

MID SUSSEX DISTRICT COUNCIL

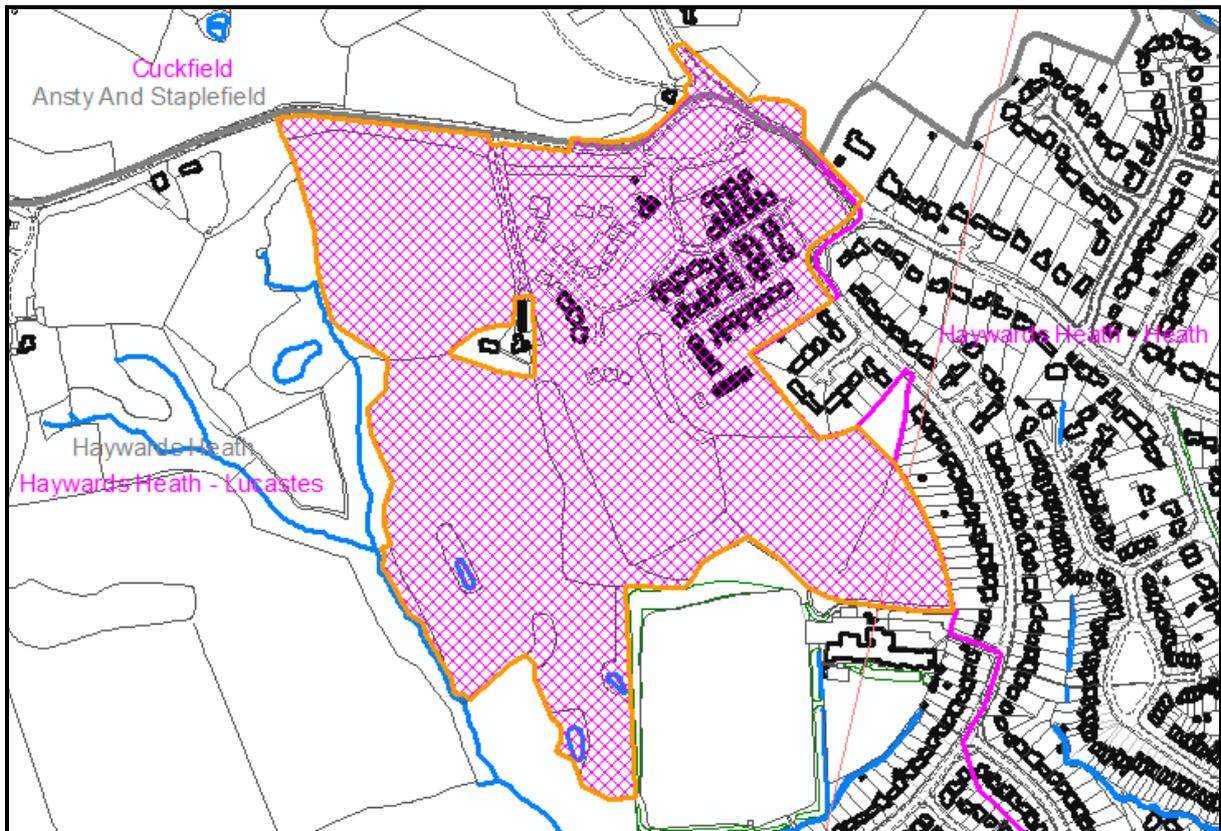
District Wide Committee

30 MAY 2019

RECOMMENDED FOR PERMISSION

Haywards Heath

DM/19/0535



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LAND AT PENLAND FARM HANLYE LANE CUCKFIELD HAYWARDS HEATH

VARIATION OF PLANNING CONDITION NOS. 5, 11, 21 AND 26 ATTACHED TO PLANNING PERMISSION REF. DM/18/0194 (PURSUANT TO THE APPROVED PERMISSION DM/16/1803), TO ALLOW FOR THE RETAINED TEMPORARY ACCESS FROM HANLYE LANE FOR 150 OCCUPATIONS AND TO ALLOW FOR MINOR CHANGES TO THE APPROVED LAYOUT.

MR MICHAEL MASKEW

POLICY: Ancient Woodland / Areas of Outstanding Natural Beauty / Areas of Special Control for Adverts / Built Up Areas / Countryside Area of

Dev. Restraint / Classified Roads - 20m buffer / Listed Building / Miscellaneous Charges / Parks and Gardens of Special Interest / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) / Site of Nature Conservation Importance / Tree Preservation Order / Tree Preservation Order Points / Archaeological Notification Area (WSCC) / Highways Agreement (WSCC) /

ODPM CODE: Largescale Major Dwellings

13 WEEK DATE: 17th May 2019

WARD MEMBERS: Cllr Jim Knight / Cllr Ruth De Mierre /

CASE OFFICER: Stephen Ashdown

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

Full planning permission for the development of the site for 210 dwellings was granted consent under DM/16/1803 on the 9th June 2017, with a subsequent permission granted under DM/18/0194 on the 24th June 2018 that varied several of the planning conditions.

This application seeks to vary conditions 5 (construction management plan), 11 (site access), 21 (working hours) and 26 (approved drawings) of planning permission DM/1/0194. The principles and matters approved under the existing permission that are not altered by this current submission remain acceptable and it is not within the scope of this application to re-visit them.

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.

It is considered that the proposed amendment to condition 11 to allow the occupation of 150 units before the completion of the approved full highway works will not result in any severe harm to the highway network, individually or cumulatively, nor have an adverse impact on highway safety.

