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26 June 2019

Dear Councillor,

A meeting of **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER** at these offices on **THURSDAY, 4TH JULY, 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 receive apologies for absence.	
2. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
3. To confirm the Minutes of the meeting of the Committee held on 29 May and 13 June 2019.	<b>3 - 10</b>
4. To consider any items that the Chairman agrees to take as urgent business.	

**Items Recommended for Approval.**

5. DM/19/1016 - Oakhurst, Maypole Road, East Grinstead, RH19 1HL.	<b>11 - 56</b>
6. DM/19/1498 - Naasta, 226 London Road, Burgess Hill, RH15 9QR.	<b>57 - 64</b>
7. DM/19/1612 - 151 Lower Church Road, Burgess Hill, RH15 9AA.	<b>65 - 98</b>
8. DM/19/1624 - Barn Cottage Pavilion, Barn Cottage Lane, Haywards Heath, RH16 3QN.	<b>99 - 120</b>

## Items Recommended for Refusal.

None.

## Other Matters.

9. EF/17/0129 - Crawley Lane, Balcombe, RH17 6LA. **121 - 124**
10. TP/19/0001 - Land East of Stone House, Ryecroft Road, Bolney, RH17 5PR. **125 - 128**
11. Questions pursuant to Council Procedure Rule 10 due notice of which has been given.

### Human Rights Act

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

### Risk Assessment

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

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

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

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

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

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

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

To: **Members of Planning Committee:** Councillors G Marsh, P Coote, G Allen, R Cartwright, E Coe-Gunnell White, J Dabell, R Eggleston, A MacNaughton, C Phillips, M Pulfer, D Sweatman and N Walker

**Minutes of a meeting of Planning Committee  
held on Wednesday, 29th May, 2019  
from 7.00 - 8.12 pm**

**Present:**

G Allen	P Coote	G Marsh
P Budgen	J Dabell	M Pulfer
R Cartwright	R Eggleston	D Sweatman
E Coe-Gunnell White	A MacNaughton	N Walker

**Also Present:** Councillors Ash-Edwards, Salisbury and Webster.

**1 TO RECEIVE APOLOGIES FOR ABSENCE.**

None as all Members were present.

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

Councillor Budgen declared a personal interest in DM/18/5130 – Oaktree Farm, Burgess Hill Road, Ansty, RH17 5AH as his business is a client of the company that is providing the development for the applicant.

**3 TO CONFIRM THE MINUTES OF THE MEETINGS OF THE PLANNING COMMITTEE A, HELD ON 11 APRIL 2019 AND PLANNING COMMITTEE B, HELD ON 28 MARCH 2019.**

The Minutes of the meetings of the Planning Committee A, held on 11 April 2019 and Planning Committee B, held on 28 March 2019 were agreed as a correct record and signed by the Chairman.

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

The Chairman confirmed that he had no urgent business.

**5 DM/18/5130 - OAKTREE FARM, BURGESS HILL ROAD, ANSTY, RH17 5AH**

The Chairman introduced the report and confirmed with Members that they did not require a presentation from officers. He took Members to the recommendation to approve which was agreed unanimously.

**RESOLVED**

That permission be granted subject to the conditions listed at Appendix A.

## **6 DM/19/0404 - HIGH TREES, 41 HICKMANS LANE, LINDFIELD, RH16 2BZ**

Katherine Williams, Planning Officer, introduced the report which sought permission for the part demolition of the existing detached house and the proposed erection of single and two storey extensions to the front, side and rear elevations at 41 Hickmans Lane, Lindfield. She noted that the previous application was refused due to the overbearing and unneighbourly nature of the previously proposed 2-storey elevation. She drew attention to the Agenda Update Sheet which detailed a revision to the wording on P.35 of the report.

Martin Kenward, local resident, spoke against the application.

Graham Middle, speaking on behalf of the applicant, spoke in support of the application.

Michelle Harper, planning consultant for Ellen Associates, spoke in support of the application.

Councillor Ash-Edwards, Ward Member for Lindfield, spoke neutrally on the application. He invited Members to consider the work that has been done to address the objections that were raised at the previous Planning Committee and the changes made to the extension to make it less overbearing. He also drew attention concerns raised by the resident of No.43 who highlighted the applicant's intention to remove the hedge row on the boundary between their properties, creating a loss of landscape.

Steven King, Planning Applications Team Leader, addressed the comments made by the speakers. He highlighted that it was for Members to consider the application afresh, whether it overcomes the reasons for the refusal on the previous application and whether the current scheme is acceptable in relation to its design and impact on neighbouring properties.

A Member sought clarification on the distance between the revised application and the properties surrounding it.

The Planning Officer directed the Member's attention to P.63 which detailed the separation distance between the proposed extension and the neighbouring properties. She confirmed that the distance between the application and No. 35 is 11.5m; between No. 37 is 9.8m and between No. 39 is 12.5m.

A Member noted that he had walked down the footpath adjacent to the property and could not find any issue with the property potentially being overbearing. He raised his concerns over the provision of parking and how the garage is of a poor design and layout. He also raised his concerns over the proposed balcony and the possible effect it may have on the neighbouring properties. He believed the issue of parking and balcony contributed to the significant harm of amenity and therefore conflicted with Policy DP.26 of the District Plan.

A Member sought the officer's advice over a comment made by a public speaker in which it was stated that there is an intention to remove the hedge which provides screening between the properties. He noted that in the report the officer relied on the hedge to provide the screening.

The Planning Applications Team Leader confirmed that the boundary line of the planning application went through the centre of the hedge. The Planning Applications

Team advised that the applicant will not be able to remove hedging that is not within their ownership.

A Member noted the concerns raised over car parking however highlighted the consultation with West Sussex County Council (WSCC) Highways in the report who did not raise an objection to the scheme.

In response to a query from a Member the Planning Applications Team Leader advised that as the property is located in the end of a cul-de-sac, vehicle speeds would be low and there would be no highway safety issues from the proposed access arrangements. He advised that if vehicles had to manoeuvre within the site to access the garage, this would not constitute a highway safety problem. He referred to the fact that WSCC Highways have no objection to the application.

The Chairman moved to the recommendation to approve the application which was agreed with 9 votes in favour of the application and 3 against.

#### **RESOLVED**

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

#### **7 DM/19/0670 - HAYWARDS HEATH RUGBY FOOTBALL CLUB, SPORTS PAVILION, WHITEMANS GREEN, RH17 5HX.**

Steven King, Planning Applications Team Leader, introduced the report which sought full planning consent for a replacement clubhouse and new storage facility following the demolition of the existing premises.

Phil Herbert, commercial director at HHRFC, spoke in favour of the application.

Peter Chisholm, representative of HHRFC, spoke in favour of the application.

Councillor Salisbury, Ward Member for Cuckfield, spoke in favour of the application. He agreed with the comments that described the proposal as transformative and stated that it is of a first-class design. He expressed how much of a joy it is to see all the users of the club on Saturday morning when he drives past Whitemas Green.

A Member expressed how great it is to see the all the users of the club when he drives past the application site. He stated that although the site may be located in the High Weald Area of Outstanding Natural Beauty (AONB), there couldn't be a more perfect place to house a facility like this and expressed gladness that the club is successful enough to build such a great venue.

#### **RESOLVED**

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

#### **8 DM/19/0777 - HURSTPIERPOINT EX SERVICEMENS CLUB, WILLOW WAY, HURSTPIERPOINT, BN6 9TH.**

The Chairman introduced the report and confirmed with Members that they did not require a presentation from officers. He took Members to the recommendation to approve which was agreed unanimously.

## **RESOLVED**

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

### **9 DM/18/4711 - 78B WEST STREET, EAST GRINSTEAD, RH19 4EJ.**

The Chairman introduced the application, noting that the application was called-in by the previous ward members who were not re-elected.

Steven King, Planning Applications Team Leader, introduced the report which sought planning permission to convert two flats into one property – returning it back to its original state.

James Cox, owner and resident of both flats, spoke in favour of the application.

Paul Carter, local resident, spoke in favour of the application.

A Member believed that the significant harm does not outweigh the benefits of returning the property back to its original state.

A Member sought clarification on the precedent that may be created by approving the application and whether approving the application could be used by others elsewhere in the district to turn their flats into one property.

The Planning Applications Team Leader stated that although each application must be considered on its own merits, consistency of decision making is important in the planning system. He added that if this application was approved other applicants could argue that the Council had set a precedent and prompt others to make similar applications. The Planning Applications Team Leader advised that the District Council has a challenging housing target to deliver and the loss of residential accommodation would hinder this. He also advised that it was open to the applicants to invest in the two flats to improve them if they considered that they needed refurbishing

A Member agreed with the comments that a precedent may be set if the application were to be refused. He outlined that he would be open-minded to look at the application if there was additional information supporting the application.

The Chairman moved to the recommendation to refuse the application which was agreed with 9 votes for refusal and 3 against.

## **RESOLVED**

That planning permission be refused for the reasons outlined in Appendix A.

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

None.

The meeting finished at 8.12 pm

Chairman

**Minutes of a meeting of Planning Committee  
held on Thursday, 13th June, 2019  
from 7.00 - 7.31 pm**

**Present:** G Marsh (Chair)  
P Coote (Vice-Chair)

G Allen	E Coe-Gunnell White	A MacNaughton
P Budgen	J Dabell	M Pulfer
R Cartwright	R Eggleston	N Walker

**Absent:** Councillor D Sweatman

**1 TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillor Sweatman.

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

Councillor Budgen declared a disclosable pecuniary interest in DM/19/1352 – 4 Wyngates, Copthorne Bank, Copthorne, Crawley, RH10 3QX as he is the agent for the applicant. He will remove himself from the meeting for the duration of discussion and voting on this item.

**3 TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 22 MAY 2019.**

The Minutes of the meetings of the Planning Committee held on 22 May 2019 were agreed as a correct record and signed by the Chairman.

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

None.

**5 DM/19/1270 - 51 OAKLEY LANE, HASSOCKS, BN6 8BB**

The Chairman confirmed that the application for works to 4 Ash trees covered by a Tree Preservation Order was before the Committee as it is submitted by the relative of a serving Councillor. He noted that there were no public speakers and no objections contained in the report and confirmed with Members that they were content to proceed without a presentation from the Officer.

The Chairman took Members to the recommendation to approve which was moved by Councillor MacNaughton and agreed unanimously.

## **RESOLVED**

That permission be granted subject to the condition set out in Appendix A of the Officer Report.

**(Councillor Budgen left the Chamber at 7.05 in advance of the next item.)**

### **6 DM/19/1352 - 4 WYNGATES, COPTHORNE BANK, COPTHORNE, CRAWLEY, RH10 3QX**

Caroline Grist, Planning Officer introduced the application for the removal of the existing conservatory with replacement double storey rear extension. She noted that although there would be some views of the extension from the street, the size and scale of the extension was deemed proportionate. The nearest property is 3 Wyngates which is separated by a fence and detached garage and it is the Officers recommendation that the overall design and separation distance will have no harm to the neighbouring amenity.

The Chairman noted that there were no public speakers and took Members to the recommendation to approve which was moved by Councillor Coote and agreed unanimously.

## **RESOLVED**

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

**(Councillor Budgen returned to the Chamber at 7.09.)**

### **7 TP/19/0005 - BUTCHERS SHAW, ARDINGLY, RH17 6UB**

Nick Rogers, Business Unit Leader for Development Management introduced the report to consider whether or not to confirm a new Tree Preservation Order (TPO) TP/19/0007 on a woodland known as Butchers Shaw in Street Lane, Ardingly. He noted that the site currently as a TPO in place and the Council has 6 months to confirm the order or it will lapse.

He confirmed that the site is in a conservation area and designated as Ancient Woodland. The Conservation status allows protection to larger trees but not ones of less than 75mm diameter and concerns have been raised about the removal of smaller trees and continued erosion of the understorey. The Ancient Woodland designation does not afford direct protection to the trees but the NPPF describes it as 'irreplaceable habitat' therefore indicating the importance the Government places on such an area. In summary, the Tree Officer has concerns that the incremental removal of smaller trees has harmed the understorey and the TPO would allow for protection of these younger trees and allow for some natural regeneration. It would not preclude maintenance work but these would need to be justified in the interests of beneficial woodland management through an application.

The Chairman spoke as Ward Member, noting that the Forestry Commission has granted a felling licence on the site for 30% thinning of the trees. The Business Unit Leader confirmed that this overrides the TPO. The Chairman noted that past and present Chairman of the Parish Council's Planning Committee are against the TPO as they feel the woods are managed correctly, however he acknowledged that there is a benefit to the TPO protecting the smaller trees.



Councillor MacNaughton also spoke as Ward Member highlighting that as the Local Planning Authority, the Council is required to protect Ancient Woodland, and not just the trees, but the ground around it. Having the TPO in place would allow the Council to retain control of what happens on site, and approval to remove trees could still be granted if appropriate.

Members acknowledged that this is a difficult decision as there are pros and cons to both sides of the decision. In response to questions from a member, the Business Unit Leader clarified that a partial order could not be made as a woodland order is designed to cover the whole site. He also confirmed that should there be damage caused as a result of the implementation of the Felling Licence, the Council would only prosecute if it was deemed to be deliberate. He clarified that the TPO was put in place following concerns raised by a local resident and the Tree Officer following a site visit. It was originally planned to be put before the Committee earlier in the year, but inaccuracies in the extent of the previous TPO plan needed to be resolved.

In response to a Member's query, it was advised that there would be no cost to the applicant or the Council in setting up or ongoing maintenance of the woodland as a result of a TPO. There is no fee for an application for works to trees subject of TPO's.

A Member queried what controls would remain in place if the TPO was not confirmed. As the site is a conservation area, it is covered by conservation legislation but this does not protect the smaller trees. If the TPO is confirmed, the applicant can still manage the understory, with the involvement of the Council's Tree Officer and an appropriate application.

Councillor MacNaughton moved that the order be confirmed and this was seconded by Councillor Walker.

The Chairman took Members to the recommendation which was agreed 8 in favour and 3 against.

#### **RESOLVED**

That the order be confirmed.

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

None.

The meeting finished at 7.31 pm

Chairman

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MID SUSSEX DISTRICT COUNCIL

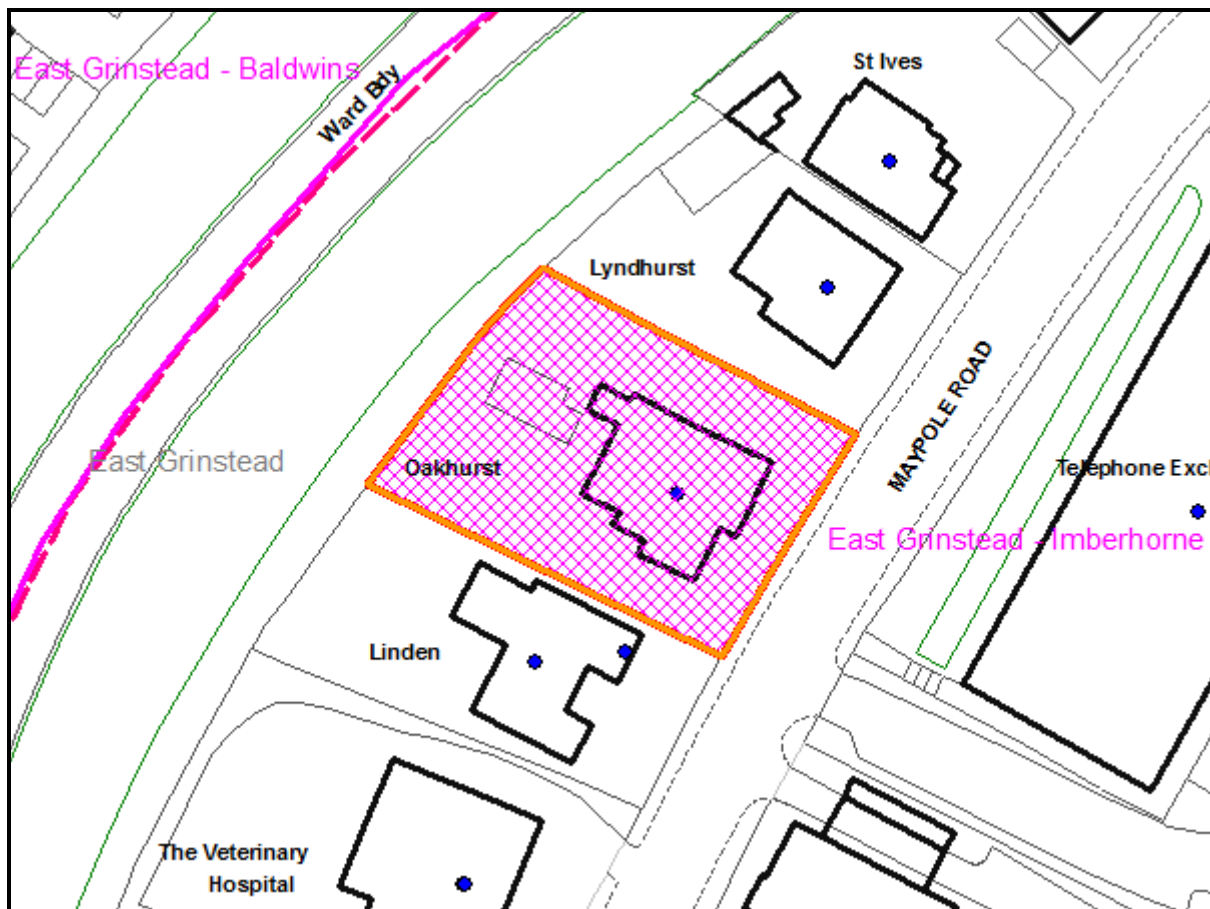
Planning Committee

4 JUL 2019

RECOMMENDED FOR PERMISSION

**East Grinstead**

**DM/19/1016**



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**OAKHURST MAYPOLE ROAD EAST GRINSTEAD WEST SUSSEX  
THE DEMOLITION OF AN EXISTING RESIDENTIAL BUILDING (2 UNITS)  
AND THE CONSTRUCTION OF A REPLACEMENT 3 STOREY  
RESIDENTIAL BUILDING COMPRISING OF 8 UNITS (1X1 BED) AND (7X2  
BEDS) WITH ASSOCIATED LANDSCAPING WORKS. AMENDED PLANS  
RECEIVED 13/5/19 CONCERNING ALTERATIONS TO THE DESIGN OF  
THE BUILDING.  
MR ROGER FINE**

POLICY: Ashdown Forest SPA/SAC / Areas of Townscape Character / Built Up Areas / Aerodrome Safeguarding (CAA) / Site of Nature Conservation Importance / SWT Bat Survey /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 11th July 2019

WARD MEMBERS: Cllr Heidi Brunsdon / Cllr Rex Whittaker /

CASE OFFICER: Joanne Fisher

### **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**

Planning permission is sought for the demolition of an existing residential building (2 units) and the construction of a replacement residential building comprising of 8 units (1x1 bed) and (7x2 beds) with associated landscaping works at Oakhurst, Maypole Road, East Grinstead.

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

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies in the built up area of East Grinstead and results in a net increase of 6 residential units. The proposed design and scale of the development is considered acceptable, and will not cause harm to the character and appearance of the locality or to the street scene. No significant harm would be caused to the amenities of the surrounding residential occupiers through overlooking or a loss of light. Moreover, the proposal is considered not to cause harm in terms of parking or highway safety.

The site is within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In the short term the proposal would also deliver a number of construction jobs.

There will be a neutral impact in respect of space standards and the impact on the Ashdown Forest.

On the basis of the above, the application complies with policies DP4, DP6, DP17, DP20, DP21, DP26, DP27, DP37 and DP41 of the District Plan policies EG3, EG5, EG11, EG12 and EG16 of the Neighbourhood Plan, and paras 8, 108, 124, 127 and 175 of the National Planning Policy Framework. Accordingly the application is recommended for approval.

## **RECOMMENDATION**

### **Recommendation A**

It is recommended that planning permission be approved subject to the completion of a S106 Legal Agreement to secure infrastructure contributions and the conditions set in Appendix A.

### **Recommendation B**

It is recommended that if the applicants have not submitted a satisfactory signed planning obligation securing the necessary infrastructure and Ashdown Forest mitigation payments by the 4th October 2019, then permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reasons:

1. 'The application fails to comply with policy DP20 of the Mid Sussex District Plan in respect of the infrastructure required to serve the development.'
2. 'The proposal does not adequately mitigate the potential impact on the Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC) and would therefore be contrary to the Conservation and Habitats and Species Regulations 2010, Policy DP17 of the Mid Sussex District Plan 2014-2031, policy EG16 of the Neighbourhood Plan, and Paragraph 175 of the National Planning Policy Framework.'

## **SUMMARY OF REPRESENTATIONS**

31 letters of OBJECTION (from 16 residents) concerning the following points:

- Overdevelopment of the site;
- Impact on neighbours either side by overlooking;
- Scale too large for plot;
- Unsympathetic buildings destroying the feel and respect of the surroundings;
- Overbearing on neighbouring properties;

- Loss of outlook;
- Reduces daylight and sunlight to neighbouring property Lyndhurst;
- Dwarfs dimensions of Oakhurst and too large for road;
- Significant bulk and scale and deeper plan than previous rejected scheme;
- No need for additional flats as many flats available to purchase in East Grinstead;
- Vehicular traffic entering and leaving the property will introduce extra hazards to pedestrians and vehicles using the busy thoroughfare of Maypole Road;
- Loss of amenity to adjacent properties;
- Provision of parking inadequate;
- Wish for site to be re-surveyed to consider bats and birds;
- Road and local infrastructure unable to support additional units;
- Parking increase noise and disturbance to Lyndhurst;
- Increase in number of windows on side elevations of proposal resulting in overlooking to neighbouring properties;
- Interested party wishes to purchase and restore the building and coach house to live in.

