

MID SUSSEX DISTRICT COUNCIL

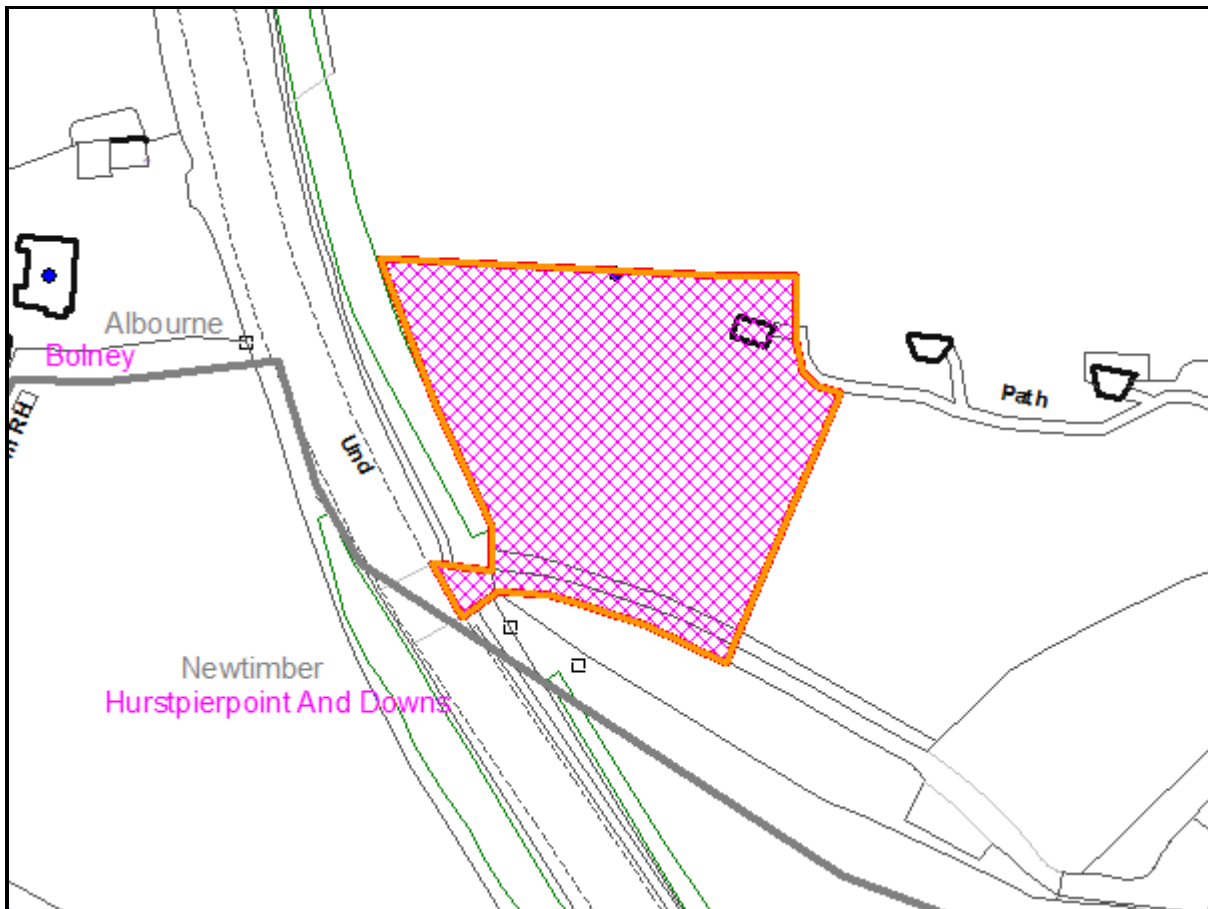
Planning Committee

7 NOV 2019

RECOMMENDED FOR REFUSAL

Albourne

DM/19/3876



© Crown Copyright and database rights 2019 Ordnance Survey 100021794

**Q LEISURE THE OLD SAND PIT LONDON ROAD ALBOURNE  
PROPOSED TWO STOREY, PARTIALLY BURIED DWELLING (WARDEN  
ACCOMMODATION FOR: 1) THE WELLBEING OF OVERNIGHT  
OCCUPANTS OF 9 ECO PODS AS APPROVED UNDER REF DM/18/1807),  
NOW EXTANT. 2) ADDITIONAL SECURITY ISSUES IN RESPECT OF  
APPROVED 50M SHOOTING RANGE AS APPROVED UNDER REF  
DM/18/4461; AND 3) ADDRESSING EXISTING AND ONGOING SECURITY  
AND MANAGEMENT ISSUES ASSOCIATED WITH THE EXISTING  
BUSINESS ACTIVITIES.  
MR PEACOCK**

POLICY: Areas of Special Control for Adverts / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Methane Gas Safeguarding / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) /

ODPM CODE: Minor Dwellings

8 WEEK DATE: 25th November 2019

WARD MEMBERS: Cllr Judy Llewellyn-Burke /

CASE OFFICER: Steven King

### **PURPOSE OF REPORT**

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

### **EXECUTIVE SUMMARY**

This application seeks planning permission for the following development: Proposed two storey, partially buried dwelling (warden accommodation for: 1) the wellbeing of overnight occupants of 9 eco pods as approved under ref DM/18/1807), now extant. 2) additional security issues in respect of approved 50m shooting range as approved under ref DM/18/4461; and 3) addressing existing and ongoing security and management issues associated with the existing business activities.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the development plan comprises the District Plan (DP) and Albourn Neighbourhood Plan (ANP).

The application site lies within the countryside and therefore policy DP12 of the DP is the proper starting point for assessing the application. To comply with policy DP12 the proposal must maintain or enhance the quality of the rural and landscape character of the District and either be necessary for agricultural purposes or be supported by a specific policy reference elsewhere in the plan, a Development Plan Document or a Neighbourhood Plan.

