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30 September 2020

Dear Councillor,

A meeting of **PLANNING COMMITTEE** will be held in the **VIA REMOTE VIDEO LINK** at these offices on **THURSDAY, 8<sup>TH</sup> OCTOBER, 2020 at 4.00 pm** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

**A G E N D A**

|   | <b>Pages</b> |
|---|--------------|
| 1. Roll call and Virtual Meetings explanation.  |              |
| 2. To receive apologies for absence.  |              |
| 3. To receive Declarations of Interest from Members in respect of any matter on the Agenda. |              |
| 4. To confirm the Minutes of the Meeting of the Committee held on 24 September 2020         | <b>3 - 8</b> |
| 5. To consider any items that the Chairman agrees to take as urgent business.               |              |

**Items Recommended for Approval.**

|  |               |
|--|---------------|
| 6. DM/19/4549 - The Regency Hotel, Old Hollow, Copthorne, Crawley, West Sussex, RH10 4TA | <b>9 - 44</b> |
|--|---------------|

**Items Recommended for Refusal.**

None.

**Other Matters.**

|   |                |
|---|----------------|
| 7. EF/19/0079 - Springwood Nursery, Nash Lane, Scaynes Hill, RH17 7NJ | <b>45 - 50</b> |
|---|----------------|

8. Questions pursuant to Council Procedure Rule 10.2 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 Thursday, 24th September, 2020  
from 4.00 - 5.00 pm**

**Present:** G Marsh (Chairman)

R Cartwright  
J Dabell

A MacNaughton  
C Phillips

M Pulfer  
D Sweatman

**Absent:** Councillors P Coote, G Allen, E Coe-Gunnell White,  
R Eggleston and N Walker

**1 ROLL CALL AND VIRTUAL MEETINGS EXPLANATION.**

The Chairman introduced the meeting and took a roll call of Members in attendance. The Legal Representative explained the virtual meeting procedure.

**2 TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillor Coote, Councillor Eggleston, Councillor Allen, Councillor Coe-Gunnell White, and Councillor Walker.

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

No declarations were received.

**4 TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 13 AUGUST 2020.**

The Minutes of the meeting of the Planning Committee held on 13 August 2020 were agreed as a correct record and signed electronically by the Chairman.

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

The Chairman had no urgent business.

**6 DM/20/0883 - TENNIS COURTS CLUB HOUSE, VICTORIA PARK, SOUTH ROAD, HAYWARDS HEATH, RH16 4HT.**

The Chairman outlined the public speaking procedure and invited the public speakers to the meeting.

Andrew Horrell, Planning Officer introduced the application which sought planning permission for the demolition of the existing timber framed tennis clubhouse and the reconstruction in brickwork with a pitched roof. He noted that the new building complies with the relevant planning policies and seeks to enhance the facilities available on site. It will keep the same orientation with doors and main windows

facing the tennis courts and the mesh fencing surrounding the site will be removed. The Chairman drew Members' attention to the Agenda Update Sheet which includes an additional 2 letters of objection and noted that it was before the Committee as the land is owned by Mid Sussex District Council.

Michael Preston-Shoot, local resident spoke against the application on the grounds of encroachment to the open space as a result of the size of the building, loss of privacy and concerns about increased use.

Councillor Richard Bates, Ward Member spoke against the application. With no objection to the playing of tennis, he raised concern about conduct off-court if more people are using the facility in the future. He observed that the increased size of the building did not allow for a dedicated changing facility or shower and asked if a compromise could be sought on the height of the new building. He also sought clarification on any encroachment that the building may have on the adjacent footpath.

In response to the Ward Member and a question from the Chairman, the Planning Officer confirmed that the new height of the building will be 4.4m and that the layout inside includes a toilet but not a shower room as this was not a requirement of the club. Regarding the footpath, the building will be slightly closer to the path in the north eastern section but will not detrimentally impinge on it.

The Chairman noted that a clubhouse had been on the site for 40 years and was in need of an upgrade. There is condition on the application that the building cannot be used after 6pm and if there are further noise implications, the environmental health team can be consulted. Other Members agreed that the 6pm finish time was reasonable for community use and that a brick building would help dampen noise to a greater extent than the existing wooden building.

A Member asked if the Planning Officer could speak with the club regarding the provision of some screening to one side of the site, and some signs to be erected reminding players to respect the local resident's privacy and remain quiet when leaving in the evenings.

A Member asked if a condition could be applied to request obscure glass for any window that may overlook adjacent properties. Following discussion, it was noted that the building is an acceptable distance from nearby residents, (being the same distance that is acceptable with back-to-back houses), and that there are no windows on the side facing the nearest residents.

In response to a concern raised by the public speaker, it was noted that there is no proposal for floodlights in this application. Any subsequent request for floodlighting would be separately assessed.

Steve King, Planning Applications Team Leader noted that the proposed building was in keeping with a typical building in a public park and reiterated that there are no windows on the south facing elevation. With regards to potential noise concerns he confirmed that the Council has control over what activities can take place from a land owners' perspective, as well as the conditions contained in the application.

The Chairman moved to the officer recommendation to approve the application in which was proposed by Councillor Pulfer and seconded by Councillor MacNaughton. A recorded vote was carried out by the Legal Officer and the application was unanimously approved.

| <b>Councillor</b> | <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|-------------------|------------|----------------|----------------|
| R Cartwright      | y          |                |                |
| J. Dabell         | y          |                |                |
| A. MacNaughton    | y          |                |                |
| G. Marsh          | y          |                |                |
| C. Phillips       | y          |                |                |
| M. Pulfer         | y          |                |                |
| D. Sweatman       | y          |                |                |

**RESOLVED:**

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

**7 DM/18/0421 - LINDEN HOUSE, SOUTH DOWNS PARK, HAYWARDS HEATH, WEST SUSSEX, RH16 4SL.**

Joseph Swift, Senior Planning Officer, introduced the application to demolish the existing vacant building and erect a 14-unit apartment block. He drew Members attention to the Agenda Update Sheet detailing a letter received from the applicant which questions why it has been referred back to the Committee. The Senior Planning Officer confirmed that the application had been approved by the Committee on 19 December 2020 but following this it came to light that the infrastructure contributions reported to the committee were incorrect and the applicant's solicitor had subsequently questioned what would be required in the viability review. The application has been referred back to the committee to provide further clarity.

The applicants had queried the previous resolution to grant permission subject to conditions and the completion of Section 106 Viability Review which they believed should only apply to affordable housing. The Council has confirmed that the S106 agreement is to secure a viability review on the sale of 75% of the units for infrastructure contributions and affordable housing. If this is not secured by 24 December 2020, then permission could be refused at the discretion of the Divisional Lead for Planning and Economy as detailed in Recommendation B.

There were no public speakers.

The Chairman reiterated that Members had already resolved to grant planning permission and therefore as nothing had changed since that previous resolution the debate is solely regarding the Section 106 contributions. As there were no further comments from Members he moved to the officer recommendation to approve, which was proposed by Councillor Sweatman and seconded by Councillor Phillips. A recorded vote was carried out by the Legal Officer and the application was unanimously approved.

| <b>Councillor</b> | <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|-------------------|------------|----------------|----------------|
| R. Cartwright     | y          |                |                |
| J. Dabell         | y          |                |                |
| A. MacNaughton    | y          |                |                |
| G. Marsh          | y          |                |                |
| C. Phillips       | y          |                |                |
| M. Pulfer         | y          |                |                |
| D. Sweatman       | y          |                |                |

**Resolved:**

**A**

That planning permission is granted subject to the conditions set out in Appendix A and to the completion of the S106 agreement to secure a viability review on the sale of 75% of the units for infrastructure contributions and affordable housing.

and

**B**

It is recommended that if the applicants have not submitted a satisfactory signed S106 Legal Agreement/or legal undertaking securing the viability review for the infrastructure payments and affordable housing provision by the 24th December 2020, then permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reason:

1. 'The application fails to comply with policies DP20 and DP31 of the Mid Sussex District Plan in respect of the infrastructure required to serve the development and the required affordable housing.'

