

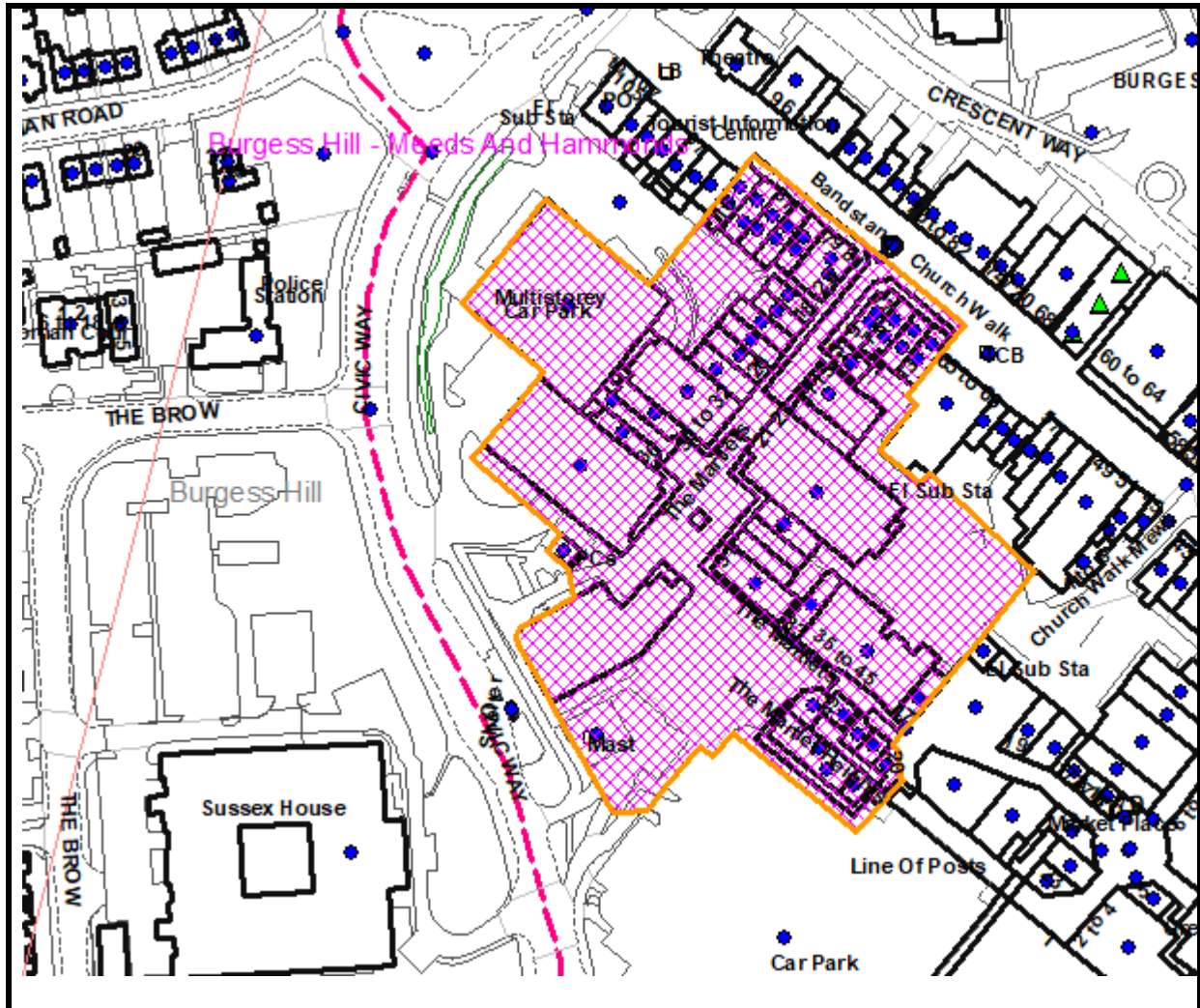
Planning Committee



Recommended for Permission

11th April 2024

DM/24/0672



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Site:	38 The Martlets Burgess Hill West Sussex RH15 9NN
Proposal:	To carry out temporary filming with the Lidl and Heights building (unit 38 and 49) The Martlets Shopping Centre. Total of 31 days filming over a 12 month period.
Applicant:	Mr Andy Fry
Category:	Prior Not. Commerical Film Making
Target Date:	8th May 2024

