inspector's assessment is still applicable, as indeed is the council's previous assessment of DM/17/0537, and in particular that the dwelling would not detract from the spacious partly-wooded character at the rear of the frontage houses and when viewed against the backdrop of the more modern houses to the rear. It is considered that the development and its associated amendments (fenestration and solar panels) would not be materially harmful to the character and appearance of the area.

Accordingly, the scheme would comply with Policy DP26 of the Mid Sussex District Plan, Policies H2 and H3 of the Burgess Hill Neighbourhood Plan and the provisions of the NPPF.

### **Impact on neighbouring amenity**

Policy DP26 of the Mid Sussex District Plan states (in part):

*'All applicants will be required to demonstrate that development:*

*- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29)'*

The main properties affected by the development are the host dwelling, Cootes, Tyneham, Corbiere House, Ridge Lea (all on Gatehouse Lane), properties on Foxglove Close (in particular, no. 50) and 5, 6, 7 and 8 The Oaks to the north.

The dwelling was originally designed to minimise the impact on neighbouring properties, utilising the existing screening on the site, and orienting the building so that upper floor windows were directed to the south, rather than the north, west and east. The height of the building was also designed to reduce the potential impact. The appeal Inspector raised no objection to the impact of the proposal onto neighbouring occupiers.

These elements are retained in the current scheme, although the impact of the amendments are as follows.

The repositioning of the building has been set out on drawing 8299-12 and measurements verified on site by two officers and the site manager. The nearest distance to the north is 11m (as correctly set out on this plan) and increases to 12.9m to the north-east (although stated on the plan as being 13.1m). The SE corner distance is 11.2m (correctly shown on the plan) and that to the SW corner is 5.76m (shown as 5.67m on the plan).

The assessment of the impact of the most recent scheme (DM/17/0537) on the dwellings to the north was as follows:

*'To the north of the site are four modern, detached properties (5-8 The Oaks). These exhibit a gentle oblique relationship to the site, with rear gardens ranging from around 9-14m in depth. The boundary is a 2-2.5m high coniferous hedge, together with some mature trees. However, there is a close relationship between these properties and the site. In view of this, the scheme has been designed so that the upper floor windows serve a bathroom and ensuite (and a high level double rooflight serving the landing). This means that overlooking to The Oaks could be mitigated through a condition ensuring that the windows are obscure glazed and non-openable. At a distance of 19m to the nearest point of no. 6 The Oaks, compounded by the boundary screen, it is not considered that the proposed dwelling would be overbearing to the amenity of the occupiers of these four properties on The Oaks.'*

The latest composite plan shows the approved siting of the dwelling in red by the appeal Inspector in 2013; the approved siting in blue by Mid Sussex District Council in 2017; and the solid green line as built.

It is difficult to be precise about exactly how different the positioning of the 'as built' dwelling is, when compared to the original scheme, due to measurements not being specified. The original plan shows that the north elevation of the dwelling was parallel with the north boundary, which indicates that the current scheme was more pivoted from its SW corner. It is thus not dissimilar to the scheme approved by the appeal Inspector, but further away from the northern boundary and sited more obliquely. As a guide, the most recent approval (DM/17/0537, as amended) showed a distance from each corner of the proposed dwelling (measured to the northern boundaries parallel with the flank wall of the building) of around 10.8m to 7 The Oaks and 14m to 5 The Oaks. So the positioning of the building appears similar at the NW end but around 1.1m nearer to 7 The Oaks. The distance to the boundary of 6 The Oaks ranges between these two figures.

It is not considered that the relationship between the new dwelling and properties in The Oaks would be overbearing due to its revised siting.

The internal layout remains as originally approved by the appeal Inspector, such that the dormer windows on the first floor north elevation serve a bathroom and ensuite, so a condition can continue to be imposed to ensure that they are obscure glazed.

The lowering of the double rooflights serving the landing has been measured on site as a minimum height of 1.85m about the floor level (the submitted section plan states 1.79m). On this basis, it is not considered that prospective occupants would be able to overlook properties to the north, particularly as rooflights by their nature are designed to direct views upwards rather than straight outwards or downwards.

The approved half-window to the ensuite on the south elevation has now been amended to a rooflight and thus would not result in any overlooking to neighbouring properties.

As before, the assessment of the previous scheme (DM/17/0537) was as follows:

*'The rear gardens of the properties on Gatehouse Lane are long, ranging from 35-55m. The truncated garden of Chippendale will be 25m, thus retaining a good sized garden area in relation to the house (being some 15m in width, once the access is formed). While the upper floor windows (3 no. bedrooms) will face towards these rear gardens, it is not considered - given the size of these gardens and the relationship with existing dwellings - that the amenities of these neighbouring occupants will be significantly harmed by this proposal. Moreover, the distance to the rear elevations of the houses is more than sufficient to ensure that no significantly harmful overlooking would occur.'*

*'The screening to the east consists of mature deciduous trees and conifers, with 50 Foxglove Close beyond being a 2-storey detached dwelling with rear conservatory and south-facing garden. The dwelling would be sited some 12.5m from the boundary and a further 8m from the nearest corner of the house itself. Given this relationship, it is not considered that the amenities of the occupiers would be significantly harmed by this proposal. It would, however, be considered prudent for the proposed secondary east-facing bedroom window at first floor level to be obscure glazed and non-openable.'*

This assessment remains roughly the same; the distance to 50 Foxglove Close has been reduced to 10.9m but the window highlighted above has been obscure glazed and a condition can continue to be imposed to ensure that this remains the case in perpetuity.

Accordingly, the scheme would comply with Policy DP26 of the Mid Sussex District Plan.

### **Highway matters**

The most recent assessment was as follows:

*'The proposed access will be provided 7m further to the north-west along a straight section of Gatehouse Lane from the existing access serving Chippendale. It is not considered that this would result in any highway safety problems. 4 car parking spaces and 2 cycle parking spaces can be provided on site, which is considered acceptable. Although the car parking spaces exceed the council's maximum standards, two of the parking areas would also be used as the turning area.'*

The access has already been deemed acceptable by previous planning permissions. The Highway Authority continue to raise no objection to this latest scheme (which is identical in this respect). Accordingly, the scheme complies with Policy DP21 of the Mid Sussex District Plan.

### **Drainage**

As with the previous planning permission, a standard condition can be placed on any permission. As such, the development would comply with Policy DP41 of the Mid Sussex District Plan.

### **Sustainability**

The sustainability measures to accompany the scheme can be secured by condition to ensure compliance with Policies DP26 and DP39 of the Mid Sussex District Plan and paragraphs 153 and 154 of the NPPF.

### **Impact on trees**

The council raised no objection to the proposed dwelling under 12/01838/FUL and the appeal Inspector agreed that it would have no harmful impact on the existing trees on the site, subject to the imposition of two landscaping conditions.

Application DM/17/0537 was identical to this scheme but the council's Tree Officer at the time objected to this proposal and suggested that the dwelling be repositioned. It is important to acknowledge that the council would not have refused the application on this basis alone, given that a previous decision had been made at a higher level than MSDC (i.e. by an appeal Inspector), so it would not have been appropriate to persist with an objection to a scheme that an Inspector had previously deemed to be acceptable.

Nonetheless, the applicant agreed to reposition the dwelling and the application was approved on this basis.

As the dwelling was not built in accordance with the approved plan, this current scheme has been submitted and the council's current Tree Officer has made comments, raising no objection.

Clearly this does represent a difference in professional opinion, but this is nonetheless consistent with the Inspector's assessment. The main concern is to ensure that the trees are protected during the construction process and this is sought through a continuation of the conditions previously applied.

Accordingly it is considered that Policy DP37 of the Mid Sussex District Plan would be met.

### **Impact on Ashdown Forest**

Under the Conservation of Habitats and Species Regulations 2017 (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) are 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.

The application site is outside of the 7km zone of influence and thus there would be no effect on the SPA from recreational disturbance.

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.

### **Standard of accommodation**

Policy DP27 of the Mid Sussex District Plan states:

*'Minimum nationally described space standards for internal floor space and storage space will be applied to all new residential development. These standards are applicable to:*

- *Open market dwellings and affordable housing;*
- *The full range of dwelling types; and*
- *Dwellings created through subdivision or conversion.*

*All dwellings will be required to meet these 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 proposed dwelling would provide approximately 255 sq m of internal floorspace, exceeding the standard of 115 sq m (4-bed, 7-person, 2-storey). Accordingly, the proposal would comply with the government's Technical Housing Standards - Nationally Described Space Standards document, so would constitute a high quality development and thereby comply with Policies DP26 and DP27 of the Mid Sussex District Plan.

## **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. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

Weighing in favour of the scheme is that the development will provide 1 additional residential unit in a sustainable location at a time where there is a general need for Local Authorities to boost significantly the supply of housing and this should be given positive weight. 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 planning history of this site remains a significant material consideration that weighs in favour of this scheme.

It is also a highly important material planning consideration that the principle of a residential development has been accepted on the site by the Council by virtue of the fact that planning permission was granted for a detached dwelling and garage at this site in 2017 and this permission is still extant.

Weighing against the scheme is the fact that this dwelling is located in a backland location, which is generally resisted under the relevant Neighbourhood Plan policy.

There will, however, be a neutral impact in respect of a number of issues, such as the design, landscaping, drainage and sustainability. There will be no adverse impact on the Ashdown Forest.

For the above reasons, the scheme is deemed to comply with Policies DP4, DP6, DP17, DP21, DP26, DP27, DP37, DP39 and DP41 of the Mid Sussex District Plan, Policies S4, H2 and H3 of the Burgess Hill Neighbourhood Plan and the objectives of the National Planning Policy Framework. Planning permission should therefore be granted.

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## **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 following outstanding matters shall be implemented in accordance with the details agreed as part of planning permission DM/17/0537:

- Materials;
- Surface treatments;
- Boundary treatments;
- Hard and soft landscaping;
- Drainage;
- Levels;
- Temporary vehicle parking;
- Temporary contractors' buildings, plant and stacks of materials;
- Cycle parking.

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 Policies DP21, DP26, DP29 and DP37 of the Mid Sussex District Plan.

### **Construction phase**

3. No work for the implementation of the development hereby permitted shall be undertaken on the site on Sundays or Bank/Public Holidays or at any time other than between the hours 8am and 6pm on Mondays to Fridays and between 9am and 1pm Saturdays.

Reason: To safeguard the amenities of nearby residents and to accord with Policies DP26 and DP29 of the Mid Sussex District Plan.

### **Post-occupation monitoring / management conditions**

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be enlarged, extended or altered and no windows or doors other than those expressly authorised by this permission shall be constructed.

Reason: In order to protect the appearance of the area and protect the amenities of adjacent residents and to accord with Policy DP26 of the Mid Sussex District Plan.

5. The north and east facing first floor windows shall be fitted with obscured glass and shall be non-openable below 1.7m above the floor level of the rooms that they serve. The windows shall be permanently retained in that condition.

Reason: In order to protect the amenities of adjacent residents and to accord with Policy DP26 of the Mid Sussex District Plan.

6. The development shall be carried out in accordance with the Sustainability Statement submitted as part of the application. On completion of the development, an independent final report shall be prepared and submitted to the Local Planning Authority to demonstrate that the proposals in the Statement have been implemented.

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development,

in accordance with Policy B4 of the Mid Sussex Local Plan, Policy DP39 of the draft Mid Sussex District Plan and the National Planning Policy Framework.