**8 DM/20/0840 - PARKERS GARAGE, THE COURTYARD, WESTERN ROAD, HAYWARDS HEATH, WEST SUSSEX, RH16 3LR.**

Steve King, Planning Applications Team Leader introduced the application for a residential development. He drew Members attention to the Agenda Update Sheet as the description of dwellings has been corrected to comprise of 4 x 3 bed semi-detached dwellings and 4 one bed flats and 1 two bedroom flat, with amended plans received on 18 May rather than 18 June.

He noted that it is a back-land site accessed by a single width access road which will be amended as part of the application. The central hedge will be removed making a two-way access road. There are significant changes in level on site and it is currently clear of all buildings and used for external storage on hard standing.

The semi-detached houses are proposed for the rear of the site, with 2 parking spaces per dwelling, with the apartments at the front of the site. The windows have been amended during review of the application, with the dormer windows reduced in size and the secondary side windows in the block of flats would be obscure glazed to protect neighbouring amenities. He noted that the site is allocated for residential development in the Haywards Heath Neighbourhood Plan. The design is acceptable and fits with other properties that the applicant has built around the site. There will be no impact on neighbouring preserved trees, no objections from the Highways Department and no significant adverse impact to properties that surround the site.

There were no public speakers.

The Chairman noted that it was a good use of a brownfield site and the proposed removal of the hedge on the access road will make it much safer.

A Member requested that the owner carry out a dilapidation report in order to clarify who is responsible for any damage to resident's hedges and fences during construction, as the entrance to the site is tight. He also sought clarification on who is responsible to maintain the access road.

Members discussed the access to the site during construction as there is limited parking on adjacent roads and a footpath opposite the site that leads to a school. A banksman was requested as the hours of operation covers school hours, and there was a request for trades vehicles to be parked on site.

The Planning Applications Team Leader confirmed that there will be a construction management plan to control elements such as the hours of work, times of deliveries, and boundary fencing to protect neighbouring properties. A requirement can be included in the construction management plan to ensure the access road hedge is removed first, allowing trade vehicles better access to turn on site.

Regarding the maintenance of the access road, it is a shared surface that will not be adopted by the Highways Authority, so responsibility will reside with the land owner. The planning conditions require details of the shared surface to ensure it is appropriate. He confirmed that an informative can be added to request a banksman. The Planning Applications Team Leader advised that issues regarding potential damage to neighbouring properties during construction works would be a private matter between the developer and the owners of the neighbouring properties.

In response to a Member's query the Planning Applications Team Leader confirmed there are 13 parking spaces designated for the new properties on site and that it is the applicant's intention is to provide electric charging points for the houses and the ground floor flat. With the Committee's agreement a condition can be added to ensure they are provided as specified. Members approved of this decision.

The Chairman moved to the officer recommendation to approve the application in which was proposed by Councillor Pulfer and seconded by Councillor Sweatman. A recorded vote was carried out by the Legal Officer and the application was unanimously approved.

| <b>Councillor</b> | <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|-------------------|------------|----------------|----------------|
| R. Cartwright     | y          |                |                |
| J. Dabell         | y          |                |                |
| A. MacNaughton    | y          |                |                |
| G. Marsh          | y          |                |                |
| C. Phillips       | y          |                |                |
| M. Pulfer         | y          |                |                |
| D. Sweatman       | y          |                |                |

**Resolved:**

**A**

That planning permission is granted subject to the conditions listed in the appendix and a condition relating to the electric charging points, and the completion of a satisfactory legal agreement to secure the necessary affordable housing and infrastructure provision.

and

**B**

It is recommended that if the applicants have not submitted a satisfactory signed S106 Legal Agreement/or legal undertaking securing the necessary infrastructure payments by the 17th December 2020, then permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reason:

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.

**9 QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.**

No questions were received.

The meeting finished at 5.00 pm

Chairman



MID SUSSEX DISTRICT COUNCIL

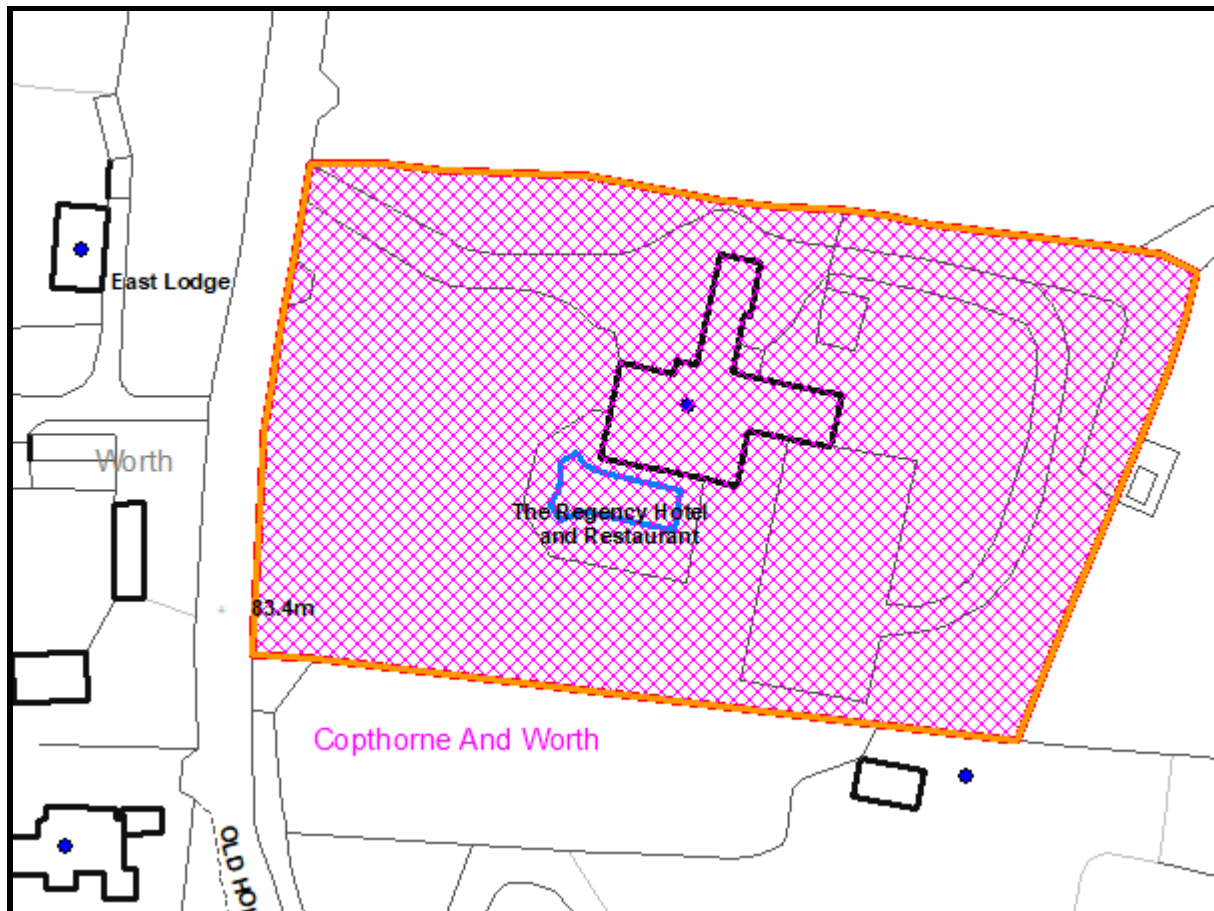
Planning Committee

8 OCT 2020

RECOMMENDED FOR PERMISSION

Worth

DM/19/4549



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**THE REGENCY HOTEL OLD HOLLOW COPTHORNE CRAWLEY  
CHANGE OF USE FROM A HOTEL (USE CLASS C4) TO RESIDENTIAL  
(USE CLASS C3) TOGETHER WITH FIRST FLOOR EXTENSIONS TO  
PROVIDE 2X 1 BED AND 8X 2 BED FLATS WITH ASSOCIATED PARKING  
AND LANDSCAPING.  
MR H BIRDEE**

POLICY: Area of Special Control of Adverts / Countryside Area of Dev. Restraint / Methane Gas Safeguarding / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Radar Safeguarding (NATS) / Tree Preservation Order /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 26th October 2020

WARD MEMBERS: Cllr Christopher Phillips /

CASE OFFICER: Susan Dubberley

### **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**

The application seeks approval for a change of use from a hotel (use class C4) to residential (use class C3) (10 flats in total) together with first floor extensions to provide 2x 1 bed and 8x 2 bed flats with associated parking and landscaping at the Regency Hotel, old Hollow, Copthorne.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances 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 NPPF states that planning should be genuinely plan-led. The Council has an up to date 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.