Parish:	Burgess Hill
Ward Members:	Cllr Robert Eggleston / Cllr Tofojjul Hussain /
Case Officer:	Stephen Ashdown

Link to Planning Documents:

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SAAMNCKT0GL00>

1.0 Purpose of Report

1.1 To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

2.0 Executive Summary

2.1 This application seeks a determination under the Prior Notification procedure as laid out under Schedule 2, Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the use of the former Lidl building (unit 38) and Martlets Heights (unit 49) in Burgess Hill town centre for commercial filming purposes for a total of 31 days.

2.2 Under the provisions of Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, Prior Notification of the temporary use of buildings or land for film making purposes must be submitted to the Local Planning Authority for consideration as to dates and timings of the filming, any transport/highway implications, any noise impacts, any light impacts and any flood risks on site to be used. The local planning authority must thereafter issue a decision as to the requirement for prior approval of the temporary use within 56 days of the receipt of the application.

2.3 Having regard to the relevant matters, officers are content that further information is not required and the impact of the proposal in relation to these issues is acceptable.

2.4 It is therefore considered that the proposal is permitted development under Schedule 2, Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior Approval is not required, and the proposal can therefore proceed in accordance with the submitted details.

3.0 Recommendation

3.1 It is recommended that members agree that Prior Approval is not required, and the proposal can therefore proceed in accordance with the submitted details.

4.0 Summary of Representations

4.1 To be reported.

5.0 Summary of Consultees

MSDC Drainage

To be reported.

MSDC Environmental Protection

No objection.

WSCC Highways

To be reported.

6.0 Burgess Hill Town Council Observations

6.1 To be reported.

7.0 Introduction

7.1 This application seeks a determination under the Prior Notification procedure as laid out under Schedule 2, Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the use of the former Lidl building (unit 38) and Martlets Heights – (unit 49) in Burgess Hill town centre for commercial filming purposes, for a total of 31 days.

7.2 This application is before members as the Council (MSDC) is the freeholder of the town centre, but the Martlets Shopping Centre is subject to a lease to New River Retail. While the Council has no direct interest in the outcome of the application it was considered appropriate that the decision should be made by the Committee.

7.3 It is important to note that the Council are required to determine applications of this nature within 56 days of receipt. If the Council do not issue a decision within this time period, the proposal can proceed. Given this context, this report has had to be prepared in advance of the expiry date given for comments to be received in respect of the proposal. Officers will provide an update to Committee on any comments received in order to ensure that they are taken into account in the final determination of the application.

8.0 Relevant Planning History

8.1 There have been two similar prior approval procedure for filming, albeit for a slightly shorter period of time, considered by the Council in 2022 and 2023, and the following applications refer;

DM/223/108 – To carry out temporary filming within Lidle unit 38 and Heights unit 49 located at the Martlets Shopping Centre. Total 25 days filming. Prior Approval not Required 1st June 2023.

DM/22/2828 - The proposed use of 2 former shop units to be used for filming and sets to form part of an ITV drama series. the use of former Lidl and Heights building for internal filming. Prior to demolition temp use to film within these units. Total of 25 days use. Use of a demolition site of former Martlets Hall site to allow for vehicle parking. Prior Approval not Required 15th October 2022.