## 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. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £116 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
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
Landscaping	8299-5	A	22.11.2018
Landscaping Details	8299-6	A	22.11.2018
Location and Block Plan	8299-10		22.11.2018
Site Plan	8299-12		13.12.2018
Proposed Elevations	8299-2	B	21.12.2018
Proposed Floor Plans	8299-13	A	21.12.2018

## APPENDIX B – CONSULTATIONS

### Parish Consultation

RECOMMEND REFUSAL - it was a back garden development which was overbearing. Planning agreement had not been followed - it was not in the right place and should be sited as per the agreed plans. The Tree Officer stated that it was too close to trees.

### MSDC Tree Officer

Variation to condition 2 has no further impact on the surrounding trees.

### 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.

West Sussex County Council, as the Local Highway Authority (LHA), has been re-consulted on variation of condition 2 of DM/17/0537 (new dwelling and access). Previous comments dated 12th December 2018 still apply:

*The variation of condition is in order to amend the position of the dwelling by replacing approved drawing 001/01A.*

*From an inspection of the plans the slightly altered position of the dwelling does not impact on the access and parking arrangements which have previously been accepted.*

*No highways comment.*

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MID SUSSEX DISTRICT COUNCIL

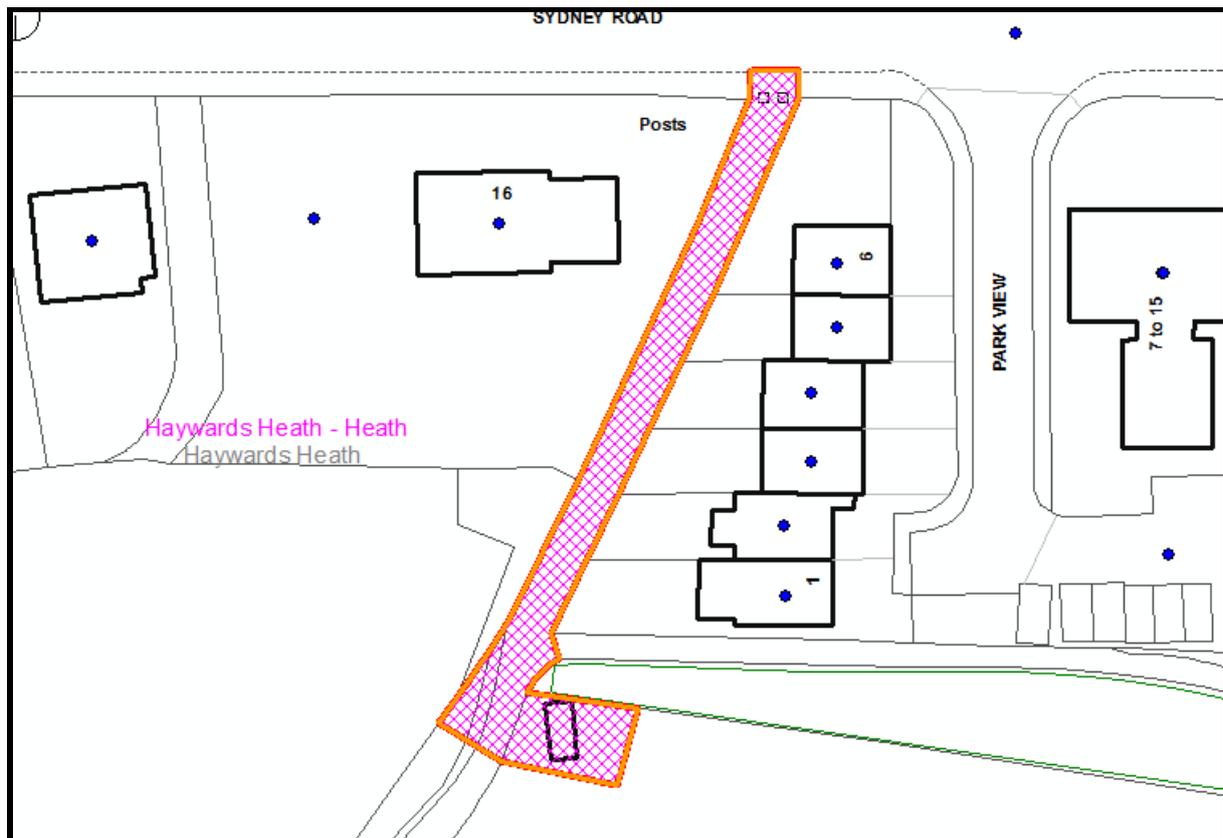
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

**Haywards Heath**

**DM/18/4994**



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**HAYWARDS HEATH CRICKET CLUB THE PAVILION THE HEATH RECREATION GROUND PERRYMOUNT ROAD  
DEMOLITION OF TIMBER SHED AT NORTH WEST CORNER OF PLAYING FIELD AND REPLACEMENT WITH A PERMANENT AND SECURE EQUIPMENT STORE.  
MARTIN RUTHERFORD**

POLICY: Built Up Areas / Conservation Area / Classified Roads - 20m buffer / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) / SWT Bat Survey /

ODPM CODE: Minor Other

8 WEEK DATE: 2nd April 2019

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

CASE OFFICER: Kate Brocklebank

### **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**

The application seeks planning permission to replace an existing equipment store, in the same location within the north west corner of The Health Recreation Ground, adjacent to the existing cricket nets. The site is located within The Heath Conservation Area.

The application is being reported to committee as MSDC is the landowner.

The proposed structure is of a more solid construction and is larger than the existing timber store and is proposed to be constructed in brick with a flat roof and will contain two sets of steel double doors within the southern elevation. The siting and scale requires the removal of an existing Silver Birch Tree. The impact of the increased scale of the building and loss of the tree in relation to the character of the surrounding conservation area is proposed to be mitigated by seeking a replacement tree and proportionate landscaping. With the imposition of a condition to secure this information, along with details of foul and surface water drainage, the proposal will not harm the character of the conservation area, is considered to be of an acceptable standard of design, would not harm neighbouring amenity and would meet the requirements of policies DP26, DP34, DP37 and DP41 of the Mid Sussex District Plan and E9 of the Haywards Heath Neighbourhood Plan. The store would allow the Club to improve the quality of the facility through improved maintenance of the outfield and would therefore meet the requirements of policy DP24 of the District Plan.

The application is therefore recommended for conditional approval as set out in full at Appendix A.

### **SUMMARY OF CONSULTees**

#### **Haywards Heath Town Council:**

No comment.

**Conservation Officer:**

No objection.

**Drainage Engineer:**

No objection.

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**APPLICATION DETAILS**

The application seeks planning permission for a replacement equipment store on the same footprint as an existing smaller timber store. The proposed building would have a flat roof and two sets of double access doors on the southern elevation. The building would be constructed of brick elevations and steel framed doors with a flat roof measuring approximately 4m in width and depth and 2.5m in height.

**LIST OF POLICIES****Neighbourhood Plan**

Haywards Heath Neighbourhood Plan: Made December 2016.

Relevant policies:

Policy E9: Reinforce character

Policy L9: Existing playing fields and sporting facilities

**Mid Sussex District Plan Adopted March 2018**

Relevant policies:

DP24: Leisure and Cultural Facilities and Activities

DP26: Character and Design

DP35: Conservation Areas

DP37: Trees, Woodland and Hedgerows

DP41: Flood Risk and Drainage

**National Policy and Legislation**

*National Planning Policy Framework (NPPF) (Feb 2019)* is also a material consideration and paragraphs: 10 & 11 (presumption in favour of sustainable development) 124 & 127 (achieving well-designed places) are considered to be of particular relevance to this application. Paras 193 and 194 (Conserving and enhancing the historic environment) relate to assessing the impacts on designated heritage assets.

**ASSESSMENT**

It is considered that the main issues that need to be considered in the determination of this application are design, impact on the conservation area, amenity and impact on trees.

The relevant sections in District Plan Policy DP26: Character and Design state:

*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 DP29);*
- *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;*
- *optimises the potential of the site to accommodate development.*

Section 73 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that within conservation areas the decision maker shall pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

District Plan policy DP35 (Conservation Areas) requires new development to conserve and enhance the special character and appearance of the surrounding conservation area by ensuring they are sensitively designed and respect the context within which they are located and Haywards Heath Neighbourhood Plan (NP) policy E9 is drafted in a similar vein.

The proposal seeks to replace an existing timber building which currently serves as an equipment store in connection with the pavilion at the Cricket Club. The proposed replacement building is larger in scale and of a more solid construction and would be sited in the same location as the existing building.

The Club require a larger and more secure store to house a new sit-on mower along with the mechanical roller which is currently kept in the existing store; the Club then intend to start maintaining the outfield themselves. The outfield is currently maintained by a MSDC subcontractors and the Club have been experiencing problems with the standard of the field. As such, the Club are seeking to maintain the

ground themselves during the cricket season which they identify has the potential to significantly improve the standard of the facility and associated training.

The Club have identified that the training is being affected by the poor quality of the outfield and as such, the proposed store would allow them to notably improve the Clubs facilities in accordance with policy DP24 of the District Plan.

The Council's Conservation Officer has considered the proposal and notes that the existing building is of no architectural merit and its removal is considered acceptable. The proposed replacement building will be more prominent however it will remain modestly sized in the context of the pitch and the design although utilitarian is considered acceptable. The proposal requires the removal of a Silver Birch tree which is classed as Grade C in the supporting Arboricultural assessment. The loss of this tree although regrettable is considered acceptable providing a replacement tree and softening landscaping proportionate to the development is secured by condition which will help to mitigate the loss of the tree and soften the impact of the proposed larger structure. It is also considered necessary to secure details of the facing and roofing materials. With the imposition of said conditions, the proposal will preserve the character and appearance of the Heath Conservation Area which would meet the requirements of District Plan Policies DP26, DP34 and DP37 and the relevant paragraphs of the NPPF.

In order to meet the requirements of District Plan policy DP41, details of foul and surface water drainage will also be sought by condition. The Council's Drainage Engineer is seeking confirmation that the existing culver is a minimum of 5m away, our records show it to be twice that and as such it is considered appropriate to condition that this minimum distance is maintained.

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## **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 samples and a schedule of materials and finishes to be used for external walls and roof of the building hereby approved, along with details of the proposed colour and finish of the doors 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 in writing.

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 Policies DP26 and DP35 of the Mid Sussex District Plan 2014 - 2031.

4. Prior to commencement of the development hereby permitted a scheme for landscaping, including a replacement Silver Birch Tree, shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or the development first being brought into use, whichever is the sooner. 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 Policies DP26, DP35 and DP37 of the Mid Sussex District Plan 2014 - 2031.

#### 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
Proposed Floor and Elevations Plan	HHC/2		12.12.2018
Location Plan	HHC/3	2	10.01.2019
Block Plan	HHC/4	2	10.12.2018

### APPENDIX B – CONSULTATIONS

#### Haywards Heath Town Council:

No comment.

#### Conservation Officer - Emily Wade:

No objection - The application site is within the Heath Recreation Ground, at the heart of the Heath Conservation Area. The Recreation Ground consists of a cricket pitch with associated pavilion and practice nets and terraced landscaping to the east, with beyond this to the east and to the south of the pitch an area of woodland, a remnant of the original 'Haywards Heath'. The Recreation Ground was created around the turn of the 19th/20th centuries, as the development of the town proceeded around it. The formal and informal open spaces of the Recreation Ground make a key positive contribution to the character and appearance of the Conservation Area.

The proposal is for the removal of an existing timber storage shed to the northern side of the cricket pitch, adjacent to the nets, and its replacement on an enlarged footprint with a brick built flat roofed structure, with double steel doors.