The proposed extension to the working hours (condition 21) in relation to the proposed highway works will give rise to additional impacts on the amenities of nearby residents however, they will help facilitate the delivery of the works in the

shortest period possible that will help limit significant disruption to both residents and businesses within the wider area. With this in mind it is considered that the proposed extended hours are acceptable in this instance. Furthermore, the proposed changes to the house types of specific plots will not be detrimental to the character and the appearance of the area, nor give rise to any significant harm to existing residential amenities.

On the basis of the above, the application complies with policies DP20, DP21, DP26, DP27, DP34 and DP36 of the District Plan and policies E11 and T1 of the Haywards Heath Neighbourhood Plan and can be supported.

RECOMMENDATION

It is recommended that permission be granted subject to the conditions suggested in Appendix A.

SUMMARY OF REPRESENTATIONS

3 letters of objection have been made in respect of this application raising the following matters;

- Object to the delay in providing the roundabout
- Since vegetation removed traffic speeds of vehicles heading south down Balcombe Road have increased significantly and the construction of the roundabout will help with this
- Lack of details regarding timescales, likely impact on local residents, schools and businesses
- What measures will be put in place to mitigate the impact on local businesses
- Traffic survey data does not show impact of months of road closures on the road network
- Lack of detailed drawing showing the levels of the roundabout
- Opportunity to considered amending the speed limit of the key approaches to the proposed roundabout have not been taken
- Large roundabout is not necessary, a smaller mini-roundabout would be more appropriate
- Not convinced by wider site flood mitigation measures.

SUMMARY OF CONSULTEES

West Sussex County Council Highways

No objection.

Mid Sussex Environmental Protection Officer

No objection.

HAYWARDS HEATH TOWN COUNCIL

No comment.

INTRODUCTION

This application has been submitted under Section 73 of the Town and Country Planning Act and seeks to vary conditions 5, 11, 21 and 26 of planning permission DM/18/0194 (granted 24th April 2018), which itself was a S73 application pursuant to planning permission DM/16/1803, the details of which are set out in the planning history section of this report.

While the approval of this application would result in the issuing of a new planning permission, the terms of the existing permission would still apply (i.e. development of the site for 210 dwellings with access from Hanlye lane), other than where amended through the variation of the conditions proposed.

RELEVANT PLANNING HISTORY

DM/18/0194 - Approved 24th May 2018

Section 73 application to vary condition 11 (site access) and 26 (approved plans) and the removal of condition 19 (contamination) relating to planning permission DM/16/1803.

DM/16/1803 - Approved 9th June 2017

Full application for the development of 210 dwellings (C3), means of access from Hanlye Lane and a new roundabout junction on Balcombe Road, the provision of new internal access roads and footpaths, details of site levels, landscaping and open spaces, drainage measures and associated infrastructure. The development includes demolition of existing structures.

DM/13/03472/OUT - Allowed on appeal 12th January 2015

Outline planning application (with all matters reserved except for means of access from Balcombe Road) for up to 210 dwellings, provision of new internal access roads and footpaths, landscaping, open space, drainage measures and associated infrastructure. The development includes demolition of existing structures. This is an EIA application accompanied by an Environmental Statement

SITE AND SURROUNDINGS

The application site covers approximately 21.75 hectares, located to the north of Haywards Heath, outside the defined built up area boundary. Site works has commenced with regard to planning permission DM/16/1803 with extensive site works having been undertaken and the first of the house nearing completion.

To north of the site is Hanlye Lane, beyond which is Borde Hill Gardens; a Grade II* registered Park and Garden, within which sits Borde Hill Place, a Grade II listed building. To the north-east of the site, at the junction of Hanlye Lane and Balcombe

Road is South Lodge (including its gate and piers), which is also a Grade II listed building.

To the east runs Balcombe Road, with the residential properties in Penland Road and The Spinney to the south-east. Woodland dominates to the south of the site, with Harlands School and the college sports ground located beyond.

The northern tree belt to Hanlye Lane is subject to a Tree Preservation Order, along with some individual trees within the site, (Order ref: TP/13/0007 refers), which was confirmed by the Council on 17th October 2013. The woodland that abuts the site to the south and west is designated as Ancient woodland.

The site is not subject to any national or statutory designations, although the boundary of the High Weald Area of Outstanding Natural Beauty (AONB) lies on the northern side of the Hanlye Lane, opposite the site. To the west is the non-statutory designated Paiges and Blunts Woods Site of Nature Conservation Interest (SNCI).

A public footpath passes through the site, running from Harlands Primary School in the south-east, passing west through the lower southern wooded parts of the site, before turning north towards Penland Farm House, where it then heads west into the woodland along the sites western boundary.

APPLICATION DETAILS

This application seeks to vary conditions 5 (construction management plan), 11 (temporary site access arrangements), 21 (working hours) and 26 (approved drawings) of planning permission DM/18/0194. The details are as follows;

Condition 5

The applicant is seeking consent to amend the approved construction management plan to take into account the requested change in working hours associated with the construction of the roundabout/highway works only.

Condition 11

The applicant is seeking to extend the number of occupation it can have from 50 to 150 before the completion of the roundabout/highway works.

Condition 21

The applicant is seeking to formalise additional working hours in relation to the construction works associated with the roundabout/highway works. The working hours relating to the construction of the dwellings remain as consented.

The hours of additional work that they are seeking in are as follows;

08:00 - 18:00 (Mon- Fri)

09:00 - 17:00 (Sat)

10:00 - 17:00 (Sun)

Condition 26

The applicant is seeking to amend a number of the approved drawings to take into account proposed changes to the layout of the development that consist of the following;

- Swap approved Worcester house types on plots 23, 95, 109, 142 and 150 for Oxford Lifestyle house type (approved elsewhere on site).