### **East Grinstead Society**

Recommend refusal. There are no significant changes to the previous applications. It does not address the excessive bulk and footprint of the proposed building and the effect on the neighbouring properties. Nor does it address parking, vehicle access, traffic problems in Maypole Road or the inadequate waste disposal arrangements

### **SUMMARY OF CONSULTEES**

#### **WSCC Highways Authority**

No objection subject to conditions.

#### **WSCC County Planning Officer**

S106 Contributions:

Education: Primary - £5,958

Education: Secondary - £6,413

Education: 6th Form - £1,505

Libraries - £1,681

TAD - £10,157

#### **Natural England**

No objection subject to securing appropriate mitigation.

#### **Ecology Consultant**

No objection subject to condition.

### **MSDC Urban Designer**

No objection subject to conditions.

### **MSDC Leisure**

S106 Contributions:

CHILDRENS PLAYING SPACE - of £8,303

FORMAL SPORT - £5,875

COMMUNITY BUILDINGS - £3,370

### **MSDC Drainage**

No objection subject to a condition.

### **MSDC Tree Officer**

No objection.

### **MSDC Environmental Protection**

No objection subject to conditions.

### **MSDC Street Name & Numbering**

Informative.

### **Gatwick Safeguarding Officer**

No objections.

### **EAST GRINSTEAD TOWN COUNCIL**

The Committee continue to recommend refusal: there is little change to the bulk and effect on the neighbouring property. The aesthetic design is an improvement however the committee refer the Mid Sussex Officers back to the decision of 15th April 2019.

*Original*

Recommend refusal. The committee were unimpressed with this new submission proposing an even larger property than previous submissions, in light of the comments and rejections that this committee have made previously. The design was appreciated by the committee, however the overbearing and overlooking nature was unacceptable with regards to the impact on the neighbouring property. The car parking spaces as shown were also too small.

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## INTRODUCTION

Planning permission is sought for the demolition of an existing residential building (2 units) and the construction of a replacement residential building comprising of 8 units (1x1 bed) and (7x2 beds) with associated landscaping works at Oakhurst, Maypole Road, East Grinstead.

## RELEVANT PLANNING HISTORY

DM/15/3567 - Outline application for the approval of details for appearance, layout and scale for the extension, renovation and subdivision of existing residential property into 9 flats. Application was returned and not dealt with.

DM/17/4298 - The demolition of an existing 2 unit residential building and the construction of a replacement 12 unit residential building with associated landscaping works. Amended plans received 5/3/18 showing reduction in windows proposed to the northern (side) elevation, provision of a 1.8 metre obscure screen to the side balcony, alterations to fenestration to the southern (side) elevation; reduction in roof height of middle section of the proposed building and alterations to the design of the proposed building. WITHDRAWN under officer advice.

More recently planning permission was refused under reference DM/18/3261 for the demolition of an existing residential building containing 2 units and the construction of a replacement 10 unit residential building with associated landscaping works (resulting in the net increase of 8 units) at Oakhurst, Maypole Road East Grinstead. The application was refused for the following reasons:

*'1. The proposal due to the proposed wider street frontage and a deeper plan is considered to be out of scale with the existing buildings on the north-west side of Maypole Road. In addition, the design of the building lacks architectural integrity and is unsatisfactorily composed. As such the proposal would be out of keeping with the character of the area and would not be appropriate to the wider street scene. The proposal is thereby considered to conflict with Policy DP26 of the District Plan and Policies EG3 and EG5 of the Neighbourhood Plan and paras 124 and 127 of the NPPF.*

*2. The proposal by virtue of the positioning of windows on the north-eastern elevation and its relationship with the proposed vehicular access serving the development would form an unacceptable impact to neighbouring amenities of future occupiers of the ground floor flats (units 2 and 3) through noise and disturbance (including light spill) from vehicle movements. In addition, the obscure glazing to the windows serving kitchen and secondary living room windows to units 7 and 8, would be unacceptable in amenity terms as it would restrict the outlook and light to these rooms of main accommodation. The proposal would thereby result in significant detriment to the amenities of future occupiers of occupiers of units 2, 3, 7 and 8 and would thereby be contrary to policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan and paras 8, 124 and 127 of the NPPF.*

*3. The proposal due to its bulk, scale, and proposed fenestration to the side elevation serving rooms of accommodation would result in a significant detrimental*



*impact to the amenities of the neighbouring occupier 'Lyndhurst' where the proposal would result in overlooking and an overbearing impact causing demonstrable harm to the amenity enjoyed by this property. The proposal would thereby be contrary to policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan and paras 8, 124 and 127 of the NPPF.*

*4. The application fails to comply with policy DP20 of the Mid Sussex District Plan in respect of the infrastructure required to serve the development.*

*5. The proposal does not adequately mitigate the potential impact on the Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC) and would therefore be contrary to the Conservation and Habitats and Species Regulations 2010, Policy DP17 of the Mid Sussex District Plan 2014-2031, policy EG16 of the Neighbourhood Plan, and Paragraph 175 of the National Planning Policy Framework.'*

## **SITE AND SURROUNDINGS**

The current building is of a traditional form from the Edwardian period with many original features. Some elements of the exterior have been replaced, but on the western side the Edwardian character has been retained. The building is in a poor state of repair, its original form and detailing has been retained in comparison to other buildings within the area. To the rear of the site is a detached 'Coach House' of one and a half storeys. The buildings are constructed in brick with decorative tile hanging to the dwelling and clay tiled roofs.

The property forms a distinctive feature within the street scene. Notwithstanding this, the building is currently vacant and hoardings have been placed around the front of the property to secure it.

The building provides generous separation gaps between the neighbouring buildings and the property is softened by planting on the boundaries especially on the front with Maypole Road.

Opposite the site is the BT Telephone Exchange which is a two storey brick built building with trees and vegetation screening the frontage. To the south-west is a detached bungalow and to the north-east is a detached Edwardian dwelling with a high brick wall on the boundary between this unit and the application site.

In terms of planning policy the site falls within the built up area as defined by the Mid Sussex Local Plan and the East Grinstead Neighbourhood Plan.

## **APPLICATION DETAILS**

The proposal is for the demolition of the existing residential dwelling and outbuilding and its replacement with a new two and a half storey residential building comprising of 7no 2-bed and 1no 1-bed flats (a net increase of 6 units).

It follows the refusal of planning permission for development of the site under reference DM/18/3261. This revised scheme seeks to address the previous reasons for refusal.

The proposed building is to measure a maximum of some 15.6 metres in width to the front and 15.3 metres in width to the rear, some 25.5 metres in depth with an eaves height of some 6 metres to the front, and 6.2 metres to the rear and a ridge height of some 9.5 metres.

The new building is to have a two storey pitched element with a two-storey bayed element with pitched roof detailing to the front elevation. To the rear would be two pitched roofed elements with a ground floor bayed element and an inset dormer within the roofs of the rear of the building. On the north-eastern (side) elevation is to be a gable element and covered parking on the rear end of this elevation for three vehicles. On the south-western (side) elevation is to be a two storey bayed gabled element and a single storey bayed element.

The proposed development is to be constructed from a palette of materials including facing brickwork to the external walls, clay tile hanging on parts of the first floor, and clay tiles to the roof. It will also include detailing intended to replicate the detailing on the existing building including patterned barge-boarding, sandstone ground floor bay windows, cresting to the ridge and dentil brick detailing.

The ground floor flats (units 1 - 3) will benefit from private outdoor amenity space in the area surrounding the building. In addition the flat within the roofspace (no 8) will benefit from a small rear roof terraced area set within the roof of the building.

The proposal includes the provision of six parking spaces, three of which are to be provided in an undercroft car park to the rear of the building, the remaining three are to be provided on the north eastern side of the access drive. The car park is to be accessed by the existing site access leading to a resurfaced access drive. Eight cycle spaces are also to be provided to the rear of the development, accessed via the proposed drive.

The waste storage for the development is to be located to the front of the site, in the north eastern corner, adjacent to the access drive. It will be enclosed by a brick wall with a gated entrance, to secure the storage area and screen it from view in the street scene.

To the front boundary a low brick wall with vegetation behind is proposed with the high brick wall on the north-eastern side boundary with Lyndhurst (some 2.6 metres in height) being retained and 2 metre fencing on the south-western side boundary with Linden.

The main differences between this application and the previously refused scheme (DM/18/3261) are as follows:

The reduction in the number of units proposed (previously 10units), a revised design so that it reflects the existing Edwardian building and traditional street scene, a reduction in the width of the proposed building, the removal of the underground car

parking, separation of the access road to serve the development with the north-eastern elevation of the proposed building and the proposed ground floor side windows, internal reconfiguration of the units, and changes to the position of fenestration on the side elevation with the neighbouring property 'Lyndhurst'.

As outlined above, the current proposal would measure some 25.5 metres in depth (previously some 23.2 metres in depth), with a maximum width of some 15.6 metres to the front (previously some 16.8 metres) and some 15.3 metres to the rear (previously some 17.2 metres).

In addition the design has been improved to relate more sympathetically to the Edwardian character of the existing building and the neighbouring properties.

## **LIST OF POLICIES**

### **District Plan**

DP4 - Housing  
DP6 - Settlement Hierarchy  
DP17 - Ashdown Forest Special Protections Area (SPA) and Special Area of Conservation (SAC)  
DP20 - Securing Infrastructure  
DP21 - Transport  
DP26 - Character and Design  
DP27 - Dwelling Space Standards  
DP37 - Trees, Woodland and Hedgerows  
DP41 - Flood Risk and Drainage

### **East Grinstead Neighbourhood Plan**

The Neighbourhood Plan for East Grinstead was 'made' in November 2016. It forms part of the development plan with full weight.

Relevant policies:

EG3 - Promoting Good Design  
EG5 - Housing Proposals  
EG11 - Mitigating Highway Impacts  
EG12 - Car Parking  
EG16 - Ashdown Forest

### **National Policy and Legislation**

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

The National Planning Policy Framework 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 which are interdependent and need to be pursued in mutually supportive ways. These are an economic, social and environmental objective. This means seeking to help build a

strong, responsive and competitive economy; to support strong, vibrant and healthy communities; and to contribute to protecting and enhancing the natural, built and historic environment.

*Para 12 states 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

*Para 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.'*

Para 47 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

*Planning Practice Guidance*

*Technical Housing Standards*

## **ASSESSMENT**

The main issues for consideration are:

- the principle of the development;
- design and the impact to the character of the area;
- the impact to the amenities of surrounding occupiers,
- access and parking;
- sustainability;
- dwelling space standards;
- infrastructure;
- Ashdown Forest; 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:*

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

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

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 this part of Mid Sussex consists of the District Plan and the East Grinstead Neighbourhood Plan (2016).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land.

As the proposed development is within the built up area of East Grinstead, the principle of additional windfall housing development is considered acceptable under Policy DP6 of the District Plan which states:

*'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.'*

Policy EG5 of the 'made' East Grinstead Neighbourhood Plan relates to housing development and states *'as a result new housing development on land defined as 'previously developed,' where the site is predominantly previously developed or is green infrastructure that can be demonstrated to be surplus to requirements will be supported'*. It lists various criteria including that *'a) The proposed development contributes to sustainable development'*. Policy EG5 is a permissive policy for housing development in this location provided it complies with other policies within the plan.

It is acknowledged that Policy EG5 is not compliant with DP6 of the District Plan in respect of development proposed outside the built up area boundary, as it supports in principle, subject to a number of criteria, development anywhere within the Neighbourhood Plan area. As such this policy attracts less weight. However, the application site is within the built up area of East Grinstead and therefore this conflict is not relevant to this application.

There are no objections therefore to the principle of the re-development of this site as proposed.

## Design and Impact on Character and Appearance of Area

Policy DP26 of the District Plan deals with design matters and states the following;

*'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and 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.*
- *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 plus unit) scheme will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development.'*

A similar ethos is found within Policy EG3 of the East Grinstead Neighbourhood Plan.

Para 124 of the NPPF seeks the creation of high quality buildings and states that *'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

In addition, para 127 of the NPPF requires developments to *'function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development'* and to also be *'visually attractive as a result of good architecture, layout and appropriate and effective landscaping'*.

The Council's Urban Designer has considered the proposal and raises no objection to the scheme. He considers:

*'It is a shame that the scheme involves the loss of the existing building as it has retained most of its original details including its vertically proportioned sash windows, decorative tiling and barge boarding as well as the cresting and finials that adorn the ridge line. Nevertheless, by replicating the form and much of the detailing of the front part of the existing building the current proposal succeeds in maintaining a frontage that sits comfortably with the group of similar circa Edwardian period properties that face the west side of Maypole Road. This is despite the fact that the proposed building will have a significantly greater footprint and extends further back than the existing house; however it is now better designed than the refused schemes and benefits from being more disguised by the break in the building/roof line.'*

Officer's agree with the comments of the Urban Designer and consider that the design of the building is considered to form a sensitive feature within the street scene and reflect the traditional Edwardian buildings to the north-west of the site of 'Lyndhurst' and 'St Ives'.

It is acknowledged that the replacement building is to have a deeper plan than other properties within Maypole Road, and would be slightly wider than the existing buildings. Notwithstanding this, the proposal will not extend as far back as the existing outbuilding on site. It is considered that the pitched and bayed elements and varying roof lines with the rear of the building being subordinate to the rest of the building would reduce the overall mass and scale of the building. When viewed from the street the building will not appear significantly larger than the current buildings on site. As such the design of the proposal is considered to contribute positively to the character of the area and the street scene and its scale and detailing is appropriate to the wider street scene.

The proposal is thereby considered to comply with policy DP26 of the District Plan, policies EG3 and EG5 of the Neighbourhood Plan and paras 124 and 127 of the NPPF.

### **Residential Amenity**

Policy DP26 of the District Plan states in part that proposals should *'not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution'*.

The test, as set out under policy EG3 of the East Grinstead Neighbourhood Plan states that proposals should "not harm" adjoining neighbours amenity.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

Concerns were raised in the refusal of the 2018 scheme in relation to the position of the fenestration on the north-eastern (side) elevation and its relationship with the proposed vehicular access which would result in an unacceptable impact to the amenities of future occupiers. In addition, concerns were raised that the bedroom windows for the ground floor flat 2 would have been directly next to the vehicular access which would result in a poor level of amenity through noise and disturbance and a poor outlook for occupiers of this room.

The scheme has been revised, repositioning the windows on the north-eastern (side) elevation and revising the internal layout of the units to overcome the concerns. Whilst the ground floor flat (Flat 2) would still have bedroom windows and a secondary window serving the open plan living/kitchen area facing onto the access road to serve the development, the side elevation has been stepped away from the access road by 1 metre with landscaping proposed to minimise the impact with the access way and provide screening. As such it is considered that the proposal would not result in significant detriment to the amenities of future occupiers of this ground floor unit (Flat 2).

On the existing north-eastern side gable are two first floor windows with a window within the roofspace facing towards the neighbour 'Lyndhurst'. The replacement building is to retain a similar window relationship on the proposed side gable with an additional first floor window to this side elevation to the rear of the proposed building and an obscure glazed rooflight. The proposed first floor windows would form bedroom and a secondary open plan living/kitchen window with the window in the roofspace serving a bedroom and the rooflight serving an en-suite. Due to the existing relationship and the windows being secondary living windows or serving bedrooms (which are not considered to be main habitable rooms of accommodation); it is considered that the proposal would not result in significant detriment through overlooking or a loss of privacy to the neighbouring amenities of 'Lyndhurst'.

The replacement building extends further rearwards into the site, with a reconfiguration on the position and size of fenestration on the south-western side, the number of windows facing the neighbour 'Linden'. There is an increase by 1 additional first floor window on this side elevation. The windows at first floor are mainly to serve bedrooms which are not considered to be main habitable rooms. As such the proposal is not considered to result in further significant detriment to the amenities of the neighbouring occupier 'Linden'.

It is acknowledged that the development would result in an increased roof mass to the side elevations compared to the existing where there is currently a break between the existing property and outbuilding. The proposal has a stepped roof design on the side and rear elevations in order to break up the overall mass and bulk of the building. The proposed materials with decorative tile hanging at first floor, also seeks to reduce the mass of the building providing visual interest. In addition, the proposal would not extend as far rearwards as the existing outbuilding. As such it is considered that the proposal would not result in an overbearing impact to the amenities of the neighbouring occupiers to of 'Lyndhurst' or 'Linden'.

Concerns have been raised that the increase in the bulk and scale of the development would result in a loss of daylight and sunlight to the neighbouring



property 'Lyndhurst'. Due to the orientation and existing relationship of the buildings, it is not considered that the proposal would result in significant detriment to a loss of light to the neighbouring amenities.

The proposal is thereby considered to be acceptable in amenity terms to both existing neighbouring occupiers and also future occupiers of the proposed development. The proposal is thereby considered to comply with policy DP26 of the District Plan and Policy EG3 of the Neighbourhood Plan.

### **Highway Safety and Parking Provision**

Policy DP21 of the District Plan relates to transport and requires proposals to be sustainably located and provide adequate parking.

Policy EG11 of the Neighbourhood Plan requires proposals to be supported by an appropriate assessment of the impact of the proposal on the highway network and include access arrangements that are appropriately designed and include adequate visibility splays. In addition, policy EG12 requires sufficient on site car parking.

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 applications 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, para 109 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.'*

Access will be achieved through the existing vehicular access to the northern side of the site with a total of 6no. off road parking spaces proposed to the northern side of the access and to the north-western side/rear of the building. In addition, 8 cycle spaces would be provided to the rear of the site.

Whilst it is acknowledged that the proposal does not provide parking for each unit nor visitor parking, the site is within a sustainable location within a Settlement 1 category, close to the town centre, train station and bus stops. As such a reduced provision of parking is considered acceptable.

The Highways Authority has considered the proposal and raises no objection to the scheme.

Consequently the application is deemed to comply with policy DP21 of the District Plan, policies EG11 and EG12 of the Neighbourhood Plan and para 108 of the NPPF.

## **Sustainability**

Policy DP21 of the District Plan relates to transport and requires schemes to be *'sustainably located to minimise the need for travel'* and take *'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'*. In addition it requires where *'practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.'*

Policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate measures including minimising energy use through the design and layout of the scheme; maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation; and also to limit water use to 110 litres/person/day.

Paragraph 148 of the NPPF states:

*'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'*

Paragraph 153 states:

*'In determining planning applications, local planning authorities should expect new development to:*

- a) *comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

The submitted Planning Statement states *'the replacement building would be considerably more energy efficient, helping to reduce energy use and contribute towards a low carbon economy.'*

Additional information from the Agent has been provided concerning sustainable measures to be incorporated in the development. This states:

*'The proposed development would replace a dilapidated, poorly insulated and highly inefficient building, on a sustainable brownfield site with a modern sustainable building which would incorporate a number of measures to significantly improve energy efficiency and reduce carbon emissions.*

*The proposed development will incorporate 12 Solar Photovoltaic Panels onto the flat roof and east facing roof pitch. The inclusion of PV panels will generate energy to serve the development, thereby reducing the dependency on the National Grid and fossil fuels. Any excess energy created by the PV panels will be feed back into the National Grid, further reducing the reliance on fossil fuels.*

*The development will also incorporate Sustainable Urban Drainage Systems (SuDS) to discharge surface water as set out in the Flood Risk and Sustainable Drainage assessment submitted with the application. The SuDS Management Train approach has identified that infiltration, attenuation and restricted discharge to the sewer are the most appropriate techniques for use on the site. A conventional concrete ringed soakaway will be installed to the rear of the site, over 5m from the building footprint as required by the Building Regulations Part H. Furthermore, a geocellular attenuation tank with a storage volume of 17.1 square metres will be installed, to safely discharge water from a 1 in 100 year storm event, plus 40% allowance for climate change. In relation to surface water runoff, the proposed development will also result in a significant reduction in impermeable surfaces on the site from 92% to 51%, this will aid conventional infiltration.*

*In addition, the proposed development will incorporate measures to achieve the 'optional' Building Regulations Part G requirement of a water usage of 110L per person per day in accordance with Policy DP42 of the District Plan. Such measures will include the fitting of water efficient taps, showers and water saving dual flush toilets.*

*The development has also been designed to ensure that each unit will benefit from a good degree of natural light and will be naturally ventilated, therefore reducing the use of energy. Finally, the development will be constructed from high quality, sustainably sourced materials which will ensure that the development is well insulated, therefore reducing the need for heating and in turn reducing the energy consumption of the development.'*

In addition, the accessibility of the site, or the sustainable location of it, is a key consideration.

The development is situated in a sustainable location close to the town centre as well as a bus stop and the railway station.

Therefore, it is considered that the proposal complies with the relevant criteria of policies DP21 and DP39 of the District Plan. The proposal is considered to be acceptable in sustainability terms.

## Ecology

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the District Plan refers to biodiversity and seeks to protect and enhance biodiversity.

Paragraph 175 of the National Planning Policy Framework states:

*'When determining planning applications, local planning authorities should apply the following principles:*

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

The application is accompanied by a Bat Survey. This concludes that the main dwelling forms a summer/day roost for common pipistrelle bats and a European Protected Species Mitigation Licence would be required to renovate the building and destroy the bat roost. However, no bats were found in the outbuilding of The Coach House. Mitigation measures have been proposed to include the creation of temporary and permanent replacement bat roosts in the form of bat adapted access tiles or soffit bat boxes in the renovated building.

The Council's Ecology Consultant has considered the application. He acknowledges that there will be loss of a bat roost. However he advises that *'subject to MSDC being satisfied that in all other respects, that consent is in the public interest, it is likely that a licence can be obtained from Natural England.'* As a result he raises no objection subject to a condition requiring the development to be carried out in strict accordance with the recommendations in the supporting bat survey report by Arbtech.