The existing shed is not of any architectural merit and its removal is not considered contentious. The proposed replacement building is bigger (wider) than the existing and will this be more prominent in views towards it across the open space of the cricket pitch. However it remains modestly sized in the context of the pitch as a whole. In design terms it is of a utilitarian appearance which is considered acceptable in the context of the existing building and adjoining nets subject to details of facing and roofing materials. I note that a tree is to be removed as part of the works and would suggest that due to this and the enlarged size of the building it would be appropriate to require some softening planting around the new building which would help to mitigate any associated loss of green open space/vegetation.

Subject to the above details I consider that the proposal will preserve the character and appearance of the Heath Conservation Area which would meet the requirements of District Plan Policy DP34 and the relevant paragraphs of the NPPF.

Suggested conditions:

- details including samples of facing and roofing materials
- detailed drawings of a scheme of soft landscaping etc.

#### Drainage Engineer:

(Updated comment) No objection - the development has been demonstrated to be an acceptable distance from the surface water culvert and as such a drainage condition is no longer required and surface water can be managed through a roof drop onto the ground.

(Original comment) No objection - with the imposition of a condition to secure details of foul and surface water drainage and to identify the location of the existing culvert.

#### **SURFACE WATER DRAINAGE PROPOSAL**

It is proposed that the development will manage surface water drainage through the use of a soakaway.

#### **FOUL WATER DRAINAGE PROPOSAL**

It is proposed that the development will require no foul water drainage.

#### **FLOOD RISK CONSULTATION**

The proposed development is within flood zone 1 and is deemed to be at low fluvial flood risk. Based on the Environment Agency's Risk of Surface Water Flooding map the proposed development is located in an area of no surface water flood risk. However, an area of increased surface water flood risk is located in close proximity to the development. There are historic records of flooding occurring on Sydney Road and Park View to the north of the development.

#### **DRAINAGE CONSULTATION**

No details of how surface water drainage shall be managed on site have been provided. However, the application form suggests the use of a soakaway. Our plans show a surface water culvert / drain is located approximately 10m from the proposed development site. Confirmation of the exact location of this culvert will be required and the development should be located a minimum of 5m away from its actual location.

MID SUSSEX DISTRICT COUNCIL

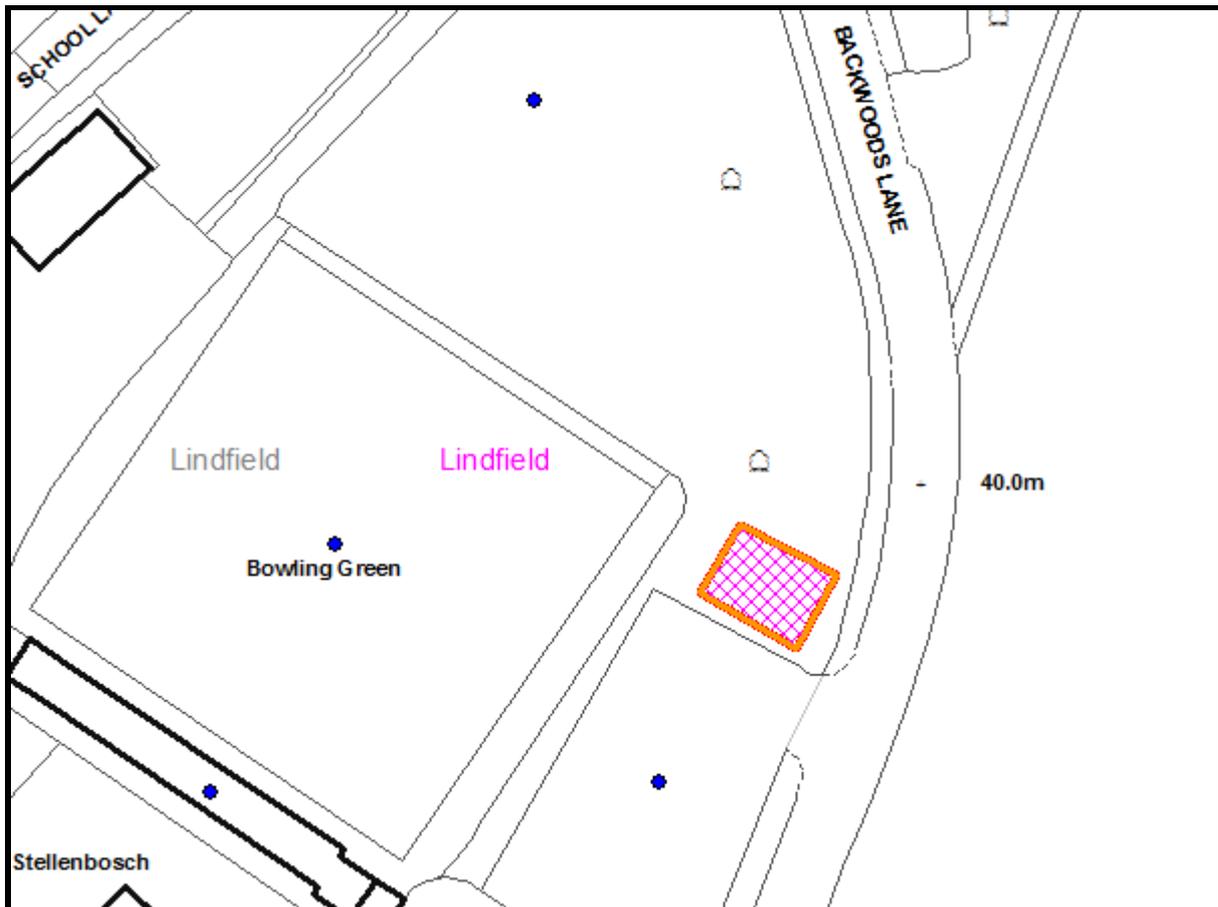
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

**Lindfield**

**DM/19/0071**



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**LAND NORTH OF LINDFIELD COMMON BOWLING GREEN CAR PARK  
BACKWOODS LANE LINDFIELD  
THE CONSTRUCTION OF A PUBLIC CONVENIENCE BLOCK ON  
COMMON LAND TO THE NORTH OF THE CAR PARK AT LINDFIELD  
BOWLING CLUB ON BACKWOODS LANE.  
MR ANDREW FUNNELL**

POLICY: Article 4 Direction / Built Up Areas / Conservation Area / Common  
Land / Aerodrome Safeguarding (CAA) / SWT Bat Survey /

ODPM CODE: Minor Other

8 WEEK DATE: 29th March 2019

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

CASE OFFICER: Hamish Evans

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Lead Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

Planning permission is sought for the erection of a Public Convenience Block at Land North of Lindfield Common, Bowling Green Car Park, Backwoods Lane, Lindfield.

The application is before committee as the application site is located on land owned by Mid Sussex District Council.

The application must be determined in accordance with the development plan unless material planning considerations indicate otherwise. The development plan in this part of the Mid Sussex comprises of the Lindfield and Lindfield Rural Neighbourhood Plan (2016) and Mid Sussex District Plan (2018).

In terms of policy the site falls inside the built up area Lindfield and the site falls within the Lindfield Conservation Area as defined by the Mid Sussex District Plan and Lindfield and Lindfield Rural Neighbourhood Plan. The provision of public toilets at Lindfield Common is an identified infrastructure project to support the development proposals in the Neighbourhood Plan (Proposal 3).

The proposed development complies with policy DP21, DP25, DP26, DP35, DP37 and DP41 of the Mid Sussex District Plan, Policy 1 and Proposal 3 of the Lindfield and Lindfield Rural Neighbourhood Plan and the relevant requirements of the National Planning Policy Framework. 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**

22 letters of objection:

- Significantly detrimental impact of the highways safety of Backwoods Lane.
- Parish Council should undertake risk assessments in respect of pedestrian safety and child protection
- Proposal would block views of oncoming traffic for motorists
- No crossing facility so putting users of the facilities at risk
- Scale and design of the proposal would have a significantly detrimental impact on the setting of the conservation area
- Proposal would negatively affect the existing tree
- Unsuitable location, proposal would be more suitable closer to the playground

1 letter commenting on the application:

- Highlighted the need for the toilets but raised concern from a highways safety aspect

5 letters in support:

- Highlighted the need for the toilets
- Benefit to the community
- Suggested a different location

## **SUMMARY OF CONSULTATIONS (full comments in Appendix B)**

### **Highway Authority**

No objection.

### **Conservation Officer**

No objection, subject to conditions relating to materials.

### **Tree Officer**

No objection.

### **Drainage Officer**

No objection subject to conditions.

### **Anti-Social Behaviour Officer**

No objection provided that the toilets are opened in the morning and locked in the evening and that the disabled toilet is radar key access.

## **LINDFIELD AND LINDFIELD RURAL PARISH COUNCIL COMMENTS**

No comments received.

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### **INTRODUCTION**

Planning permission is sought for the construction of a public convenience block on common land to the north of the car park at Lindfield Bowling Club on Backwoods Lane.

### **RELEVANT PLANNING HISTORY**

No relevant planning history.

### **SITE AND SURROUNDINGS**

The application site is part of Lindfield Common to the west of Backwoods Lane and just to the north of the Bowling Green car park. It is currently laid with grass which is crossed by a tarmac footpath.

The site is within the Lindfield built up area boundary, the Lindfield Conservation Area.

### **APPLICATION DETAILS**

The application seeks planning permission for the construction of a public convenience block on Common Land to the north of the car park at Lindfield Bowling Club on Backwoods Lane. The application is before the committee as the application site is on land owned by Mid Sussex District Council.

The proposed convenience block measures some 5 metres in depth, 7.3 metres in width with an eaves height of 2.2 metres and an overall height (created by the roof ventilation) of 5 metres. Internally the proposed male toilet and the proposed female toilet will both measure some 1.6 metres in width and 2.3 metres in depth. Internally the disabled/baby changing toilet will measure some 3.4 metres in width and 2.1 metres in depth. Internally the proposed unisex/baby changing toilet and the solely unisex toilet will measure some 1.6 metres in width and 3.0 metres in depth. Internally the storage room to the northern elevation will measure some 3.3 metres in width and 1.4 metres in depth.

The proposal includes 4 doors to the southern elevation, 1 door to the northern elevation, 1 door to the eastern elevation and the installation of a roof ventilation system. The proposed walls are to be constructed of facing brick work, the roof is to be constructed of grey slate and the proposed doors are to be constructed of powder coated aluminium doors with aluminium frames.

## LIST OF POLICIES

### Mid Sussex District Plan

DP21 - Transport  
DP25 - Community Facilities and Local Services  
DP26 - Character and Design  
DP35 - Conservation Areas  
DP37 - Trees, Woodland and Hedgerows  
DP41 - Flood Risk and Drainage

### Lindfield and Lindfield Rural Neighbourhood Plan

The Lindfield and Lindfield Rural Neighbourhood Plan was made in 28th January 2016, therefore it carries full weight. The relevant policies are considered to be:

Policy 1: A Spatial Plan for the Parishes  
Proposal 3: Infrastructure Investment (whilst not a statutory policy, it is included in the NP as a community aspiration)

### National Planning Policy Framework February 2019

#### ASSESSMENT

The main issues are considered to be the design and scale of the scheme, the resulting impact on the character and appearance of the area and the Conservation Area and the potential impact of the proposal on the highway safety of Backwoods Lane.