The applicants have also submitted a number of updated drawings associated previously approved condition details to reflect the proposed changes to house types.

LIST OF POLICIES

Neighbourhood Plan

The Haywards Heath Neighbourhood Plan has been made and it can be give full weight.

Relevant policies include;

E11 - Major Developments
T1 - Pedestrian and Cycle connections

District Plan

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

Relevant policies include:

DP20 - Securing Infrastructure
DP21 - Transport
DP26 - Character and Design
DP27 - Dwelling Space Standards
DP34 - Listed Buildings and Other Heritage Assets
DP36 - Historic Parks and Gardens

National Policy and Legislation

National Planning Policy Framework (NPPF) (Feb 2019)
National Planning Policy Guidance
Technical Housing Standards

ASSESSMENT

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 for this part of Mid Sussex consists of the District Plan and the Haywards Heath Neighbourhood Plan.

Planning permission has been granted for the development of this site for 210 dwellings as such, the principle of the development is established. This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. The Act states that *"On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and -*

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

It is therefore considered that the only issues to consider in this case are as follows;

- Highway matters;
- Design and Layout;
- Impact on amenities;
- Ashdown Forest;
- Other matters; and
- Planning Balance and Conclusion

It is important to set out at this stage that it is not for the District Council to comment on the merits of any proposed road closure, the length of such a closure nor the potential implications of such a closure on local businesses (and possible mitigation) as they are not material considerations in the determination of this application. The principles and matters approved under the existing permission that are not altered by the current submission (which include the roundabout and associated highway works) remain acceptable and it is not within the scope of this application to re-visit them. The applicants will need to make a separate application to the Local Highway Authority for the road space to undertake the highway works and it will be them to determine matters associated with any road closure.

Highway Matters

The applicants are seeking to amend the wording of condition 11 of the existing planning permission to allow the occupation of the 150 units ahead of the completion of all the permitted highway works. The existing condition states;

No part of the development shall be first occupied until such time as the temporary vehicular access has been constructed in accordance with the details indicatively shown on drawing PB5314-S278-TA-100-01 rev D1. No more than 50 residential dwellings shall be occupied (as identified on drawing no. 2717-21-04-010 or other such plan as agreed) until the vehicular access has been constructed in accordance with the details indicatively shown on drawing P4399-P-05 revision P5 and the temporary vehicular access serving the residential dwellings has been closed to vehicular traffic.

Reason: In the interests of highway safety and to accord with Policy DP19 of the District Plan.

For members reference the permitted drawing referenced in the above condition shows a new vehicular access off a re-aligned Hanlye Lane with a new roundabout replacing the existing Hanlye Lane / Balcombe Road junction.

Originally, the highway works were required to be completed prior to the occupation of the first unit, however, issues associated with the securing of road space to allow these works to take place prompted the applicants to secure the above variation that was supported by the Local Highway Authority as the impact on the highway network and safety of its users was acceptable.

In support, and as a means of background, to their request to amend the condition to allow further occupation prior to the completion of the highway works the applicants have set out the following within their submission;

'The approved roundabout proposals are located within the development site and also within the highway. As such, Redrow need to secure a Traffic Regulation order (TRO) in order to undertake work within the highway. Redrow have completed the road works within the red line and need to connect the roundabout to the public highway.

In January 2018 an application was submitted to Mid Sussex District Council ref DM/18/0194 seeking approval for a temporary access to the site so that building could continue whilst Redrow secure the TRO to complete the roadworks. At the time of submission, it was envisaged that a road space could be secured for October 2018. Permission was granted in April 2018 for a temporary site access to serve the first 50 occupied dwellings and it was envisaged that the temporary access would be closed upon completion of the full site access.

Following the granting of the S73 permission ref 18/0194, Redrow were given a road space in March 2019 with a window of three months to complete the roadworks in full. There is an extensive levels difference of 1-2 metres approximately in places

between the existing and proposed road. As such a road closure has been identified as the safest way to undertake the road works within the three month period.

In recognition of the significance of the road closure to residents and the delay to businesses that the road closure would cause, Redrow undertook advanced notification of the proposed road closure in November 2018. 495 residents and businesses were notified including local bus companies and emergency services.

Residents were provided with a letter and map showing the extent of the road closure and suggesting a diversion route. The formal TRO application was submitted to West Sussex County Council in December 2018 along with all responses to the notification process.

Through engagement with local members, West Sussex County Council, it is understood that there are safety improvement works programmed to London Lane during the summer of 2019. London Lane would form part of the diversion whilst the roundabout works took place. To allow for the safety improvement works to be undertaken without impact, it was agreed at a meeting with officers on the 25th January 2019 that Redrow would withdraw the current road closure application. The next available road space is the summer of 2020 and in order to continue building the site in line with the current build programme, Redrow are seeking approval for an increase in the number of occupations to be taken for the temporary site access.'

The proposed alteration to allow for the retained temporary access from Hanlye Lane for 150 occupations has been considered by the Local Highway Authority in respect of the highway network capacity and highway safety. In support of the proposal the applicant has undertaken an assessment of the temporary site access onto Hanlye Lane and the priority junction of Borde Hill/Hanlye Lane/Balcombe Road in respect of both issues. The full comments of the Local Highway Authority on these matters can be found in appendix B to this report.