Officers consider that the redevelopment of the site which currently comprises of a vacant building in disrepair to form a net increase of 6 residential units will provide wider public benefits to justify an approval and overcome the impact to the current bat roost on the site. The proposal would provide mitigation measures of replacement bat roosts to overcome the loss.

It is thereby considered that the application complies with policy DP38 of the District Plan and para 175 of the NPPF.

## **Trees**

Policy DP37 of the Mid Sussex District Plan states that the *'District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'*

An Arboricultural Report has been submitted with the application. This states that *'only two hedges and three groups of trees made up of small, self-seeded shrubs and saplings are to be removed. The trees to be removed are too small and insignificant to contribute to the character and appearance of the site or the local landscape.'* The trees to be removed are to the rear of the site. In addition it states that there *'will be no incursions into the Root Protection Areas of trees to be retained, and subject to implementation of the measures recommended on the Tree Protection Plan and set out at Appendix 1, no significant or long-term damage to their root systems or rooting environments will occur'.*

The Council's Tree Officer has considered the proposal and raises no objections to the works and tree removals, subject to compliance with the arboricultural report. Officers agree with this and consider that the proposal will not result in detriment to the character of the area through the removal of some trees.

A condition could be placed on a planning permission in respect of soft landscaping to ensure suitable mitigation planting is provided within the site.

In the planning balance it is not considered that there would be significant harm to justify a refusal on the impact to these trees.

The proposal is thereby considered to comply with policy DP37 of the District Plan.

## **Drainage**

Policy DP41 relates to flood risk and drainage and requires development to demonstrate it is safe across its lifetime and not increase the risk of flooding elsewhere.

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.

It is proposed that the development will manage surface water drainage through soakage with an overflow to the existing foul sewer, and that foul water will discharge to mains foul sewer.

The Council's Drainage Engineer has been consulted on the scheme and has raised no objection subject to a condition.

The proposal is thereby considered to comply with policy DP41 of the District Plan.

## **Dwelling Space Standards**

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan supports this.

The submitted plans show that the proposed homes would exceed the National Dwelling Space Standards. The proposal would therefore provide a satisfactory standard of accommodation for future occupiers of the units proposed.

## **Infrastructure contributions**

Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure to mitigate the impact of development on existing infrastructure and the monies identified will mitigate these impacts. It sets out that infrastructure contributions will be secured through the use of planning obligations.

The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:

- a) A Development Infrastructure and Contributions SPD which sets out the overall framework for planning obligations
- b) An Affordable Housing SPD
- c) A Development Viability SPD

Due to the number of units provided and the cumulative gross floorspace of the units, the proposal does not require affordable housing contributions as set out in Policy DP31 of the District Plan.

The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 54 and 56 which state:

*'54 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

and:

*'56 Planning obligations must only be sought where they meet all of the following tests:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development.'*

These tests reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

Having regard to the relevant policies in the District Plan, the SPDs, Regulation 122 and guidance in the National Planning Policy Framework the infrastructure set out below is to be secured via a S 106 planning obligation.

#### County Council Contributions

Education: Primary - £5,958

Education: Secondary - £6,413

Education: 6th Form - £1,505

Libraries - £1,681

TAD - £10,157

#### District Council Contributions

Children's playing space - £8,303

Formal Sport - £5,875

Community Buildings - £3,370

Local Community Infrastructure - £3,825

It is considered that the above S106 obligation would meet policy requirements and statutory tests contained in the CIL Regulations.

The additional population from this development will impose additional burdens on existing infrastructure and the monies identified above will mitigate these impacts. Developers are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

A draft undertaking is being progressed and, if satisfactorily completed, would meet the above policies and guidance.

## Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

### Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application is within the 7km zone of influence and generates a net increase of 6 dwellings, and as such, **mitigation is required**.

An appropriate scale of SAMM mitigation for the proposed development is £12,134, and if the approved scheme provides for a strategic SANG contribution, this would be £7,261.

The applicants have agreed that they would be prepared to make a financial contribution towards the SAMM Strategy and (if the approved scheme provides for a strategic SANG contribution), the SANG Strategy. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

The strategic SANG is located at East Court & Ashplats Wood in East Grinstead and Natural England has confirmed that it is suitable mitigation for development in Mid Sussex. The SANG is managed in accordance with the 10-year Management Plan



and this document sets out the management objectives for the site and the management activities. Financial contributions for the strategic SANG will be spent in accordance with the Management Plan.

The financial contribution to SAMM has been secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation") whilst the mitigation in relation to SANG would be secured through a planning condition and informative ("SANG Condition"). The District Council has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition.

The SANG Condition requires compliance with its terms before development commences and there is considered to be clear justification for this. Furthermore, the proposed SANG Condition requires a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the payment of a financial sum towards a SANG managed by the District Council. The financial contribution towards the strategic SANG is secured through a legal agreement pursuant to Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011. This legal agreement is not subject to the pooling restrictions as referred to above. In formulating the SANG Condition, the District Council has had regard to the National Planning Policy Framework (NPPF) including paragraph [55] and the National Planning Practice Guidance (NPPG) including paragraphs [003 and 010]. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions. In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition.

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

the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

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

1. The NPPG is guidance not law.
2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "*a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence*" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.
3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.
4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

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

The Planning Obligation securing the SAMM contribution is being progressed and subject to its completion and the imposition of an appropriate planning condition in relation to SANG being secured, it is considered that the mitigation of the

recreational impact to the Ashdown Forest can be secured. The proposal therefore accords with Policy DP17 of the Mid Sussex District Plan.

Natural England has been consulted on the appropriate assessment of this proposed development and raises no objection subject to securing suitable mitigation.

#### Atmospheric pollution

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

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as **windfall development**, such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

#### Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.

The provision of mitigation in the form of both SANG and SAMM is essential to the proposals within the planning application to ensure the Ashdown Forest SPA is protected from any potential recreational disturbance impact arising from this proposed new development. The development proposed provides sufficient mitigation to avoid any potential impact on the Ashdown Forest SPA.

No mitigation is required in relation to the Ashdown Forest SAC.

Having undertaken a Habitats Regulations Assessment of the implications of the project for the site in view of that site's conservation objectives, and having consulted Natural England and fully considered any representation received, Mid Sussex District Council as the competent authority may now determine the proposed development.

#### **Other Matters**

A letter has been submitted by an interested party who wishes to purchase and restore the building and coach house to live in. Whilst this is noted, the Local Planning Authority can only consider schemes which are in front of them and not proposed intentions. Whilst the loss of the existing building is regretted, the proposed scheme seeks to reflect the detailing of the original building so that it is sensitive

within the street scene. In addition, the re-development of the site will tidy up the existing vacant and dilapidated building and provide public benefits of additional housing within a Settlement 1 Category.

Concerns have also been raised on the need for additional flats within East Grinstead. Whilst these are noted, Policy DP30 of the District Plan relates to housing mix which seeks to provide a mix of dwelling types and sizes. Para 117 of the NPPF seeks to '*promote an effective use of land in meeting the need for homes*'. In addition, the Councils Housing Economic Development Needs Assessment (HEDNA, 2015) identified the need for smaller units. The site is close to the town centre and in a location where higher density development is acceptable. It is considered that the redevelopment of the site for flats is appropriate.

## **PLANNING BALANCE AND CONCLUSION**

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

National planning policy states that planning should be genuinely plan led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The application site lies in the built up area of East Grinstead and results in the formation of a net increase in 6 additional residential units. The site is within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development. The redevelopment of the site for a total of 8 residential units with off road parking is considered to be sensitive in design and scale to the character of the area and will not detract from the street scene. The redevelopment will bring into use the current vacant site. It is considered that the proposed development would not cause significant harm to the living conditions of neighbouring land.

The proposal will provide minor but positive social and economic benefits through the delivery of a 6 additional dwellings in the built up area of East Grinstead within a sustainable location which reflects one of the key objectives of the NPPF. The New Homes Bonus is a material planning consideration and if permitted the Local Planning Authority would receive a New Homes Bonus for the dwellings proposed. The proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community. Because, however, of the small scale of the development proposed these benefits would be limited.

There will be a neutral impact in respect of highway safety and parking provision, space standards, landscaping, and the impact on the Ashdown Forest.

The application is thereby considered to comply with policies DP4, DP6, DP17, DP20, DP21, DP26, DP27, DP37, DP38 and DP41 of the District Plan, policies EG3, EG5, EG11, EG12 and EG16 of the Neighbourhood Plan, and paragraphs 8, 108, 110, 117, 124, 127, 148 and 175 of the NPPF. Accordingly the application is 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.

### **Pre-commencement conditions**

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

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2017. (This pre-commencement condition is required to ensure that the impact of the development on the Ashdown Forest SPA has been mitigated and is thus acceptable under the Habitats Regulations 2010).

4. No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy EG3 of the Neighbourhood Plan.

5. No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractors' buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.

Reason: To avoid undue congestion of the site and consequent obstruction to access and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

6. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy DP41 of the Mid Sussex District Plan 2014 - 2031.

7. The development shall proceed in strict accordance with the recommendations in the supporting bat survey report by Arbtech, which shall include obtaining a licence from Natural England to permit destruction of a bat roost prior to demolition.

Reason: To protect the ecological value of the site and to accord with policies DP17 and DP38 of the Mid Sussex District Plan and para 175 of the NPPF.

#### **Pre-occupation conditions**

8. The development shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of a hard and soft landscaping scheme including detailed landscape drawings and details of boundary treatments. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy EG3 of the Neighbourhood Plan.

9. No part of the development shall be first occupied until pedestrian visibility splays of 2 metres by 2 metres have been provided either side of the proposed site vehicular access onto Maypole Road in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These visibility splays shall thereafter be kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

10. No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

11. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with the approved plans and details submitted in drwg PD-25 date stamped 13th March 2019.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

12. No part of the development shall be first occupied until a detailed 1:20 section and elevation drawings showing a typical solar panel in relation to the roof as well as specifications on the panels have been submitted to and approved in writing by the Local Planning Authority.

The development shall only proceed in accordance with the agreed details.

Reason: To ensure that this aspect of the development is consistent with the appearance of the area and to accord with Policy DP26 of the District Plan 2014 - 2031 and Policy EG3 of the Neighbourhood Plan.

## INFORMATIVES

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

No burning of demolition/construction waste materials shall take place on site.

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

3. 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.

4. The applicant is advised that to satisfy condition 3 above there are likely to be two options.

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

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

5. The applicant is advised to enter into a Section 59 Agreement under the 1980 Highways Act, to cover the increase in extraordinary traffic that would result from construction vehicles and to enable the recovery of costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic. The Applicant is advised to contact the Highway Officer via:

<https://www.westsussex.gov.uk/roads-and-travel/make-an-enquiry-about-a-road-or-pavement/> in order to commence this process.

6. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



## Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location and Block Plan	PD-21	A	13.05.2019
Proposed Floor Plans	PD-22	A	13.05.2019
Proposed Floor Plans	PD-23		13.03.2019
Proposed Elevations	PD-24	A	13.05.2019
Other	PD-25		13.03.2019
Proposed Elevations	PD-26	A	13.05.2019
Existing Elevations	CE/1607017/E	A	13.03.2019
Existing Floor Plans	CE/1607017/B		13.03.2019
Existing Floor Plans	CE/16071017/F		13.03.2019
Existing Floor Plans	CE/1607017/G		13.03.2019
Existing Floor Plans	CE/1607017/S		13.03.2019
Topographical Survey	CAL/1607017		13.03.2019

## APPENDIX B – CONSULTATIONS

### Parish Consultation

Committee as per 15 April 2019: Recommend refusal. The committee were unimpressed with this new submission proposing an even larger property than previous submissions, in light of the comments and rejections that this committee have made previously. The design was appreciated by the committee, however the overbearing and overlooking nature was unacceptable with regards to the impact on the neighbouring property. The car parking spaces as shown were also too small.

### Parish Consultation

The Committee continue to recommend refusal: there is little change to the bulk and effect on the neighbouring property. The aesthetic design is an improvement however the committee refer the Mid Sussex Officers back to the decision of 15th April 2019.

### WSSC Highways Authority

The highway authority has no objection to the planning application.

The parking proposal for six spaces is adequate given the very good accessibility to rail and bus services. Potential residents should note that the proposal is within a controlled parking zone and that an application for a parking permit may not necessarily succeed.

Road access is proposed via the existing crossover. We recommend that the developer contacts the area highway engineer via <https://www.westsussex.gov.uk/roads-and-travel/make-an-enquiry-about-a-road-or-pavement/> before construction begins to confirm whether alterations are required to the crossover and whether a licence is required.

Assuming that the development is to be "constructed in accordance with the approved plans", the following conditions are suggested:

### Pedestrian Visibility

No part of the development shall be first occupied until pedestrian visibility splays of 2 metres by 2 metres have been provided either side of the proposed site vehicular access onto Maypole Road in accordance with plans and details to be submitted to and approved in

writing by the Local Planning Authority. These visibility splays shall thereafter be kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety.

### **Cycle parking**

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

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

### **Construction plant and materials**

No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractors' buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.

Reason: To avoid undue congestion of the site and consequent obstruction to access.

### **Informative**

Section 59 of the 1980 Highways Act - Extraordinary Traffic

The applicant is advised to enter into a Section 59 Agreement under the 1980 Highways Act, to cover the increase in extraordinary traffic that would result from construction vehicles and to enable the recovery of costs of any potential damage that may result to the public highway as a direct consequence of the construction traffic. The Applicant is advised to contact the Highway Officer via:

<https://www.westsussex.gov.uk/roads-and-travel/make-an-enquiry-about-a-road-or-pavement/> in order to commence this process.

## WSCC County Planning Officer

### Summary of Contributions

<b>Education</b>			
Locality	East Grinstead		
Population Adjustment	10.8		
	Primary	Secondary	6th Form
Child Product	0.0475	0.0475	0.0257
Total Places Required	0.3325	0.2375	0.0514
<b>Library</b>			
Locality	East Grinstead		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£0		
Contribution towards East Grinstead/Haywards Heath	£1,681		
Population Adjustment	10.8		
Sqm per population	30/35		
<b>Waste</b>			
Adjusted Net. Households	6		
<b>Fire</b>			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
<b>TAD- Transport</b>			
Net Population Increase	10.8		
Net Parking Spaces	4		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

### Summary of Contributions

S106 type	Monies Due
<b>Education - Primary</b>	£5,958
<b>Secondary</b>	£6,413
<b>Education - 6<sup>th</sup> Form</b>	£1,505
<b>Libraries</b>	£1,681
<b>Waste</b>	No contribution required
<b>Fire &amp; Rescue</b>	No contribution required
<b>No. of Hydrants</b>	To be secured under Condition
<b>TAD</b>	£10,157

<b>Total Contribution</b>	<b>£25,714</b>
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*Note: The above summary does not include the installation costs of fire hydrants. Where these are required on developments, (quantity as identified above) as required under the Fire Services Act 2004 they will be installed as a planning condition and at direct cost to the developer. Hydrants should be attached to a mains capable of delivering sufficient flow and pressure for fire fighting as required in the National Guidance Document on the Provision of Water for Fire Fighting 3rd Edition (Appendix 5)*

The above contributions are required pursuant to s106 of the Town and Country planning Act 1990 to mitigate the impacts of the subject proposal with the provision of additional County Council service infrastructure, highways and public transport that would arise in relation to the proposed development.

Planning obligations requiring the above money is understood to accord with the Secretary of State's policy tests outlined by the in the National Planning Policy Framework, 2018.

The proposal falls within the Mid Sussex District and the contributions comply with the provisions of Mid Sussex District Local Development Framework Supplementary Planning Document- Development Infrastructure and Contributions July 2018.

All TAD contributions have been calculated in accordance with the stipulated local threshold and the methodology adopted as Supplementary Planning Guidance (SPG) in November 2003.

The calculations have been derived on the basis of an increase in 6 Net dwellings and an additional 4 car parking spaces.

Please see below for a Breakdown and explanation of the WSCC Contribution Calculators. Also see the attached spreadsheet for the breakdown of the calculation figures. For further explanation please see the Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

#### 5. Deed of Planning Obligations

- a) As a deed of planning obligations would be required to ensure payment of the necessary financial contribution, the County Council would require the proposed development to reimburse its reasonable legal fees incurred in the preparation of the deed.
- b) The deed would provide for payment of the financial contribution upon commencement of the development.
- c) In order to reflect the changing costs, the deed would include arrangements for review of the financial contributions at the date the payment is made if the relevant date falls after 31st March 2019. This may include revised occupancy rates if payment is made after new data is available from the 2021 Census.
- d) **Review of the contributions towards school building costs should be by reference to the DfE adopted Primary/Secondary/Further Secondary school building costs applicable at the date of payment of the contribution and where this has not been published in the financial year in which the contribution has been made then the contribution should be index linked to the DfE cost multiplier and relevant increase in the RICS BCIS All-In TPI. This figure is subject to annual review.**
- e) **Review of the contribution towards the provision of additional library floorspace should be by reference to an appropriate index, preferably RICS BCIS All-In TPI. This figure is subject to annual review.**

The contributions generated by this proposal shall be spent on additional equipment at St Peter's Catholic Primary School, East Grinstead.

The contributions generated by this proposal shall be spent supporting the National Curriculum at Imberhorne School.

The contributions generated by this proposal shall be spent supporting the National Curriculum at Imberhorne School Sixth Form.

The contributions generated by this proposal shall be spent on flexible shelving to enable increased community use at East Grinstead Library.

The contributions generated by this proposal shall be spent on traffic management and pedestrian/cycling/public realm improvements in Railway Approach.

Recent experience suggests that where a change in contributions required in relation to a development or the necessity for indexation of financial contributions from the proposed development towards the costs of providing service infrastructure such as libraries is not specifically set out within recommendations approved by committee, applicants are unlikely to agree to such provisions being included in the deed itself. Therefore, it is important that your report and recommendations should cover a possible change in requirements and the need for appropriate indexation arrangements in relation to financial contributions.

Please ensure that applicants and their agents are advised that any alteration to the housing mix, size, nature or tenure, may generate a different population and thus require re-assessment of contributions. Such re-assessment should be sought as soon as the housing mix is known and not be left until signing of the section 106 Agreement is imminent.

It should be noted that the figures quoted in this letter are based on current information and will be adhered to for 3 months. Thereafter, if they are not consolidated in a signed S106 agreement they will be subject to revision as necessary to reflect the latest information as to cost and need.

Please see below for a Breakdown of the Contribution Calculators for clarification of West Sussex County Council's methodology in calculating Contributions. For further explanation please see the Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

### **Breakdown of Contribution Calculation Formulas:**

#### **1. School Infrastructure Contributions**

The financial contributions for school infrastructure are broken up into three categories (primary, secondary, sixth form). Depending on the existing local infrastructure only some or none of these categories of education will be required. Where the contributions are required the calculations are based on the additional amount of children and thus school places that the development would generate (shown as TPR- Total Places Required). The TPR is then multiplied by the Department for Children, Schools and Families school building costs per pupil place (cost multiplier).

School Contributions = TPR x cost multiplier

##### **a) TPR- Total Places Required:**

TPR is determined by the number of year groups in each school category multiplied by the child product.

TPR = (No of year groups) x (child product)

Year groups are as below:

- Primary school - 7 year groups (aged 4 to 11)
- Secondary School - 5 year groups (aged 11 to 16)
- Sixth Form School Places - 2 year groups (aged 16 to 18)

Child Product is the adjusted education population multiplied by average amount of children, taken to be 14 children per year of age per 1000 persons (average figure taken from 2001 Census).

Child Product = Adjusted Population x 14 / 1000

Note: The adjusted education population for the child product excludes population generated from 1 bed units, Sheltered and 55+ Age Restricted Housing. Affordable dwellings are given a 33% discount.

#### b) Cost multiplier- Education Services

The cost multiplier is a figure released by the Department for Education. It is a school building costs per pupil place as at 2018/2019, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

- Primary Schools - £17,920 per child
- Secondary Schools - £27,000 per child
- Sixth Form Schools - £29,283 per child

### 2. Library Infrastructure

There are two methodologies used for calculating library infrastructure Contributions. These have been locally tailored on the basis of required contributions and the nature of the library in the locality, as below:

Library infrastructure contributions are determined by the population adjustment resulting in a square metre demand for library services. The square metre demand is multiplied by a cost multiplier which determines the total contributions as below:

Contributions = SQ M Demand x Cost Multiplier

#### a) Square Metre Demand

The square metre demand for library floor space varies across the relevant districts and parishes on the basis of library infrastructure available and the settlement population in each particular locality. The local floorspace demand (LFD) figure varies between 30 and 35 square metres per 1000 people and is provided with each individual calculation.

Square Metre Demand = (Adjusted Population x LFD) / 1000

#### b) Cost Multiplier- Library Infrastructure

WSCC estimated cost of providing relatively small additions to the floorspace of existing library buildings is £5,252 per square metre. This figure was updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index for the 2018/2019 period.

### 3. TAD- Total Access Demand

The methodology is based on total access to and from a development. An Infrastructure Contribution is required in respect of each occupant or employee provided with a parking space, as they would be more likely to use the road infrastructure. The Sustainable Transport Contribution is required in respect of each occupant or employee not provided with a parking space which would be likely to reply on sustainable transport.

TAD = Infrastructure contribution + Sustainable Transport contribution

#### a) Infrastructure Contribution

Contributions for Infrastructure are determined by the new increase in car parking spaces, multiplied by WSCC's estimated cost of providing transport infrastructure per vehicle

Infrastructure cost multiplier. The Infrastructure cost multiplier as at 2018/2019 is £1,373 per parking space.