#### Community Facilities and Local Services

District Plan policy DP25 in part states that:

*"The provision or improvement of community facilities and local services that contribute to creating sustainable communities will be supported..."*

*Community facilities and local services to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council."*

The Lindfield and Lindfield Rural Neighbourhood Plan proposal 3: Infrastructure Investment states in part:

*"The Parish Councils propose the financing and delivery of the following infrastructure projects using the Lindfield and Lindfield Rural allocation of the Mid Sussex Community Infrastructure Levy (once applicable) and other previous and future sources of funds as appropriate:*

*1. Provision of public toilets at Lindfield Common and Scaynes Hill Millennium Centre."*

As the proposal was identified in the Lindfield and Lindfield Rural Neighbourhood Plan proposal 3: Infrastructure Investment as a non statutory community aspiration, it is considered that the proposal complies with Mid Sussex District Plan policy DP25.

### **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 DP29);*
- *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."*

Policy 1 of the Lindfield and Lindfield Rural Neighbourhood Plan has a similar ethos to DP26 of the Mid Sussex District Plan in regards to development being appropriate in scale, massing and character.

Given that the proposal is located near existing structures on the common such as the bowling club, the proposed materials will be in keeping with the wider street scene, the modest nature of the proposal and that the existing tree will be retained 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 wider street scene in accordance with policy DP26 of the Mid Sussex District Plan.

## Neighbouring Amenities

DP26 in part 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 (see Policy DP29);"*

There are no residential dwellings in the immediate vicinity of the proposal and the neighbouring bowling club has a boundary hedge that measures some 1.8 metres in height and due to the modest single storey nature of the proposal the resulting relationship is not considered to cause a significant detrimental impact in terms of overlooking, loss of privacy, reduction in sunlight and daylight and a loss of outlook and are considered to comply with the above mentioned policy.

## Conservation Area

S.72 of the Listed Building and Conservation Area (LBCA) Act 1990 (General duty as respects conservation areas in exercise of planning functions) is relevant and states:

*'In the exercise, with respect to any buildings or other land in a conservation area ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.*

District Plan policy DP35 states:

*"Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:*

- *New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials;*
- *Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character;*
- *Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not result in the loss of a traditional shopfront and the new design is sympathetic to the character of the existing building and street scene in which it is located;*
- *Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area;*
- *Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;*
- *New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.*

*Development will also protect the setting of the conservation area and in particular views into and out of the area.*

*New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area."*

The Planning Officer agrees with the views of your Conservation Officer. Due to the modest nature of the proposal and the location of the proposal being grouped with existing buildings associated with the Bowling Club the proposals impact on the openness and setting of the conservation area is minimised. The design of the proposal is also considered to be appropriate subject to conditions relating to materials. As such the proposal is deemed to comply with the requirements of the District Plan Policy DP35 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Highways Safety**

District Plan policy DP21 in part states:

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

Paragraph 108 of the NPPF is relevant in respect of transport matters and states that:

*"In assessing sites that may be allocated for development in plans, or specific application for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

In addition, paragraph 109 of the NPPF states:

*"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

The Local Highways Authority West Sussex County Council was consulted in regards to this application and they have raised no objections. They consider that as the building will be sited at least 3m from the back edge of the carriageway, it is not anticipated to restrict visibility for vehicles exiting the car park, or vehicles travelling along Backwoods Lane. Forward visibility along Backwoods Lane is good in this location due to the low-level Common boundary treatments. The proposed public conveniences are connected to existing footways, linking the site to surrounding facilities and amenities, including existing crossing points. An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals that

there have been no recorded injury accidents within the vicinity of the site. Therefore there is no evidence to suggest that the existing road network and access onto Backwoods Lane from the car park is operating unsafely or that the addition of a public convenience block in this location would exacerbate an existing safety concern. The erection of public conveniences in this location is not anticipated to result in a material intensification of use of the car park or access onto Backwoods Lane which is currently used by customers of the existing Bowling Green and for school drop off/pick up.

The proposal is not anticipated to affect existing parking or turning arrangements within the existing car park.

As such the Local Highways Authority does not consider that the proposal would have a 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109) and complies with Mid Sussex District Plan policy DP21, and that there are no transport grounds to resist the proposal.

### **Drainage**

Policy DP41 seeks to ensure that development is safe across its lifetime and to restrict development that would increase the risk of flooding. The proposed development is within flood zone 1 and is deemed to be at low fluvial flood risk. It is proposed that the development will manage surface water drainage through the use of a soakaway and the foul water drainage through the use of the main foul sewer. Details of this can be secured by a condition and as such the councils Drainage Engineer has no objection subject to the details, and hence the proposal would comply with Policy DP41 of the Mid Sussex District Plan.

### **Tree**

Policy DP37 of the District Plan seeks to retain trees that contribute either individually or as part of a group to the visual amenity value of an area. An Arboricultural Impact Assessment has been submitted with the application which recommends that the T1(Lime) would require some facilitative pruning. The councils Tree Officer has raised no objection to the proposal as such the proposal is deemed to comply with DP37 of the District Plan.

### **Anti-Social Behaviour**

In response to representations received commenting on the potential increase in anti-social behaviour because of the proposal, the council's Anti-Social Behaviour Officer was asked to advise on the application and it was their view that the proposal does not present any concerns provided that the toilets are opened in the morning and locked in the evening and that the disabled toilet is radar key access. As stated in the planning statement submitted with the application there are opening times from dusk till dawn with an automatic remote locking system.

## CONCLUSION

The proposal is identified in the Lindfield and Lindfield Rural Neighbourhood Plan proposal 3: Infrastructure Investment. It would be of an appropriate design, size and scale that is in keeping with the character of the wider street scene and is not considered to cause a significant detrimental impact in terms of overlooking, loss of privacy, reduction in sunlight and daylight and a loss of outlook. A condition can be applied to secure an appropriate palette of materials.

The Highways Authority does not consider that the proposal would have a 'severe' impact on the operation of the Highway network. The councils Drainage Engineer has no objection subject to the details and the Tree Officer has raised no objections and the councils Anti-Social Behaviour Officer has not raised any concerns subject to certain conditions detailed in the report.

As such the proposed development complies with DP21, DP25, DP26, DP35, DP37 and DP41 of the Mid Sussex District Plan, Policy 1 and Proposal 3 of the Lindfield and Lindfield Rural Neighbourhood Plan and the relevant policies within the NPPF.

The application is therefore recommended for approval subject to the conditions listed in Appendix A.

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### 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.

#### **Pre-commencement conditions**

3. 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 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 and Policy DP41 of the Mid Sussex District Plan (2014 - 2031) and the Lindfield and Lindfield Rural Neighbourhood Plan.

4. No development shall commence unless and until there has been submitted to an approved in writing by the Local Planning Authority sample and details of facing

materials and finishes to be used for external walls, roof and doors of the proposed building.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve buildings of visual quality and to accord with Policy DP26 of the District Plan 2014 - 2031

## INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by 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.
2. 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:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location and Block Plan	H3739.1.101		08.01.2019
Proposed Floor Plans	H3739.1.110		08.01.2019
Proposed Floor and Elevations Plan	H3739.1.111		08.01.2019
Topographical Survey	001		08.01.2019
Topographical Survey	002		08.01.2019
Topographical Survey	003		08.01.2019
Topographical Survey	Layout		08.01.2019

## **APPENDIX B – CONSULTATIONS**

### **Lindfield and Lindfield Rural Parish Council**

No comment received.

### **Highway Authority**

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.

This proposal is for the erection of a public convenience block on Common Land to the north of the car park at Lindfield Bowling Club. The site is located on Backwoods Lane, an unclassified road subject to a speed limit of 30mph.

The proposed toilet block will be positioned on Common Land. The building will be sited at least 3m from the back edge of the carriageway. As such this is not anticipated to restrict visibility for vehicles exiting the car park, or vehicles travelling along Backwoods Lane. Forward visibility along Backwoods Lane is good in this location due to the low-level Common boundary treatments. The proposed public conveniences are connected to existing footways, linking the site to surrounding facilities and amenities, including existing crossing points.

An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals that there have been no recorded injury accidents within the vicinity of the site. Therefore there is no evidence to suggest that the existing road network and access onto Backwoods Lane from the car park is operating unsafely or that the addition of a public convenience block in this location would exacerbate an existing safety concern. The erection of public conveniences in this location is not anticipated to result in a material intensification of use of the car park or access onto Backwoods Lane which is currently used by customers of the existing bowling green and for school drop off/pick up.

The proposal is not anticipated to affect existing parking or turning arrangements within the existing car park.

### **Conclusion**

The LHA does not consider that this proposal would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

### **Conservation Officer – Emily Wade**

The application site is part of Lindfield Common to the west of Backwoods Lane and just to the north of the Bowling Green car park. It is currently laid to grass which is crossed by a tarmac footpath. The proposal is for the erection of a toilet block with associated hard landscaping. The site is within the Lindfield Conservation Area.

The green and open nature of Lindfield Common is key to its character and to the strongly positive contribution it makes to the character and appearance of the Lindfield Conservation Area. In other circumstances development on the Common is likely to be considered contentious. However the currently proposed toilet block is modestly sized and is located to one side of the common adjacent to the car park and buildings associated with the Bowling Club, so that its impact on the openness of the area is minimised. In design terms the building is considered appropriate to the context, subject to conditions relating to materials.

I therefore consider that the proposal preserves the character and appearance of the Conservation Area and meets the requirements of District Plan Policy DP35 and the relevant paragraphs of the NPPF.

I would recommend a condition requiring details including samples of the facing and roofing materials.

### **Tree Officer**

Further to reviewing the submitted AIA 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 TPO, but is within the local Conservation Area.

No trees are to be removed to facilitate the development but some facilitative pruning is recommended to T1. These works are considered minor and are very unlikely to have a detrimental effect on the trees long term health.

Protection measures for retained trees have been detailed within the Tree Protection Plan, including: Construction Exclusion Zones using suitable fencing/signage and temporary ground protection within the RPA of T1.

Good working practices while excavating within the RPA of T1 include: sympathetic treatment of disturbed roots and of manual excavation using hand tools only.

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

As the completed structure will sit partially beneath the crown of T1, the development may bring some additional future pressure to prune the tree away from the building. However, its doubtful that these works will be significant or have any major effects on the trees future health.

No objection.

### **Drainage Officer**

#### **SURFACE WATER DRAINAGE PROPOSAL**

It is proposed that the development will manage surface water drainage through the use of a soakaway.

#### **FOUL WATER DRAINAGE PROPOSAL**

It is proposed that the development will manage foul water drainage through the use of the main foul sewer.

#### **FLOOD RISK**

The proposed development is within flood zone 1 and is deemed to be at low fluvial flood risk. The proposed development is not within an area identified as having possible surface water (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.

## **FLOOD RISK AND DRAINAGE TEAM CONSULTATION**

No details of the proposed foul or surface water drainage systems have been provided. We would advise the applicant that percolation testing will be required to ensure soakaways would be suitable on site. Soakaways will also need to be located a minimum of 5m of any structures.

Further information into our requirements for foul and surface water drainage are included within the 'further advice' section.