In respect of the principle of the development the proposal represents the re-use of a rural building that would lead to an enhancement of the immediate setting and the quality of the rural and landscape character of the area is maintained. The development is therefore in accordance with the policies DP12, DP15 and paragraph 79c of the NPPF.

It is considered that sufficient evidence has been submitted to demonstrate that there is no reasonable prospect of use or continued use for employment of the hotel, in accordance with policy DP1. The loss of the hotel is therefore considered acceptable in policy terms and the alternative use as residential flats is considered

an appropriate use for the building.

Weighing in favour of the scheme is that the development will provide ten residential dwelling and will make a minor but positive contribution to the district's housing supply, The New Homes Bonus is a material planning consideration and if permitted the Local Planning Authority would receive a New Homes Bonus for the units 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 a number of issues such as highways, drainage and trees. There will be no likely significant effect on the Ashdown Forest SPA and SAC.

In view of the above it is considered that the proposal would comply with policies within the development plan DP1, DP4, DP6, DP12, DP15, DP17, DP21, DP26, DP27, DP37, DP38 and DP41 of the District plan and planning permission should therefore be granted.

## **RECOMMENDATIONS**

**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 requirements by the 8th January 2020, then it is recommended that 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 and DP21 of the Mid Sussex District Plan in respect of the infrastructure required to serve the development.'

## **SUMMARY OF REPRESENTATIONS**

None

## **SUMMARY OF CONSULTATIONS**

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

## **MSDC Street Naming and Numbering**

No objection subject to informative.

**Housing**

No objection.

**WSCC Highways**

No objection subject to conditions.

**MSDC Culture**

No objection.

**MSDC Drainage Engineer**

No objection subject to conditions.

**MSDC Parks and landscapes**

No objection.

**MSDC Environmental Health -protection**

No objection subject to conditions.

**MSDC Environmental Health - contamination**

No objection subject to conditions.

**Thames Water**

No objection.

**WSCC - Flood risk**

No objection.

**Gatwick Airport**

No objection subject to informative.

**NATS**

No objection.

**Parish Council**

No objection, although the council would like to note 13 car parking spaces for 10 dwellings is insufficient. There is no provision for electric vehicle charging. Although the design and Access statement states, 'The site is accessible by public transport, the closest bus stops are located a short walk from the site on Copthorne Road'

The council are concerned that the road 'Old Hollow' leading to the Copthorne Road is extremely dangerous with no footpath.

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## **Introduction**

The application seeks approval for a change of use from a hotel (use class C1) to residential (use class C3) together with first floor extensions to provide 2x 1 bed and 8x 2 bed flats with associated parking and landscaping. at the Regency Hotel, old Hollow, Copthorne.

## **Relevant Planning History**

DM/16/3804 - Outline permission with all matters reserved for demolition of the existing hotel building, out houses and breaking up hardstanding and the construction of 5 new dwellings. Refused 27 July 2016. Subsequently dismissed on appeal (APP/D3830/W/17/3190363).

Reason for refusal:

*The proposal will introduce multiple residential buildings and curtilages that will unduly urbanise the site to the detriment of the rural character of the area by being wholly out of keeping with the surrounding land uses. The proposal will also adversely affect trees within the site that help contribute to the rural character of the area. The application therefore conflicts with Policies B1, C1 and C6 of the Mid Sussex Local Plan, Policies DP10, DP24 and DP36 of the draft District Plan and COP05 of the Neighbourhood Plan.*

DM/15/3978 - Demolition of existing building, out houses and associated hardstanding for the construction of six new detached dwellings. Withdrawn prior to determination.

## **Site and Surroundings**

The application site covers an area of some 0.82 hectares and is located off Old Hollow to west. An existing two storey mock Tudor 34 bed hotel is sited in the grounds with ancillary outbuildings, tennis court, swimming pool and car parking.

The site is located in the countryside in a rural setting with only sporadic development around, there are open fields to north and east with a residential property, Tudor cottage, to south. There are Oak trees along the front of site which are protected by a TPO (WP/07/TPO/88).

## **Application Details**

The application is for a change of use from a hotel (use class C1) to residential (use class C3) together with first floor extensions to provide 2x 1 bed and 8x 2 bed flats (10 flats in total) with associated parking and landscaping.

The flats would be arranged with 5 units on each floor, 4 x 2 bed flats and 1x1 bed on the ground floor and 4 x 2 bed flats and 1x1 bed on the first floor.

Small first floor extension is proposed at the rear which would form the kitchen to flat no.7. On the south side elevation there is an existing single storey dining room with a dummy pitched roof over, which faces the swimming pool. The proposal is to build a first floor extension over the existing dining area, with a pitched roof to match that of the existing roof of the hotel. The design of the elevations would follow the mock Tudor design of the existing building with white render and exposed timber beams, with windows to match the existing.

The proposal includes the removal of the swimming pool and landscaping of the area to provide shared communal outdoor space along with the existing gardens. Since submission of the application following negotiations a play area for children has been added to the area where the swimming pool is currently located.

In terms of parking, the development will comply with the West Sussex parking standards, with the provision of 10 spaces, equating to 1 space per unit, and a further three visitor bays.

## **List of Policies**

### **Mid Sussex District Plan**

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

The most relevant policies are:

Policy DP1: Sustainable Economic Development  
Policy DP4: Housing  
Policy DP6: Settlement Hierarchy  
Policy DP12: Protection and Enhancement of Countryside  
Policy DP15: New Homes in the Countryside  
Policy DP17: Ashdown Forest SPA and SAC  
Policy DP21: Transport  
Policy DP26: Character and Design  
Policy DP27: Space Standards  
Policy DP37: Trees, Woodland and Hedgerows  
Policy DP39: Sustainable Design and Construction  
Policy DP38: Biodiversity  
Policy DP41: Flood Risk and Drainage

The Council is currently in the process of adopting a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide has been through public consultation and the Scrutiny Committee for Housing, Planning and Economic Growth have recommended to Council its adoption as an SPD for use in the consideration and determination of planning applications. While not yet adopted, it is considered that this document carries weight and is a material consideration in the determination of the application.

## **Worth - Copthorne Neighbourhood Plan**

The Neighbourhood Plan Steering Group has published a draft version of the plan and regulation 14 consultation finished 28th April 2017. Material planning consideration with little weight.

## **National Policy and Legislation (NPPF) February 2019**

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

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

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

*"For decision-taking this means:*

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

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

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

Planning Practice Guidance

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

SPD Development Infrastructure and Contributions (2018)

## **ASSESSMENT**

### **Principle**

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

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*

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

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

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

Using this as the starting point the development plan in this part of Mid Sussex consists of the District Plan (2018).

The District Plan is up to date and the Council can demonstrate a 5 year supply of deliverable housing land.