In respect of the highway network capacity, the submitted assessment demonstrates that the temporary site access onto Hanlye Lane would still operate within capacity, even with the traffic associated with the occupation of 150 dwellings.

In considering the impact on the priority junction Hanlye Lane/Balcombe Lane, the Local Highway Authority has stated the following;

"The modelling results show that in the AM peak the Hanlye lane arm of the junction, for the movements left and right out of this arm, is operating over capacity. This occurs if either 50 or 150 dwellings are occupied. In the PM peak all junction arms operate within capacity but when 150 dwellings are occupied the movements out of Hanlye Lane start to cause the junction to approach theoretical capacity.

Given that in the AM peak the Hanlye Lane arm of the junction currently operates over capacity and that the occupation of the 150 dwellings make the performance of the junction slightly worse the impact from the planning application itself is not considered to be severe impact as set out within paragraph 109 of the National Planning Policy Framework."

Turning to highway safety matters, the applicant has undertaken a stage 3 Road Safety Audit of the temporary access and works have been agreed with the Local Highway Authority that will be undertaken through a Section 278 Agreement with the County Council. Furthermore, a safety assessment of the Borde Hill Lane/Hanlye Lane/Balcombe Road junction has been undertaken (which reviews the junction and accident records) and the Local Highway Authority are satisfied that the increase of the use of the temporary access from 50 to 150 residential occupations would not cause an unacceptable highway impact at this junction.

In conclusion on these matters the Local Highway Authority state;

"In light of the assessment undertaken the Highway Authority do not consider that there are reasonable grounds to object to the proposed variation of condition 11 to permit up to 150 occupations to use the temporary access onto Hanlye Lane."

Looking at the policy context, Policy DP21 of the District Plan deals with transport matters and requires proposals to avoid severe additional congestion, individually or cumulatively, taking account of any proposed mitigation and to protect the safety of road users and pedestrians. The policy reflects the wording in the NPPF in respect of paragraph 109. Policy T1 of the Neighbourhood Plan requires major developments to provide good pedestrian and cycle connections with the aim to encourage walking and cycling to reduce reliance on vehicles.

Having regard for the above, it is considered that the extended use of the temporary access to allow up to 150 residential occupations prior to the completion of the main site access works is in accordance with the Development Plan and can be supported. The Local Highway Authority, in not objecting to the proposal, they have confirmed that it would not give rise to any unacceptable highway capacity or safety issues, and the proposal would allow the continued delivery of units from the site which otherwise would not be available until summer 2020.

The comments made within the representations have been noted and as previously stated it is not the purpose of this application to assess the merits of the road closure. The extent of the highway works have been approved as part of the previous planning permissions and it for the Local Highway Authority, in conjunction with the developer, to manage how those works are implemented under any highway licence/agreement, which sits outside the planning process.

Having regard for all the above, it is considered that the variation to condition 11 can be supported.

Design and Layout

Policy DP26 of the District Plan requires proposals to demonstrate a high quality design and layout that includes appropriate landscaping and greenspace. Policy E11 of the Neighbourhood Plan sets out that any identified visual impacts must be addressed through the design of the buildings, site layout, and landscaping of the site.

The overall design approach to the development of the site, with regard to the layout and appearance, has already been deemed acceptable through the granting of the previous permissions. It should also be noted that the proposed alternative house type (Oxford Lifestyle) has been consented on the site already. The applicants have set out the proposed swap of units will allow for a better relationship between adjacent properties within the street scene.

In the main, the proposed plots subject to the swap of house types are set within the development with the exception of plot 23, which is located on the frontage of the site with Penland Road, adjacent to the junction with Balcombe.

The main difference between the proposed Oxford Lifestyle house type the currently consented Worcester is the change of the catslide roof with a more traditional full flank and hipped roof arrangement that provides for an increase of floor space at first floor level. The adjacent plot, no.24, is already proposed as Oxford Lifestyle house type. It is not considered the proposed change in house type in this location would have a detrimental impact on the appearance and character of the area given the context of the site and the adjacent plot at No.24 which is of a same design. It should be noted that the proposed house type complies with the National Describe Dwelling Space Standards as required by policy DP27 of the District Plan.

Overall, it is considered that the proposed changes in house types are acceptable and comply with the relevant Development Plan policies DP26 and DP27 (District Plan) and E11 (Neighbourhood Plan).

Impact on Amenities

Policy DP26 of the District Plan sets out that proposals' should not cause significant harm to amenities of existing nearby residents and future occupants by taking account of the impact on privacy, outlook and daylight/sunlight.

In respect of the proposed change in house types, the relationship between plot 23 and the nearest existing residential properties the south (Penland Road) and east (Balcombe Road) remain as considered (acceptable) under previous consents and the small increase in bulk from the removal of the catslide roof and the introduction of additional front facing windows will not have a significant impact on existing residential amenities by means of loss of privacy, overlooking or loss of daylight.

The major impact on amenities in respect of the proposal is the proposed increase in working hours associated with the highway works which are in excess of the normal work hours conditioned in respect of construction sites, and those currently set out in condition 21 of the planning permission in relation to the construction of the dwellings on the site.

The proposed working hours associated with the construction of the highway works only are;

08:00 - 18:00 (Mon- Fri)

09:00 - 17:00 (Sat)

10:00 - 17:00 (Sun)

It should be noted that the above hours represent a slight revision to those as originally submitted as a result of comments from your Environmental Protection Officer.

In making the request for extended work hours the applicants have set out the following justification;

'In order to complete the roadworks in March 2019 within the three month window provided to Redrow, it was identified by Redrow's highway contractors that a programme of seven day working would be necessary.'