## **SUGGESTED CONDITIONS**

### **C18D - Single Building**

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 ADVICE**

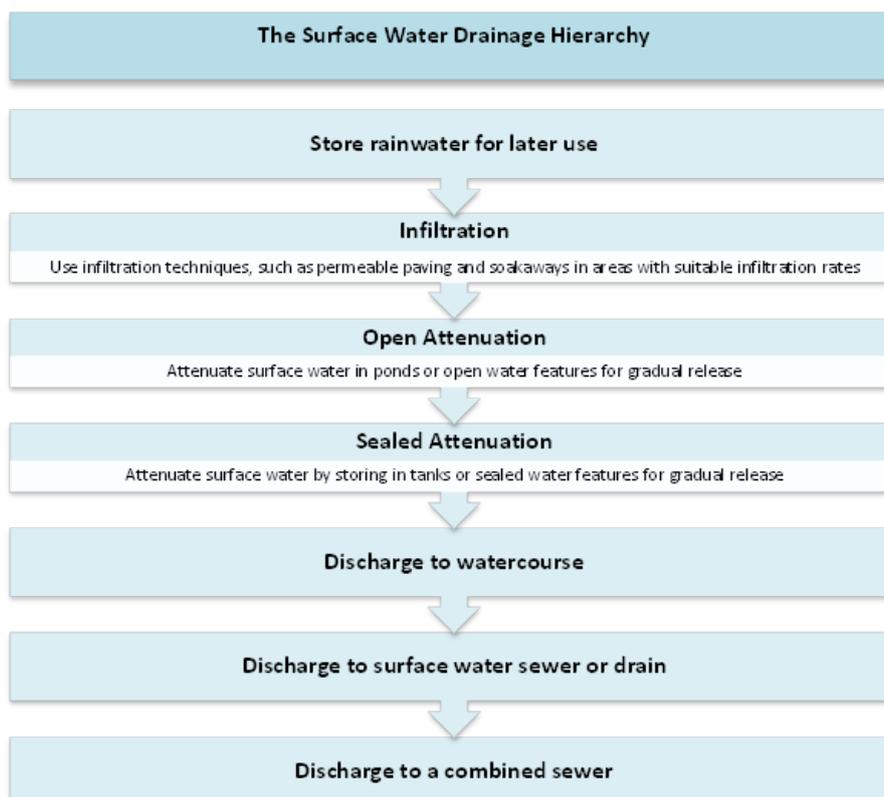
The following information will be required for the proposed development.

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.

As this is for a public building, 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 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](#). Additional information may be required under specific site conditions or development proposals.

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

Pre-app	Outline	Full	Reserved	Discharge	Document submitted
		√	√		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

### Specific Information Required

The following provides a guideline into the specific information required based on the type of development, location and type of surface water drainage management proposed. Multiple lists may be relevant to a single application.

DESCRIPTION OF DEVELOPMENT	INFORMATION REQUIRED
<p>Located in Flood Zone 2 or 3.</p> <p>Located in Flood Zone 1 and greater than 1 hectare in area.</p> <p>Located in an area where a significant flood risk has been identified.</p>	<p>Flood Risk Assessment which identified 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.</p>
<p>Multiple plot development.</p>	<p>A maintenance and management plan will need to be submitted that shows how all drainage 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</p>

	replacements, will need to be submitted. A clear timetable for the schedule of maintenance can help to demonstrate this.
Public sewer under or adjacent to site	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. Evidence of approvals to build over or within close proximity to such sewers will need to be submitted.
MSDC culvert under or adjacent to 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 477 055 or <a href="mailto:drainage@midsussex.gov.uk">drainage@midsussex.gov.uk</a> .
Watercourse on or adjacent to site	A watercourse maintenance strip of 5 to 8 metres is required between any building and the top-of-bank of any watercourse that may run through or adjacent to the development site.

<p style="text-align: center;"><b>PROPOSED SURFACE WATER DRAINAGE METHOD</b></p>	<p style="text-align: center;"><b>INFORMATION REQUIRED</b></p>
<p>Soakaways</p>	<p>Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the soakaway system will be able to cater for the 1 in 100 year storm event plus have extra capacity for climate change. It will also need to be demonstrated that the proposed soakaway will have a half drain time of 24 hours or less.</p>
<p>SuDS and attenuation</p>	<p>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.</p> <p>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 a precautionary worst case taken.</p> <p>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.</p>

	<p>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.</p> <p>You cannot discharge surface water unrestricted to a watercourse or sewer.</p>
<p>Outfall to watercourse</p>	<p>Any proposed run-off to a watercourse 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. You cannot discharge surface water unrestricted to a watercourse.</p> <p>If works (including temporary works) are undertaken within, under, over or up to an Ordinary Watercourse, then these works are likely to affect the flow in the watercourse and an Ordinary Watercourse Consent (OWC) may need to be applied for. Guidance into the OWC application process can be found on West Sussex County Council's website at</p>

	<p><a href="https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extreme-weather/dealing-with-flooding/flood-risk-management/ordinary-watercourse-land-drainage-consent/">https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extreme-weather/dealing-with-flooding/flood-risk-management/ordinary-watercourse-land-drainage-consent/</a></p> <p>OWC applications can also be discussed and made with Mid Sussex District Council, Scott Wakely, 01444 477 005.</p>
<p>Outfall to public sewer</p>	<p>Any proposed run-off to a sewer 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. You cannot discharge surface water unrestricted to a sewer.</p> <p>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. It will be expected that any controlled discharge of surface water will need to be restricted so that the cumulative total run-off rates, from the developed area and remaining greenfield area, is not an increase above the pre-developed greenfield rates.</p>

**Useful Links**

[Planning Practice Guidance - Flood Risk and Coastal Change](#)

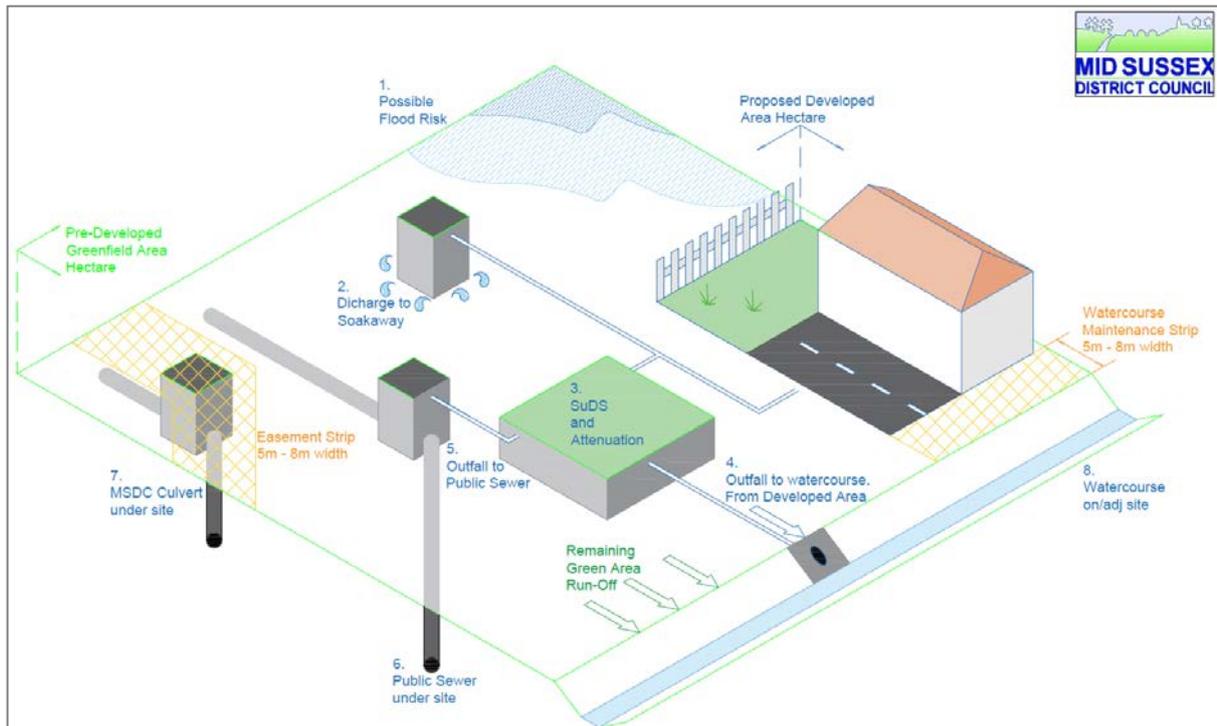
[Flood Risk Assessment for Planning Applications](#)

[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/>



### Anti-Social Behaviour Officer

I have discussed this with Donna Shore, Anti-social Behaviour Officer and our view is that the proposal doesn't present any concerns as long as the toilets are opened in the morning and locked in the evening and that the disabled toilet is radar key access.

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MID SUSSEX DISTRICT COUNCIL

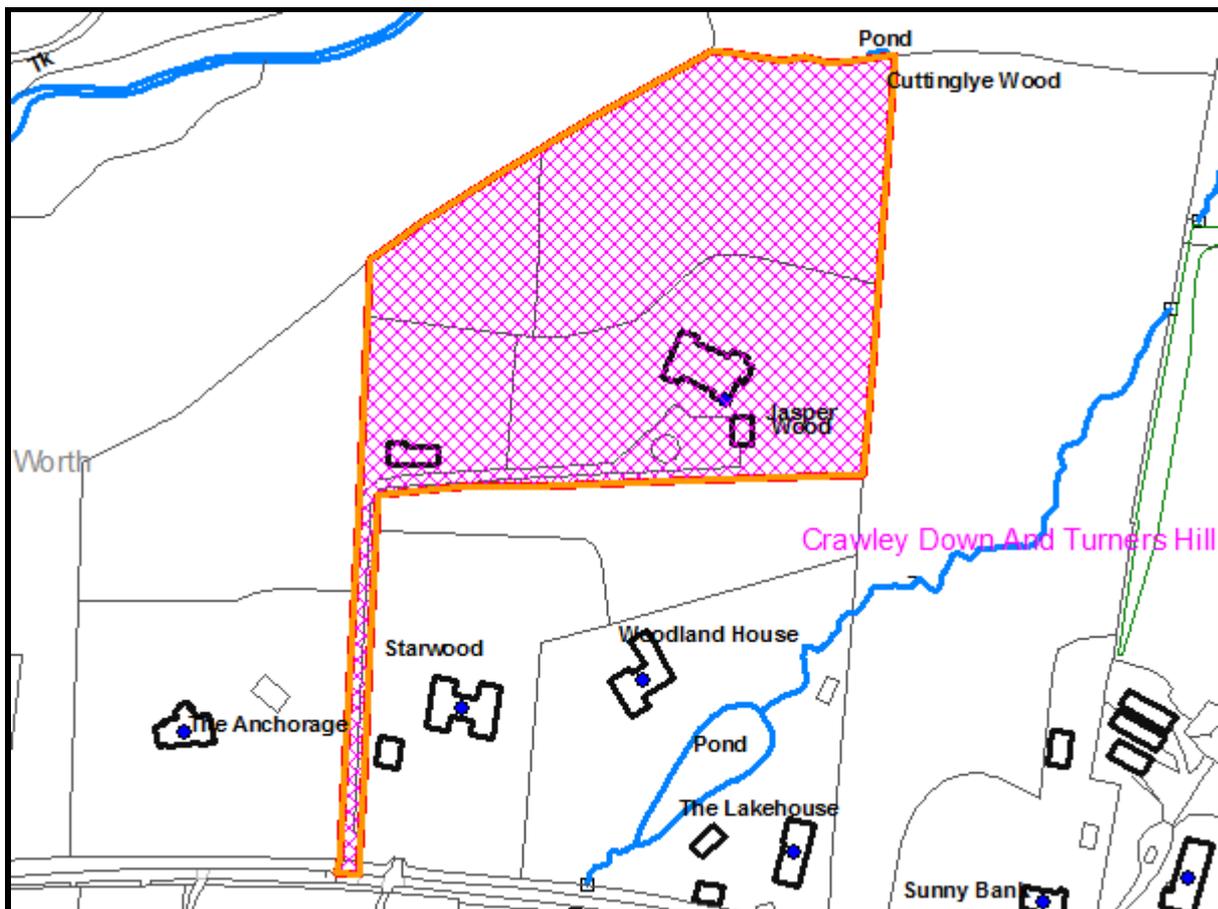
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

Worth

**DM/19/0092**



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**JASPER WOOD CUTTINGLYE ROAD CRAWLEY DOWN CRAWLEY  
TO REPLACE EXISTING METAL GATES ORIGINALLY MOUNTED ON  
BRICK PILLARS WITH ELECTRONIC OPENING GATES TO BE MOUNTED  
ON NEW BRICK PILLARS.**

**MR CHRIS HORRELL**

POLICY: Ancient Woodland / Areas of Special Control for Adverts /  
Countryside Area of Dev. Restraint / Methane Gas Safeguarding /  
Aerodrome Safeguarding (CAA) / Site of Nature Conservation  
Importance / SWT Bat Survey /

ODPM CODE: Householder

8 WEEK DATE: 1st April 2019

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

CASE OFFICER: Caroline Grist

### **Purpose of Report**

To consider the recommendation of the Divisional Lead, Planning and Economy on the application for planning permission as detailed above.