8.2 The site forms part of the wider redevelopment scheme for the town centre, for which there are two planning permission. While the 2016 permission has been

implemented, and is extant, it is anticipated that the latter 2021 approved scheme is what will be delivered;

DM/19/3331 - Demolition of multi-storey car park, public library and offices. The conversion of existing buildings and erection of new buildings to provide, additional retail floor space (Classes A1 and A3), residential units (Class C3) with undercroft car parking, a multi-screen cinema (Class D2), bowling alley (Class D2), gymnasium (Class D2), a hotel (Class C1), the reconfiguration and expansion of existing public car park, amendments to the site access, public realm improvements including landscaping, and other associated works. Approved 2nd July 2021 (to be implemented)

DM/15/3858 - Demolition of multi-storey car park, public library, community building and offices. Provision of additional retail floor space (Class A1-A5), residential units (Class C3), a multi-screen cinema (Class D2), public library (Class D1), a hotel (Class C1), the reconfiguration and expansion of existing car park, amendments to the site access, public realm improvements including landscaping and other associated works. Approved 14th March 2016 (extant).

9.0 Site and Surroundings

- 9.1 The site consists of the former Lidl's building (unit 38), which is located at the western end of the Martlets Shopping Centre, and Martlets Heights (unit 49), which is located at the eastern end of the Martlets Shopping Centre.
- 9.2 The sites are located in Burgess Hill town centre, as defined with the Mid Sussex District Plan.

10.0 Application Details

- 10.1 This application involves the use of the locations identified for commercial filming purposes between the dates of the 23rd May to the 31st May 27th June to the 5th July 2024, 15th August to the 23rd August 2024 and 19th September to the 30th September 2024. Filming will take place between 06:00 and 23:00 on each of the days requested.
- 10.2 Parking of the vehicles associated with the filming production will be within authorised parking areas. The submitted details show that this will be located on the former Martlets site, which is currently vacant. The use of this land is subject to a separate consent from the Council as landowners.
- 10.3 It is indicated that no external noise would be generated by the filming and that lighting would be positioned on vacant roof tops (where necessary) and only used during filming (in relation to Heights scenes). Filming would take place within the existing buildings.
- 10.4 It should be noted that while a similar prior approval application was considered by the Council last year (DM/23/1081), under the Regulations, an application needs to be made in respect of each new filming period.

11.0 Legal Framework and List of Policies

11.1 Under the provisions of Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, Prior Notification of the temporary use of buildings or land for film making purposes must be submitted to the Local Planning Authority for consideration as to dates and timings of the filming, any transport/highway implications, any noise impacts, any light impacts and any flood risks on site to be used. The LPA must thereafter issue a decision as to the requirement for prior approval of the temporary use within 56 days of the receipt of the application.

11.2 Part 4, Class E of the GDPO states;

Permitted Development

E. Development consisting of –

- (a) the temporary use of any land or building for a period not exceeding 12 months in any 27 months period for the purpose of commercial film-making; and**
- (b) the provision on such land, during the filming period, of any temporary structures, works, plant or machinery required in connection with this use.**

Development not permitted;

E1. Development is not permitted by Class E if –

- (a) the land in question, or the land on which the building in question is situated is more than 3 hectares;*
- (b) the use of the land is for overnight accommodation; and*
- (c) the height of any temporary structure, works, plant or machinery provided under Class E(b) exceeds 20 metres, or 5 metres where any part of the structure, works, plant or machinery is within 10 metres of the curtilage of the land;*
- (d) the land or building is on article 2(3) land;*
- (e) the land or the site on which the building is located is or forms part of –*
 - (i) a site of special scientific interest;*
 - (ii) a safety hazard area; or*
 - (iii) a military explosives storage area;*
- (f) the land or building is, or contains, a scheduled monument; or*
- (g) the land or building is a listed building or is within the curtilage of a listed building.*

Conditions

E.2 – (1) Class E development is permitted subject to the condition that –

- (a) *any structure, works, plant or machinery provided under the permission must, as soon as practicable after the end of each filming period, be removed from the land; and*
 - (b) *the land on which the any development permitted by Class E has been carried out must, as soon as reasonably practicable after the end of the filming period, be reinstated to its condition before the development was carried out.*
- (2) *Class E development is permitted subject to the condition that before the start of each new filming period the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority be required as to –*
- (a) *the schedule of dates which make up the filming period in question and hours of operation,*
 - (b) *transport and highways impacts of the development,*
 - (c) *noise impacts of the development,*
 - (d) *light impacts of the development, in particular the effect on any occupier of neighbouring land of any artificial lighting to be used, and*
 - (e) *flooding risks of the site, and the provisions of paragraph E.3 apply in relation to that application.*

Procedure for applications for prior approval under Class E

E.3 – (1) The following provisions apply where under Class E a developer is required to make an application to a local planning authority for a determination as to whether the prior approval of the authority will be required.