Redrow are seeking approval for a seven day working week so that should it become necessary in order to reduce the overall construction timeline as part of the roadworks proposed for 2020, the necessary approvals are in place. The seven day working would relate to the construction of the roundabout and associated highways works only.'

It is acknowledged that in order to complete the highway works that a road closure is required, for the reason previously set out in this report, and it is not for the District Council to consider whether such a closure is appropriate, that is a matter for the Local Highway Authority when considering an application for road space. Furthermore, it is acknowledged that the closure of the road for a period of up to 3 months would be extremely disruptive and as set out by the applicants in their submissions, the 3 month timetable is based upon a 7 day working week. In the event that they do not have the flexibility to work 7 days a week, then the length of time taken to undertake the work would be significantly longer.

The proposed extended working hours would impact on the amenities of existing residents in Penland Road, Balcombe Road and Borde Hill Lane and while any revised construction management plan would contain measures to mitigate impacts associated with noise, air and light pollution, the impact would be significantly greater than normally experience by residents given the longer working hours across the whole week, including the whole weekend. In contrast, the benefits of providing the flexibility to enable the applicant to deliver the highway works as quickly as possible are much more wide spread, as the route north from Haywards Heath along Balcombe Road is extremely well used and not only provides routes to Balcombe, Crawley and the M23 but also to a number of small businesses both at Borde Hill (including the garden itself) and beyond in Balcombe village. Limiting the length of any road closure would have significant benefits for all residents and businesses in the immediate and wider area.

Your Environmental Protection Officers have considered the proposed hours and have stated;

"Environmental Protection (EP) accepts that works to construct the site access to this development are necessary, and will only be carried out for a limited period of around 3 months. However, EP considers that the proposed hours of operation detailed in section 3.7 of the Construction Management Plan reference T&PPB4399R001D02 dated 01 February 2019 would result in local residents being adversely affected by noise from construction work early in the morning. EP would

therefore recommend that the CMP be amended to show the following hours of operation for construction of the site access:

08:00 - 18:00 (Mon- Fri)

09:00 - 17:00 (Sat)

10:00 - 17:00 (Sun)"

From a policy perspective, DP29 of the District Plan deals with noise, air and light pollution and seeks to protect the quality of people's lives from unacceptable levels of pollution, while Policy DP26 seeks to protect the general amenities from residents from issues, including increased noise and disturbance.

There is no doubt that the proposed extended working hours will have a detrimental impact on nearby residents amenities but this does need to be balanced against the wider benefits of ensuring the disruption caused by the any road closure is limited to a shorter period as possible and the extended working hours will make this possible.

It should be noted that the extended working hours only relates to works associated with the highway works, all other on-site work associated with the construction of the dwellings will still be limited to the Council's normal working hours as currently set out in the planning permission which is 08:00 to 18:00 Monday to Friday, 09:00 - 13:00 Saturdays and no works on Sunday and bank/public holidays.

Having regard for the above it is considered that in this particular instance, the extended working hours (condition 21) can be supported and as such the application complies with policies DP26 and DP29 of the 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.

An overall Habitats Regulations Assessment screening report has been undertaken which includes the type of development proposed.

Recreational disturbance

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

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

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

Atmospheric pollution

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

The proposed development was modelled in the Mid Sussex Transport Study (Updated Transport Analysis) as a **committed scheme** such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal

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 types of development identified which includes this 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

Other Matters

In relation condition 5, the applicants have submitted a revised Construction Management Plan to take into account the proposed extended working hours, however, to ensure that the document reads clearly and that other matters that may be affected by the proposed highway works, i.e. construction traffic routing, are

transparent to provide clarity in the event of any issues of enforcement arise, officers are seeking further revisions. At the time of writing the report a revised version is still awaited but given the intended start date for the highways works is not until 2020, the wording of condition 5 has been amended slightly to provide an opportunity for this to be submitted for approval at a later date, prior to the commencement of those works. The existing approved construction management plan is still enforceable in relation to the development site as a whole.

Borde Hill is a registered Grade II* park and gardens and as such the proposed development has the potential to affect its setting, along with South Lodge (a grade II listed building located on the Hanlye Lane/Balcombe Road junction). When considering the existing planning permission regard was given to the potential impact the development may have on these heritage assets and it was concluded, in line with the previous Inspectors comments, that there would be no harm to the significance of any of them. The proposed alterations sought under this application will not alter the previous view reached.

It needs to be remembered that in relation to the heritage assets, there is a statutory requirement to have special regard to the desirability of preserving the building, its setting and any features of special interest (s66, Planning (Listed Buildings and Conservation Areas) Act 1990) and this must be taken into account when making any decision. In addition, in enacting section 66(1) of the Listed Buildings Act, the desirability of preserving the settings of listed buildings should be given 'considerable importance and weight' when the decision maker carries out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable. Given the above, the significance of the heritage assets will be preserved and therefore the application complies with policies DP34 and DP36 of the District Plan.

Members should note that suggested condition 27 will ensure that the obligations set out in the S106 Agreement associated with planning permission DM/16/1803, which include the securing of the affordable housing and infrastructure contributions/projects, will equally apply to the any planning permission granted as result of this application.

PLANNING BALANCE AND CONCLUSION

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.

It is considered that the proposed amendment to condition 11 to allow the occupation of 150 units before the completion of the approved full highway works will not result in any severe harm to the highway network, individually or cumulatively, nor have an adverse impact on highway safety.