### **Executive Summary**

This application seeks planning permission to replace existing metal gates with electronic opening gates mounted on brick piers at the entrance to Jasper Wood, Cuttinglye Road.

The application is before committee as it has been submitted by a relative of a staff member who is involved in the planning process.

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 National Planning Policy Framework.

The proposed gates and piers are deemed acceptable in terms of design and scale and should not detract from the appearance of the dwelling or character of the area. The proposal is also not considered to cause harm to neighbouring residential amenities.

The proposal is therefore deemed to comply with policy DP26 of the Mid Sussex District Plan 2014-2031 and policy CDNP04.1 of the Crawley Down Neighbourhood Plan, as well as the broader requirements of the NPPF.

Planning permission should therefore be granted.

### **Recommendation**

It is recommended that permission be granted subject to the conditions listed at Appendix A.

## **Summary of Consultations**

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

## **Summary of Representations**

No representations have been received in response to this application.

## **Parish Council Observations**

Worth Parish Council support the application.

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## **Introduction**

This application seeks planning permission to replace existing metal gates with electronic opening gates mounted on brick piers at the entrance to Jasper Wood, Cuttinglye Road.

The application is before committee as it has been submitted by a relative of a staff member.

## **Relevant Planning History**

11/03497/FUL - Proposed replacement dwelling and detached 2 bay garage with garden store and log store including change of use of existing outbuilding to ancillary leisure use. Permitted.

13/02433/FUL - Proposed replacement of previously approved 2 bay garage building/garden and log store (under ref 11/03497/FUL) with new 2 bay garage building/garden and log store and storage at first floor level. Permitted.

## **Site and Surroundings**

Jasper Wood is a south west facing, detached, two storey dwelling. It was built under planning permission granted in 2011, with amendments made to the detached garage in 2013.

The property is located within the countryside. It is set back from Cuttinglye Road, positioned behind Starwood, Woodland House and The Lakehouse to the south. Access to the property is gained from a long private road to the south west of the dwelling. Currently two metal gates, of different designs, are located at the entrance to the access.

Permitted development rights for the property have been removed under planning permission 11/03497/FUL.

## **Application Details**

Planning permission is sought to replace the existing gates at the entrance to the property. They are to be set back approximately 9.0 metres from where the access road joins Cuttinglye Road. The proposed gates are to have an overall height of approximately 1.98 metres and width of 3.8 metres. They are to be made of metal and have a wrought iron style.

The gates are to be attached to red brick piers that would be 2.1 metres high. To either side is a 'wing', which falls away in height to the front to a lower pier. This lower pier would be 1.3 metres high.

## **List of Policies**

### **Mid Sussex District Plan 2014-2031**

The District Plan was formerly adopted on the 28th March 2018.

DP26 - Character and Design

### **Crawley Down Neighbourhood Plan**

CDNP04.1 - Building Extensions

## **National Policy**

### **National Planning Policy Framework (NPPF - 2019)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives economic, social and environmental. This means ensuring sufficient land of the right types is available in the right places and at the right time to support growth; supporting strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided; fostering a well-designed and safe built environment; and contributing to protecting and enhancing the natural, built and historic environment; and using natural resources prudently.

Paragraph 47 states: *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing."*

## National Planning Policy Guidance

### Assessment (Consideration of Key Issues)

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

The main issues considered relevant to this application are the proposed design and impact on the character of the area and impact on neighbouring residential amenity.

### Impact on the Character of the Area

One of the key issues is the design and the subsequent visual impact on the character of the area. The NPPF makes reference to the importance of good design at para 127 which states in part that:

*"Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping."*

Such requirements are similar to those found at district level within DP26 which states in part that:

*"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; and*
- protects valued townscapes and the separate identity and character of towns and villages."*

Policy CDNPO4.1 of the Crawley Down Neighbourhood Plan has a similar ethos to DP26 of the Mid Sussex District Plan for good design which is sympathetic to its surroundings.

The proposed gate and piers are set away from the main dwelling, but are considered to be appropriate in size, design and position at the entrance to the

access road. The gate design would provide intervisibility between the road and access and the position, set back from Cuttinglye Road, would result in them not being readily visible from public vantage points. The size of the gates, and associated piers, would not appear overly dominant. As such it is considered there would not be an adverse impact on the streetscene or character of the countryside. There are also examples of similar gates along Cuttinglye Road which would further ensure that the proposal would not appear incongruous.

The structure is therefore deemed to be of an appropriate scale and design and should not detract from the character of the area, thereby according with policy DP26 of the District Plan and policy CDNP04.1 of the Neighbourhood Plan.

### **Impact on neighbouring amenities**

Policy DP26 of the District Plan also relates to amenity and states that:

*All applicants will be required to demonstrate that development ... does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29)."*

This stance is re-iterated under policy CDNP04.1 of the Neighbourhood Plan which states that:

*"Amenities such as access, noise, privacy, daylight, sunlight and outlook of adjoining residents are safeguarded."*

The proposed gate and pier posts are positioned away from neighbouring properties and, as such, would not harm the amenity of these dwellings. Given the proposal relates to an existing domestic property it is not considered to result any additional noise, air or light pollution.

As such, the proposal is not considered to be harmful to neighbouring amenities, thereby according with policy DP26 of the District Plan and policy CDNP04.1 of the Neighbourhood Plan.

### **Planning Balance and Conclusions**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

The proposed gate and piers are deemed acceptable in terms of design and scale and should not detract from the appearance of the dwelling or character of the area. Nor is the proposal considered to cause harm to neighbouring residential amenities.

The proposal is therefore deemed to comply with policy DP26 of the Mid Sussex District Plan 2014-2031 and policy CDNP04.1 of the Hassocks Neighbourhood Plan, as well as the broader requirements of the NPPF.

Planning permission should therefore be granted.

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## 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.

## INFORMATIVES

1. In accordance with Article 35 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. 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:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan			01.02.2019
Proposed Block Plan			04.02.2019
Proposed Elevations			04.02.2019
Proposed Elevations	Ref 3		09.01.2019

### **APPENDIX B – CONSULTATIONS**

#### **Parish Consultation**

Support

MID SUSSEX DISTRICT COUNCIL

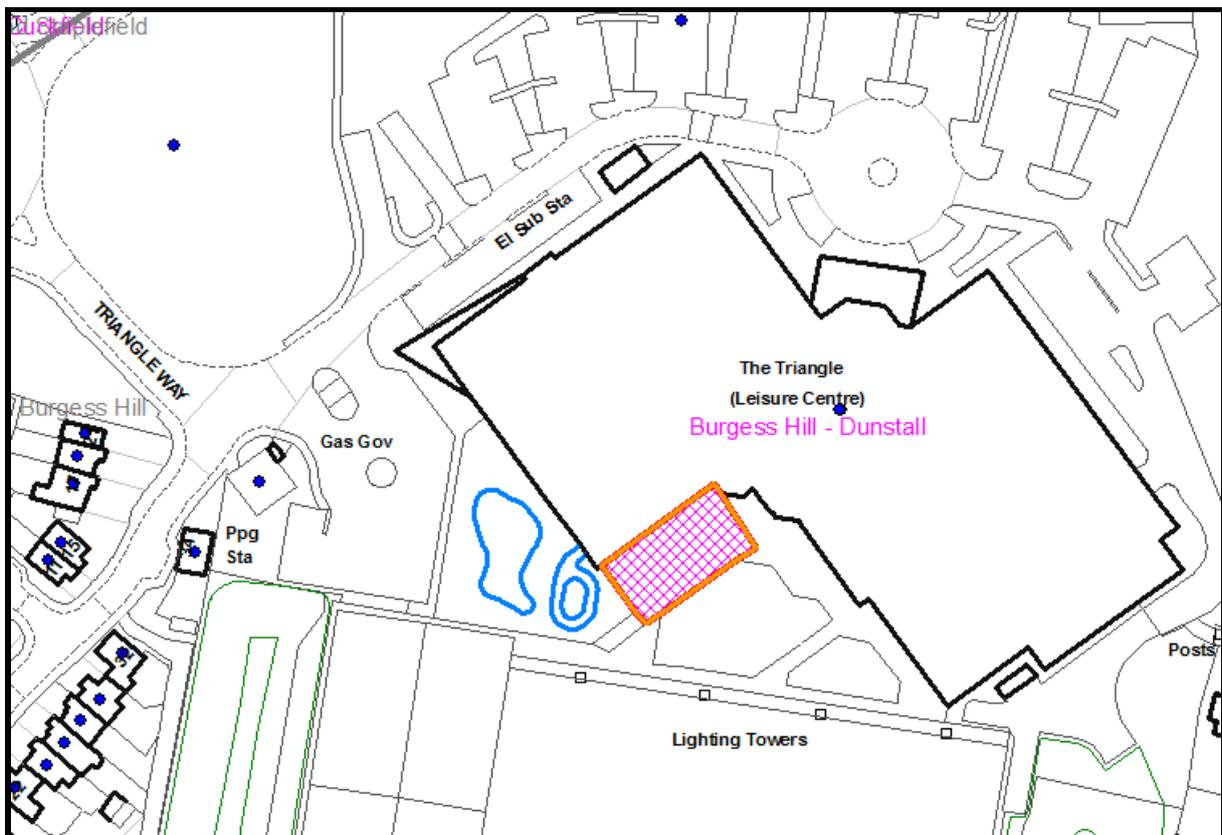
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

## **Burgess Hill**

**DM/19/0165**



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**THE TRIANGLE LEISURE CENTRE TRIANGLE WAY BURGESS HILL  
WEST SUSSEX  
PROPOSED PADEL TENNIS COURT TO REPLACE PAVED AREA TO  
REAR OF THE CENTRE.  
MID SUSSEX DISTRICT COUNCIL**

POLICY: Built Up Areas / Planning Agreement / Planning Obligation /  
Aerodrome Safeguarding (CAA) / SWT Bat Survey / Highways and  
Planning Agreement (WSCC) /

ODPM CODE:            Minor Other

8 WEEK DATE: 1st April 2019

WARD MEMBERS: Cllr Andrew Barrett-Miles / Cllr Jacqui Landriani /

CASE OFFICER: Joseph Swift

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Lead Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

This application seeks planning permission for a proposed padel tennis court to replace paved area to rear of the centre at the Triangle Leisure Centre in Burgess Hill. The application is being reported to committee as the District Council is the landowner.

The proposal is considered to be of an appropriate design, size and scale that is in-keeping with the character of the leisure centre. It is not considered to cause a significant detrimental impact upon neighbouring residential amenities, while the proposal would result in improved leisure facilities at The Triangle. Therefore, the proposal is deemed to comply with Policies DP24 and DP26 of the Mid Sussex District Plan, Policy LR3 of the Burgess Hill Neighbourhood Plan and the requirements of the NPPF

### **RECOMMENDATIONS**

Recommend permission be granted subject to the conditions outlined at Appendix A.