Policy DP12 of the District Plan relates to the protection and enhancement of the countryside. It states:

*'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:*

- it is necessary for the purposes of agriculture; or*
- it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.'*

Linked to Policy DP12 is Policy DP15 of the District Plan which relates to new homes in the countryside and allows for the re-use of rural buildings for residential use:



*The re-use and adaptation of rural buildings for residential use in the countryside will be permitted where it is not a recently constructed agricultural building which has not been or has been little used for its original purpose and:*

- *the re-use would secure the future of a heritage asset: or*
- *the re-use would lead to an enhancement of the immediate setting and the quality of the rural and landscape character of the area is maintained.*

Paragraph 79c of the NPPF is also relevant which states:

*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling;*  
*or*
- e) the design is of exceptional quality, in that it:- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

In this case the application proposes the re-use of a rural building and the proposals include the removal of the unused and neglected swimming pool and its replacement with landscaping and a children's play area. Landscaping of the wider grounds and removal of some of the hard surfaced car parking areas and replacement with grass is also proposed. The proposed extensions are considered to be keeping with the existing building in terms of design, size and scale and would not detract significantly from the character of the locality. It is therefore considered that the development will enhance the immediate setting and preserve the wider countryside in accordance with the policies DP12, DP15 and paragraph 79c of the NPPF.

While there is no specific policy that would seek to retain a hotel use policy DP1 seeks to protect employment land and in part states:

*Effective use of employment land and premises will be made by:*

- *Protecting allocated and existing employment land and premises (including tourism) unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment or it can be demonstrated that the loss of employment provision is outweighed by the benefits or relative need for the proposed alternative use;*

- *Permitting appropriate intensification, conversion, redevelopment and/ or extension for employment uses providing it is in accordance with other policies in the Plan;*
- *Giving priority to the re-use or adaptation of rural buildings for business or tourism use and to the diversification of activities on existing farm units (in accordance with Development in the Countryside policies).*

Under consideration of the previous withdrawn application (DM/15/3978) the applicant submitted supporting information to address the loss of the commercial floorspace. This was in the form of an accountant's statement showing that the *"business would make substantial losses and would be financially unsustainable. Therefore, it would be impossible to sell the business as a going concern."*

In the case of the most recent refusal on the site for 5 new build dwellings, (DM/16/3804), while the applicant did not formally submit any supporting information for consideration, the evidence submitted under the 2015 was accepted as evidence that the business was unviable. In the consideration of both applications the loss of employment was accepted and not raised as a reason to refuse the application.

Given the time that has passed since the viability information was submitted the applicant was asked to submit an updated report. The report and recent accounts show a continued loss which has resulted in the owner no longer taking a paid salary from the business. Therefore, it is considered that it has been demonstrated that there is no reasonable prospect of use or continued use for employment of the hotel, in accordance with policy DP1. The alternative use as residential flats is considered an appropriate use for the building.

In view of the above it is considered that the proposal accords with Policies DP1, DP12 and DP15 of the District Plan, and that the principle of the change of use from a hotel to residential is therefore acceptable

### Material considerations

#### **Design and Visual Impact**

DP26 requires development to be well designed and reflect the distinctive character of the towns and villages and states:

*All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*

- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP27);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development*

In this case the proposed alterations, in the form of a first floor rear extension and a first floor side extension, are considered to be keeping with the existing building in terms of design, size and scale and would also not detract significantly from the character of the locality. The site itself is also quite well contained by mature trees and hedges along the site boundaries and it is not considered therefore that in this instance that there would be a significant adverse impact on the wider countryside arising from the development.

As outlined above, the proposal includes the removal of the unused and neglected swimming pool and its replacement with landscaping and a children's play area. Landscaping of the grounds and removal of some of the hard surfaced car parking areas and replacement with grass is also proposed. It is therefore considered that these measures will enhance the immediate setting and preserve the wider countryside.

The proposal is therefore considered to comply with DP26 of the District Plan.

### **Access, parking and impact on highway safety**

Policy DP21 the District Plan states:

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

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

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

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

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

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

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

The LHA previous raised no objections to the refused application on the site for the redevelopment of the site and have raised no objection to the current application. In terms of trip generation WSCC has commented that:

*Given the previous uses at the site it is not anticipated that there will be any material increase in traffic movements over the existing use. In addition there are no known capacity and congestion issues within the immediate vicinity of the site.*

The existing access would be used and WSCC Highways are satisfied that the current access arrangement and sightlines are sufficient to accommodate the anticipated level of vehicular activity. Similarly, the proposed parking is considered acceptable, particularly as the LHA are not aware that the previous use resulted in excess parking or highway safety concerns onto Old Hollow and it is considered unlikely that there would be an increase in on-street parking as a result of this proposal.

In terms of sustainability WSCC Highways have commented that the site has access to public transport close to the site. The road network is served by Metrobus routes which provide connections to locations such as Crawley, Gatwick Airport, Redhill, Haywards Heath, Tunbridge Wells, East Grinstead and Caterham. The bus stops are approximately 0.5/1km away from the site.

While the location of the bus stops are noted, officers also acknowledged in the report relating to the refused scheme (DM/16/3804) that the nearest built up area boundary of Copthorne is some 1 km away and the site is also 1.5 km from the built up area of Crawley. However, these distances are via Old Hollow itself and this highway has no footpath and no street lighting leading all the way to these built up areas and this has been raised by the Parish Council the Officer report for DM/16/3804, states:

*This lack of pedestrian accessibility coupled with the narrow nature of the road, its speed limit and the relative distances to local services is likely to be unattractive to families with small children, the elderly, or those with mobility issues. As a result, future occupiers would have a high dependence on the use of motor vehicles to access local services. Moreover, it would mean that local services would not be easily accessible in terms of the social role of the planning system for potential occupiers.*

*The site is therefore in an unsustainable location however in this case the existing use of the site must be taken into account. Whilst the daily needs of hotel guests would be different to those of the daily needs for future residential occupiers, the existing use would generate a high number of vehicular movements for guests, staff and for deliveries. The replacement of the hotel with five residential units would be unlikely to result in more daily vehicular movements than the existing use could generate and this is a significant mitigating factor that needs to be weighed against the fact the site is in an unsustainable location. As such a reason for refusal on this specific issue should not be pursued.*

Therefore, the refusal of the application for the redevelopment of the site was not on the grounds that the site was in an unsustainable location for the reason set out

above, which are also considered relevant to the current application for the conversion of the hotel to a residential use.

The Parish has also raised the issue of the lack of any provision for electric vehicle charging and this is addressed by the inclusion of a condition in the recommendation requiring details and location of electric vehicle charging on the site.

In view of the above it is considered that the proposal complies with Policy DP21 of the Mid Sussex District Plan.

### **Residential Amenity**

Policy DP26 of the Mid Sussex District Plan stipulates that development does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight.

The nearest neighbours are located some distance to the south at Tudor Cottage which is sited some 40 metres from the mutual boundary. At this distance, coupled with the screening effect of the trees in between, it is considered that the proposal will not have a significant impact on neighbouring residential amenity.

The application therefore complies with Policy DP26 of the Mid Sussex District Plan.

### **Standard of accommodation**

Policy DP26 of the District Plan stipulates that development does not cause significant harm to the amenities of future occupants of new dwellings. Policy DP27 requires all new dwellings to meet minimum nationally described space standards, other than in exceptional circumstances, where clear evidence will need to be provided to show that the internal form or special features prevent some of the requirements being met.

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

The plans show that the proposed scheme can achieve these standards and the application therefore complies with Policy DP26 and DP27 of the Mid Sussex District Plan.

### **Affordable Housing**

Policy DP31 of the District Plan seeks to secure 30% affordable housing from developments providing 11 or more dwellings or a maximum combined gross floorspace of more than 1,000 sqm.

In this case the gross internal floorspace is 760.65sqm and is below the 1000 sqm threshold and so there is therefore no Affordable Housing requirement.

The application therefore complies with Policy DP31 of the Mid Sussex District Plan.

### **Drainage**

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

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

In view of the above it is considered that the proposal complies with Policy DP41 of the Mid Sussex District Plan.

### **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 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 was modelled in the Mid Sussex Transport Study as a **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. 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.