Infrastructure contributions = Car parking spaces x Cost multiplier

#### b) Sustainable Transport Contribution

This is derived from the new car parking increase subtracted from the projected increase in occupancy of the development. The sustainable transport contribution increases where the population is greater than the parking provided. The sustainable transport figure is then multiplied by the County Council's estimated costs of providing sustainable transport infrastructure cost multiplier (£686).

Sustainable transport contribution = (net car parking - occupancy) x 686

Note: occupancy is determined by projected rates per dwelling and projected people per commercial floorspace as determined by WSCC.

### Natural England

#### **DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION**

This advice should be taken as Natural England's formal **representation on appropriate Assessment** given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

**With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.**

Natural England advises that the specific measures previously identified and analysed by your Authority to prevent harmful effects on Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA) from increased recreational pressure should be applied to this proposed development at appropriate assessment.

Your authority has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Site(s) for the duration of the proposed development.

Providing that the appropriate assessment concludes that these measures must be secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your authority's appropriate assessment, Natural England is satisfied that this appropriate assessment can ascertain that there will be no adverse effect on the integrity of the European Site in view of its conservation objectives.

### Ecology Consultant

As the site is within 7km of the Ashdown Forest European sites, MSDC must be satisfied that significant effects can be avoided, in accordance with advice from, or following procedures agreed with, Natural England. There will be loss of a bat roost but, subject to MSDC being satisfied that in all other respects, that consent is in the public interest, it is likely that a licence can be obtained from Natural England. Therefore, subject to these

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

The development shall proceed in strict accordance with the recommendations in the supporting bat survey report by Arbtech, which shall include obtaining a licence from Natural England to permit destruction of a bat roost prior to demolition.

Reason: To protect the ecological value of the site and to accord with policies DP17 and DP38 of the Mid Sussex District Plan and para 175 of the NPPF.

### **MSDC Urban Designer**

The current application proposal in most respects reflects the advice I gave the applicant at February's pre application meeting.

It is a shame that the scheme involves the loss of the existing building as it has retained most of its original details including its vertically proportioned sash windows, decorative tiling and barge boarding as well as the cresting and finials that adorn the ridge line. Nevertheless, by replicating the form and much of the detailing of the front part of the existing building the current proposal succeeds in maintaining a frontage that sits comfortably with the group of similar circa Edwardian period properties that face the west side of Maypole Road. This is despite the fact that the proposed building will have a significantly greater footprint and extends further back than the existing house; however it is now better designed than the refused schemes and benefits from being more disguised by the break in the building/roof line. Overall it is an improvement upon the refused schemes and I raise no objection, but would recommend conditions (or submission of further drawings as appropriate) to cover the following issues:

- Facing materials - I am not convinced about the rendering of the bay windows, and as discussed I feel this needs to feature a sandstone finish as per the existing (reconstituted stone if necessary). **Not addressed but facing materials should be subject to a condition**
- Design of the windows - As agreed at the pre application meeting these should be double hung sash windows, at least in the front part of the building (visible from the street). **Not shown on the drawings, please include a condition covering this**
- Detailed 1:20 section and elevation drawings showing the decorative detailing including the gabled roof, barge boarding, finials, cresting, first floor cornice / dentils (in context). **Not supplied, please include a condition covering this**
- Detailed landscaping **Not supplied, please include a condition covering this**
- Position of the rainwater downpipes - These are not shown on the elevations and need to be positioned where they work harmoniously with the façade (avoiding the poor positioning on the existing building). **Addressed**
- The design of the front entrance canopy - As drawn it does not integrate well with the front door which it sits too high above. Its design also needs to be considered in relation to the rainwater downpipe which is best accommodated in the corner (so a smaller canopy such as the one at the side that sits proud of the side wall could be considered). **Addressed**

I would also like the architect to look at the positioning of the windows on the NE flank and the rear elevation. The gable is poorly integrated on the NE flank as it is not vertically defined on the ground and first floors with a projection (which would address this); the formal repositioning of the windows could help (although this would require some internal re-jig) and/or the positioning of the rw-downpipes **Addressed**. On the rear elevation the first floor



windows would benefit from being more consistently grouped (refer to attached overlay).

## **Addressed**

### **MSDC Leisure**

The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the District Plan policy and SPD which require contributions for developments of five or more dwellings.

#### **CHILDRENS PLAYING SPACE**

Lingfield Road Recreation Ground, owned and managed by the Council, is the nearest locally equipped play area approximately 400m from the development site. This facility will face increased demand from the new development and a contribution of £8,303 is required to make improvements to play equipment (£4,513) and kickabout provision (£3,791).

#### **FORMAL SPORT**

In the case of this development, a financial contribution of £5,875 is required toward Senior pitch drainage at King Georges Field, East Grinstead.

#### **COMMUNITY BUILDINGS**

The provision of community facilities is an essential part of the infrastructure required to service new developments to ensure that sustainable communities are created. In the case of this development, a financial contribution of £3,370 is required to make improvements to the Age UK centre.

In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the number of units proposed and average occupancy (as laid out in the Council's Development Infrastructure and Contributions SPD) and therefore is commensurate in scale to the development.

The Council maintains that the contributions sought as set out are in full accordance with the requirements set out in Circular 05/2005 and in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### **MSDC Drainage**

**Recommendation:** Condition recommended

#### **Summary and overall assessment**

The development proposes to discharge surface water to a soakaway, which in turn can overflow to an attenuation tank, which in further turn can discharge at a restricted discharge rate of 2.0ls-1 to the existing foul sewer that serves the site. It is stated that the proposal has capacity for the 1:100+40%cc event

On site investigations have found:

- an infiltration rate of 8.42\*10<sup>-5</sup>ms<sup>-1</sup> can be achieved.
- The existing brownfield drainage arrangements have surface water discharging to the site's foul system at approximately 2.8ls-1.

The addendum to the submitted FRA informs that the proposed soakaway will have capacity for the 1:100 year storm event. So rainfall exceeding this will then overflow to the attenuation tank, where water will be restricted to approximately 2ls-1 into the existing foul network.

Whilst this proposal provides betterment to the local foul network, this still requires formal approval from Southern Water. This will need to be shown as part of meeting the condition at the detail design stage.

This proposed development will still 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 should be followed and full consideration will need to be made towards the development catering for the 1 in 100 year storm event plus extra capacity for climate change.

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

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

The proposed development drainage will need to:

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

### **Flood Risk**

The proposed development is within flood zone 1 and is deemed as low fluvial flood risk. The proposed development is not within an area identified as having possible pluvial flood risk.

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

### **Surface Water Drainage Proposals**

It is proposed that the development will use soakage with an overflow to the existing foul.

### **Foul Water Drainage Proposals**

It is proposed that the development will utilise the existing foul network

## Suggested Conditions

### C18F - Multiple Dwellings

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

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

## 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.

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

Pre-app	Outline	Full	Reserved	Discharge	Document submitted
		√	√	√	Geotechnical factual and interpretive reports, including infiltration results
		√	√	√	Detailing landscaping details
		√	√	√	Discharge agreements (temporary and permanent)
		√	√	√	Development Management & Construction Phasing Plan

Additional information may be required under specific site conditions or development proposals

*Useful links:*

Planning Practice Guidance - Flood Risk and Coastal Change

Flood Risk Assessment for Planning Applications

Sustainable drainage systems technical standards

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

Climate change allowances - Detailed guidance - Environment Agency Guidance

Further guidance is available on the Susdrain website at <http://www.susdrain.org/resources/>

1.

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

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

2.

*For the use of soakaways:*

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 at least 24 hours.

3.

*For the use of SuDs and Attenuation:*

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

Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the development will be able to cater for the 1 in 100 year storm event plus climate change percentages, for some developments this will mean considering between 20 and 40% additional volume for climate change but scenarios should be calculated and a precautionary worst case taken. 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. 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. You cannot discharge surface water unrestricted to a watercourse or sewer.

4.

*Outfall to Watercourse:*

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. OWC applications can be discussed and made with Mid Sussex District Council, Scott Wakely, 01444 477 005.

5.

*Outfall to Public Sewer:*

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.

6.

*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.

7.

*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.

8.

*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.

**MSDC Tree Officer**

I know this site quite well and raise no objections to the works and tree removals, subject to compliance with the arb report.

However, DP37 requires removed trees to be replaced on a one for one basis and it is difficult to see how they would achieve this within the site . Also, there is no landscaping plan. Do we not want to soften the frontage of this scheme ?

Landscaping scheme should be submitted and replacement trees should be required by condition in accordance with policy. I accept that some of the trees be removed are small, self seeded specimens but I think we should require at least 3 replacement trees and some shrubs

The tree report refers to a policy which has subsequently been replaced by DP37.

### **MSDC Environmental Protection**

Given the potential for noise and dust disturbance to existing nearby premises during the demolition and construction phases of this development, should planning permission be granted, Environmental Protection recommends the following conditions:

1. **Construction and demolition:** 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 to 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.

2. **Deliveries:** Deliveries or collection of plant, equipment or materials for use during the demolition/construction phase shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs

Saturday: 09:00 - 13:00 hrs

Sundays and Bank/Public Holidays: None permitted

Reason: To protect the amenity of local residents

3. **Construction Environmental Management Plan:** Prior to the demolition and the commencement of construction, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: measures to control noise or vibration affecting nearby residents; artificial illumination; dust control measures; pollution incident control and site contact details in case of complaints. The demolition/construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect neighbouring residents and residences from noise, vibration and dust.

### **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.

Accordingly, you are requested that:

No burning of demolition/construction waste materials shall take place on site.

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

### **MSDC Street Name & Numbering**

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

Informative: Info29

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

### **Gatwick Safeguarding Officer**

The proposed development has been examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. We, therefore, have no objection to this proposal.

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MID SUSSEX DISTRICT COUNCIL

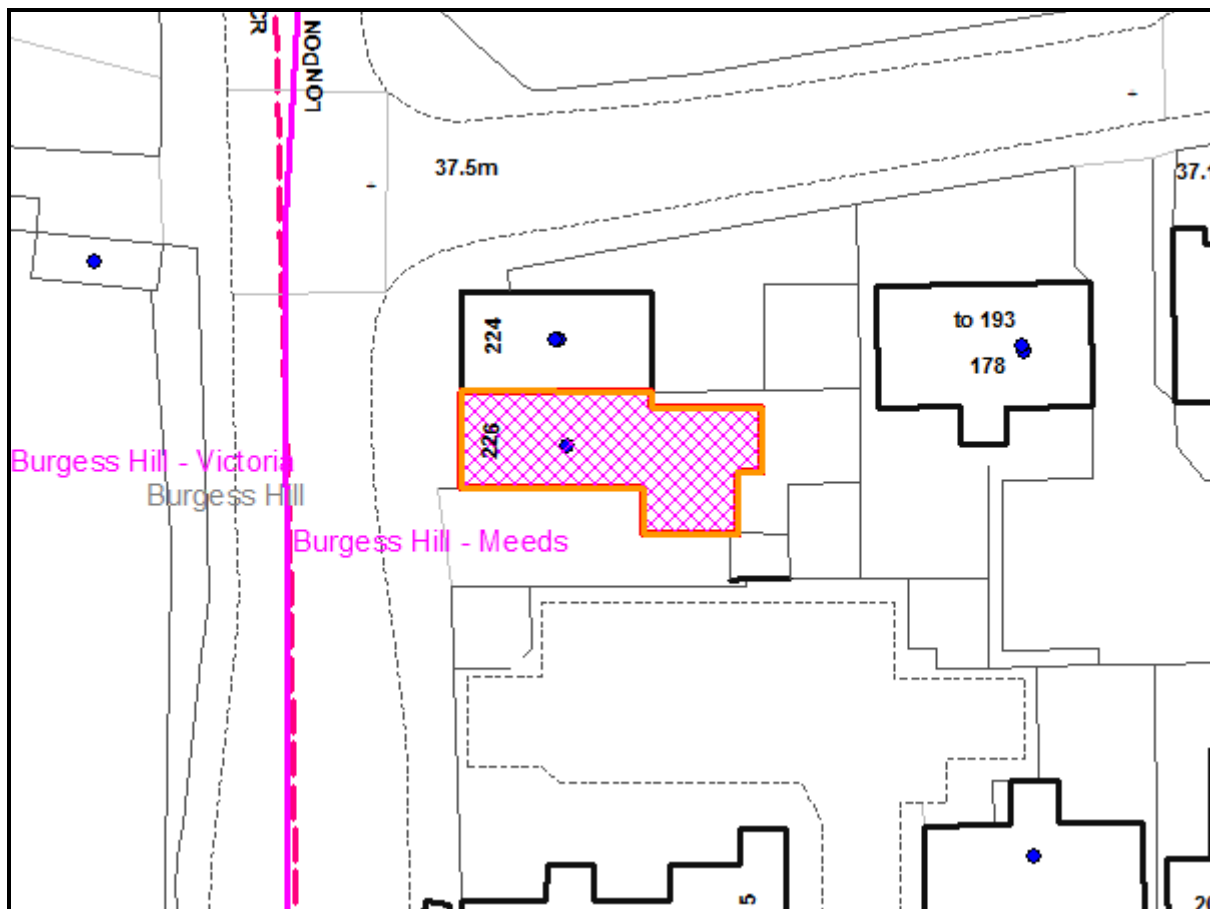
Planning Committee

**4 JUL 2019**

RECOMMENDED FOR PERMISSION

**Burgess Hill**

**DM/19/1498**



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**NAASTA 226 LONDON ROAD BURGESS HILL WEST SUSSEX  
RETENTION OF EXTERNAL LIGHT FOR ADVERTISEMENT.  
MR ATHIKUR RAHMAN**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) /

ODPM CODE: Advertisements

8 WEEK DATE: 8th July 2019

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Andrew Clarke

### **Purpose of Report**

To consider the recommendation of the Divisional Lead, Planning and Economy on the application for express advertisement consent as detailed above.

### **Executive Summary**

This application seeks express advertisement consent for the retention of an illuminated fascia sign.

The application is before committee as a Member for the Burgess Hill Meeds Ward has an interest in the land.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 states:

'a local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account - (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors". Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest; and factors relevant to public safety include the safety of persons using any highway (amongst others) and whether the display of the advertisement in question is likely to obscure or hinder the ready interpretation of any traffic sign (amongst others).'

The fascia sign is of a scale and design which does not cause harm to the character and appearance of the area and the use of a down lighter to illuminate the sign is not out of keeping on this edge of town centre site which lies on a well-lit main road.

No objections have been received in respect of neighbour amenity or from MSDC Environmental Protection or WSCC Local Highways Authority in respect highway safety and the close proximity of the traffic lights and pedestrian crossing.

The policies of the development plan seek to support local business and economic development and the illuminated sign is therefore deemed to comply with policy DP1, DP21, DP26 and DP29 of the Mid Sussex District Plan 2014-2031, the contents of the Burgess Hill Neighbourhood Plan and the requirements of the NPPF.

Express advertisement consent should therefore be granted.

## **Recommendation**

It is recommended that express advertisement consent be granted subject to the conditions listed at Appendix A.

## **Summary of Consultations**

### **MSDC Environmental Protection**

No objections

### **WSCC Local Highways Authority**

No objections

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**

Burgess Hill Town Council recommend approval for the application.

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## **Introduction**

This application seeks express advertisement consent to retain an externally lit fascia sign at the commercial premises.

The application is before committee as a Member for the Burgess Hill Meeds Ward has an interest in the land.

## **Relevant Planning History**

There is no planning history relevant to the determination of the application. Whilst the business occupying the premises has recently changed it remains as a lawful mixed A3/A5 use.

## **Site and Surroundings**

The property at 226 London Road Burgess Hill is a restaurant operating under the name Naasta under an A3/A5 restaurant / takeaway use. The building forms the southern part of a three storey semi-detached building lying on the main London Road on the southern approach to Burgess Hill town centre. The other side of the semi-detached building is also in use as an A5 takeaway.

The site lies at the junction of London Road and Station Road with traffic lights and a pedestrian crossing in front with the site having significant wider views from the main road and traffic passing through the town.

## **Application Details**

The application seeks express advertisement consent for the retention of an illuminated fascia sign. As part of the change of business at the premises it has undergone external renovation with a new canopy and new fascia sign displaying the name of the restaurant (Naasta) and associated logo. The sign is externally down-lit by a long strip light attached to the canopy. It should be noted that the sign only requires consent by virtue of the illumination of the fascia sign and the application does not seek to consider the other alterations to the premises.

The sign and light is already in situ having been installed in March 2019.

## **List of Policies**

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

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

DP1 - Sustainable Economic Development

DP21 - Transport

DP26 - Character and Design

DP29 - Noise, Air and Light Pollution

### **Burgess Hill Neighbourhood Plan**

The Burgess Hill Neighbour Plan has been made and is a material consideration with full weight attached.

## **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.'*

Paragraph 132 relates to advertisements and states: *The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.*

### **Assessment (Consideration of Key Issues)**

'A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account - (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors". Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest; and factors relevant to public safety include the safety of persons using any highway (amongst others) and whether the display of the advertisement in question is likely to obscure or hinder the ready interpretation of any traffic sign (amongst others).'

The main issues considered relevant to this application are the proposed design and impact on the character of the area and impact on highway safety.

### **Impact on the Character of the Area**

The primary consideration relates to the impact upon the character and appearance of the area in relation to the illumination of the fascia sign. In this respect policy DP26 of the District Plan is relevant with the appropriate parts stating:

*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 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)*

The building is an existing commercial premises which has recently undergone a change of business. The previous restaurant (Shapla) also had a fascia sign although it was not illuminated and whilst the illumination of the premises would result in an alteration in the appearance of the area, the site and the surrounding area is made up of a mixture of commercial and residential uses and lies close to the town centre. The area is already well illuminated by virtue of the busy London Road upon which it lies and therefore additional illumination in the area would not appear out of keeping or detrimental to its character.

The sign is down-lit via a strip light and therefore any light would be emitted downwards and would create a lesser impact than an up-lit sign or one which is internally illuminated which would portray a more intensive and commercial appearance. The use of a down-lighter is therefore appropriate in this area on the edge of the town centre.

The light itself emits 1100 lumens, roughly equivalent to a 75 watt lightbulb and therefore would not be of an excessive level of illumination and is commensurate to the size and siting of the sign.

The signage and lettering itself simply states the name of the business with an appropriate logo and is not excessive in its scale or size or else does it dominate the frontage of the building.

### **Highway Safety**

WSCC Local Highways Authority (LHA) have been consulted on the application on the basis of highway safety and the proximity of the highway and traffic lights to the premises and the illuminated sign. No objection has been raised on the issue of highway safety by the LHA and therefore the development complies with the requirements of policy DP21 in respect of protecting highway safety and highway users.

### **Neighbour amenity**

Residential units, occupied primarily by staff, lie above the restaurant with windows to the front overlooking the sign. However, the sign is down-lit and only on during opening hours and therefore would not result in light spillage into the upstairs windows. There would therefore be no impact upon the amenities of surrounding residential neighbours and occupiers.

### **Conclusions**

The sign and illumination is not considered to be excessive on this edge of town centre site which already benefits from other illumination by virtue of the street lighting and traffic lights associated with the main London Road. The sign is therefore not out of keeping with or causes harm to the surrounding area and complies policy DP26 of the District Plan. No objections have been raised on highway safety grounds and neighbour amenity grounds and therefore the requirements of policy DP21 and DP29 are also met.

The proposal is therefore deemed to comply with the policies of the Mid Sussex District Plan 2014-2031, the contents of the Burgess Hill Neighbourhood Plan, as well as those of the NPPF and the application is recommended for permission.

Express advertisement consent should therefore be granted.

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## APPENDIX A – RECOMMENDED CONDITIONS

1. The advertisement consent hereby granted expires at the end of the period of five years from the date of this notice.  
  
Reason: To accord with Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
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. The intensity of illumination of the proposed sign shall not exceed 1100 lumens and be solely provided by a single down lighter.  
  
Reason: To protect the character and appearance of the area and to accord with policy DP26 of the District Plan.
4. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
5. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
6. Where an advertisement is required under these regulations to be removed, the removal thereof shall be carried out to the reasonable satisfaction of the Local Planning Authority.
7. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
8. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway (including any coastal waters) or aerodrome (civil or military).  
  
Reasons 4-8: To comply with Regulations 13(1)(b) and Schedule 1 of the above regulations.

## 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.

### **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			03.05.2019
Planning Statement			03.05.2019

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

Recommend Approval

### **MSDC Environmental Protection**

Environmental Protection has no concerns regarding this application.

### **WSCC Local Highways Authority**

The application has been dealt with in accordance with the Development Control Scheme protocol for small scale proposals which include up to 5 residential units or extensions to single units accessed from roads that do not form part of the Strategic Road Network (SRN). As such the comments provided by Planning Services should be considered to be advice only, with respect to this planning application.

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.

I refer to your consultation in respect of the above planning application and would provide the following comments.

Upon inspection of the plans, the Local Highways Authority (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.