It is not considered that it has been demonstrated that it is essential to have this new permanent dwelling to serve the proposed eco pods. As such the proposal would conflict with policy DP15 in the DP. Whilst not pre judging any future application, it is considered that a more policy compliant proposal would be for a temporary dwelling/mobile home to be erected on the site to serve the eco pods for a specified period of time, after which if there was still a need for on site accommodation, a subsequent application could be made for a permanent dwelling on the site. As with the last application on site, it remains the case that prospective occupiers of the new dwelling would be reliant on the private car for access to shops and services. As

such there would still be a conflict with policy DP21 in the DP in respect of the aim of seeking to minimise the need for travel and promote alternative means of access to the private car.

It is acknowledged that the proposed dwelling would have a limited impact on the character of the area as it would be cut into the land and would be well screened within the site. There would be no adverse impact on the setting of the South Down National Park. There would be no highway safety issues arising from the proposal. There would also be security benefits to the business arising from having an onsite presence. All of these points weigh in favour of the scheme.

To conclude, it is considered that on balance, it has not been demonstrated that it is essential to the operation of the business for this proposed dwelling to be constructed. It is therefore felt that the application conflicts with policies DP12, DP15 and DP21 of the Mid Sussex District Plan 2014-2031 and policy ALC1 of the Albourne Neighbourhood Plan and the application cannot be supported.

### **Recommendation**

It is recommended that planning permission is refused for the following reason:

The proposed dwelling is not considered to be essential to the operation of the rural business on the site. It would be in a relatively isolated location and future residents would be reliant on the private car for transportation. The proposal therefore conflicts with policies DP12, DP15 and DP21 of the Mid Sussex District Plan 2014-2031 and policy ALC1 of the Albourne Neighbourhood Plan.

## **SUMMARY OF REPRESENTATIONS**

None received.

## **SUMMARY OF CONSULTEES (full comments in appendices)**

### **Highway Authority**

To be reported.

### **Sussex Police**

To be reported.

### **Drainage Engineer**

To be reported.

### **Environmental Health Officer**

No objection subject to conditions.

## **ALBOURNE PARISH COUNCIL COMMENTS**

To be reported.