### **Trees**

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

While there is TPO which covers the Oak trees on the frontage of the site, these trees are not affected by the proposals and the development does not require the removal of any of the other trees on the site.

In view of the above it is considered that the proposal complies with Policy DP37 of the Mid Sussex District Plan.

### **Infrastructure**

Policy DP20 requires applicants to provide for the costs of additional infrastructure required to service their developments and mitigate their impact. This includes securing affordable housing which is dealt with under Policy DP31 of the District



Plan. Policy DP20 sets out that infrastructure 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

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

*'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:

*'Planning obligations should 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).

#### West Sussex County Council Contributions:

Education - Primary £9,773  
Education - Secondary £10,518  
Education - 6th Form £2,464  
Libraries - £2,875  
TAD - £545

#### District Council Contributions:

Equipped play/ Kickabout facilities (A contribution toward children's play space is not required in this instance. The development will provide eight two bedroom dwellings and this number of new homes does not require play provision on site. Copthorne Bank is the nearest locally equipped play area but this is approximately 1.7km from the development site and outside the distance thresholds for children's play as outlined in the Development and Infrastructure SPD.

|                     |        |
|---------------------|--------|
| Formal sport        | £9,683 |
| Community Buildings | £5,554 |

AND

Local Community Infrastructure £6,340

These contributions would need to be secured through an appropriately worded Section 106 planning obligation. On completion of the obligation the application would therefore comply with policy DP20.

### **Planning Balance and Conclusion**

The application seeks approval for a change of use from a hotel (use class C1) to residential (use class C3) (10 flats in total) together with first floor extensions to provide 2x 1 bed and 8x 2 bed flats with associated parking and landscaping. at the Regency Hotel, old Hollow, Copthorne.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances 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 NPPF states that planning should be genuinely plan-led. The Council has an up to date 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.

In respect of the principle of the development the proposal represents the re-use of a rural building that would lead to an enhancement of the immediate setting and the quality of the rural and landscape character of the area is maintained. The development is therefore in accordance with the policies DP12, DP15 and paragraph 79c of the NPPF.

It is considered that sufficient evidence has been submitted to demonstrate that there is no reasonable prospect of use or continued use for employment of the hotel, in accordance with policy DP1. The loss of the hotel is therefore considered acceptable in policy terms and the alternative use as residential flats is considered an appropriate use for the building.

Weighing in favour of the scheme is that the development will provide ten residential dwelling and will make a minor but positive contribution to the district's housing supply, The New Homes Bonus is a material planning consideration and if permitted the Local Planning Authority would receive a New Homes Bonus for the units 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 a number of issues such as highways, drainage and trees. There will be no likely significant effect on the Ashdown Forest SPA and SAC.

In view of the above it is considered that the proposal would comply with policies within the development plan DP1, DP4, DP6, DP12, DP15, DP17, DP21, DP26, DP27, DP37, DP38 and DP41 of the District plan and planning permission should therefore be granted.

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## APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
2. No external materials shall be used other than those specified on the approved plans and application form without the prior approval of the Local Planning Authority.  
  
Reason: To protect the appearance of the building and the area and to accord with Policy DP26 of the Mid Sussex District Plan
3. 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.
4. The building shall not be occupied until the car parking on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking and turning of vehicles.  
  
Reason: To provide adequate on-site car parking space for the development and 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.
5. No part of the development shall be first occupied until the cycle parking spaces have been provided in accordance with the approved plans. These spaces shall thereafter be retained for their designated use.  
  
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 District Plan.
6. No development shall take place 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.

7. 1) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

and unless otherwise agreed in writing by the LPA,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

and, unless otherwise agreed in writing by the LPA,

c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

2) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the LPA in advance of implementation). Any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report, and thereafter maintained.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during

development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

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

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

10. The development hereby permitted shall not be occupied/brought into use until unless and until details of charging points for electric cars to be provided on the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved details and thereafter retained unless otherwise agreed in writing by the Council.

Reason: To provide for the use of low emission cars in accordance with current sustainable transport policies and to accord with Policy DP21 of the District Plan.

## INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by 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. Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore draw attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. Gatwick Airport requires a minimum of

four weeks notice. For crane queries/applications please email [gal.safeguarding@gatwickairport.com](mailto:gal.safeguarding@gatwickairport.com)

The crane process is explained further in Advice Note 4, 'Cranes and Other Construction Issues', (available from <http://www.aoa.org.uk/policy-campaigns/operations-safety/>)

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

Accordingly, you are requested that:

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

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

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

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

| <b>Plan Type</b>        | <b>Reference</b> | <b>Version</b> | <b>Submitted Date</b> |
|-------------------------|------------------|----------------|-----------------------|
| Location and Block Plan | 05               |                | 01.11.2019            |
| Proposed Block Plan     | 06               |                | 01.11.2019            |
| Existing Floor Plans    | 01               | C              | 20.07.2020            |
| Proposed Floor Plans    | 02               | A              | 20.07.2020            |
| Existing Floor Plans    | 03               | B              | 20.07.2020            |
| Proposed Floor Plans    | 04               | A              | 20.07.2020            |
| Existing Elevations     | 05               | D              | 20.07.2020            |
| Proposed Elevations     | 06               | D              | 20.07.2020            |
| Existing Elevations     | 07               | C              | 20.07.2020            |
| Proposed Elevations     | 08               | C              | 20.07.2020            |
| Landscaping             | 07               | A              | 28.04.2020            |

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

No objection, although the council would like to note 13 car parking spaces for 10 dwellings is insufficient. There is no provision for electric vehicle charging. Although the design and Access statement states, 'The site is accessible by public transport, the closest are bus stops are located a short walk from the site on Copthorne Road' The council are concerned that the road 'Old Hollow' leading to the Copthorne Road is extremely dangerous with no footpath.

### **WSCC Highways**

#### Summary and Context

The proposals will be accessed from Old Hollow a "D" class road, the road serves a number of industrial and commercial outlets. The road is subject to 60 mph 'National' speed limit. The proposal concerns the change of use to provide 10 flats together with the first floor extensions to enable the conversion to be delivered to the desired layout, with appropriate living accommodation.

#### Access and Visibility

The site does have an existing vehicular access onto Old Hollow, no modifications are proposed to the existing access arrangements. The access is considered to be of sufficient geometry to accommodate the anticipated level of vehicular activity. Sightlines along Old Hollow from the existing point are considered acceptable.

A review of the access onto Old Hollow indicates that, there have been no recorded accidents within the last 3 years and that there is no evidence to suggest that the access and local highway network are operating unsafely.

#### Capacity

Given the previous uses at the site it is not anticipated that there will be any material increase in traffic movements over the existing use. In addition there are no known capacity and congestion issues within the immediate vicinity of the site. From a capacity perspective we are satisfied the proposal will not have a severe residual impact.

#### Parking

The proposed parking is considered acceptable. The LHA are not aware of that the previous use resulted in excess parking or highway safety concerns onto Old Hollow; it is considered unlikely that there would be an increase in on-street parking as a result of this proposal.

#### Sustainability

The site has access to public transport close to the site. The road network is served by Metrobus routes numbers 272, 281, 291 and 400. These provide connections to locations such as Crawley, Gatwick Airport, Redhill, Haywards Heath, Tunbridge Wells, East Grinstead and Caterham. The bus stops are approximately 0.5/1km away from the site.

## 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 (para 109), and that there are no transport grounds to resist the proposal.

Any approval of planning consent would be subject to the following condition:

### Car parking space

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

Reason: To provide car-parking space for the use

## **MSDC Parks and landscapes**

Thank you for giving us the opportunity to comment on the planning application DM/19/4549. From a landscape point of view we are happy with the application and have no comments to add.