MID SUSSEX DISTRICT COUNCIL

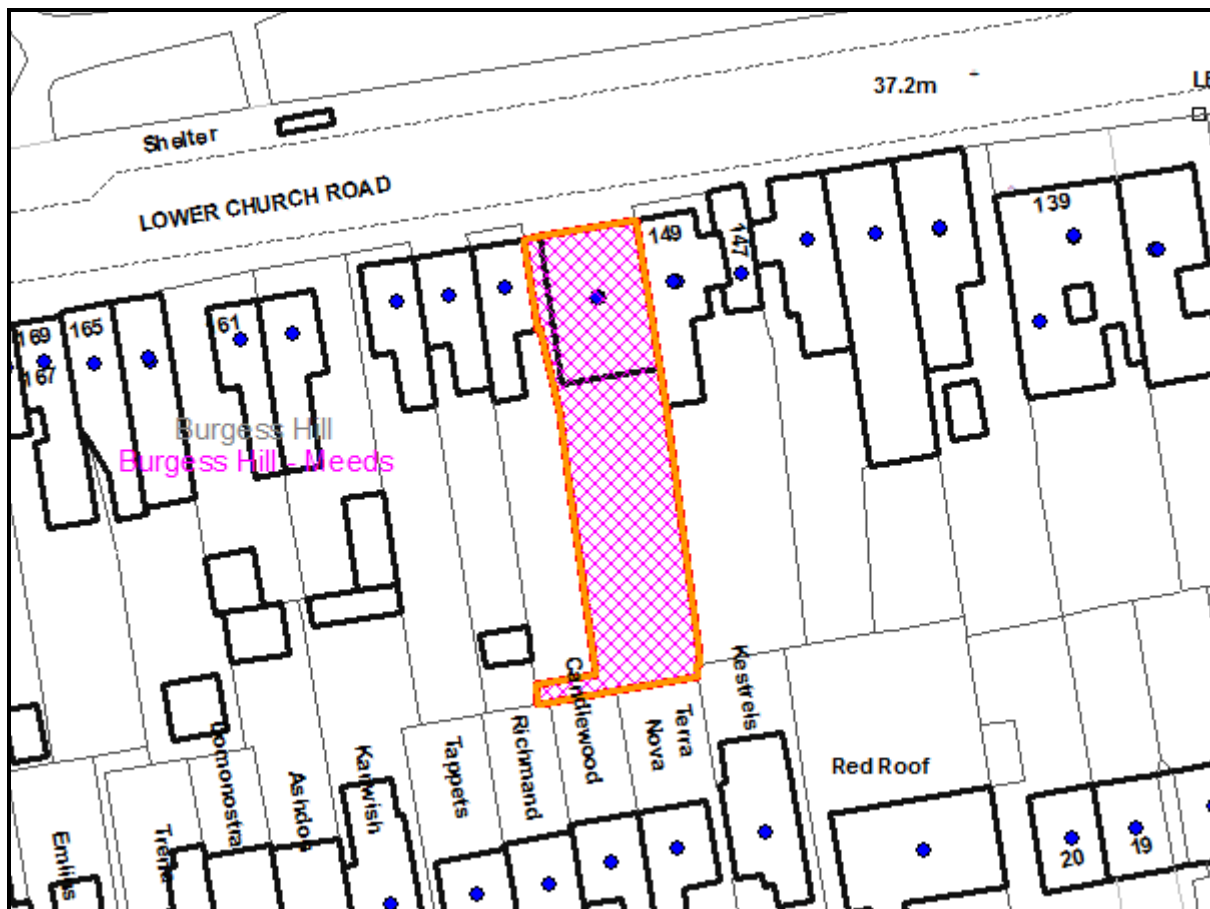
Planning Committee

4 JUL 2019

RECOMMENDED FOR PERMISSION

**Burgess Hill**

DM/19/1612



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**151 LOWER CHURCH ROAD BURGESS HILL WEST SUSSEX RH15 9AA  
CONVERSION OF EXISTING BUILDING TO FORM 3X 1 BED FLATS AND  
1X 2 BED FLATS. TO INCLUDE ERECTION OF A REPLACEMENT METAL  
SIDE GATE, ALTERATIONS TO THE FENESTRATION, EXISTING ROOF  
TO REAR AND ADDITION OF A TWO STOREY EXTENSION TO THE  
REAR, BENEATH A PITCHED ROOF.  
C/O AGENT**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Aerodrome Safeguarding (CAA) / Radon Gas Safeguarding Zone /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 15th July 2019

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Joanne Fisher

### **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**

Planning permission is sought for the conversion of the existing building to form 3 x 1 bed flats and 1x 2 bed flats, to include the erection of a replacement metal side gate, alterations to the fenestration, existing roof to rear and the addition of a two storey extension to the rear, beneath a pitched roof at 151 Lower Church Road, Burgess Hill.

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 application site lies in the built up area of Burgess Hill and results in the net increase of 3 residential units. The proposed design and scale of the development is considered acceptable, and will not cause harm to the character and appearance of the locality or to the street scene. No significant harm would be caused to the amenities of the surrounding residential occupiers through overlooking or a loss of light. Moreover, the proposal is considered not to cause harm in terms of parking or highway safety.

The site is within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In the short term the proposal would also deliver a number of construction jobs.

There will be a neutral impact in respect of space standards and the impact on the Ashdown Forest.

On the basis of the above, the application complies with policies DP4, DP6, DP21, DP26, DP27, DP35, DP37, DP39 and DP41 of the District Plan, and paragraphs 8, 108, 110, 117, 124, 127, 148 and 196 of the NPPF. Accordingly the application is recommended for approval.

### **RECOMMENDATION**

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

### **SUMMARY OF REPRESENTATIONS**

6 letters of OBJECTION concerning the following points:

- proposed plans represent a significant overdevelopment of the property;
- proposed number of dwellings represents overcrowding in a small footprint;
- already overdevelopment of the immediate vicinity. In the space of 50 metres there are 11 new proposed dwellings;
- increased noise and disturbance from the amount of people who will occupy the four new dwellings in a small area.
- proposed extension at the rear is out of keeping with the characteristic style of the street and is out of proportion to the rest of the property due to its sheer size;
- additional windows in the flank elevation for all four flats will directly overlook no 153 and will allow occupants to see directly into our sitting room, second bedroom, kitchen and garden;
- large extension will block natural light to no 153's bathroom, rear bedroom, sitting room and kitchen, as well as block sunlight from the first half of our garden;
- impact on the already difficult parking situation along Lower Church Road;
- loss of another commercial property on Lower Church Road will further separate the few remaining existing businesses and is a loss to this area;
- extension is not in keeping with the area;
- extension will greatly reduce the natural light to the rear of no 155 and garden;
- window frontage cannot be altered due to the conservation area and the proposed plans will alter the aesthetics immensely;
- extension to the back of the property will block sunlight from the neighbouring gardens and render these gardens in the shade for the vast majority of the day;
- proposed flats will completely overlook neighbouring properties, being directly adjacent to gardens, it will deny neighbours the right to privacy;
- size and scale of the proposed addition to the back of the house is not in keeping with the rest of the street, the proposed size of the property will be too big and dominate the rear of the terrace row;

### **SUMMARY OF CONSULTEES**

#### **WSCC Highways Authority**

No objection subject to conditions.

### **MSDC Conservation Officer**

No objection.

### **MSDC Drainage**

No objection subject to condition.

### **MSDC Environmental Protection**

No objection.

### **MSDC Street Name & Numbering**

Informative.

### **BURGESS HILL TOWN COUNCIL**

RECOMMEND REFUSAL - it was an overdevelopment of the site. It would be overbearing. It would be detrimental to the local amenities. It would cause loss of privacy and block significant sunlight from adjacent properties. It would increase the existing parking pressures in this area.

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### **INTRODUCTION**

Planning permission is sought for the conversion of the existing building to form 3 x 1 bed flats and 1x 2 bed flats, to include the erection of a replacement metal side gate, alterations to the fenestration, existing roof to rear and the addition of a two storey extension to the rear, beneath a pitched roof at 151 Lower Church Road, Burgess Hill.

### **RELEVANT PLANNING HISTORY**

07/03464/FUL - Conversion and extension to part of the existing retail space and first floor flat to provide a total of three flats and 360sqft or 33.7sqm of retail space. Withdrawn.

08/00623/FUL - Conversion and extension to part of the existing retail space and first floor flat to provide a total of three flats and 360sqft or 33.7sqm of retail space. Refused 22/4/2008.

08/02602/FUL - Conversion and extension to part of the existing retail space and first floor flat and roof space to provide a total of three flats and 360sq ft or 33.7sq m of retail space. (Amended Plans Received 23/10/2008.) Withdrawn.

09/00360/FUL - Conversion and extension to part of the existing retail space and first floor flat and roof space to provide a total of two flats and 33.75SQM of retail space. Approved 19/5/2009.

Permission was refused under reference DM/18/3623 for the conversion of existing building to form 1x1bed flat, 1x2bed flat and 2x2bed maisonettes. To include erection of a 2.5m high metal side gate, removal of two chimney stacks, alterations to the fenestration and removal of the shopfront, a single storey extension to the rear with shared terrace area and 1.5m privacy screen over; hip to gable roof extension and full width rear dormer, plus two dormers to the front elevation (amended description 3.10.2018 and certificate B 8.10.2018). This was refused for the following reasons:

*'1. The proposed roof terrace would give rise to significant levels of actual and perceived overlooking to neighbouring gardens and back into the rear of no. 149 (flats a and b) and 153 Lower Church Road. The level of active use which the terrace could facilitate at an elevated position would also give rise to harmful noise and disturbance to neighbouring properties resulting in harmful loss of amenity and an unneighbourly form of development contrary to policy DP26 of the Mid Sussex District Plan 2014-2031.*

*2. The proposed extensions and alterations represent a poor standard of design by reason of their scale, form, detailing and use of materials, resulting in harmful loss of the existing roof form and chimneys, whilst having an overextended appearance which fails to respect the character of the existing property whilst appearing overly dominant and harming the character of the surrounding area. The proposal would detract from the setting of the St John's Conservation Area and the manner in which its special interest is appreciated, including views from St John's Park and Lower Church Road, causing harm to its significance and therefore fails to meet the requirements of policies DP26 and DP35 of the Mid Sussex District Plan 2014-2031 and paragraph 196 of the NPPF.'*

Planning permission was most recently refused under reference DM/19/0102 for the conversion of existing building to form 2x 1 bed flats and 2x 2 bed flats. To include erection of a replacement metal side gate, alterations to the fenestration and a two storey and single storey extension to the rear, beneath pitched and flat roofs respectively. This was refused for the following reasons:

*'1. The proposed two storey extension would represent a significant increase in scale and bulk within close proximity to no.153, resulting in a harmfully enclosing and overbearing impact and loss of outlook to this property. The proposed side windows would further compound the impact, resulting in perceived and actual overlooking. The extension by reason of its scale and close proximity to no.149 would represent an unneighbourly form of development adversely affecting the enjoyment of their garden. The proposal is therefore contrary to policy DP26 of the District Plan 2014-2031.*

*2. The proposed extensions and alterations represent a poor standard of design by reason of its scale and bulk which dominates the existing property and fails to respect the character and scale of surrounding development resulting in an overextended appearance causing harm to the character of the building and the surrounding area which is predominantly small scale and close knit development. The proposed front boundary walling lacks appropriate detailing and would fail to conceal the extensive refuse storage and would therefore harm the setting of the*

*adjacent St John's Conservation Area. The proposal is therefore contrary to policies DP26 and DP35 of the Mid Sussex District Plan 2014 - 2031 and paragraph 196 of the NPPF.'*

## **SITE AND SURROUNDINGS**

The property is a semi-detached two storey building formed of white painted render and brick elevations with a hipped tiled roof and has a vacant commercial use on the ground floor with associated shopfront in a traditional style. The property has two access doors off the pavement, one centrally to the commercial unit and one on the east side to the flat. It appears to have been extended at some time in the past and once may have formed one half of a pair of matching semi-detached properties. The property has a large rectangular footprint. At first storey level, the property has a self-contained 2 bedroom flat.

The property is located within a linear group of a mix of differing retail uses interspersed with residential development; the properties to either side are in residential use.

The boundary of the St John's Conservation Area runs along the north side of Lower Church Road and further along Lower Church Road to the east of the site but does not include the site.

In terms of planning policy the site falls within the built up area as defined by the Mid Sussex Local Plan and the Burgess Hill Neighbourhood Plan.

## **APPLICATION DETAILS**

The proposal seeks to change the ground floor use from commercial to residential and to create a total of four flats, 3 x 1 bedroom and 1 x 2 bedroom units on the ground and first floors with part accommodation for the 2-bed unit within the roofspace. A low front wall with brick piers is also proposed to enclose the currently open front threshold.

This is a resubmission of a recently refused scheme on the site under reference DM/19/0102. This revised scheme seeks to address the previous reasons for refusal.

A two storey extension to the rear of the building is proposed and would measure some 5.1 metres in width, 6.5 metres in depth with an eaves height of some 4.8 metres and a ridge height of some 7.3 metres. The extension would be subordinate to the ridge line of the existing building with a hipped roof. The extension would be finished in render with roof tiles to match the existing building.

The extension would be set in from the shared boundary with the attached property no 149 by some 0.2 metres. The extension is to only span across part of the width of the rear of the building compared to the previous proposal.

The existing rear ridge of the building is subordinate to the front of the property. Part of the application seeks to raise the ridge line of the existing rear element by some

0.6 metres (to a total of some 8.6 metres), so that it meets the existing ridge of the front of the building.

The openings to the front of the building are to remain with new windows installed. On the western (side) elevation a new ground floor window is proposed with the rear extension benefitting from 2no ground floor and 2 no first floor windows on the western side elevation. To the roof extension 4no rooflights are proposed with 3 to the eastern elevation and 1 to the southern (rear) elevation.

Refuse and recycling storage is proposed to the side pathway leading to the rear of the building and a cycle store is proposed within the rear garden.

The submitted Design and Access Statements states *'The proposal has been developed due to a lack of demand / interest for commercial use on the site and the low standard of accommodation in the existing flat, which is poorly arranged. The general condition of the building is below average, with the rear being in particularly poor condition and the rear garden is unused and neglected.'*

The main differences between this application and the previously refused scheme (DM/19/0102) are as follows:

A reduction in the depth and width of the proposed rear extension. The previous rear extension was to comprise of two storey and single storey elements measuring a total of some 9.1 metres in depth (7.1 metres at two storey), and a two storey width of some 7.5 metres set in by some 0.5 metres off the existing western side wall.

As outlined above the current proposal would measure some 6.5 metres in depth (a reduction by a total of some 2.6 metres), and a width of some 5.1 metres (a reduction in some 2.4 metres), and set in from the existing western side wall by some 2.8 metres.

In addition amendments to the front boundary wall have been made to address previous concerns in respect of the detailing of this front boundary treatment with the position of the refuse store moving from the front to the rear of the site.

## **LIST OF POLICIES**

### **District Plan**

The District Plan was adopted in March 2018.

DP1 - Sustainable Economic Development  
DP4 - Housing  
DP6 - Settlement Hierarchy  
DP21 - Transport  
DP26 - Character and Design  
DP27 - Dwelling Space Standards  
DP35 - Conservation Areas  
DP37 - Trees, Woodland and Hedgerows  
DP39 - Sustainable design and construction

## **Burgess Hill Neighbourhood Plan**

The Neighbourhood Plan for Burgess Hill was 'made' in January 2016. It forms part of the development plan with full weight.

Relevant policy:

S4 - Parking standards for new developments.

## **National Policy and Legislation**

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

The National Planning Policy Framework 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 which are interdependent and need to be pursued in mutually supportive ways. These are an economic, social and environmental objective. This means seeking to help build a strong, responsive and competitive economy; to support strong, vibrant and healthy communities; and to contribute to protecting and enhancing the natural, built and historic environment.

*Para 12 states 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*

*Para 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.'*

Para 47 states that the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paras 193 and 194 (Conserving and enhancing the historic environment) relate to assessing the impacts on designated heritage assets.

*Planning Practice Guidance*

*Technical Housing Standards*



## ASSESSMENT

The main issues for consideration are:

- the principle of the development;
- design and the impact to the character of the area;
- the impact to the amenities of surrounding occupiers,
- access and parking;
- sustainability;
- dwelling space standards;
- infrastructure;
- Ashdown Forest; 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:*

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

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

*'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

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 this part of Mid Sussex consists of the District Plan and 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.

As the proposed development is within the built up area of Burgess Hill, the principle of additional windfall housing development is acceptable under Policy DP6 of the District Plan which states:

*'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 not designated as being within either a primary or secondary retail frontage and is located just outside the defined Town Centre Boundary of Burgess Hill. Therefore, there are no policies which relate specifically to protecting the existing commercial use. It is noted that policy DP1 (Sustainable Economic Development) states that the LPA would seek to protect *'allocated and existing employment land and premises'*; however the policy is directed predominantly at larger employment generating sites such as B1 office or large retail uses and is not therefore considered relevant to this application.

In addition, as the application site is located outside a Conservation Area, it is likely to have the benefit of permitted change to residential (Schedule 2, Part 3 Class M of The Town and Country Planning (General Permitted Development)(England) Order 2015) which is considered to represent a reasonable fall-back position which should also be considered.

The principle of residential use and the associated loss of the commercial use is therefore considered acceptable.

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

Policy DP26 of the District Plan deals with design matters and states the following;

*'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and 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.*
- *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 plus unit) scheme will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development.'*

Para 124 of the NPPF seeks the creation of high quality buildings and states that *'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

In addition, para 127 of the NPPF requires developments to *'function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development'* and to also be *'visually attractive as a result of good architecture, layout and appropriate and effective landscaping'*.

The scale of the rear extension has been significantly reduced in both its depth and width so that it now forms a subordinate feature to the main building and is set in from the western flank wall by some 2.9 metres. The amended scheme results in a more appropriate scale and design to the existing property and would form a sensitive extension to the main building.

Concerns have been raised in respect of the impact on the character of the area, and that the size and scale are not in keeping with the street scene. Within Lower Church Road there is a mixture in the size and scale of properties. Whilst a small part of the roof line of the proposed extension will be visible from the highway and St Johns Park opposite the site, the proposed extension will not generally be visible from public viewpoints as the alterations are to the rear of the site. Further west, no.141 Lower Church Road has a very large historic extension which in part justified the recent approval of extensions to the adjoining property at no.143 (DM/18/3757). This section of Lower Church Road is predominantly characterised by smaller terraced and semi-detached properties. Notwithstanding this due to the revised design and scale of the extension it is considered that the proposal will not detract from the character of the area.

The property, although not within the conservation area, is within the setting of the St John's Conservation Area, the boundary of which runs along the north side of Lower Church Road. Policy DP35 of the District Plan relates to Conservation Areas and requires development to protect the setting of Conservation Areas and in particular views into and out of the area.

The Council's Conservation Officer previously acknowledged that the site and the adjacent properties form a prominent part of the setting of the conservation area and view from it, as well as views along Lower Church Road.

The proposed alterations to the front of the property represent a significant improvement when compared to the recently refused scheme. The proposed front walling now includes detailing to the piers and has re-sited the refuse and recycling bins to the side of the property. It is considered that the front boundary treatment is now more sympathetic to the prevalent form of boundary treatment to this part of

Lower Church Road and would preserve the character of the setting of the St. John's Conservation Area.

The proposal is considered to be acceptable in design and would not dominate the existing character and scale of the building. In addition the proposal is considered to be sensitive to the character of the area. The proposal thereby complies with Policies DP26 and DP35 of the District Plan and paras 124 and 127 of the NPPF.

### **Residential Amenity**

Policy DP26 of the District Plan states in part that proposals should *'not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution'*.

The principle of residential use and the net increase of 3 dwellings on the site is not considered to result in harm to neighbouring amenity through additional noise and disturbance.

The adjoining properties nos.149a and b are flats and the ground floor unit currently houses a bathroom within the rear projection, which is the window most likely to be affected by the development on the east side. In addition, the first floor rear window also serves a bathroom. As bathrooms are not classed as habitable rooms, impacts on daylighting would not warrant refusal of planning permission.

The proposed rear extension is set off the shared boundary with no.149 by some 0.2 metres and projects a total of some 6.5 metres from the rear of the existing property and some 3.7 metres beyond the neighbouring single storey extension. Whilst the extension projects further than the neighbouring property, due to the subordinate ridge of the addition to the main building and the scale of the extension it is considered that the proposal would not result in an overbearing impact to the amenities of occupiers of the adjoining flats. Concerns have been raised that the extension would result in harm to the enjoyment of the garden area of these units. The site is set within the built up area of Burgess Hill where high density development exists. It is not considered that the proposal would adversely affect the enjoyment of the adjoining neighbouring properties garden or result in overshadowing of these rear amenity areas.

To the west of the site, no.153 is occupied as a single dwelling and contains a kitchen in the rear two storey projection at ground floor with a lean-to addition off the rear which houses a utility area and has a small window and partially glazed door. Within the main body of the house, the property has a rear window which serves a study/home office and a bedroom above. The kitchen has two windows which face east, towards the existing side elevation of the building at no.151. As a result of historic extensions to no.151, the existing building is somewhat imposing from within the kitchen and living space at no.153.

The proposed two storey extension is to be set some 2.9 metres in from the existing side elevation of the host building and would project some 6.5 metres further into the rear garden at a height of 4.7m to the eaves with the pitched roof beyond. The

resultant distance between the extension and the existing side elevation of the neighbour no.153 is some 6.2 metres. The existing side elevation of the application site currently obscures the outlook from the neighbouring kitchen and provides a tunnelling effect to the only window serving the rear study/home office. It is considered that due to the revised positioning of the extension set in from the existing side elevation further away from the neighbour of no 153 that the proposal would not result in additional significant detriment to the amenities of this neighbouring occupier through a loss of outlook or a loss of light. Due to the positioning of the extension set away from no 153 it is considered that the extension will not result in significant detriment to the private garden amenity currently enjoyed by this neighbouring occupier.

Concerns have been raised by the neighbouring properties on overlooking from the additional side and rear windows from the extension. The proposal includes two ground floor and two first floor windows to the western side elevation of the extension. These windows are to serve a bathroom and a secondary living area window to both levels. On the rear elevation is to be patio doors at ground floor and a Juliette balcony at first floor serving the open plan kitchen / dining and living room. Plans show that the bathroom windows would be obscure glazed with the first floor secondary living area window obscure glazed below 1.7 metres.