---

### **INTRODUCTION**

This application seeks planning permission for the following development:

Proposed two storey, partially buried dwelling (warden accommodation for: 1) the wellbeing of overnight occupants of 9 eco pods as approved under ref DM/18/1807), now extant. 2) additional security issues in respect of approved 50m shooting range as approved under ref DM/18/4461; and 3) addressing existing and ongoing security and management issues associated with the existing business activities.

### **RELEVANT PLANNING HISTORY**

There have been a number of planning permissions at the site related to the leisure activities that take place here. The site can be used for activities between the hours of 10.00 and 20.00 and between 10.00 and 23.00 for the main building in the site (for functions, post activity entertainment and so on). For 305 days a year the site is limited to a maximum of 90 customers. For the remaining days of the year there is no limit on the number of customers.

The Council refused an application for the erection of a five bedroom subterranean family home at the same site as this application (AE/05/01350/FUL) on 9 August 2005 for the following reason:

'The site lies in a Countryside Area of Development Restraint and the proposal being unrelated to the essential needs of agriculture, forestry, the extraction of minerals, the deposit of waste the implementation of Policy H6 or for quiet informal recreation would be contrary to Policy LOC2 of the adopted West Sussex Structure Plan 2001-2016 and Policies C1 and H11 of the Mid Sussex Local Plan which seek to protect the countryside for its own sake from development which does not need a countryside location.'

A subsequent application for the erection of a five bedroom subterranean family home at the same site as this application (AE/ 06/01106/FUL) was refused on 18 August 2006 for the following reason:

'The site lies in a Countryside Area of Development Restraint and the proposal being unrelated to the essential needs of agriculture, forestry, the extraction of minerals, the deposit of waste the implementation of Policy H6 or for quiet informal recreation would be contrary to Policy LOC2 of the adopted West Sussex Structure Plan 2001-2016 and Policies C1 and H11 of the Mid Sussex Local Plan which seek to protect the countryside for its own sake from development which does not need a countryside location.'

These applications were both the subject of appeals that were dismissed by the Planning Inspector on 13 March 2007.

More recently a planning application for a two-storey, partially-buried dwelling, with driveway access and associated hard and soft landscaping (reference DM/17/3123) was refused planning permission on 22 September 2017 for the following reason:

'The proposed dwelling is not considered to be essential to the operation of the rural business on the site. It would be in a relatively isolated location and future residents would be reliant on the private car for transportation. The proposal therefore conflicts with policies C1 and T4 of the Mid Sussex Local Plan and policy DP19 of the Mid Sussex District Plan 2014-2031 Submission Version and the guidance in paragraph 55 of the NPPF.'

Most recently an application (reference DM/19/1361) for a proposed two storey, partially buried dwelling (warden accommodation for the wellbeing of overnight occupants of 9 eco pods as approved under ref DM/18/1807) and new driveway access and associated hard and soft landscaping was made but was withdrawn by the applicants on 23 July 2019 prior to it being determined.

In addition to the above consents, planning permission has also been granted for 9 eco pods at the site (reference DM/18/1807) to be used as temporary holiday accommodation. A subsequent application amended the type of eco pods on the site (reference DM/18/4593). Consent has also been granted at the site for an indoor shooting range (reference DM/17/3002).

## **SITE AND SURROUNDINGS**

Access into the site is via the old A23. There is a driveway into the site that runs along the southern boundary of the site. This leads to the area where the karting track is located. There is a storage building in the site for the applicants quad bikes, karts and other machinery. There is also a building that is used for team building exercises, giving instructions to customers, providing food and so on.

The site of the proposed new dwelling is within a bank in the north-western corner of the site. To the north of this bank the land is laid to grass. To the south of the bank the land is flat and at a lower level and is also laid to grass. To the east there is a group of trees and beyond this is the area where the main activities take place on the site. To the west there is hedge screening to the old A23.

The site is rural in character. The site is within the countryside as defined in the District Plan.

## **APPLICATION DETAILS**

The application seeks consent for the erection of a 3 bedroom dwelling on the western side of the site. This would be designed to take advantage of the change in levels through the site so the north elevation would be cut into the bank. The dwelling would be a contemporary design featuring render, timber boarding and stone with grey colour powder coated frames. The property would be a flat roof building and would feature a roof terrace and roof top lawn area. The dwelling would have undercroft car parking for two cars.