## **MSDC Culture**

Thank you for the opportunity to comment on the plans for the Change of Use from a hotel (use class C4) to residential (use class C3) to provide 10 residential dwellings at The Regency Hotel Old Hollow Copthorne Crawley West Sussex RH10 4TA on behalf of the Head of Corporate Resources. 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

A contribution toward children's play space is not required in this instance. The development will provide eight two bedroom dwellings and this number of new homes does not require play provision on site however a small LAP, providing some dedicated play space within the communal amenity space, would be welcome as there are no pedestrian footpaths linking the development to neighbouring facilities. Copthorne Bank is the nearest locally equipped play area but this is approximately 1.7km from the development site and outside the distance thresholds for children's play as outlined in the Development and Infrastructure SPD.

### FORMAL SPORT

In the case of this development, a financial contribution of £9,683 is required toward formal sport provision at King George Playing Field, Copthorne.

### 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 £5,554 is required to make facility improvements to the Parish Hub in Borers Arm Road, Copthorne. 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 Street Naming and Numbering**

Please can you ensure that the street naming and numbering informative is added to any decision notice granting approval in respect of the planning applications listed below as these applications will require address allocation if approved. Thank you.

Informative (Info29)

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

Planning applications requiring SNN informative

DM/19/4978  
DM/19/5227  
DM/20/0003  
DM/19/4077  
DM/19/5183  
DM/19/5211  
DM/19/4993  
DM/19/4549

### **WSCC -S106 contributions**

Planning Application details - Change of use from a hotel (use class C4) to residential (use class C3) together with first floor extensions to provide 2x 1 bed and 8x 2 bed flats with associated parking and landscaping

*See over page for continuation of Appendix B*

## Summary of Contributions

|   |                |           |          |
|---|----------------|-----------|----------|
| <b>Education</b>  |                |           |          |
| School Planning Area                                      | East Grinstead |           |          |
| Population Adjustment                                     | 17.8           |           |          |
|   | Primary        | Secondary | 6th Form |
| Child Product   | 0.0760         | 0.0760    | 0.0410   |
| Total Places Required                                     | 0.5320         | 0.3800    | 0.0821   |
| <b>Library</b>  |                |           |          |
| Locality  | East Grinstead |           |          |
| Contribution towards Hassocks/<br>Hurstpierpoint/Steyping | £0             |           |          |
| Contribution towards Burgess Hill                         | £0             |           |          |
| Contribution towards East<br>Grinstead/Haywards Heath     | £2,875         |           |          |
| Population Adjustment                                     | 17.8           |           |          |
| Sqm per population  | 30/35          |           |          |
| <b>Waste</b>  |                |           |          |
| Adjusted Net. Households                                  | 10             |           |          |
| <b>Fire</b>   |                |           |          |
| No. Hydrants  | TBC            |           |          |
| Population Adjustment                                     | N/A            |           |          |
| £/head of additional population                           | N/A            |           |          |
| <b>TAD- Transport</b>                                     |                |           |          |
| Net Population Increase                                   | 17.8           |           |          |
| Net Parking Spaces  | -17            |           |          |
| Net Commercial Floor Space sqm                            | 0              |           |          |
| Total Access (commercial only)                            | 0.0000         |           |          |

## Summary of Contributions

| S106 type                              | Monies Due              |
|--|-------------------------|
| <b>Education - Primary</b>             | £9,773                  |
| <b>Education - Secondary</b>           | £10,518                 |
| <b>Education - 6<sup>th</sup> Form</b> | £2,464                  |
| <b>Libraries</b>                       | £2,875                  |
| <b>Waste</b>                           | No contribution         |
| <b>Fire &amp; Rescue</b>               | No contribution         |
| <b>No. of Hydrants</b>                 | secured under Condition |
| <b>TAD</b>                             | £545                    |
| <b>Total Contribution</b>              | <b>£26,175</b>          |

*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, 2019.

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 10 Net dwellings, and a reduction in 17 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 2020. 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 Fairway Infant School.

The contributions generated by this proposal shall be spent on additional facilities at Imberhorne School.

The contributions generated by this proposal shall be spent on additional facilities at Imberhorne School Sixth Form.

The contributions generated by this proposal shall be spent on providing additional stock at East Grinstead Library.

The contributions generated by this proposal shall be spent on bus infrastructure improvements between Copthorne, Crawley and East Grinstead.

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.

Where the developer intends to keep some of the estate roads private we will require provisions in any s106 agreement to ensure that they are properly built, never offered for adoption and that a certificate from a suitably qualified professional is provided confirming their construction standard.

Where land is to be transferred to the County Council as part of the development (e.g. a school site) that we will require the developer to provide CAD drawings of the site to aid design/layout and to ensure that there is no accidental encroachment by either the developer or WSCC.

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).

$$\text{Child Product} = \text{Adjusted Population} \times 14 / 1000$$

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 2019/2020, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

- Primary Schools: £18,370 per child
- Secondary Schools: £27,679 per child
- Sixth Form Schools: £30,019 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:

$$\text{Contributions} = \text{SQ M Demand} \times \text{Cost Multiplier}$$

#### 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.

$$\text{Square Metre Demand} = (\text{Adjusted Population} \times \text{LFD}) / 1000$$

#### b) Cost Multiplier- Library Infrastructure

WSSC estimated cost of providing relatively small additions to the floorspace of existing library buildings is £5,384 per square metre. This figure was updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index for the 2019/2020 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 rely 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 2019/2020 is £1,407 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 (£703).

Sustainable transport contribution = (net car parking - occupancy) x 703

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

### **WSCC - Flood risk**

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage. The following is the comments of the LLFA relating to surface water drainage and flood risk for the proposed development and any associated observations, recommendations and advice.

### **Flood Risk Summary**

Current surface water flood risk based on 30year and 100year events: Low risk

Comments: Current surface water mapping shows that proposed site is at low risk from surface water flooding.

This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.

Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.

Reason: NPPF paragraph 163 states - 'When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.'

Modelled groundwater flood hazard classification: Low risk

Comments: The area of the proposed development is shown to be at low risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.

Ground water contamination and Source Protection Zones.

The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.

Ordinary Watercourses nearby? No

Comments: Current Ordnance Survey mapping shows no ordinary watercourses in close proximity of the site.

Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around or across the site. If present these should be maintained and highlighted on future plans.

Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.

Records of any historic flooding within the site? No

Comments: We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.

### **Future development - Sustainable Drainage Systems (SuDS)**

The application form states that sustainable drainage techniques (soakaways) would be used to control the surface water from this development.

All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The drainage designs should demonstrate that the surface water runoff generated up to and including the 1 in 100 year, plus climate change, critical storm will not exceed the run-off from the current site following the corresponding rainfall event.

The maintenance and management of the SUDs system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

### **MSDC Drainage Engineer**

#### **FLOOD RISK**

The proposed development is within flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The proposed development is not within an area identified as having possible surface water (pluvial) flood risk.

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

### SURFACE WATER DRAINAGE

It is proposed that the development will utilise a soakaway to manage surface water drainage. The BGS infiltration potential map shows the site to be in an area with high infiltration potential and the use of soakaways is considered likely to be suitable on site.

### FOUL WATER DRAINAGE

It is proposed that the development will discharge foul water drainage to the mains sewer. No plan has been provided which shows the location of the main foul sewer in proximity to the site. We would advise the applicant to confirm the location prior to detailed design.

### FURTHER COMMENTS

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

### SUGGESTED CONDITIONS

#### C18F - MULTIPLE DWELLINGS

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

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

### **MSDC Environmental Health - protection**

Environmental Protection has no objection to this application subject to the following conditions:

Construction hours: Works of construction, 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.

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

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

Saturday: 09:00 - 13:00 hrs

Sunday and Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents.

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 construction waste materials shall take place on site.
- Measures be implemented to prevent dust generated on site from crossing the site boundary during the construction phase of the development.

### **MSDC Environmental Health - contamination**

The property is adjacent to Old Hollow Landfill, which lies to the north of the application site. Old Hollow Landfill was a licensed waste disposal site from 1983 to 1985 (EA ref: EAHLD10965). While the site was licensed to only take inert waste, the Environmental Health section holds no records relating to leachate or landfill gas monitoring at the site. As such there is the potential risk from migrating landfill and ground gas.