It is considered that these windows are acceptable and due to their use serving bathrooms and being secondary windows, will not cause significant overlooking or a loss of privacy. Whilst the windows could be opened, due to the first floor windows having top opening windows, it is not considered that this would cause significant detriment to the neighbouring amenities. With regards to the windows on the rear elevation, the site is within a built up area where such relationships exist. Notwithstanding this, the ground floor would be obscured by any boundary treatment with neighbouring properties. Whilst the first floor Juliette balcony may cause some overlooking to neighbouring gardens this would be at oblique angles.

As a result of the deep footplate and in order to aim to address overlooking, each of the side windows are proposed to be obscure glazed. The only outlook for each of the units is therefore to the front or rear of the building, predominantly from the main living areas and in the case of the ground floor front unit, this is further restricted by the introduction of obscure glazing to the lower half of the windows to provide privacy. As a result the proposed accommodation is not considered to offer a good level of outlook, however the overall standard is considered acceptable and it is not considered a reason for refusal could be substantiated on these grounds.

It is thereby considered that the proposal would not cause significant detriment to the amenities of neighbouring occupiers and will not result in an overbearing nature or a loss of privacy. In addition the proposal will be acceptable in amenity terms for future occupiers of the units. The proposal is thereby considered to comply with policy DP26 of the District Plan.

### **Highway safety and parking provision**

Policy DP21 of the District Plan relates to transport and requires proposals to be sustainably located and provide adequate parking.

Neighbourhood plan policy S4 relates to parking standards for new developments and requires that new housing developments comply with the parking standards contained in the plan.

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 applications 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, para 109 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 parking requirements as set out in Appendix D of the made Neighbourhood Plan require a total of five parking spaces for the development (four designated/allocated parking spaces and one visitor/no-designated space). There is however no ability to make provision for on-site car parking.

The site is located in a town centre location, just outside the defined Town Centre Boundary. Lower Church Road is a narrow two way street with on-street parking available on the north side of the road. The street is well used and the parking available is heavily used as observed on the Officer's site visit and raised in objection letters. In the consideration of the previous refusal on the site (DM/19/0102) the report states *'However, as noted by the Highway Authority (HA), the anticipated vehicle trips associated with the existing commercial use need to be taken into consideration when assessing the impact of the proposal in highway capacity terms. The permitted use has substandard parking and as note by the HA, should have 3 spaces and would have resulted in a certain level of parking demand in the local area when in operation by staff and customers which should be taken into consideration when determining the impacts on parking demand.'*

The Highway Authority acknowledge that whilst on-street parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highways safety. They do not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. In addition they acknowledge that the site is located in a sustainable location with shops, services and local schools all within walking distance.

The application also includes secure and covered cycle storage which is conveniently located and accessed via the shared access to the west side of the property, which will further promote sustainable modes of transport.

As such, it is considered that the development would not cause a 'severe' residual impact on the nearby road network and would therefore not be contrary to paragraph 109 of the National Planning Policy Framework.

Whilst the proposal does not meet the parking standards set out under Neighbourhood Plan Policy S4 it is not considered that a reason for refusal could be substantiated on these grounds alone, given that there is no feasible way to provide car parking on site and on the basis that there is likely to be only a moderate increase in parking demand in the area. In the consideration of the previous schemes the applications were not refused on highway grounds due to the lack of parking provision. As such it would be considered unreasonable to justify a refusal on these grounds when the proposed parking provision is to be the same as previously considered.

Consequently the proposal is considered acceptable on highway safety and transport grounds, and complies with policy DP21 of the District Plan and para 108 of the NPPF.

### **Sustainability**

Policy DP21 of the District Plan relates to transport and requires schemes to be *'sustainably located to minimise the need for travel'* and take *'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'*. In addition it requires where *'practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.'*

In addition, policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate measures including minimising energy use through the design and layout of the scheme; maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation; and also to limit water use to 110 litres/person/day.

Paragraph 148 of the NPPF states:

*'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'*

Paragraph 153 states:

*'In determining planning applications, local planning authorities should expect new development to:*

- a) *comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

The submitted Sustainability Statement states *'the vast majority of this application concerns an existing building with very little proposed in respect of alterations to the external walls of the building, the majority of the works solely related to improving the internal layout.'* Notwithstanding this, it states that the *' overall thermal performance which will be achieved by the measures set out below will be in excess of the current Building Regulation requirements.'* Moreover, the proposal would include A-rated condensing boilers, 100% low energy lighting, water supply to be designed to be limited to 100 litres/pp/per day or less, and dual flush toilets.

In addition, the accessibility of the site, or the sustainable location of it, is a key consideration. The development is situated in a sustainable location close to the town centre as well as a bus stop. The proposal also includes secure cycle storage in order to encourage greater use of sustainable modes of transport.

Therefore, it is considered that the proposal complies with the relevant criteria policies DP21 and DP39 of the District Plan. The proposal is considered to be acceptable in sustainability terms.

## **Drainage**

Policy DP41 relates to flood risk and drainage and requires development to demonstrate it is safe across its lifetime and not increase the risk of flooding elsewhere.

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.

The proposal is thereby considered to comply with policy DP41 of the District Plan.

## **Dwelling Space Standards**

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan supports this.



The submitted plans show that the units exceed the National Dwelling Space Standards. The proposal would therefore provide a satisfactory standard of accommodation for future occupiers of the units proposed.

### **Ashdown Forest**

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

#### Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

The proposed development is outside the 7km zone of influence and as such, **mitigation is not required.**

#### Atmospheric pollution

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

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as **windfall development**, such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

#### Conclusion of the Habitats Regulations Assessment screening report

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

#### **PLANNING BALANCE AND CONCLUSION**

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

The application site lies in the built up area of Burgess Hill. The proposal will result in a net increase of 3 residential units within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development. The extension and alteration of the building for 4 flats is considered to be sensitive in design and scale to the existing building and the character of the area and will not detract from the street scene. In addition the proposal is considered to protect the setting of St Johns Conservation Area. The proposed units will not cause significant harm to the living conditions of existing or future residents on adjacent land.

The proposal will provide minor but positive social and economic benefits through the delivery of a 3 additional dwellings in the built up area of Burgess Hill within a sustainable location which reflects one of the key objectives of the NPPF. 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 proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community. Because, however, of the small scale of the development proposed these benefits would be very limited.

There will be a neutral impact in respect of highway safety and parking provision, space standards, landscaping, and the impact on the Ashdown Forest.

The application is thereby considered to comply with policies DP4, DP6, DP21, DP26, DP27, DP35, DP37, DP39 and DP41 of the District Plan, and paragraphs 8,

108, 110, 117, 124, 127, 148 and 196 of the NPPF. Accordingly the application is 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.

### **Pre-commencement conditions**

3. No development shall be carried out unless and until a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority

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

4. No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractors' buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.

Reason: To avoid undue congestion of the site and consequent obstruction to access and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

5. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy DP41 of the Mid Sussex District Plan 2014 - 2031.

#### **Pre-occupation conditions**

6. The dwellings shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of a hard and soft landscaping scheme including detailed landscape drawings and details of boundary treatments. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

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

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

8. The proposed windows on the western (side) elevation shall be glazed with obscured glass. They shall be non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

Reason: To protect the amenities and privacy of the adjoining property and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031

#### **INFORMATIVES**

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

- Should you implement the permission please be aware of the following requirements raised by the Councils Environmental Protection & Housing Standards Officer:
  - Ensure that the communal stairways and communal areas are fire and smoke protected routes for emergency access from the building. Ideally the recommended standard of fire resistance enclosing a protected route is 30 minutes.
  - Fire doors to be installed to from the flats to the communal hallway, providing 30 minute fire/heat/smoke detection.
  - Fire risk assessment to be carried out in relation to the type of installation for automatic fire detection and alarm system.
- 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.
- 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
Location and Block Plan	18/119/LOC	B	26.04.2019
Existing Floor Plans	18/119/SK01	-	26.04.2019
Existing Elevations	18/119/SK02	-	26.04.2019
Proposed Floor Plans	18/119/SK03	D	12.06.2019
Proposed Roof Plan	18/119/SK04	C	26.04.2019
Proposed Elevations	18/119/SK05	C	12.06.2019
Street Scene	18/119/SK06	B	26.04.2019
Proposed Site Plan	18/119/SK07	B	26.04.2019

## APPENDIX B – CONSULTATIONS

### Parish Consultation

RECOMMEND REFUSAL - it was an overdevelopment of the site. It would be overbearing. It would be detrimental to the local amenities. It would cause loss of privacy and block significant sunlight from adjacent properties. It would increase the existing parking pressures in this area.

### WSCC Highways 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.

### Summary

This proposal is for the conversion of an existing building to form 3 x 1-bedroom flats and 1 x 2-bedroom flat. The site is located on Lower Church Road, a C-class road subject to a 30 mph speed limit. WSCC were previously consulted regarding highways matters for this property for application DM/19/0102, raising no highways concerns.

### Access and visibility

No associated parking is provided alongside this development; therefore this application has been assessed based upon a nil parking provision. An inspection of collision data supplied to WSCC by Sussex Police over a period of the last 5 years reveal no recorded injury accidents within the vicinity of the site.

### Parking and turning

A nil car parking provision is proposed for the new dwellings. Using the WSCC Car Parking Demand Calculator, a development of this size in this location would require 4 car parking spaces. Whilst on-street parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highways safety. The LHA does not consider that highway safety would be detrimentally affected through the proposed nil car parking provision, although the LPA may wish to consider the potential impacts of this development on on-street parking from an amenity point of view.

### Sustainability

The site is located in a sustainable location. Shops, services and local schools are all within walking distance. The closest Bus Stop at St Johns Park offers connections in and around Burgess Hill and towards Cuckfield and Hurstpierpoint. The bus stop at Queen Elizabeth Avenue, an approximate 8 minute walk from the site, offers wider connections to Brighton, East Grinstead, Haywards Heath and Crawley. Burgess Hill Train Station is approximately 12 minutes away on foot, with links between London and Brighton.

Cycling is a viable option in the area. Secure cycle storage was demonstrated in the plans. The inclusion of cycle storage increases the sustainability of the property by offering alternative modes of transport to that of the private car and reducing parking pressures in the local vicinity.

## Conclusion

The LHA does not consider that the 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.

If the LPA are minded to approve the application, the following conditions should be applied:

### *Cycle parking*

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

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

### *Construction plant and materials*

No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractors' buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.

Reason: To avoid undue congestion of the site and consequent obstruction to access.

## **MSDC Conservation Officer**

Comments on the above application. Please read these in conjunction with my comments on the previous application on this site DM/18/3623, copied below.

The proposed alterations and extensions to the building, which is within the setting of St. John's Conservation Area, have been amended in accordance with comments given in respect of the previous proposal on this site (DM/18/3623). The proposed front boundary treatment has also been amended to be more sympathetic to the prevalent form of boundary treatment to this part of Lower Church Road. On balance, the proposal is now considered to preserve the character of the setting of the St. John's Conservation Area, which meets the requirements of District Plan Policy DP34 and the relevant paragraphs of the NPPF.

*'Comments on DM/18/3623:*

*Hi Kate*

*Please see below comments on this application.*

*The application site is an unlisted semi-detached building within the immediate setting of the St Johns Conservation Area, the boundary of which runs west-east along the opposite side of Lower Church Road before turning south to include nos. 113-135. Given the open nature of St John's Park, opposite, the site and the row of buildings of which it is part form a prominent part of the setting of the Conservation Area and views from it, as well as views along Lower Church Road.*

*The application site is a 19th century building with a shop frontage at ground floor level and flat above. It is part of a row of predominantly 19th century terraced and semi-detached cottages and shops, which despite alterations and extensions display a consistency of scale, as well as retaining here and there certain features typical of buildings of this period, e.g. classically inspired door surrounds. The majority of buildings also have hipped roofs. These features contribute to a consistent street scene which is complimentary to the character and appearance of the buildings within the Conservation Area, and contributes positively to its setting.*

*The current proposal is for alterations and extensions in conjunction with the conversion of the building, comprising a hip to gable extension with two dormers, alterations to the front elevation to remove the shopfront, a roof extension and ground floor extension at the rear and privacy screen.*

*I have concerns regarding the impact of aspects of this proposal on the setting of the St John's Conservation Area. In particular:*

- The proposed hip to gable extension which will add bulk to the building at high level and will also remove the hipped roof form which is characteristic of this part of Lower Church Road and consistent with the buildings further east along the road which are within the Conservation Area.*
- The detailed design of the revised ground floor elevation which lacks appropriate detailing or the degree of visual interest provided by the existing shop front.*

*I am also concerned about the proposed alterations to the rear of the building in design terms, namely:*

- The principle of a flat roofed extension at roof level to the rear which again adds high level bulk and is unsympathetic to the character of the building and its neighbours.*
- The high privacy screen at the rear which will be unduly prominent.*

*In its present form I would consider that the proposal will for these reasons detract from the setting of the St John's Conservation Area and the manner in which its special interest is appreciated, including views from St John's Park and looking along Lower Church Road. This would fail to meet the requirements of District Plan Policy DP35. In terms of the NPPF I would consider the harm caused to the significance of the heritage asset to be less than substantial, such that the criteria set out in paragraph 196 would apply.'*

### **MSDC Drainage**

Application Number	DM/19/1612
Planning Officer	Jo Fisher
Engineering Officer	Scott Wakely
Date	20/06/2019
Location	Lower Church Road, Burgess Hill
Development Proposal	4 dwellings
Recommendation	No objection subject to conditions

### **SURFACE WATER DRAINAGE PROPOSAL**

It is proposed that the development will discharge surface water into an existing well on site. An alternative means of disposal has been proposed in the form of a soakaway.



## **FOUL WATER DRAINAGE PROPOSAL**

It is proposed that the development will discharge foul water drainage via the existing foul water drains on site.

## **FLOOD RISK CONSULTATION**

The proposed development is within flood zone 1 and is deemed to be at low fluvial flood risk. The site is located in an area of increased surface water flood risk. However, the proposed development is not within an area identified as having possible surface water (pluvial) flood risk. There are historic records of surface water flooding occurring on this site and in this area.

## **DRAINAGE CONSULTATION**

Information into our requirements for foul and surface water drainage are included within the 'further advice' section. However, we would advise the applicant that the wells on site should be investigated further. No infiltration features such as soakaways should be located within 5m of a well due to the potential for ground instability.

## **SUGGESTED CONDITIONS**

### **C18F - Multiple Dwellings**

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

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

## **FURTHER ADVICE**

The following information will be required for the proposed development. It is acceptable for these details to be provided at discharge of conditions stage.

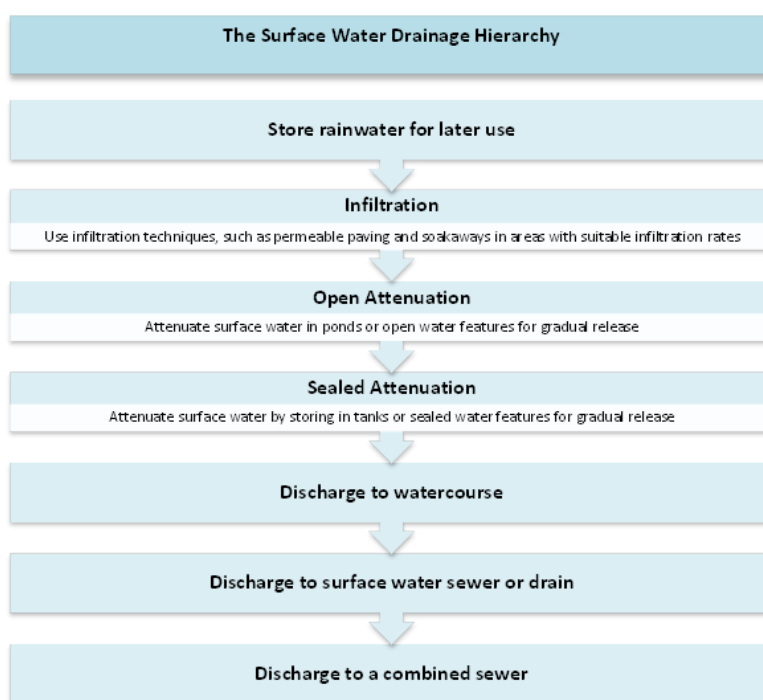
This proposed development will need to fully consider how it will manage surface water run-off. Guidance is provided at the end of this consultation response for the various possible methods. However, the hierarchy of surface water disposal will need to be followed and full consideration will need to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

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

The proposed development drainage will need to:

- Follow the hierarchy of surface water disposal.
- Protect people and property on the site from the risk of flooding

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



### Flood Risk 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

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

### 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.</p>

	<p>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>
Public sewer under or adjacent to site	<p>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.</p>
MSDC culvert under or adjacent to site	<p>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>.</p>
Watercourse on or adjacent to site	<p>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>

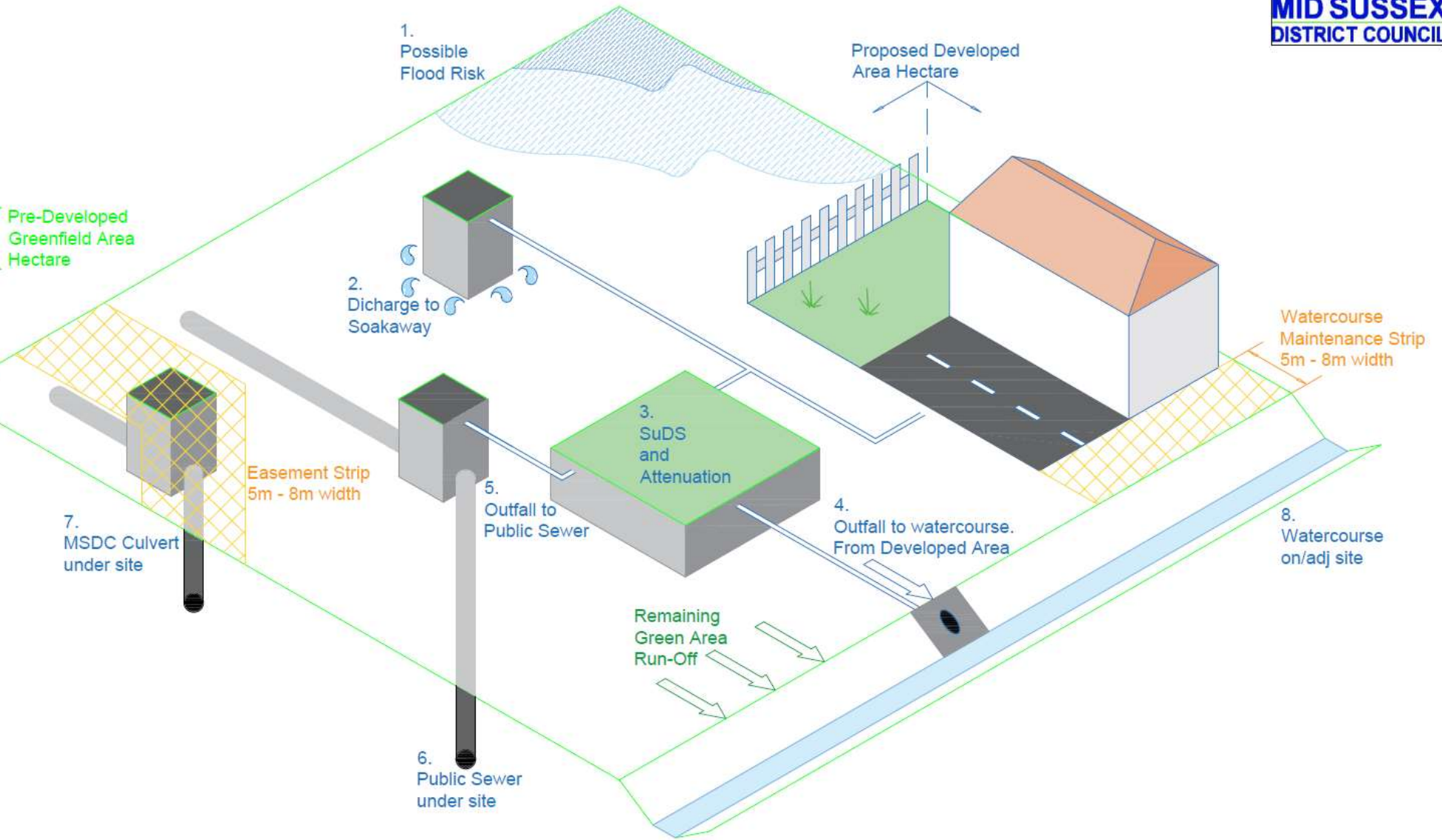
<p style="text-align: center;"><b>PROPOSED SURFACE WATER DRAINAGE METHOD</b></p>	<p style="text-align: center;"><b>INFORMATION REQUIRED</b></p>
<p>Soakaways</p>	<p>Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the soakaway system will be able to cater 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 <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/>





### **MSDC Environmental Protection**

With reference to the above planning application taken from Weekly list 10.5.19 please see comments below

1. Ensure that the communal stairways and communal areas are fire and smoke protected routes for emergency access from the building. Ideally the recommended standard of fire resistance enclosing a protected route is 30 minutes.
2. Fire doors to be installed to from the flats to the communal hallway, providing 30 minute fire/heat/smoke detection.
3. Fire risk assessment to be carried out in relation to the type of installation for an automatic fire detection and alarm system.