The proposed extension to the working hours (condition 21) in relation to the proposed highway works will give rise to additional impacts on the amenities of nearby residents however, they will help facilitate the delivery of the works in the

shortest period possible that will help limit significant disruption to both residents and businesses within the wider area. With this in mind it is considered that the proposed extended hours are acceptable in this instance. Furthermore, the proposed changes to the house types of specific plots will not be detrimental to the character and the appearance of the area, nor give rise to any significant harm to existing residential amenities.

On the basis of the above, the application complies with policies DP20, DP21, DP26, DP27, DP34 and DP36 of the District Plan and policies E11 and T1 of the Haywards Heath Neighbourhood Plan and can be supported.

APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the 9th June 2020.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall only be implemented in accordance with the materials/finishes shown on drawings Materials Plan_Phase 1 (rev Q), phase 2 (rev H) and phase 3 (rev D), unless first agreed in writing with the Local Planning Authority.

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

3. The development hereby permitted shall only be implemented in accordance with the soft landscaping details shown on the following drawings:

3666_DR_002- Planting Plan 1 of 7_ Rev D
3666_DR_003- Planting Plan 2 of 7_ Rev D
3666_DR_004- Planting Plan 3 of 7_ Rev F
3666_DR_005- Planting Plan 4 of 7_ Rev E
3666_DR_006- Planting Plan 5 of 7_ Rev E
3666_DR_007- Planting Plan 6 of 7_ Rev F
3666_DR_008 - Planting Plan 7 of 7 A1L Rev F
3666_DR_013-Planting Approach Drawing_Rev A
3666_SP_001 - Landscape Management Plan Rev D (ref:3666/SP001) by Lloyd Bore Ltd
3666_SP_002-Soft Landscape Specification_Rev A
RS_PDFT_EDP 1808_08g Arboricultural Assessment_Final

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of District Plan and Policy of Haywards Heath Neighbourhood Plan.

4. 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: In the interests of visual amenity and of the environment of the development and to accord with Policy DP24 of District Plan and Policy of Haywards Heath Neighbourhood Plan.

5. The development hereby approved, save for the highway work, shall only be implemented in accordance with the details contained within in the Construction Management Plan reference T&PPB4399R001D02 dated the 8th January 2018, unless first agreed in writing with the Local Planning Authority.

Prior to the commencement of the highway works, a detailed construction management plan shall be submitted to and approved in writing with the Local Planning Authority and the works shall only be implemented in accordance with the approved details.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policy DP21 of the District Plan.

6. The proposed development shall only be implemented in accordance with the details contained within Technical Appendix 8.6: Ecological Construction Method Statement, Mitigation and Enhancement Scheme (ref: C_EDP1808_07a) by EDP Ltd; and Landscape Management Plan (ref: 3666/SP001) by Lloyd Bore Ltd, unless first agreed in writing with the Local Planning Authority.

Reason: To protect the ecological value of the site and to accord with policies C5 and Policy DP38 of the District Plan.

7. The development shall only be implemented in accordance with the details approved and shown on drawing numbers PB4399-RPA-101-01 P2, PB4399-RPA-101-02 P2 and PB4399-RPA-101-03 P2, unless first agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the amenities of adjacent residents or the appearance of the locality and to accord with Policy DP26 of the District Plan.

8. The development hereby permitted shall only be implemented and maintained in accordance with the ancient woodland buffer details shown on the following documents/drawings

3666_DR_001-Ancient Woodland Buffers_Rev F
3666_DR_011-Woodland Buffers, Roundabout and Boundary Planting 2_ Rev E
3666_DR_012-Woodland Buffers, Roundabout and Boundary Planting 3_ Rev F
3666_DR_014- Woodland Buffers, Roundabout and Boundary Planting 4-A11-Rev C
3666_SP_03 Landscape Buffers, Roundabout and Boundary Planting Rev E
3666_SP_001 Landscape Management Plan (ref:3666/SP001) by Lloyd Bore Ltd
3666_SP_002-Soft Landscape Specification_Rev A

Reason: To protect the ecological value of the site and to accord with Policy DP38 of the District Plan.

9. The development hereby permitted shall only be implemented in accordance with the foul water drainage and means of disposal details submitted to and approved in

writing with the Local Planning Authority under application DM/17/2450, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the District Plan.

10. The development hereby permitted shall only be implemented in accordance with surface water drainage, and means of disposal details submitted to and approved in writing with the Local Planning Authority under application DM/17/2450, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the District Plan.

11. No part of the development shall be first occupied until such time as the temporary vehicular access has been constructed in accordance with the details indicatively shown on drawing PB5314-S278-TA-100-01 rev D1. No more than 150 residential dwellings shall be occupied until the vehicular access has been constructed in accordance with the details indicatively shown on drawing P4399-P-05 revision P5 and the temporary vehicular access serving the residential dwellings has been closed to vehicular traffic.

Reason: In the interests of highway safety and to accord with Policy DP19 of the District Plan.

12. No dwelling shall be first occupied until the car parking spaces serving the respective dwelling have been constructed in accordance with the approved planning drawing. These spaces shall thereafter be retained at all times for their designated use.

Reason: To ensure that adequate parking provision is made and to accord with Policy DP21 of the District Plan.

13. No dwelling shall be first occupied until the cycle parking spaces serving the respective dwelling have been constructed in accordance with the approved planning drawing. These spaces shall thereafter be retained at all times 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.

14. Within 3 months of the date of this permission details of the roads road(s), footways, and casual parking areas shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall only be implemented in accordance with the approved details.