Given the above and the proposed change to a more sensitive use, it is appropriate in this instance to attach a full contaminated land condition to ensure that the above risks are looked at prior to the use class changing, specifically with regards to gas. This is to ensure the safety of future occupants.

Additionally a discovery strategy should also be attached, so that in the event that contamination not already identified through the desktop study is found, that works stop until such time that a further assessment has been made, and further remediation methods put in place if needed.

Recommendation: Approve with conditions

1) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

and unless otherwise agreed in writing by the LPA,

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;

and, unless otherwise agreed in writing by the LPA,

c) Based on the site investigation results and the detailed risk assessment (b) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

2) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved has been implemented fully and in accordance with the approved details (unless varied with the

written agreement of the LPA in advance of implementation). Any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report, and thereafter maintained.

Reason (common to all): To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

In addition, the following precautionary condition should be applied separately:

3) If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

## **Gatwick Airport**

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.

We would, however, make the following observation:

### **Cranes**

Given the nature of the proposed development it is possible that a crane may be required during its construction. We would, therefore, draw the applicant's attention to the requirement within the British Standard Code of Practice for the safe use of Cranes, for crane operators to consult the aerodrome before erecting a crane in close proximity to an aerodrome. Gatwick Airport requires a minimum of four weeks notice. For crane queries/applications please email [gal.safeguarding@gatwickairport.com](mailto:gal.safeguarding@gatwickairport.com) The crane process is explained further in Advice Note 4, 'Cranes and Other Construction Issues', (available from <http://www.aoa.org.uk/policy-campaigns/operations-safety/>)

## **Thames Water**

### **Waste Comments**

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Should you require further information please refer to our website.

<https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdevelopers.thameswater.co.uk%2FDeveloping-a-large-site%2FApply-and-pay-for-services%2FWastewater-services&data=02%7C01%7Cplanninginfo%40midsussex.gov.uk%7C1419c24c6ae54da5dde208d78d2c1b48%7C248de4f9d13548cca4c8babd7e9e8703%7C0%7C0%7C637133092888152587&data=0RHy8xwPBLEOldl3OXSnK3iQbSITluV7CINtZiummX0%3D&mp;reserved=0>

We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk).

Application forms should be completed on line via

<https://eur02.safelinks.protection.outlook.com/?url=www.thameswater.co.uk&data=02%7C01%7Cplanninginfo%40midsussex.gov.uk%7C1419c24c6ae54da5dde208d78d2c1b48%7C248de4f9d13548cca4c8babd7e9e8703%7C0%7C0%7C637133092888152587&sdata=6HE7M5TxkCFD%2FBd9rlyWvd7nOIFNBlaVOZtGV7f5U%3D&reserved=0>.

Please refer to the Wholesale; Business customers; Groundwater discharges section.

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

#### Water Comments

With regard to water supply, this comes within the area covered by the South East Water Company. For your information the address to write to is - South East Water Company, Rocfort Road, Snodland, Kent, ME6 5AH, Tel: 01444-448200

#### **NATS**

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

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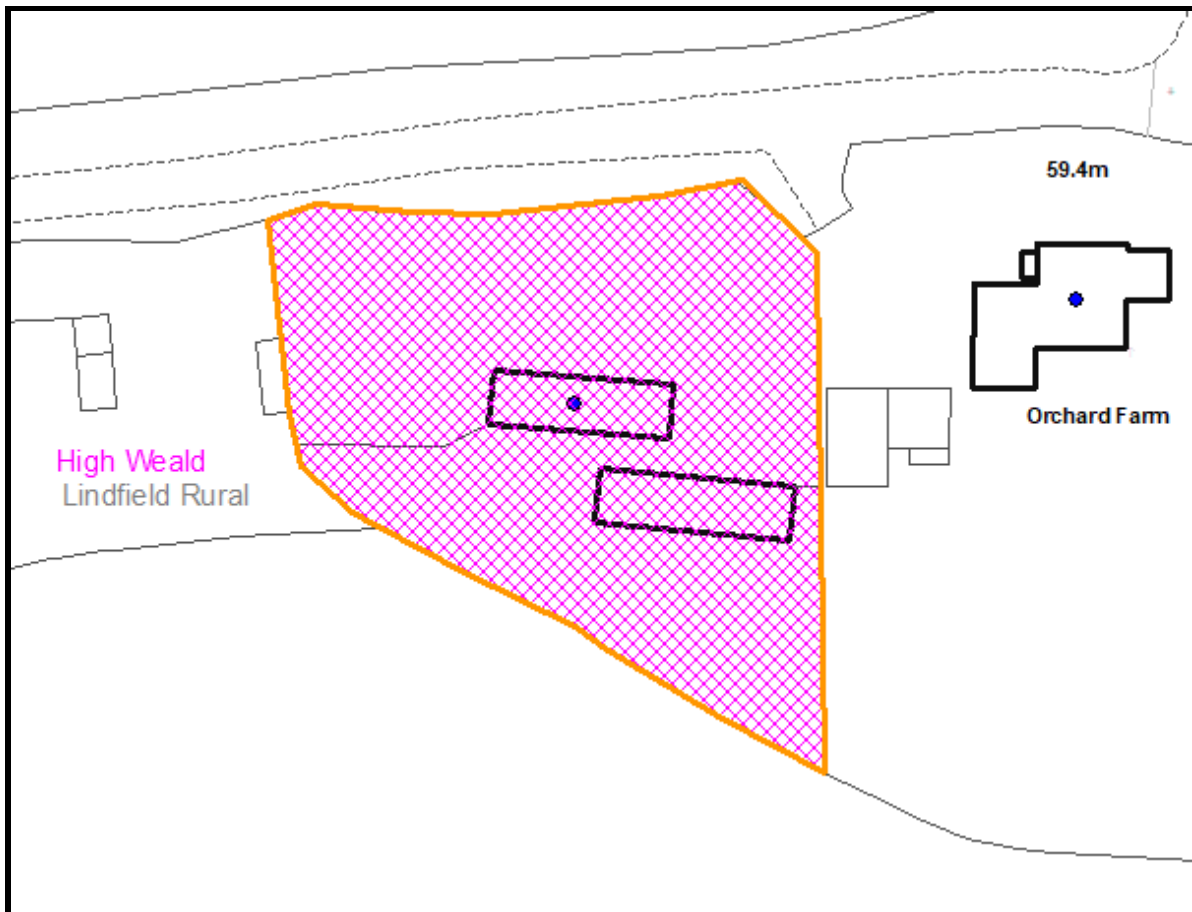
MID SUSSEX DISTRICT COUNCIL

Planning Committee

**8 OCT 2020**

OTHER MATTERS

**EF/19/0079**



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## **SPRINGWOOD NURSERY, NASH LANE, SCAYNES HILL, 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 a Stop Notice issued in conjunction with an Enforcement Notice. The Stop Notice required work for the development to cease, however, the development has been carried on unabated.

## **RECOMMENDATION**

Officers are requesting authorisation from members of the committee to commence prosecution proceedings in relation to the failure to comply with an extant S.183 Stop Notice.

## **SITE AND SURROUNDING**

The alleged breach of planning control relates to the unauthorised development of the construction of a C3 dwellinghouse without planning permission.

The site is understood to have once been part of Orchard Farm and is located on the southern side of Nash Lane, a rural lane outside the built up area and to the east of the village of Scaynes Hill, It was formerly in use as a small nursery with a timber chicken shed building and a long greenhouse building oriented east-west, together with a small driveway and parking area, with a narrow access onto Nash Lane. These buildings were demolished in February 2019 and only the original base and a small greenhouse remained.

The site backs onto an extensive area of woodland, classified as an Ancient Woodland and the site is with the Ancient Woodland buffer zone and a rural area for the purposes of policy DP12 of the District Plan.

## **PLANNING AND ENFORCEMENT HISTORY**

In November 2016 Prior Approval consent for the change of use of an agricultural building to a two bedroom dwellinghouse was granted. The buildings subject to this approval were demolished in February 2019. The approval thereafter lapsed in November 2019. The Council is therefore of the opinion that approval can longer be implemented.