### **MSDC Street Name and Numbering**

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

Informative: Info29

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

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MID SUSSEX DISTRICT COUNCIL

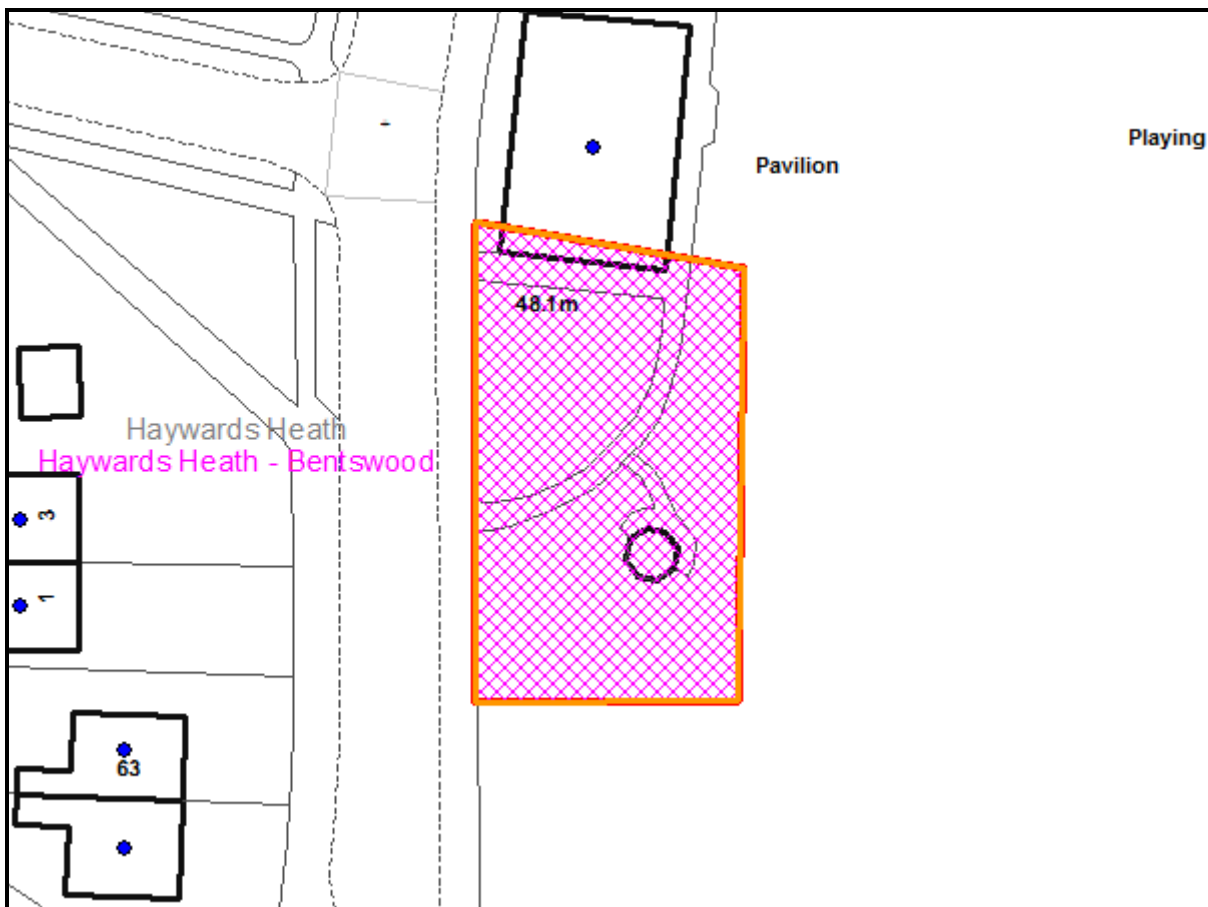
Planning Committee

**4 JUL 2019**

RECOMMENDED FOR PERMISSION

**Haywards Heath**

**DM/19/1624**



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**BARN COTTAGE PAVILION BARN COTTAGE LANE HAYWARDS HEATH  
WEST SUSSEX  
NEW PURPOSE-BUILT COMMUNITY CENTRE WITH JOINING TUNNEL  
TO EXISTING PAVILION.  
MR TONY PEARSON**

POLICY: Built Up Areas / Aerodrome Safeguarding (CAA) /

ODPM CODE: Minor Other

8 WEEK DATE: 12th July 2019

WARD MEMBERS: Cllr Rachel Cromie / Cllr Stephen Hillier /

CASE OFFICER: Anna Tidey

### **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 build a new purpose-built community centre with a link onto the existing pavilion building at the site, to the western side of the Playing Field off Barn Cottage Lane in Haywards Heath.

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

The new community centre will provide a purpose built building for growing community needs and create a hub within the area. The new building is considered to be of an appropriate design, would not harm neighbouring amenity and would meet the requirements of Policies DP26 and DP41 of the Mid Sussex District Plan and Policies L9 and E9 of the Haywards Heath Neighbourhood Plan. The new building would improve the existing community facilities for the area and 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.

### **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.)

### **WSCC Highways Authority**

Comments awaited.

## **Environmental Health Officer**

Recommendations for food hygiene legislation. Requests for further information regarding the intended use of the hall to better gauge what impact the site is likely to have on nearby residents.

Recommend permitted use between the hours of 07:00 till 22:00. Potential live music or gym use noise/vibration could require Environmental Health investigation under statutory nuisance legislation.

Potential Community café requires an extract system/odour control and deliveries and waste collection conditions.

Further comments awaited.

## **MSDC Community Facilities**

We are generally supportive of this proposal as there is a need for additional community facilities in Bentswood but it will require the relocation of the youth shelter and the football pitch which will need additional drainage so we would like to ensure these matters are addressed through a planning condition.

## **MSDC Drainage**

This proposed development will need to fully consider how it will manage surface water run-off. The proposed development is within flood zone 1 and is deemed to be at a low risk of fluvial flooding and is not in an area identified as having possible surface water (pluvial) flood risk. Surface Water Drainage Proposals - No details supplied. Foul Water Drainage Proposals - No details supplied. Details should be supplied in order to discharge planning conditions should this application be approved. Recommend a condition to require details of the proposed foul and surface water drainage and means of disposal to be submitted to and approved in writing by the Local Planning Authority before development commences.

## **Summary of Representations**

Six letters of representation received from five residents, of which two object to this application. Concerns are raised regarding:

- overbearing impact and loss of outlook,
- intrusion on a green area,
- lack of parking for increased traffic,
- safety issues from gathered youths,
- noise and disturbance.
- Not needed in the area.
- The existing building is not utilised.
- There is another church hall up the road.
- There are existing local parking issues on Sundays from the football use.

The three letters in support contain the following points:

- The building is to be used for Scouts, providing opportunities for children.
- A member of Bentswood Community Partnership supports the provision of a new community centre.
- The existing centre is no longer fit or large enough to serve the area.
- The centre is likely to be used in the day and will therefore be unlikely to create parking problems.
- Evening Scout use will be by drop off or walking to/from the building.
- The design is pleasing, will improve the look of the site and is ecological.
- Bentswood is in dire need of a community building.

### **Town Council Observations**

The Town Council fully supports this application which, if successful, would make a welcome and much needed addition to the provision of community facilities in this part of Haywards Heath. The building is of a sustainable design and the Planning Statement accompanying the application indicates compliance with the following policies of the Mid Sussex District Plan 2014-2031: DP1, DP2, DP3, DP24, DP25, DP28 and DP39. With regard to the Haywards Heath Neighbourhood Plan, the Town Council believes that the proposal meets Objective 6A (coordinate and improve green infrastructure in the town) paragraph 6.1 and complies with elements of Policies E1 and E9.

The Town Council requests that any permission granted is subject to conditions regarding construction hours, hand basin provision, bin collection timings and use no later than 2300hours. Also that prospective users provide CCTV, air con units to comply with environmental health requirements and external lighting is sympathetic to local residents.

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### **Introduction**

This application seeks planning permission for the development of a new community centre at Barn Cottage Lane in Haywards Heath. The proposed building would be linked to the existing pavilion at the site.

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

### **Relevant Planning History**

Planning reference: HH/00798. Construction of pavilion. Removal of existing changing facilities. Approved March 1998.

### **Site and Surroundings**

The application site is land to the south of the existing pavilion and play area at Barn Cottage Lane, off America Lane in the built up area of Haywards Heath.

The plot is laid to grass and includes an octagonal covered shelter. The land to the east is laid out as a football pitch and is surrounded on three sides by adjacent residential roads.

## **Application Details**

In detail the current application seeks planning permission for the construction of a 10.9m wide by 23m long building with eaves set at a height of 2.5m and the ridge at 6.7m. The building would be linked to the existing pavilion by a 2.8m wide (max) mesh tunnel with gated access to the eastern and western ends.

The new building would be constructed in brick with vertical timber cladding on the southern end gable and on feature wall sections to the east and west elevations. The roof would be gabled and finished with plain tiles. New railings would be installed on the southern and western sides of the new building.

The building would include a full height hall at the southern end of the building and a two storey section at the northern end of the hall to allow the provision of a kitchen, stores, toilets and office space. An upper floor area would accommodate further store rooms and an internal 1.8m wide mezzanine balcony. The upper rooms would be lit by windows in a 7.5m wide timber clad, eastern facing, feature dormer. The main hall would measure 10m by 13m long and this would be lit by twin glazed doors in the eastern and southern elevations, with roller security shutters, full height aluminium glazed windows in the western elevation and a series of roof lights on the eastern and western facing roof slopes. A protruding square window is proposed in the southern elevation to light the hall from the upper apex level.

The application has been accompanied with a Planning Statement which confirms that the proposal is for a new purpose built community centre with storage space in the roof and a viewing mezzanine. The new building has a gross internal area of 288 square metres with community use of 193 square metres, including a communal lobby, WC facilities, main hall, kitchen and viewing mezzanine. Other works include: a new hard standing perimeter to provide level access into the building, re-siting the existing children's play equipment and bins and replacing existing curtilage railings. The statement points out that the new building is adjacent to the existing pavilion on Bentswood Green, located in the centre of Bentswood in close proximity to the America Lane shopping parade and Hanbury football stadium. Local partners in the community have identified a need for a new building to provide extra space to accommodate events and activities. These will include yoga classes and scout meetings, community events, craft fairs, children's parties and charity events.

## **List of Policies**

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

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

Policy DP24: Leisure and Cultural Facilities and Activities

Policy DP25: Community Facilities and Local Services

Policy DP26: Character and Design

Policy DP28: Accessibility  
Policy DP39: Sustainable Design and Construction  
Policy DP41: Flood Risk and Drainage

### **Haywards Heath Neighbourhood Plan Made December 2016.**

Policy E1: Green infrastructure  
Policy E9: Reinforce character  
Policy L9: Existing playing fields and sporting facilities

### **National Policy**

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

The National Planning Policy Framework sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development.

Paragraphs: 10 & 11 (presumption in favour of sustainable development), 56 (planning conditions) and 124 & 127 (achieving well-designed places) are considered to be of particular relevance to this application.

### **ASSESSMENT**

The main issues for consideration in determining the application are:

- Principle of development
- Design and impact upon residential amenity
- Highway and Parking issues
- Drainage
- Sustainability
- Habitats Regulations Assessment for Ashdown Forest
- 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:*

- a) The provisions of the development plan, so far as material to application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:



*"If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

Using this as the starting point, the development plan in this part of Mid Sussex consists of the District Plan and the Haywards Heath Neighbourhood Plan (2016).

The most relevant policies in considering the principal of this proposal are District Plan Policies DP24 and DP25 and Neighbourhood Plan Policies E1 and L9.

District Plan Policy DP24 states:

Development that provides new and/or enhanced leisure and cultural activities and facilities, including allotments, in accordance with the strategic aims of the Leisure and Cultural Strategy for Mid Sussex will be supported.

The on-site provision of new leisure and cultural facilities, including the provision of play areas and equipment will be required for all new residential developments, where appropriate in scale and impact, including making land available for this purpose. Planning conditions and/or planning obligations will be used to secure such facilities. Details about the provision, including standards, of new leisure and cultural facilities will be set out in a Supplementary Planning Document.

Sites for appropriate leisure and cultural facilities to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council.

Proposals that involve the loss of cultural facilities, open space, sports and recreational buildings and land, including playing fields, will not be supported unless:

- an assessment has been undertaken which has clearly shown the cultural facility, open space, sports land or recreational building to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

District Plan Policy DP25 states:

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

Where proposals involve the loss of a community facility, (including those facilities where the loss would reduce the community's ability to meet its day-to-day needs locally) evidence will need to be provided that demonstrates:

- that the use is no longer viable; or
- that there is an existing duplicate facility in the locality which can accommodate the impact of the loss of the facility; or
- that a replacement facility will be provided in the locality.

The on-site provision of new community facilities will be required on larger developments, where practicable and viable, including making land available for this purpose. Planning conditions and/or planning obligations will be used to secure on-site facilities. Further information about the provision, including standards, of community facilities will be set out in a Supplementary Planning Document.

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.

Policies within the Haywards Heath Neighbourhood Plan also seek to prevent the loss of open spaces of public value (Policy E1) and seek to enhance the existing playing fields and sporting facilities within the town (Policy L9).

Policy E1 states:

Planning applications which would result in the loss of existing open spaces of public value will generally be resisted except where:

- They are supported by an open space assessment that demonstrates the open space is no longer needed or
- Proposals for equivalent or better alternative provision are made in a suitable location or
- There is a proven need for essential utility infrastructure where the benefits outweigh any harm or loss and it can be demonstrated that there are no reasonable alternative sites available.

Policy L9 states:

Existing playing fields and sporting facilities within the Plan area shall be retained and where possible enhanced to the benefit of the Town. Should an existing facility come forward for redevelopment for non-sports use, and it is shown the site or facility is not surplus to requirements, the applicant will be required to provide alternative provision within the Plan area before the existing facilities are lost.

The proposal accords with the principals of these policies as set out in the District and Neighbourhood Plan for Haywards Heath. Whilst the provision of the new community centre would result in a small area to the side of the playing field being lost the established football pitch area would remain intact and the benefit of the new facility for the local community would outweigh the small area of land lost. As such it is considered that the proposal accords with District Plan Policies DP24 and DP25 and Neighbourhood Plan Policies E1 and L9.

### **Design and impact upon residential amenity**

Policy DP26 of the Mid Sussex District Plan requires buildings to be well designed and that development should 'not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution'.

It 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 E9 in the Haywards Heath Neighbourhood Plan states:

Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site.

This will include having regard to the following design elements:

- height, scale, spacing, layout, orientation, design and materials of buildings,
- the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,
- respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,
- creates safe, accessible and well-connected environments that meet the needs of users,
- Will not result in unacceptable levels of light, noise, air or water pollution,
- Makes best use of the site to accommodate development,

- Car parking is designed and located so that it fits in with the character of the proposed development.

Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character.

The proposed community building has been designed to be contemporary in appearance and complementary in terms of the form and materials to the existing pavilion. It is considered that the new building will relate well to the existing development form on the site and appear in keeping with the character and appearance of the surrounding residential area. The eaves and ridge height of the new building will relate to those on the existing pavilion and as a result of the intervening tunnel the built form of the new building will read as a new and separate community centre. The design of the new building will accord with the requirements of District Plan Policy DP26 and Policy E9 of the Haywards Heath Neighbourhood Plan.

In terms of the impact of the proposal upon the neighbouring amenities the proposed pavilion is located on the western side of an established playing field within a residential area. The building would be sited over 30m from the nearest properties at Nos 1 and 3 Barn Cottage Lane to the west of the site.

Given the presence of the existing pavilion at the site and the distance of the site from the neighbouring properties, the orientation of the new pavilion and the intervening highway it is considered that the construction of the pavilion will not adversely impinge upon the occupiers of these neighbouring properties.

The applicant's agent has been asked to further clarify the intended use of the new pavilion and recommended hours of use have been outlined in the MSDC Environmental Health responses.

The size of the site allows a reasonable degree of spacing between the immediate properties and the new building and as such it is considered that the scale and form of the building would not be dominant in views from these properties and their respective gardens.

Subject to the imposition of a series of conditions on the use of the new building which meet the tests of Paragraph 56 of the NPPF the proposal is considered to accord with District Plan Policy DP26 and Neighbourhood Plan Policy E9.

### **Highway and Parking issues**

The Highway Authority have been consulted on the application, and their comments are awaited. Local parking issues have been identified in the submitted representations, and concerns expressed regarding a further intensification of on street parking. The site has no formal designated parking area. Consequently on street parking could be potentially exacerbated by the proposed uses.

The siting of the pavilion on an established playing field within the town is sustainable. The site is within walking distance of a large residential area which it will serve. Subject to the receipt of acceptable highway comments the proposal accords with Policy DP21 of the District Plan and the requirements of the NPPF.

## **Drainage**

Policy DP41 of the District Plan seeks to ensure that proposals can be properly drained. The proposed development is located within flood zone 1 and is deemed to be at a low risk of fluvial flooding and is not in an area identified as having possible surface water (pluvial) flood risk. The Council's Drainage Officer has recommended a planning condition requiring details of the proposed foul and surface water drainage and means of disposal to be submitted before development commences on the site. As such the proposal will accord with Policy DP41 of the District Plan.

## **Sustainability**

District Plan Policy DP39 is relevant in the determination of this application. This states:

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

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

The proposal has been submitted by an architectural firm specialising in ecological design. A Sustainability Statement has been submitted with the application which addresses issues such as: Climate Change and Energy, Water Efficiency and Sustainable Energy.

In terms of the requirements of DP39 the proposal has been demonstrated to include a series of energy efficiency and sustainability measures including the use of water saving fittings, low energy lighting, and efficient building fabrics, etc.

In terms of the location, the site is within walking distance of the town centre and bus stops and the main line railway station and is therefore considered to be a sustainable location for the development.

It is considered that the proposal has been demonstrated to represent a sustainable development on this site and therefore would accord with the requirements of District Plan Policy DP39.

### **Habitats Regulations Assessment for Ashdown Forest**

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

#### **Recreational disturbance**

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so mitigation is not required.

#### **Atmospheric pollution**

Increased traffic emissions as a consequence of new development may result in additional 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 potential effects of the proposed development are incorporated into the overall results of the transport model (Mid Sussex Transport Study (Updated Transport Analysis)), 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.

#### Conclusion of the Habitats Regulations Assessment screening report

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development. No mitigation is required in relation to the Ashdown Forest SPA or SAC. A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

### **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.

Given the presence of the existing pavilion at the site and the distance of the site from the neighbouring properties, the orientation of the new pavilion and the intervening highway it is considered that the construction of the pavilion will not adversely impinge upon the occupiers of these neighbouring properties. Subject to the imposition of a series of conditions on the use of the new building the proposal is considered to accord with District Plan Policy DP26.

The proposal has been assessed with consideration to District Plan Policy DP39 (Sustainability). The proposed development has been considered in terms of energy efficiency and is designed as an energy efficient building. For reasons including the location of the site and the proposed energy efficiency details of the scheme the proposal has been demonstrated to represent a sustainable development in accordance with District Plan Policy DP39.

The siting of the pavilion on an established playing field within the town is sustainable, being within easy access to the surrounding residential area and walking distance of a large population. Subject to the receipt of satisfactory highway comments the proposal accords with Policy DP21 of the District Plan and the requirements of the NPPF.

The screening assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development. No mitigation is required in relation to the Ashdown Forest SPA or SAC. A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

In light of the above it is recommended that the application is approved, subject to appropriate restrictive planning conditions.

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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 of materials and finishes to be used for external walls / roofs / fenestration of the proposed pavilion building have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority 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 Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policies E9 and L9 of the Haywards Heath Neighbourhood Plan.

4. 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, Policy DP41 of the District Plan (2014 - 2031) and Policies E9 and L9 of the Haywards Heath Neighbourhood Plan.

5. The premises shall not be open for use except between the hours of 0700 to 2200 hours Monday to Sunday and on Public/Bank holidays (and there shall be no external illumination on the premises except between the above-mentioned hours).

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

6. No deliveries or collections in relation to the use hereby permitted shall take place other than between the hours of 0700 and 2200 Monday to Sunday and on Public/Bank holidays.



Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

7. Before development commences details of the intended new position of the octagonal shelter shall be submitted to and approved in writing by the Local Planning Authority. This shelter shall be installed in the approved position before the opening of the new community centre unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP25 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

## 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>
Proposed Site Plan	602/100		30.04.2019
Proposed Floor Plans	602/101		30.04.2019
Proposed Elevations	602/102		30.04.2019
Illustration	602/103		30.04.2019
Illustration	602/104		30.04.2019
Illustration	602/105		30.04.2019
Location and Block Plan	602/106		30.04.2019

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

The Town Council fully supports this application which, if successful, would make a welcome and much needed addition to the provision of community facilities in this part of Haywards Heath. The building is of a sustainable design and the Planning Statement accompanying the application indicates compliance with the following policies of the Mid Sussex District Plan 2014'2031: DP1, DP2, DP3, DP24, DP25, DP28 and DP39. With regard to the Haywards Heath Neighbourhood Plan, the Town Council believes that the proposal meets Objective 6A (coordinate and improve green infrastructure in the town) paragraph 6.1 and complies with elements of Policies E1 and E9.

The Town Council requests that any permission granted is subject to the following conditions:

1. in order to protect the amenity of local residents, works of construction (including the use of plant and machinery, and deliveries or collection of plant, equipment or materials) shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays or Public Holidays;
2. in accordance with the recommendation of Mid Sussex District Council's Senior Environmental Health Officer (email dated 09/05/2019 refers), a separate wash hand basin shall be fitted in the kitchen in addition to the main kitchen sink;
3. in the event that the centre is serviced by larger, Eurobin facilities ' which will be collected by a commercial operator ' no collections shall be permitted before 0700 hours, in order to protect resident amenity;
4. in order to protect local residents from undue noise and disturbance, all users shall vacate and secure the building by 2300 hours at the latest. This shall apply on all days of the week and on Bank Holidays and Public Holidays.