(2) The application must be accompanied by –

- (a) *a written description of the proposed development;*
- (b) *a plan indicating the site and showing the proposed development;*
- (c) *the developer's contact address;*
- (d) *the developer's email address if the developer is content to receive communications electronically; and*
- (e) *a site-specific flood risk assessment, together with any fee required to be paid.*

(3) The local planning authority may refuse an application where, in the opinion of the authority –

- (a) *the proposed development does not comply with, or*
- (b) *the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitation or restrictions specified in Class E as being applicable to the development in question.*

(4) Sub-paragraphs 95) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) On receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult-

(a) where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;

(b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

(c) the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or changes relates to traffic using a level crossing over a railway.

(6) On receipt of the application, the local planning authority must consult the Environment Agency where the development of –

(a) in an area within Flood Zone 2 or Flood Zone 3; or

(b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

(7) The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

(8) The local planning authority must give notice of the proposed development –

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which –

(i) describes the proposed development;

(ii) provides the address of the proposed development;

(iii) specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form on any adjoining owner or occupier.

(9) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

(a) assessments of impact or risks; or

(b) statements setting out how the impacts or risks are to be mitigated.

(10) The local planning authority must, when determining an application—

(a) take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8); and

(b) have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in July 2021, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

(11) The development must not begin before the occurrence of one of the following—

(a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or

(c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

(12) The development must be carried out –

(a) where prior approval is required, in accordance with the details approved by the local planning authority;

(b) where prior approval is not required, or where sub-paragraph (11)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.

(13) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.

(14) When computing the number of days in sub-paragraph (8)(a), any day which is a public holiday must be disregarded.

12.0 Assessment

12.1 The application has been submitted by the management company responsible for the running of the Martlets Shopping Centre. The proposed temporary use of the buildings does not exceed 12 months (within a 27 month period), in accordance with Class E(a). The temporary use is considered to benefit from deemed consent under Class E of Part 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, but a condition of this deemed consent is the requirement to apply to the Local Planning Authority for a determination over whether prior approval will be required as to the details set out in E.2(2) a – e set out above.

12.2 The proposed dates for filming cover a period totalling 31 days over May, June, July, August and September, with working hours between 06:00 to 23:00 on each day. The work hours are much longer than the general opening hours of businesses within the town centre, however it is accepted that the filming will not generate any

external noise, as this would have a detrimental impact on the ability to film. While some external lighting may be required, it is indicated that this is likely to be positioned on vacant roof tops and given any lighting will only be used when filming (and as a result be directional), it is not considered that it will interfere with any neighbouring occupiers.

- 12.3 It is set out that parking for the filming periods will be restricted to authorised areas, which is in this instance is the former Martlets Hall site. The applicant has determined that this area will provide sufficient space to accommodate the various support vehicles, and officers are content that this is the case. It is not considered that the filming will result in any detrimental transport and highway impacts. Furthermore, as filming will take place within, and around, existing buildings, the proposal will not have any flood risk implications.
- 12.4 In light of the above officers are content that further information on these matters is not required and the impact of the proposal on these issues is acceptable.
- 12.5 As such it is considered that prior approval is not required for this application and the proposal can proceed in accordance with the submitted details.

13.0 Planning Balance and Conclusion

- 13.1 It is therefore considered that the proposal is permitted development under Schedule 2, Part 4, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Prior approval is not required, and the proposal can therefore proceed in accordance with the submitted details.

APPENDIX A – RECOMMENDED CONDITIONS

None

APPENDIX B – CONSULTATIONS

MSDC Drainage

To be reported.

MSDC Environmental Protection

No objection.

WSCC Highways

To be reported.