Planning application DM/19/1391 thereafter sought permission for the erection of one new dwelling on the footprint of a former (demolished) poultry building. This application was refused on 9th April 2019 for the following reasons:

- 1. The proposed development would be unsustainably located to local services and facilities in Scaynes Hill and would not be accessed safely by footpaths and lit by streetlights, so future occupiers would be reliant upon the private car rather than more sustainable modes of transport. As such, the proposal would be contrary to Policy DP21 of the Mid Sussex District Plan (2018), policy 1 of the Lindfield and Lindfield Area Neighbourhood Plan and the provisions of the National Planning Policy Framework.*
- 2. The proposed dwelling would constitute a new dwelling in the countryside resulting in harm to the rural character of the area and would be contrary to policies DP6, DP15 and DP26 of the Mid Sussex District Plan and the provisions of the National Planning Policy Framework.*
- 3. Insufficient information has been provided to demonstrate that the works already undertaken and the proposed development would not have an adverse impact on the*

*Ancient Woodland, contrary to Policy DP37 of the Mid Sussex District Plan (2018) and the provisions of the National Planning Policy Framework.*

A S.78 appeal against the refusal of the application was dismissed on 10th December 2019 upholding all the Council's reasons for refusal.

Following the dismissal of the S.78 appeal the developer wrote to the Council in January 2020 to confirm the status of the Prior Approval consent DM/17/2215. Officers confirmed that in order to establish the lawfulness of any proposal an application for a Certificate of Lawful Development under S.192 should be submitted. In informal discussion it was stated that any application is unlikely to be successful as the buildings subject to the Prior Approval had been demolished and therefore the consent could no longer be implemented. This matter was also addressed by the Inspector in dismissing appeal AP/19/0068 in which they stated:

*'I note that prior approval has been granted under 'Class Q' for the conversion of the pre existing barn at the site to a residential dwelling. However, the appellant is no longer able to implement that scheme. I do not consider that prior approval offers support for the erection of a new dwelling at the appeal site, even if the proposed dwelling would reflect the previous footprint of the pre-existing barn and future occupiers would make use of the existing access.'*

In late April 2020 Officers noted that work had commenced on site. Officers wrote to the developer and outlined the Council's position regarding the lawfulness of any work carried out and possible implications (the instigation of formal enforcement action) should work without planning permission carry on. Officer's therefore witnessed a period of cessation of works through May, June and July 2020.

In mid-July 2020 Officers noted that work had recommenced upon the site in breach of planning control. It was thereafter considered expedient to enter into formal enforcement action through the issue of an Enforcement Notice relating to the construction of a residential dwellinghouse without permission with the following reasons given:

*1) The breach of planning control has occurred within the last 4 years and the reasons are solely for the purposes of remedying an injury to amenity.*

*2) The Unauthorised Development is located in an unsustainable location which would not minimise the need for travel and would not provide safe and convenient pedestrian, cycling and public transport access to services and facilities. The development would conflict with Policy DP21 of the Mid Sussex District Plan 2014 – 2031, Policy 1 of the Lindfield and Lindfield Area Neighbourhood Plan and paragraph 108 of the National Planning Policy Framework.*

*3) The Unauthorised Development is located in a rural location unrelated to the needs of agricultural or any other lawful rural use and causes harm to character and appearance of the area contrary to policy DP6, DP12, DP15 and DP26 of the Mid Sussex District Plan 2014-2031 Policy 1 of the Lindfield and Lindfield Area Neighbourhood Plan and paragraph 11 of the National Planning Policy Framework.*

*4) The Unauthorised Development is located in an Ancient Woodland Buffer Zone and therefore causes harm to the ecology and biodiversity of the area contrary to policy DP37 and DP38 of the Mid Sussex District Plan 2014-2031 and paragraph 175 of the National Planning Policy Framework.*

The Enforcement Notice requires the development to cease and thereafter be removed from the land. The Notice would have come into effect on 1<sup>st</sup> September 2020, however, an appeal was received and therefore the Enforcement Notice and its requirements are held in abeyance until the appeal is held. This is likely to be not until 2021.

As the development was being carried on at the time of the issue of the Enforcement Notice it was also considered expedient to issue a Stop Notice under S.183 of the Town and County Planning Act 1990. This was issued on the 30<sup>th</sup> July 2020 and required the immediate cessation of the development

### **CURRENT SITUATION**

The Stop Notice was issued in conjunction with the Enforcement Notice on the 30<sup>th</sup> July 2020 and required the immediate cessation of the construction of the dwellinghouse. A site notice was displayed on site and a copy of the Notice hand delivered to the land owner and developer.

Under the provisions of planning law, the failure to comply with the requirements of a Stop Notice is guilty of an offence that can result in a prosecution. If found guilty of an offence the person responsible shall be liable on summary conviction, or conviction on indictment, to a fine not exceeding £20,000 per incidence of a breach of the Notice.

There is no right of appeal against the issue of a Stop Notice, other than to a magistrate.

Since the issue of the Stop Notice Officers have observed that work for the construction of the dwellinghouse being carried on. At the time of the issue of the Notice the building consisted of a timber frame over a concrete slab, however, at the time of the writing of this report the building has now been made watertight and a roof added.

Officers have observed work being carried on in breach of the requirements of the Stop Notice on the following occasions:

Tuesday 4<sup>th</sup> August 2020  
Thursday 6<sup>th</sup> August 2020  
Friday 14<sup>th</sup> August 2020  
Friday 28<sup>th</sup> August 2020

It is understood and believed, however, that work has been carried almost continuously since the issue of the Stop Notice.

Officers have spoken to the developer and have explained the implications of the carrying on of work. Officers have also written to the owner confirming that should



works carry on that the should works continue that, subject to the agreement of this Committee and the Council's Legal Officers, that prosecution proceedings will commence. It is opinion that of Officers that the developer understands the requirements of the Notice and the implications for failing to comply with its requirements.

The development has sought to raise his personal circumstances as mitigation for the carrying on of work. Whilst noted, the developer has not sought to claim that he or his family are homeless nor that any other material circumstance exists whereby the requirements of the Notice could not be complied with. In considering the expediency of issuing both the Enforcement Notice and the Stop Notice, the Council considered it both necessary and proportionate when balanced against the wider impact of the breach on public safety. The Council was satisfied that there has been a breach of planning control and that there is a clear public interest that the activity which amounts to the breach (the construction of a dwellinghouse without planning permission) must be stopped immediately.

Additionally the Council have considered the implications of the Human Rights Act 1998 and have had regard to the public sector Equality Duty (PSED) and the Equalities Act 2010. Officers are content that the issue of the Notices were compliant with these duties and requirements and that there are no personal or other material circumstances which would outweigh the harm to amenity and public interest in ensuring the breach of planning control be ceased.

The Stop Notice was issued in order to cease the development as it caused immediate harm to amenity and is contrary to the policies of the development plan. There has been no change in this situation and the carrying on of the development risks the development being completed before the appeal against the issue of the Enforcement Notice is heard. The developer has therefore carried on the development at their own risk and that risk being the instigation of the prosecution proceedings.

Officers have discussed the matter with the developer, however, there has been no voluntary cessation of works and therefore Officers are of the view that the instigation of prosecution proceedings in relation to the failure to comply with the requirements of the Stop Notice, is necessary to prevent further unauthorised development to prevent further harm to amenity.

Should the works cease 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 developer has failed to comply with the requirements of the Stop Notice, the planning harm remains. Therefore the owner may be prosecuted under S.187 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 for each incidence of non-compliance.

## **RECOMMENDATION AND CONCLUSIONS**

The owner has failed to comply with the requirements of a Stop Notice requiring the cessation of an unauthorised development of a residential dwellinghouse.

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 Stop Notice (which is an offence under section 187 of the T&CPA 1990), 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.

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