### **SUMMARY OF REPRESENTATIONS**

#### **Environmental Protection**

Recommend condition on construction hours and hours of use.

---

#### **Introduction**

This application seeks planning permission for a proposed padel tennis court to replace paved area to rear of the centre at the Triangle Leisure Centre in Burgess Hill. The application is being reported to committee as the District Council is the landowner.

## **Relevant Planning History**

There have been numerous applications at the site of the leisure centre but none are of relevance to this planning application.

## **Site and Surroundings**

The Triangle Leisure Centre is a substantial purpose built leisure facility on the edge of Burgess Hill. The site of the application is to the rear (south) of the building. To the north, east and west of the site is the leisure centre itself. To the south are the external courts/pitches associated with the leisure centre.

The site is within the built up area of Burgess Hill as defined by the Mid Sussex District Plan.

## **Application Details**

The proposed padel tennis court would measure some 10.6 metres in width, by 23.3 metres in length, with an overall height of 8.4 metres. It has been shown that the proposal is to be constructed of blue playing surface, a mixture of glass and wire mesh walls with a poly carbonate roof and a black steel frame.

## **List of Policies**

### **Mid Sussex District Plan**

DP24- Leisure and Cultural Facilities and Activities  
DP26 - Character and Design

### **Neighbourhood Plan**

Burgess Hill Neighbourhood Plan. Made with full weight.

**POLICY LR3 PROTECT AND IMPROVE EXISTING LEISURE AND RECREATIONAL FACILITIES**

### **National Policy**

National Planning Policy Framework (NPPF) (February 2019)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives economic, social and environmental. This means ensuring sufficient land of the right types is available in the right places and at the right time to support growth; supporting strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided; fostering a well-designed and safe built environment; and contributing to protecting and enhancing the natural, built and historic environment; and using natural resources prudently. An overall objective of national policy is *'significantly boosting the supply of homes'*

Paragraphs 10 and 11 apply a presumption in favour of sustainable development. Paragraph 11 states:

*'For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

However, paragraph 12 makes clear that:

*'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

Paragraph 15 states:

*'The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.'*

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

Paragraph 38 states that: *'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'*

Paragraph 47 states: *'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.'*

## 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.'*

Using this as the starting point, the development plan in this part of Mid Sussex consists of the District Plan and the Burgess Hill Neighbourhood Plan.

DP24 of the Mid Sussex District Plan supports the provision of new and/or enhanced leisure and cultural activities and facilities, a similar ethos is found within Policy LR3 of the Burgess Hill Neighbourhood Plan which identifies The Triangle as one of the town's facilities and supports new or improved facilities.

Owing to the fact that the proposal will be provided new and improved leisure facilities at The Triangle the principle of this development is considered acceptable.

### Design

Policy DP26 of the District Plan relates to character and design and 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.'*

The proposed padel tennis court would be viewed in the context of the existing leisure centre, while being subservient in height to the main building. The design of the court is considered to be fairly standard for this type of court and would not be out of place with the character of the leisure centre. Consequently, the proposal is considered to be of an appropriate design, size and scale that is in-keeping with the character of the street scene. The highways access and parking arrangement will remain unchanged and is considered acceptable. Therefore, the proposal complies with the above mentioned policy.

### **Neighbouring amenity**

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do '*...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 location of the proposal is surrounded on all sides by the existing leisure centre, while being further away than the existing outdoor pitches from the surrounding residential dwellings. Furthermore, the Council's Environmental Protection Officer has raised no objection and recommended conditions on hours of construction and hours of use. As such it can be reasonably concluded that the proposal would not cause a significant detrimental impact upon neighbouring amenities.

### **Other Matters**

Burgess Hill Town Council have recommended that any trees removed are replanted. However, the existing patio area does not contain any trees. Nonetheless,

it has been advised by the applicant that additional landscaping will take place on site once the padel tennis court is complete.

## **Conclusions**

The proposal is considered to be of an appropriate design, size and scale that is in-keeping with the character of the leisure centre. It is not considered to cause a significant detrimental impact upon neighbouring residential amenities, while the proposal would result in improved leisure facilities at The Triangle. Therefore, the proposal is deemed to comply with Policies DP24 and DP26 of the Mid Sussex District Plan, Policy LR3 of the Burgess Hill Neighbourhood Plan and the requirements of the NPPF.

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## **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. No external materials shall be used other than those specified on the approved plans and application form without the prior approval of the Local Planning Authority.

Reason: To protect the appearance of the building and the area and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

4. Hours of Use: Use of the court and its lighting shall be restricted to the following hours: 0800 to 2200 hours on any day.

Reason: to protect the amenity of neighbouring premises and to comply with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

### **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.
3. Please note that the granting of this planning permission does not exempt the operator from liability for any statutory nuisance (eg noise or artificial light) caused as a result of the use of the court.

#### **Plans Referred to in Consideration of this Application**

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan			15.01.2019
Illustration			15.01.2019
Photographs			15.01.2019
Planning Layout	1808-01-001	A	15.01.2019
Sections	1808-01-002	A	15.01.2019
Proposed Floor and Elevations Plan	1808-01-002	A	15.01.2019

### **APPENDIX B – CONSULTATIONS**

#### **Parish Consultation**

RECOMMEND APPROVAL however if any trees were removed as part of the application could consideration be given to them being replaced.

#### **Environmental Protection Officer:**

DM.19.0165 Padel Tennis Court, Triangle Leisure Centre, BH

Regarding this application, there is potential for negative effect on amenity from:

Noise caused by users of the facility due to shouting, ball impact etc. However given the nature of the site ie leisure centre and the proximity of other outdoor sports facilities, this is only likely to be an issue very early in the morning or late at night.

Artificial Lighting may affect amenity when used very early or late, so I recommend that a suitable condition can be used to control this via hours of use restriction.

The court is approximately 110m from the nearest residential properties and benefits from some screening due to buildings and trees (which may lose their leaves in winter). The existing floodlit outdoor courts are restricted to being lit only between 0800 and 2200 hours.

Should the application gain approval I recommend the conditions below in order to protect the nearby residential properties:

Conditions:

- Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

Reason: To protect the amenity of local residents.

- Hours of Use: Use of the court and its lighting shall be restricted to the following hours:

0800 to 2200 hours on any day

Reason: To protect the amenity of neighbouring premises.

Informative:

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.

Please note that the granting of this planning permission does not exempt the operator from liability for any statutory nuisance (e.g. noise or artificial light) caused as a result of the use of the court.

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MID SUSSEX DISTRICT COUNCIL

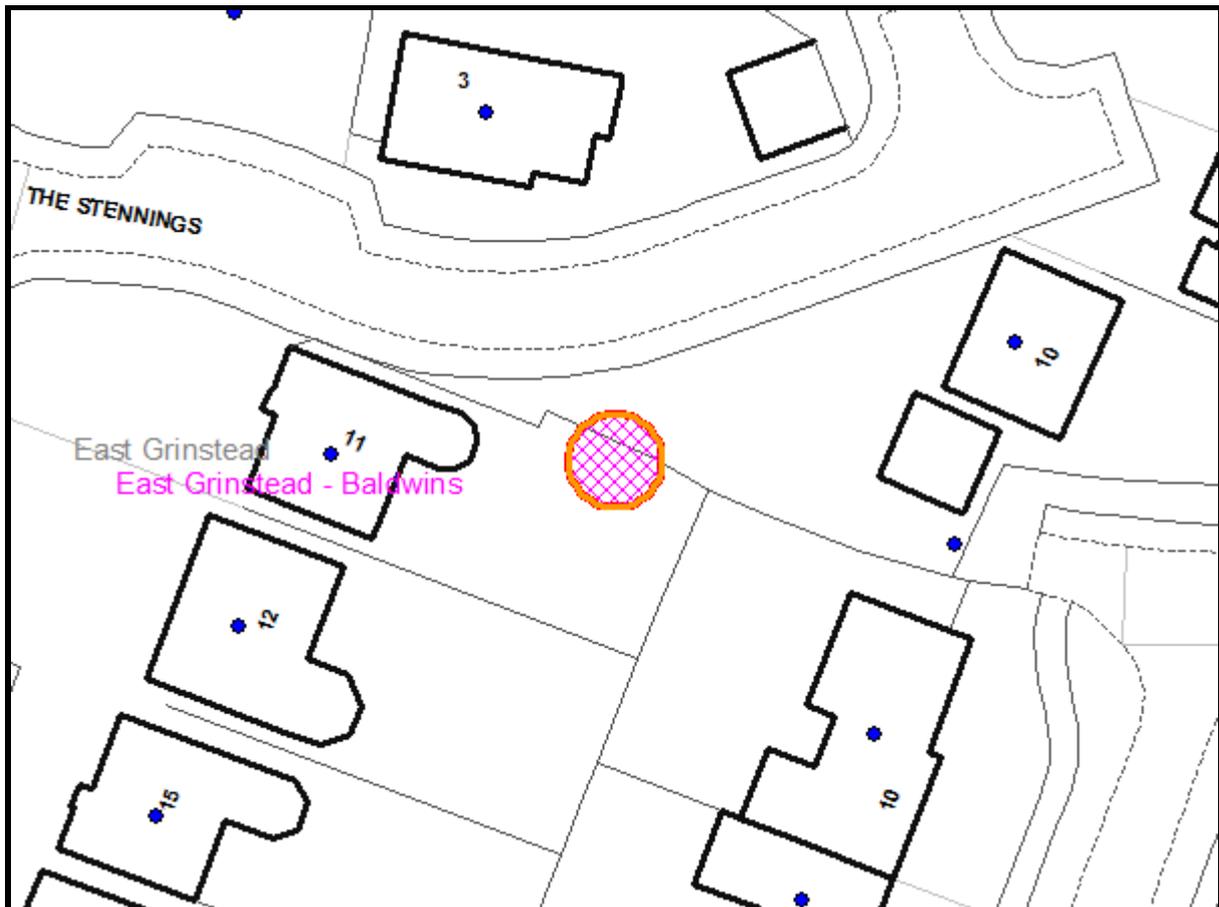
Planning Committee B

**28 MAR 2019**

RECOMMENDED FOR PERMISSION

**East Grinstead**

**DM/19/0180**



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**11 THE STENNINGS EAST GRINSTEAD WEST SUSSEX RH19 1PF  
T1 OAK - REDUCE ALL AROUND BY 2 METRES.  
MR REX WHITTAKER**

POLICY: Ashdown Forest SPA/SAC / Built Up Areas / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Tree Preservation Order Points / Highways and Planning Agreement (WSCC) /

ODPM CODE: Tree Application

WARD MEMBERS: Cllr Margaret Belsey / Cllr Norman Webster /

CASE OFFICER: Irene Fletcher

### **PURPOSE OF THE REPORT**

The application seeks consent for works to an Oak tree covered by Tree Preservation Order GR/02/TPO/99, as described, and this application has come before Committee as the applicant is a Council member.

### **RECOMMENDATION**

It is recommended that permission be granted subject to the condition set out in Appendix A.

### **REPRESENTATIONS**

The East Grinstead Society; refer to Tree Officer

### **EAST GRINDSTEAD TOWN COUNCIL**

Would support approval, subject to no adverse report from the MSDC Tree Officer.

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### **ASSESSMENT**

The tree is a semi mature specimen located to the rear/side of the property. It has high public visibility and appears to be in good health. It has previously been crown lifted.