Reason: To secure satisfactory standards of access for the proposed development and to accord with Policy DP21 of the District Plan.

15. The development hereby permitted shall only be implemented in accordance with plans, details, and construction specification works in relation to the surfacing works for Right of Way no. 19dCU submitted to and approved in writing with the Local Planning Authority under application DM/18/4087, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure that suitable materials are used for the surfacing works and to safeguard users and to accord with Policy DP21 of the District Plan.

16. The development hereby permitted shall only be implemented in accordance with the details shown on lighting plan PB4399-1300-01 P1 and maintained thereafter unless first agreed in writing with the Local Planning Authority.

Reason: To protect the ecological value of the site and to accord with Policy DP38 of the District Plan.

17. The development shall only be implemented in accordance with play areas details submitted and approved in writing with the Local Planning Authority under application DM/18/3772, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure that an appropriate play area is provided that will be adequately managed and maintained in the interests of safety for the general public and to ensure the area remains for public use to accord with Policy DP24 of the District Plan.

18. The development shall only be implemented and maintained permanently retained as such, in accordance with the hard landscaping (together with screen/retaining walls and fences) details submitted to and approved in writing with the Local Planning Authority, unless first agreed in writing with the Local Planning Authority. The approved details and shall thereafter be permanently retained as such.

Reason: In order to ensure a high quality environment and to accord with Policy DP26 of the District Plan.

19. Within 3 months of the date of this permission details of the emergency access onto Hanlye Lane shall be submitted to and approved in writing with the Local Planning Authority and no dwelling in phase 2 shall be occupied until such time as the approved details have been fully constructed. Details shall include measures to prevent use of the access by occupiers of the approved development. The development shall only be implemented in accordance with the approved details.

Reason: In the interest of road safety and to accord with Policy DP21 of the District Plan.

20. The development hereby permitted shall only be implemented in accordance with the design details submitted to and approved in writing with the Local Planning Authority under application DM/18/3772, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure that this aspect of the development is compatible with the design of the building and to accord with Policy DP26 District Plan.

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

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

Works of construction, including the use of plant and machinery, necessary for the implementation of the site access details indicatively shown on drawing PB5314-S278-TA-100-01 rev D8 shall be limited to the following times and only for the duration of works;

Monday to Friday 08:00 to 18:00

Saturday 09:00 to 17:00

Sunday 10:00 to 17:00

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the District Plan.

22. The development hereby permitted shall only be implemented in accordance with the Preliminary Remediation Strategy (section 9) of the Merebrook Geo-Environmental Assessment report dated Feb 2016 unless first agreed in writing with the Local Planning Authority. In the event that the electricity sub-station on site be decommissioned, the surrounding soils should be tested for PCBs and, if necessary, remediated in accordance with a strategy to be submitted and approved in writing with the Local Planning Authority.

Following completion of measures identified in the remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing with the Local Planning Authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with Policy DP1 of the District Plan.

23. The development shall be implemented in accordance with the approved phasing plan (No. PB4399-P-06), unless first agreed in writing with the Local Planning Authority. Details which are required by any condition of this planning permission to be submitted for approval in relation to phases of the development shall be submitted for approval in accordance with the approved phasing details.

Reason: To enable the Local Planning Authority to control the detail of submission and to accord with Policy DP26 of the District Plan.

24. The development hereby permitted shall only be implemented alongside the approved scheme for the Local Liaison Committee (LLC) dated 28th September 2017, who shall meet in accordance with the approved scheme.

Reason: To provide a mechanism for keeping the local community and their elected representatives involved during the construction period to ensure that the development is implemented without causing significant harm to their amenities in accordance with Policy DP26 of the District Plan.

25. The development shall only be occupied in accordance with the temporary pedestrian arrangements to Penlands Road submitted and approved in writing with the Local Planning Authority under application DM/18/4087 until such time as the permanent access arrangements have been constructed in accordance with the approved plans, unless otherwise agreed with the Local Planning Authority.

Reason; In the interests of road safety and to accord with Policy DP21 of the District Plan.

Approved Plans

26. 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.

27. The obligations contained in the planning obligation by way of Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 dated 9th June 2017 pursuant to the planning permission reference: DM/16/1803, and in accordance with clause 16 of the said Agreement, will be equally applied to and satisfy the requirements necessitated under this application DM/19/0535.

Reason: To ensure appropriate infrastructure provision is secured to mitigate the impacts of the development and to accord with policies DP20 and DP31 of the Mid Sussex District Plan.

INFORMATIVES

1. In accordance with Article 31 Town and Country Planning (Development Management Procedure) Order 2010 (as amended), the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Section 278 Agreement of the 1980 Highways Act - Works within the Highway
The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
3. Section 38 Agreement of the 1980 Highways Act - Provision of Adoptable Highway
The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the proposed adoptable on-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that any works commenced prior to the S38 agreement being in place are undertaken at their own risk.

4. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water developer Services will be required. They can be contacted in 0800 009 3921.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
General	A792 08	A	07.02.2019
General	A792 09	A	07.02.2019
Affordable Housing Statement	A792 06	A	07.02.2019
Parking Layout	A792 05	A	07.02.2019
Location Plan	A792 02		07.02.2019
Planning Layout	A792 01	C	07.02.2019
Location Plan	A679 022		07.02.2019
Planning Layout	A792 17		07.02.2019
Planning Layout	A792 18		07.02.2019
Planning Layout	A792 19		07.02.2019
Highways Plans	PB5314-S278-TA-100-01	D3	07.02.2019
Other	PB4399-RPA-1300-01	P1	07.02.2019
Highways Plans	PB5314-S278-100-01	D7	07.02.2019

APPENDIX B – CONSULTATIONS

Parish Consultation

No Comment

West Sussex County Council Highways

West Sussex County Council as Highway Authority have been consulted on application DM/19/0535 which seeks the variation to planning conditions 5, 11, 21 and 26 of planning permission DM/18/0194 (pursuant to the original approved permission DM/16/1803). The variation of the condition seeks to allow for the retained temporary access from Hanlye Lane for 150 occupations and to allow for minor changes to plots 23, 95, 109 and 142 of the approved layout.