The dwelling would be accessed from the existing access road that serves the business on the site. The design of the proposed dwelling is the same as that which was refused planning permission under reference DM/17/3123.

The applicants have provided a supporting statement with the application. It makes the point that following the last refusal on the site, circumstances have changed as a result of the grant of planning permission for 9 eco pods on the site. The applicants state the *'approval of these eco-pods is considered significant in that it enables up to 24 members of the public to stay on the site overnight. This is considered to represent a significant material change to the business which has not, until now, had permission to host members of the public overnight. In order to effectively manage the pods, and in particular to safeguard the wellbeing of their overnight occupants, it is considered essential to employ an on-site warden and to provide him or her with accommodation suitable to that end.'*

The applicants go on to state that they consider there is a clear management need for the accommodation. They state *'A significant proportion of the occupants of the ecopods are anticipated to be hikers and cyclists, who are likely to turn up late and leave early. It is necessary that upon arrival these potential guests are met, greeted and signed in. They need to be shown where to leave and lock their bikes; how and when to make payment; where the facilities are; they need to be allocated a pod, and generally welcomed and have the protocol explained to them. It would be unreasonable, as well as bad practice, to simply expect members of the public to work all of this out for themselves.'*

The applicants also consider there is a need to safeguard the wellbeing of overnight occupants, stating *'Someone will be required on site to deal with queries or complaints; to deal with any disturbances that might arise; to settle any disputes; to ensure that basic noise, safety and reasonable neighbourly behaviour is in place at all times. In the event of an accident or an emergency, members of the public likewise need to know who to contact.'*

The applicants do not consider that one of the eco pods would be suitable for warden accommodation, stating *'there is now an essential need to build a permanent on-site house for a warden and his or her family to live. Like everyone else, a warden will, in the long term, need to be able to live, house his or her family, and have access to life's essentials such as an adequately sized living room, kitchen, bathroom, bedroom, etc.'*

Finally they also refer to health and safety issues that require an onsite presence in the proposed house. They state *'All pods as approved must be accessed on foot via a path that immediately abuts open water. All of the pods are close to the water; two of them are within 2m and 7m of the water respectively. In the winter months it is anticipated that the footpaths will be slippery. A significant number of users are expected to arrive or leave whilst it is dark, given that the accommodation is expected to appeal to hikers and cyclists. Given the rural nature of the site, and of the location of the pods in particular which are in a recessed hollow and not easily visible, overnight guests will be fairly isolated. It is not considered that the location should be brightly lit at night on account of the impact that this will have on the immediate environment, as has been previously commented upon.'*

## **LIST OF POLICIES**

### **Mid Sussex District Plan**

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

Relevant policies:

DP12 Protection and enhancement of the countryside

DP15 New homes in the countryside

DP18 Setting of the South Downs National Park

DP21 Transport

DP26 Character and Design

DP27 Dwelling space standards

DP29 Noise, air and light pollution

### **Neighbourhood Plan**

Albourne Neighbourhood Plan. Made plan with full weight.

ALC1: Conserving and enhancing character

ALC2: South Downs National Park

ALH1: Housing Development

### **National Policy and Legislation**

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

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

Paragraph 12 of the NPPF states that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.

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

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

*National Planning Policy Guidance*

*Technical Housing Standards*

## **ASSESSMENT**

It is considered that the main issues that need to be considered in the determination of this application are as follows:

- The principle of development
- The impact of the proposal on the character and appearance of the area
- Transport matters
- Drainage
- Impact on Ashdown Forest
- Planning Balance and Conclusion

### **Principle of Development**

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

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

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

- a) The provisions of the development plan, so far as material to application,*
- b) 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.'*

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan (DP) (2018) and the Albourne Neighbourhood Plan (ANP).