Policy DP37 of the District Plan deals with tree matters and states out that the Council will support the protection and enhancement of trees. In respect of tree works, the policy sets out the following will be taken into account:

- The condition and health of the tree
- The contribution of the trees to the character and visual amenity of the local area; and
- The amenity and nature conservation value of the trees; and
- The extent and impact of the works; and
- Any replanting proposals (where necessary)

The tree has not previously been reduced and is starting to dominate the modest rear garden.

The works will not involve reduction of the main branch framework and will be limited to secondary, fairly minor growth only.

It is considered that the works are reasonable to allow more light to the garden and will not impact unduly on its long term health or amenity value. It is considered that the application compliances with the above Development Plan policy and can be supported.

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

1. The work shall be carried out in accordance with BS 3998:2010 "Recommendation for Tree Work".

Reason: To ensure that the work is carried out to a satisfactory standard.

#### **APPENDIX B – CONSULTATIONS**

##### **Parish Consultation**

As per East Grinstead Town Council Planning Committee meeting held on 11th February 2019:- Would support approval, subject to no adverse report from the MSDC Tree Officer.

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MID SUSSEX DISTRICT COUNCIL

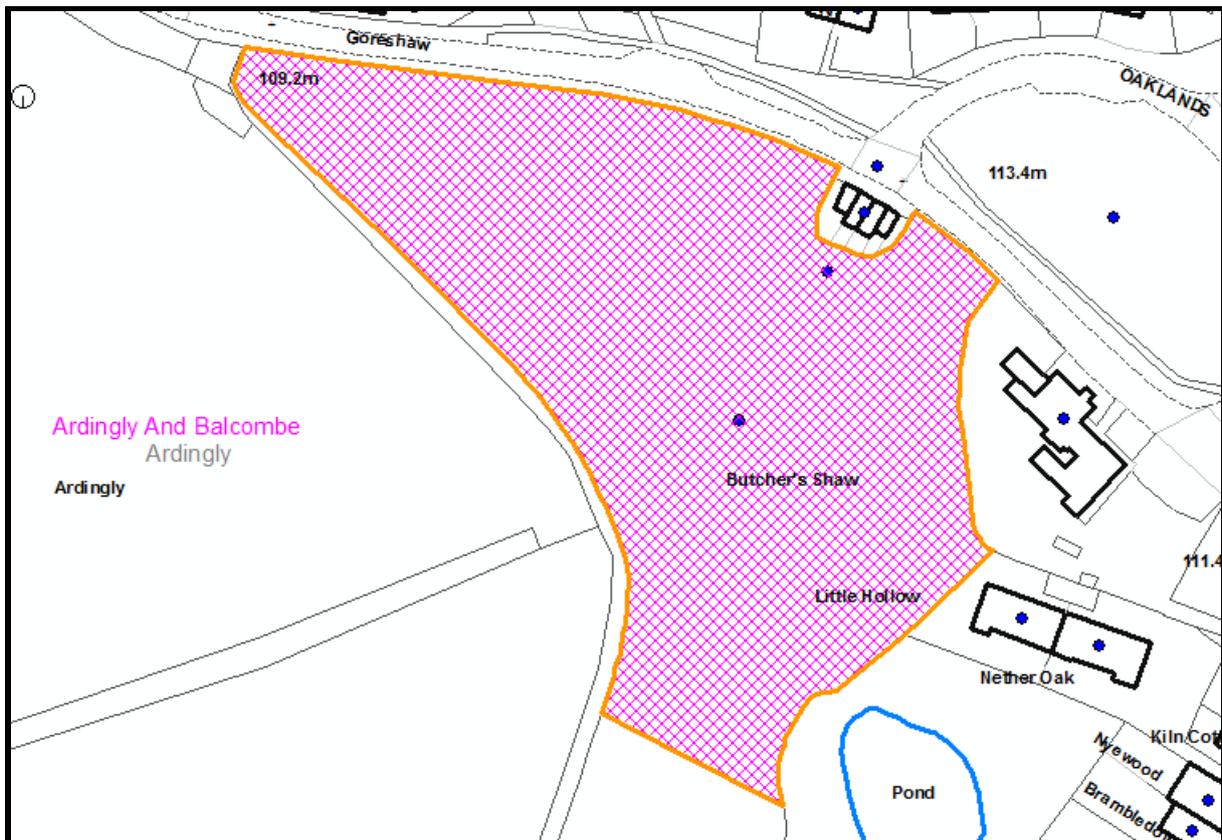
Planning Committee B

**28 MAR 2019**

OTHER MATTERS

**Ardingly**

**TP/18/0007**



## **Butchers Shaw, Street Lane Ardingly – Mid Sussex District (No.7) Tree Preservation Order 2018**

### **REPORT**

Members are being requested to consider whether or not to confirm a new Tree Preservation Order (TPO), TP/18/0007 refers, on a woodland known as Butchers Shaw in Street Lane, Ardingly.

The trees comprise a mix of mature trees, predominantly oak, ash and hornbeam with a little understorey mainly comprising holly and hazel, remaining.

The trees are classified as Ancient Woodland and are located within a Conservation Area.

The frontage trees are highly visible from Street Lane and form part of a transition between the village of Ardingly and its rural outskirts. Almost directly adjoining the site are other frontage trees protected under TPO ( AR/01/TPO/11 refers ) and following this, other trees protected under TPO ( TP/17/0001 refers ) . The Conservation Area of Ardingly, which is in two parts, then continues.

## **BACKGROUND**

The trees are considered to be under threat due to the continued erosion of the understorey. Complaints were received regarding felling, the use of heavy machinery, ground disturbance by heavy plant and bonfires.

There have been a number of complaints over the last couple of years and requests to make a TPO on the land, including from the AONB unit. A number of visits have been made to the land by both the Tree Officer and Planning Investigation staff.

Up until the Order was served, it was considered that the Conservation Area afforded adequate protection to the woodland, but incremental works, as well as the denudation of the woodland, planting of inappropriate species, the storage of heavy plant/equipment in root protection areas, bonfires and the owners intention to create a wildflower meadow have given rise to concerns, and it was considered that further protection was need. The Conservation Area status of the land does not protect young trees or understorey.

The trees scored an average of 20 on the TEMPO assessment, definitely meriting protection by TPO.

## **THE OBJECTION**

An objection has been submitted on behalf of the owner of the woodland. This may be summarised as follows:

- Unnecessary additional layer of protection and difficult to understand what public benefit will ensue from the TPO. The area is already protected by its Conservation Area status. The area was included in MSDC document 'Conservation Areas in Mid Sussex ' because of its value.
- The owner has removed dumped materials and invasive weeds from the land and engaged bodies such as the Forestry Commission, Natural England and the Small Woods Association for advice.
- The owner wishes only to enhance the woodland and carry out beneficial woodland management for the benefit of wildlife and the local community.
- The only additional benefit conferred by the TPO is to protect naturally regenerating tree saplings but given the owner's desire to protect the woodland, this appears superfluous and disproportionate

- Glades and open areas are integral features of woodlands
- The local authority cannot control the planting of trees and only a limited area of fruit trees has been planted
- No evidence exists to demonstrate that clearance works have removed understorey or seedlings
- The storage of plant and machinery under canopies etc. has been exaggerated by the LPA and cannot be said to have impacted unduly on the woodland
- Bonfires are a normal and routine way of disposing of brash and other arisings from woodland management. It is an overreaction on the council's part to use this as justification for making an Order
- The council is disingenuous to advise that the making of a TPO does not involve an additional burden or paperwork on the owner. The owner will be required to justify or provide reasons for works to TPO trees.
- No basis for the claim that the owners activities have caused 'cumulative damage which has occurred over a period of time' to the woodland
- The owner has recently met with the Forestry Commission and a programme of works has been recommended.

### **THE LETTER OF SUPPORT**

A local resident has submitted a representation in support of the Order, making the following points;

- The woodland was in a virtually untouched state for many years until the current owner purchased it and systematically cleared the understorey. This has resulted in a gravely detrimental effect on wildlife including the use of heavy machinery which has destroyed wildlife corridors and habitat
- Planings and rubble have been imported to create hard roadways which have impacted wildlife habitats and corridors. There were no wide tracks previously, just a narrow path; it was certainly in no way 'woodland maintenance'. I visited this woodland 25 years ago and it was a wildlife haven
- Several trees have been felled, creating wide open spaces through the woodland
- Previous google images show a virtually unbroken canopy of foliage before Mr White began to clear the trees
- More clearance work has taken place and the diggers have gone on to dig out a pond and level areas throughout the woodland in an entirely inappropriate way

- Protection of bats, dormice etc. has been ignored

## **EVALUATION OF COMMENTS**

With regard to the letter received on behalf of the woodland owner, it has been confirmed to the owner that a TPO protects seedling and young trees as well as understorey. A Conservation Area designation does not protect against the removal of young trees, seedlings or understorey. There is photographic evidence available that shows the woodland in July 2016 and shows the removal of a substantial amount of trees and understorey.

It is contended that an additional level of protection, such as that provided by the TPO, would allow some natural regeneration, indeed, that is the purpose of a woodland Order. Whilst reasons are required for works to TPO trees, as long as the works are required in the interests of beneficial woodland management, then there would be no resistance to the works. This would also be in accordance with government advice which advises that the purpose of a woodland Order is that ... 'it should not hinder beneficial woodland management' (Guidance: Tree Preservation Orders and Trees in Conservation Areas 6 March 2014.)

If the owner wishes to manage the woodlands in a proper and consistent manner, the TPO imposes no additional burdens, and, at MSDC the same form is used to make both applications/notifications with a TPO area or a Conservation Area. No additional paperwork is required.

The tree officer has met with the owner and a representative from the Forestry Commission, and has agreed to some thinning with some of the remaining trees around the fringe of the site by way of a felling licence. The tree officer has not resisted this. However, both the tree officer and the woodland officer were concerned about the planting of inappropriate fruit tree species, the deposition of machinery and rubbish within RPAs and the denudation of the woodland floor and understorey. It was indicated to the owner that further licences would only be granted in the future if good woodland management was demonstrated, including the planting of native species.

Whilst some glades and open spaces are beneficial to woodlands, nevertheless, the cleared ground is either completely bare or planted with inappropriate and domestic planting.

At the time of one visit, two bonfires were burning. This has a bad effect on both understorey and the habitat floor. At a very recent visit, materials etc. were still being stored under trees, despite repeated requests from the tree officer and a request from the forestry officer to move them.

With regard to the representation received supporting the TPO, the author has been advised that wildlife issues are a matter for the police.

The planning Investigations team have investigated the matter of imported materials, and, whilst there was found to be a breach of planning control, it was not felt to be expedient to pursue enforcement action. This is considered to be a separate matter from the making of

the TPO. Photographic evidence is available showing the woodland in July 2016 and more recently.

The Parish Council have been contacted as they requested that a meeting be arranged with an officer from the Forestry Commission. Following this meeting, they wish to raise no objection to the making of the Order.

## **ASSESSMENT**

It is considered that trees have significant public amenity value and value as a woodland in their own right and that it was expedient to issue an Order in accordance with government advice. It also provides additional protection for its Ancient Woodland designation.

It is also consistent with the making of other Orders on the land between the two Conservation Areas.

If it is the owner's stated aim to conserve and enhance the woodland, then the TPO will provide no obstacles to this and although reasons are required, this will place such reasons in the public domain and may lead to less allegations against the owner.

Officers are content that the trees meet the relevant criteria for inclusion in the Order and that their protection is justified, and it is considered that the Order should be confirmed.

## **RECOMMENDATION**

It is recommended that the Order is confirmed.

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