Condition 5 Construction Management Plan

The applicant has submitted a revised Construction Management Plan dated 1st February 2019 (Reference: T&PPB4399R001D02). The plan has been submitted to reflect the changes proposed via the amendment to condition 21 which seeks to permit 7 days working relating to the highway works. The plan includes various measures to limit the impact construction traffic will have on the highway network and is therefore considered to be acceptable. The Highway Authority has no objections in relation to condition 5.

Condition 11 Temporary access restriction on occupations

The applicant is seeking to vary condition 11 to increase the number of occupations that can occur and use the approved temporary access from the currently permitted level of 50 up to 150 residential units. The applicant has undertaken an assessment of both the temporary site access onto Hanlye Lane and the priority junction of Borde Hill Lane/Hanlye Lane/Balcombe Road. This assessment has been in relation to both the highway capacity and road safety implications of permitting an increased number of residential units to be occupied and use the existing access arrangements.

In terms of junction modelling the applicant has demonstrated that the temporary site access onto Hanlye Lane shall still operate within capacity with the traffic associated with 150 residential units being occupied. The priority junction of Borde Hill Lane/Hanlye Lane/Balcombe Road has also been assessed. The modelling results for the turning movements that have to give way to other traffic show the following:

Junction Turning Movement	AM Peak 50 dwellings occupied	AM Peak 150 dwellings occupied	PM Peak 50 dwellings occupied	PM Peak 150 dwellings occupied
	Max. Ration of Flow to Capacity (RFC)			
Left turn out from Hanlye Lane	1.338	1.427	0.520	0.888
Right turn out from Hanlye Lane	1.375	1.462	0.869	0.923
Right turn into Hanlye Lane from Borde Hill Road	0.243	0.250	0.328	0.351

An RFC over 0.85 indicates that a junction is approaching capacity constraints and a value above 1 indicates that the junction is operating over its theoretical capacity. The modelling results show that in the AM peak the Hanlye Lane arm of the junction, for the movements left and right out of this arm, is operating over capacity. This occurs if either 50 or 150 dwellings are occupied. In the PM peak all junction arms operate within capacity but when 150 dwellings are occupied the movements out of Hanlye Road start to cause the junction to approach theoretical capacity.

Given that in the AM peak the Hanlye Lane arm of the junction currently operates over capacity and that the occupation of 150 dwellings make the performance of the junction slightly worse the impact from the planning application itself is not considered to be a severe impact as set out within paragraph 109 of the National Planning Policy Framework.

In terms of an assessment on road safety the applicant has undertaken a stage three road safety audit of the temporary site access and agreed the necessary mitigation works to address the points raised. These works will take place outside of this application as part of the Section 278 agreement for the highway works to install the temporary site access.

The applicant has also produced a safety assessment of the Borde Hill Lane/Hanlye Lane/Balcombe Road which reviews the existing junction and accident records. The Highway Authority are of the view that the potential increase in vehicles that could be associated with permitting an increase in use of the temporary access from 50 residential occupations to 150 would not cause an unacceptable highway impact at this junction.

In light of the assessment undertaken the Highway Authority do not consider that there are reasonable grounds to object to the proposed variation of condition 11 to permit up to 150 occupations to use the temporary access onto Hanlye Lane.

Condition 21 Hours of Working

The applicant seeks to amend condition 21 to alter the permitted hours of working on the site from those currently permitted (Mon - Fri 8-18 and Sat 9-13) to 7 day working. The

applicant's proposed hours of working are Mon - Fri 7-17, Sat 8-16 and Sun 9-16. These hours of working would solely relate to the approved highway works on Hanlye Lane, Borde Hill Lane and Balcombe Road.

The Highway Authority has no objections to this proposed extension of hours in planning terms and it is noted that the proposed extension is outside of the traditional network peak hours. The applicant should note that obviously they would still have to book road space with the County Council's Street Works team (street.works@westsussex.gov.uk).

Condition 26 Development carried out in accordance with approved plans

The applicant is seeking to vary condition 26 to make changes to the approved layout of plots 23, 95, 109, 142 and 150. The proposed changes amend the design of the house type; the housing mix and number of properties remain the same. Therefore the Highway Authority has no objections to this variation in the design and house type.

Summary

The Highways Authority has no objections to the approval of the proposed variation of conditions 5, 11, 21 and 26 of planning permission DM/18/0194.

MSDC Environmental Protection Officer

Environmental Protection (EP) accepts that works to construct the site access to this development are necessary, and will only be carried out for a limited period of around 3 months. However, EP considers that the proposed hours of operation detailed in section 3.7 of the Construction Management Plan reference T&PPB4399R001D02 dated 01 February 2019 would result in local residents being adversely affected by noise from construction work early in the morning. EP would therefore recommend that the CMP be amended to show the following hours of operation for construction of the site access:

08:00 - 18:00 (Mon- Fri)
09:00 - 17:00 (Sat)
10:00 - 17:00 (Sun)