As the site is within the countryside, policy DP12 in the DP is the starting point for assessing planning applications. This policy 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.*

*Agricultural land of Grade 3a and above will be protected from non-agricultural development proposals. Where significant development of agricultural land is demonstrated to be necessary, detailed field surveys should be undertaken and proposals should seek to use areas of poorer quality land in preference to that of higher quality.*

*The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.*

*Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council.*

*Economically viable mineral reserves within the district will be safeguarded.'*

As such there is a requirement for development to maintain or enhance the quality of the rural and landscape character and to also be supported by another policy reference in the plan or neighbourhood plan.

In this case policy DP15 is relevant. It states:

*'Provided that they would not be in conflict with Policy DP12: Protection and Enhancement of the Countryside, new homes in the countryside will be permitted where special justification exists. Special justification is defined as:*

- *Where accommodation is essential to enable agricultural, forestry and certain other full time rural workers to live at, or in the immediate vicinity of, their place of work; or*
- *In the case of new isolated homes in the countryside, where the design of the dwelling is of exceptional quality and it enhances its immediate setting and is sensitive to the character of the area; or*
- *Affordable housing in accordance with Policy DP32: Rural Exception Sites; or*
- *The proposed development meets the requirements of Policy DP6: Settlement Hierarchy.*

*Permanent agricultural (includes forestry and certain other full time rural worker) dwellings will only be permitted to support existing agricultural activities on well-established agricultural units where:*

- The need cannot be fulfilled by another existing dwelling on or any other existing accommodation near the agricultural unit; and*
- It can be proven that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times; and*
- It can be proven that the farming enterprise is economically viable; and*
- It can be proven that the size of the dwelling is commensurate with the established functional requirement of the agricultural unit.*

*Temporary agricultural dwellings essential to support a new farming activity either on a newly created agricultural unit or on an established one will be subject to the criteria above and should normally be provided by temporary accommodation. Applications for the removal of agricultural occupancy conditions will only be permitted where it can be proven that there is no longer any need for the dwelling for someone solely, mainly or last working in agriculture or forestry or other rural based enterprise. This will be based on an up to date assessment of the demand for farm (or other occupational) dwellings in the area as a whole, and not just on a particular holding.*

*New 'granny annexes' that are physically separate to the dwelling are defined as a new home and are subject to the same requirements as above.*

#### *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.*

#### *Replacement dwellings in the countryside*

*Replacement dwellings in the countryside will be permitted where:*

- The residential use has not been abandoned;*
- Highway, access and parking requirements can be met; and*
- The replacement dwelling maintains or where possible enhances the quality of the natural and/or built landscape particularly in the High Weald Area of Outstanding Natural Beauty, especially if a significant change in scale from the existing dwelling is proposed.'*

The NPPF states in paragraph 79 that *'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'*

The Courts have confirmed that the word isolated in this paragraph should be taken as its ordinary objective meaning, namely a dwelling that is physically separate or remote from a settlement. It is considered that the site of the proposed dwelling would be isolated in terms of paragraph 79 of the NPPF. Therefore paragraph 79 of the NPPF (part a) is relevant to the determination of this application.

The issue in relation to the NPPF is whether it is "essential" for someone to live on the site. There is no further guidance in the NPPF as to what "essential" means: this is left to the judgement of the LPA. Since the refusal of the last planning application for a dwelling on the site, the business has continued to operate and consent has been granted for an indoor shooting range (DM/17/3002) and the eco pods for camping at the site (DM/18/4461). The applicants have stated that the proposed site for the eco pods has been cleared and landscaped and therefore the original consent for the eco pods is now extant.

On the previous application for a dwelling at the site it was argued that there was a need for an onsite presence to deter thefts. It is recognised that there is a considerable amount of high value equipment on the site. In dismissing the appeals for a dwelling on the site back in 2007 the Inspector stated *'Concerns about theft are likely to arise at many rural establishments, and if dwellings were to be allowed exceptionally at them it would have a very damaging effect on national and local policy which seeks to protect the countryside from unnecessary development.'* She went on to state *'The fact that the business has developed and become well-established without a dwelling on the site adds support to my view that there is no need for one.'*

In refusing the application for a dwelling on the site in 2017 the officer's report concluded by stating *'It is considered that in terms of the need for the proposed dwelling, it is your officer's view that it can be categorised as being more "desirable"*