Furthermore, as the project evolves and progresses, those responsible for its delivery are asked to consider the following:

- a. the installation of an effective and robust CCTV system in order to safeguard the centre against vandalism and to deter antisocial behaviour;
- b. any proposals to install an air conditioning system (with its associated heat exchanger(s)) would have to ensure compliance with Mid Sussex District Council's environmental health requirements;
- c. any proposals to introduce a lighting scheme for the exterior of the centre must be sympathetic to the locality and must safeguard local residents from unacceptable levels of light and disturbance. Advice on 'warm white' LED lighting should be sought from Mid Sussex District Council.

### **WSCC Highways Authority**

Comments awaited.

## **Environmental Health Officer**

I have been informed that you have applied for planning permission to erect a new community building on Barn Cottage Lane. The plans do not show in detail the layout of the kitchen but I would like to make a recommendation to you, if permission is granted, that a separate wash hand basin be fitted in the kitchen in addition to the main kitchen sink. The reason for this is that community buildings are often used by commercial businesses such as playgroups and pre-schools and this would be required in order for them to comply with food hygiene legislation.

Further comments: I'm just looking at this application, and I'm going to need a bit more information from the applicant as to what they intend to use the hall for in order to make comments. I appreciate that they may not know every use yet, but community use is very broad, and we have had issues at other sites where this has been late night events, or gym classes with loud music during the day. It would also be good to know what times they intend the site to be open to the public, and whether the kitchen will be used for preparing food on a daily basis. If so it would be good to know how many covers per day they expect to serve. This information will allow me to better gauge what impact the site is likely to have on nearby residents.

Further comments: I think it would be good to put on timings for operation as they have suggested. I would recommend the following times: The premises shall only be open for its permitted use between the hours of 07:00 till 22:00.

Additionally it may be useful to put on conditions that the venue will not be used for live music or as a gym. They could always look to remove this in the future with the submission of acoustic data to show that such use will not have a significant impact on the amenity of neighbouring residents. If this is not possible to put on such a condition through planning, then it may be useful to make the applicant aware through an informative that such uses are likely to generate noise and vibration complaints that Environmental Health would be duty bound to investigate under statutory nuisance legislation. The potential for a Community café concerns me. There is very little information about the kitchen, and there would be a requirement the kitchen have adequate ventilation. This would then lead to requirements from us with regards to noise levels from any extract system as well as adequate odour control. The applicant likely needs to consider now if they are going to be operating a café and what that will entail, as this will require further information to be submitted in terms of noise and odour levels and how that will be controlled. Additionally I think if the premises is going to be operating as a café then we would also be looking at conditions for deliveries and waste collections.

Further comments: Awaited.

## **MSDC Drainage**

Recommendation:

No objection subject to conditions

Summary and overall assessment

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

sewer system will need to be restricted in accordance with the Non-statutory Technical Standards for SuDS, so that run-off rates and volumes do not exceed the pre-existing greenfield values for the whole site between the 1 in 1 to the 1 in 100 year event. WSCC Policy for the Management of Surface Water should be followed and a link to this document is provided.

[https://www.westsussex.gov.uk/media/12230/ws\\_llfa\\_policy\\_for\\_management\\_of\\_surface\\_water.pdf](https://www.westsussex.gov.uk/media/12230/ws_llfa_policy_for_management_of_surface_water.pdf)

The proposed development drainage will need to:

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

#### Flood Risk

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

The Council holds no records of historic flooding occurring on this site or in the vicinity but this does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

#### Surface Water Drainage Proposals

No details supplied

Details should be supplied in order to discharge planning conditions should this application be approved.

#### Foul Water Drainage Proposals

No details supplied

Details should be supplied in order to discharge planning conditions should this application be approved.

#### Suggested Conditions

##### C18D - Single Dwelling

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. The 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 DP41 of the District Plan (2014 - 2031) and Policy E7 of the Haywards Heath Neighbourhood Plan.

#### Further Drainage Advice

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

#### Flood Risk and Drainage Information for Planning Applications

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

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

Pre-app	Outline	Full	Reserved	Discharge	Document submitted
		√	√	√	Development Management & Construction Phasing Plan

Additional information may be required under specific site conditions or development proposals

Useful links:

Planning Practice Guidance - Flood Risk and Coastal Change

Flood Risk Assessment for Planning Applications

Sustainable drainage systems technical standards

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

Climate change allowances - Detailed guidance - Environment Agency Guidance

Further guidance is available on the Susdrain website at <http://www.susdrain.org/resources/>

1.

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

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

2.

For the use of soakaways:

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 at least 24 hours.

3.

For the use of SuDs and Attenuation:

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

Percolation tests, calculations, plans and details will need to be submitted to demonstrate that the development will be able to cater for the 1 in 100 year storm event plus climate change percentages, for some developments this will mean considering between 20 and 40% additional volume for climate change but scenarios should be calculated and a precautionary worst case taken. 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. 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.

You cannot discharge surface water unrestricted to a watercourse or sewer.

4.

Outfall to Watercourse:

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. OWC applications can be discussed and made with Mid Sussex District Council, Scott Wakely, 01444 477 005.

5.

Outfall to Public Sewer:

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.

6.

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.

7.

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.

8.

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.

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MID SUSSEX DISTRICT COUNCIL

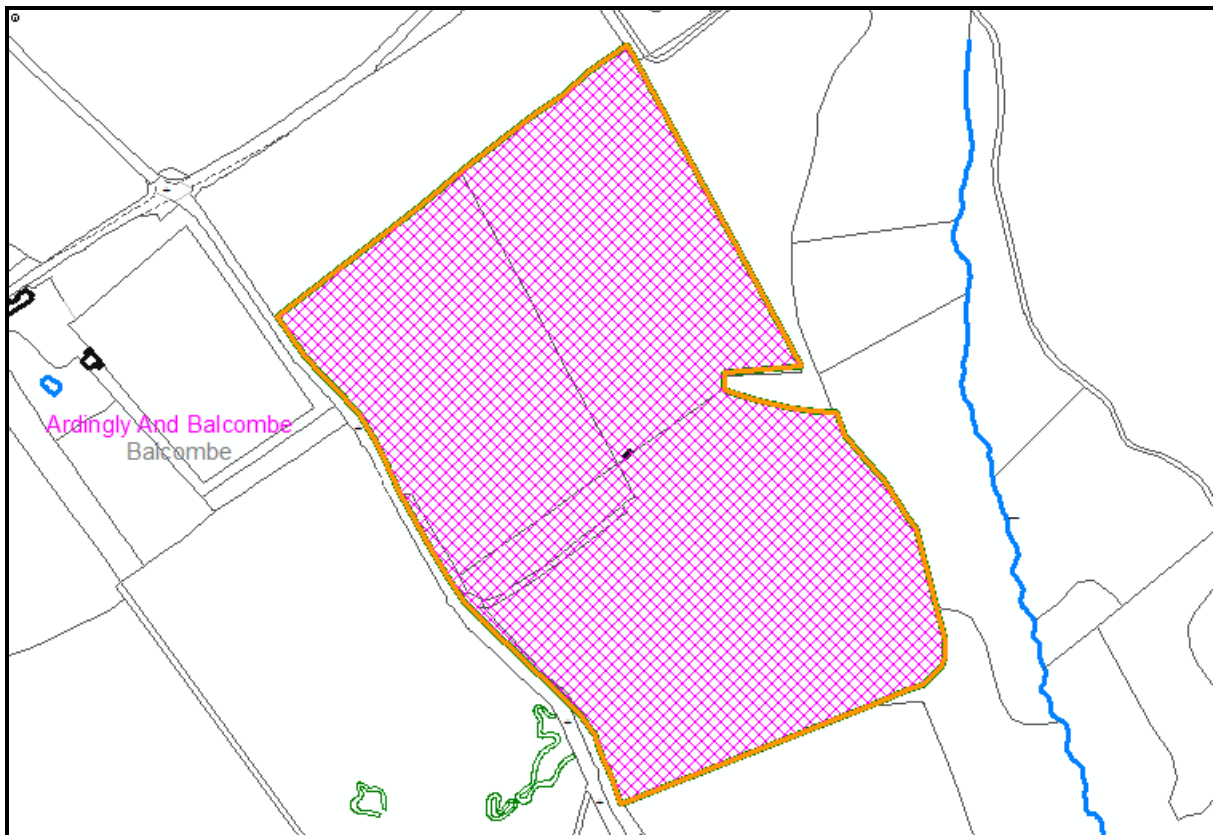
Planning Committee

**4 JUL 2019**

OTHER MATTERS

**BALCOMBE**

**EF/17/0129**



**SITE: LAND AT CRAWLEY LANE, BALCOMBE, WEST SUSSEX**

## **INTRODUCTION**

This report relates to a planning enforcement investigation and breach of planning control where the land owner has failed to comply with the requirements of an Enforcement Notice. Officers are therefore requesting authorisation from members of the committee to commence prosecution proceedings in relation to the failure to comply with an extant S.172 Enforcement Notice.

## **SITE AND SURROUNDING**

The land to which the Enforcement Notice relates is a parcel of agricultural land lying to the eastern side of Crawley Lane north of Balcombe. 14ha in size the land laid is now overgrown but was formally laid to pasture and falls significantly in level from north-south and west-east.

The land was formally currently free from structures, subdivision or other means of enclosure or any other lawful track and vehicular route across it.

The land is served by an existing and lawful vehicular access off Crawley Lane set approximately in the middle of the western boundary of the site. This boundary with Crawley Lane is otherwise predominately made up of high and dense natural screening. To the north and south lie other open agricultural land previously part of the same unit, whilst to the west lies a large area of Ancient Woodland. The land is within the designated High Weald Area of Outstanding Natural Beauty which benefits from special protection addressed under paragraph 172 of the NPPF which states the following:

*172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

## **PLANNING AND ENFORCEMENT HISTORY**

In March 2017 the Council was notified of the construction of a track without planning permission using imported material and finished with chippings across the land and which measured approximately 145m in length. Planning application DM/17/2361 thereafter sought to regularise the construction of the track together with the erection of an agricultural barn within the centre of the land. This application was refused on 2<sup>nd</sup> August 2017 in relation to the lack of agricultural need for the barn and track and the impact upon the character and appearance of the AONB.

An Enforcement Notice was thereafter issued on 28th September 2017 in relation to the construction of the track and requiring the following steps to be taken:

- 1. 'Take up and remove from the Land all the imported materials, including, but not limited to, the mineral surface, hardcore and drainage provision, used to form the Track.*
- 2. Remove from the Land all other materials and debris resulting from step 1) above.*
- 3. Make good and reinstate the area of the Land on which the Track is located by infilling with soil/earth to match the adjoining area of the Land and reseeding with grass.'*

An appeal against the issue of the Notice was submitted within the statutory time period and the requirements of the Notice were thereafter held in abeyance pending the hearing of the appeal.

In December 2018, and with the appeal still not having been heard, and following discussions with the appellant, the appeal was withdrawn and in connection with this the Council used powers afforded to it under S.173A(1)(b) of the Town and Country Planning

Act 1990 to vary the requirement of the Notice and extend the period for compliance with the requirements of the Notice until 31st May 2019.

Subsequently a planning permission was granted under reference DM/18/4725 on 29<sup>th</sup> March 2019 for the retention of a 55m element of the track and the erection of an agricultural barn for the keeping of cattle. The requirements of the Enforcement Notice as laid out above remained however.

## **CURRENT SITUATION**

The Enforcement Notice as varied in December 2018 and its requirements remain in effect whilst there is now an extant planning permission for the development of the site with the erection of an agricultural barn and retention of a small element of the track. This planning permission has not been implemented and to date no further works to the land, including general maintenance has been undertaken. A site visit on 3<sup>rd</sup> June 2019 confirmed no works to remove the track or else comply with any of the requirements of the Enforcement Notice had been undertaken by the deadline of 31<sup>st</sup> May 2019. It is therefore open to the Council to pursue a prosecution against the failure to comply with the requirements of an Enforcement Notice in line with S179 of the Town and Country Planning Act 1990 which provides that where the owner of the land is in breach of an enforcement notice they shall be guilty of an offence.

The owner has indicated that he does intend to undertake the works either to comply with the requirements of the Notice or else implement the planning permission for the barn by the end of June 2019. Whilst this intention is noted, the breach of planning control has been carried on for two years and that as no works to or maintenance of the land appear to have taken place in the recent past the Council cannot be certain that any additional deadline would be met.

Whilst there is an extant planning permission relating to the 55m element of the track, it is unlikely, at this time, that the Council would pursue prosecution proceedings in respect of this part of the track, however, the remaining 90m of track does not benefit from planning permission and remains in breach of the requirements of the Enforcement Notice.

In accordance with the contents of the NPPF and policy DP16 of the District Plan, great weight should be given to conserving and enhancing the landscape and scenic beauty in Areas of Outstanding Natural Beauty and that major development should not be supported unless it is in the public interest. The retention of the track, especially the latter 90m which does not benefit from planning permission bisects the field and creates an artificial boundary and route through the field and Area of Outstanding Natural Beauty. The track is visible from the access onto Crawley Lane and therefore it is in the public interest to pursue the breach of planning control in relation to the unauthorised 90m element of the track and to protect the character and appearance of the landscape which benefits from special designation.

Should the works to remedy the breach of planning control commence prior to any prosecution proceedings being concluded, the Council could choose not to pursue the matter further. However, at the current time and as the owner has failed to comply with the requirements of the Enforcement Notice, the harm to the character and appearance of the Area of Outstanding Natural Beauty remains. Therefore the owner may be prosecuted under s.179 of the Town and Country Planning Act and if found guilty of an offence shall be liable on summary conviction, or conviction on indictment, to a fine not exceeding £20,000.

## **RECOMMENDATION AND CONCLUSIONS**

The owner has failed to comply with the requirements of the extant Enforcement Notice by the end of the period for compliance of 31 May 2019 and remains in breach of the Enforcement Notice. The harm caused by the unauthorised part of the track to the character and appearance of the Area of Outstanding Natural Beauty which the Enforcement Notice seeks to remedy therefore remains.

Having due regard to the options that are available (but without prejudice to any other enforcement action the Council may decide to take), the Town and Country Planning Act 1990 and relevant policies and applicable guidance issued, it is concluded that the most satisfactory course of action, at this time, is to recommend that authority be given for the Council to prosecute the owner of the land for non-compliance with the Enforcement Notice (which is an offence under section 179 TCPA 1990) with respect to the eastern 90m element of the track, subject to the Solicitor to the Council being satisfied that there is sufficient evidence and it is in the public interest to pursue a prosecution.

## MID SUSSEX DISTRICT COUNCIL

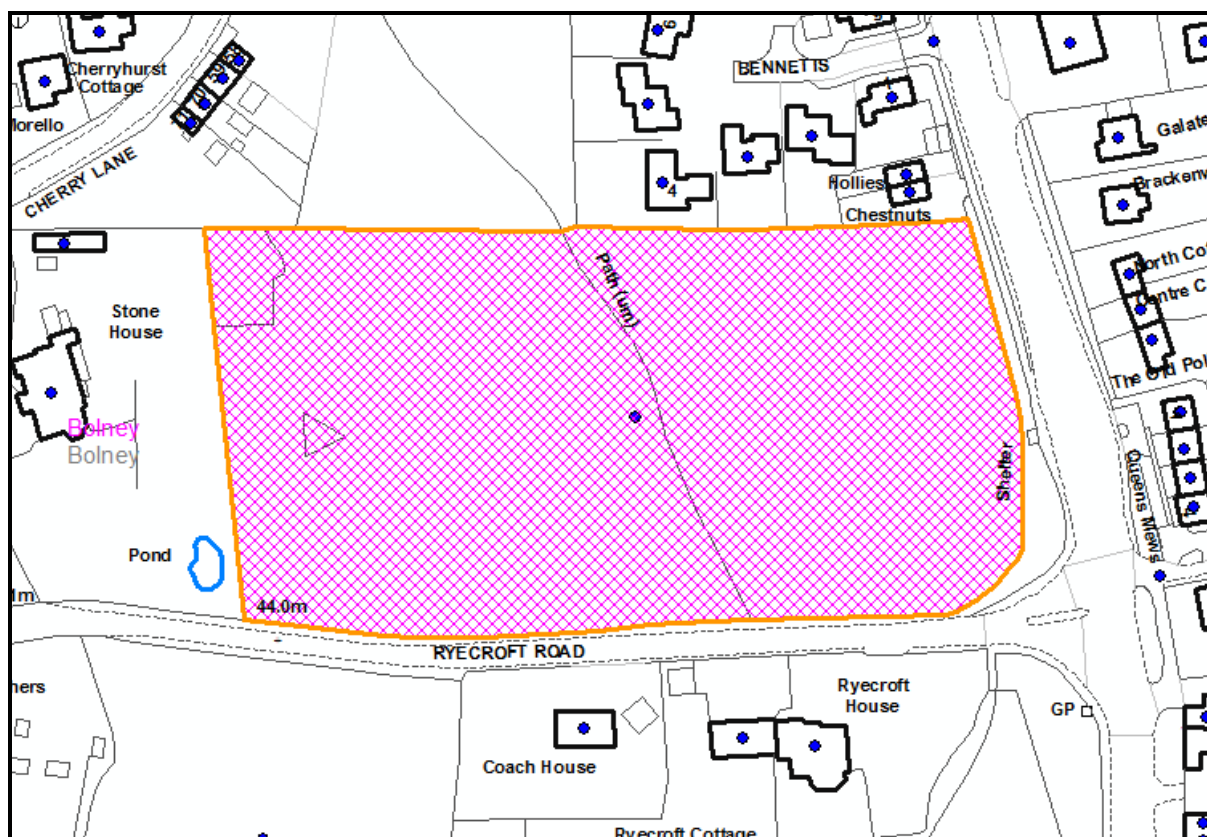
Planning Committee

4 JUL 2019

OTHER MATTERS

**BOLNEY**

**TP/19/0001**



### REPORT

Members are being requested to consider whether or not to confirm a new Tree Preservation Order (TPO), TP/19/0001 refers, on an area of land east of Stone House, Ryecroft Road, Bolney.

### BACKGROUND

Half of the site has been clear felled but there is regeneration of the remaining stumps, particularly birch and oak and there are a number of ash seedlings visible. The remaining fringe trees, providing important screening on this part of the site include hawthorns, poplars and ash. Remaining mature trees include horse chestnuts, many of which have bleeding canker.

The other half of the side includes some stands of birch and occasional hazel and holly. Again, there are some mature horse chestnuts and other oaks of around 40 years old.

A public footpath traverses the site and the site is surrounded on two sides by Ryecroft Road and London Road.

The trees are considered to be under threat due to felling of trees over the Christmas period and follows a number of requests from local residents.

The trees scored an average of 17 on the TEMPO assessment, definitely meriting protection by TPO.

## **THE OBJECTION**

An objection has been received on behalf of the owners of the site on the following grounds:

- The type of TPO, a woodland Order is not appropriate. The majority of trees on this site are pioneer species and have established themselves recently on what was previously grassland. So, whilst the area could have the look of a woodland and could perhaps be described as having begun to acquire a degree of secondary woodland cover, it has not developed the mature composition of a mature canopy. 'Mixed broadleaf woodland', therefore is not strictly accurate.
- Government guidance advises that LPAs need to explain their reasons for imposing a TPO clearly. The LPAs reasons are vague and general in nature. Their description of trees as being of 'significant public amenity value' is unsupported and could be applied to most trees in the towns and countryside.
- The trees fail to have any significant impact as individual specimens. None are rare, most are common. They contribute little to the appearance or character of the surrounding landscape
- MSDC has failed to carry out any structured assessment of the amenity value of the trees in any meaningful way. Some trees could be justified for protection but not in the woodland category.
- A significant proportion of the larger trees are dead, dying or diseased, the horse chestnuts are affected by bleeding canker which is progressive and terminal. The TPO is therefore defective.

A letter has been received from the freehold owner of the site advising that the area was formerly farmland interspersed with trees and natural regeneration has taken over from around 2002.

## **EVALUATION OF COMMENTS**

Government advice, 'Tree Preservation Orders and Trees in Conservation Areas' states in relation to the making of Orders that LPAs can make an Order *'if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'*. Expediency in this case is clearly demonstrated in that half the trees on the site had been felled over the Christmas period.

With regard to visual amenity, the site is traversed by a public footpath and is bounded on two sides by roads. It is your officers' opinion that the trees are of significant public amenity value, in respect of both the fringe trees and those either side of the footpath.

In relation to woodland orders, it states *'Orders covering a woodland protect the trees and saplings of whatever size, including those growing naturally after the Order was made. This is because the purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration of new planting'*. It was clear on a recent visit by your Tree Officer that regeneration has begun, a number of stumps are regenerating and a large number of seedlings were visible. It is also clear that while many trees are not fully mature, this does not mean that they do not have value or significance within what the tree officer has described as woodland.

It is accepted that this is not a mature woodland, but, as described above, there are a number of understorey plants which indicate it is a developing woodland. It contains mature trees, some understorey and typical fringe trees. Furthermore, herbaceous, woodland floor plants are developing in the unfelled area including ferns and stinking iris, both defined as woodland plants. Although some open areas are visible within the woodland, again, this is not an unusual feature.

With regard to the contention that diseased trees have been included within the TPO, it should be noted that dead and diseased trees are an intrinsic part of a woodland. However, should the applicant wish to submit a 5 Day Notice, it will be considered in the normal way. This does not render a woodland Order defective.

The objection sets out that a thorough assessment of trees has not been made. The Council's Tree Officer has made three separate visits to the site and carried out a TEMPO assessment which scored 17 (out of 25), which indicates an Order is justified.

## **ASSESSMENT**

It is considered that a number of 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.

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.