*for the business rather than being "essential". Whilst the Council cannot currently demonstrate a 5 year housing land supply and this is a material consideration that merits a modest measure of weight in favour of the appeal proposal, one additional unit would make only a limited contribution to the overall housing supply in the District.*

*Overall it is considered that the proposal does conflict with policies C1 and T4 of the MSLP and policy DP19 of the MSDP. Whilst there would be benefits to the business from the proposal, it is considered that on balance, the conflict with the development plan and the absence of an essential need to live on the site outweigh the benefits of the scheme and therefore the proposal cannot be supported.'*

The applicants are no longer advancing a case based solely on security concerns. They have stated that the approval of the shooting range does raise security issues that lend support to the proposal, together with the ongoing security issues associated with the high value equipment that is stored at the site.

The case for the applicants now is that there is a combination of circumstances that now mean that there is a requirement for on site accommodation; these being the approval of the eco pods and ongoing security concerns.

It is considered by your officers that there is some merit in the case put forward by the applicants. With the potential for 24 campers being on the site overnight and arriving/leaving at different times, having an onsite presence would allow a quick response should an emergency occur on site or events that require an onsite presence to resolve.

By way of comparison, planning permission was granted at the former Geers Nursery, Brighton Road, Hurstpierpoint under reference DM/15/1799 for the 'Demolition of two existing dwellings, barns, plant nursery outbuildings and greenhouses, erection of 4 dwellings, craft workshops and a camp site with 10 tent pitches, 4 log cabins, manager's accommodation and ablution block/cycle hire/washing building.' This site is some 1.2km to the east of Q Leisure, on the eastern side of the A23.

Whilst the site at the former Geers Nursery was different in that it contained a number of redundant buildings from a former use and was also approved under a different policy context prior to the adoption of the District Plan, it is still the case that the principle of on site managers accommodation for a camping business was accepted by the Local Planning Authority. It is well established that each planning application must be dealt with on its individual merits. It is also well established that consistency within the planning system is important and if similar cases are not determined in the same manner then the reasons for this should be clearly explained by the decision maker.

In this case it is considered that there is a clear difference between this site and the site at Geers Nursery: the difference being the fact that the Geers Nursery site contained a number of redundant structures and glasshouses whereas the site of the proposed house at Q Leisure is an undeveloped part of the site. As such the sites themselves are not directly comparable.

For new agricultural units, policy DP15 envisages a temporary dwelling being put on site to allow the new enterprise to become established and to justify the need for on site accommodation. It is considered that in the normal course of events this approach would be more aligned with the planning policy than the applicant's proposal for a new permanent dwelling to serve what would be a new part of the Q Leisure business. It is also considered that it is reasonable to suggest that the likely requirement for a manager to live on the site could have been put forward and considered by the applicants when the original applications were made for the eco pods.

The applicants have advised that they would resist the suggestion of a temporary dwelling/mobile home on the site for the reasons set out below.

Firstly they state that the business is demonstrably viable. They note that it has operated from the site for 20 years, employs 30 staff and operates 7 days a week with an average of 82 operational hours per week. On this basis they feel it is not reasonable to have to offer its workers short term temporary accommodation. Secondly they state that a permanent dwelling would allow them to attract and retain appropriate staff to take on the job as on site warden. Thirdly they state that bringing a mobile home onto the site would be a poor use of resources as it would be a temporary solution and that any mobile home of reasonable quality would cost a considerable sum of money that would be lost through depreciation, together with the costs of disposing of it.

The arguments put forward by the applicants have been carefully considered by your officer. It is the case that the business on the site is now well established. However it is also the case that the eco pods element of the business is a new venture, which has not yet commenced in terms of accommodating guests on site. As such it is felt that it cannot be guaranteed that this element of the business will be economically viable/successful moving forward. On this basis, on balance, it remains your officer's view that at this point in time it has not been demonstrated that it is essential to have this proposed warden's house on site.

### **Impact on the character of the area**

Policy ALC1 of the ANP states:

*'Development, including formal sports and recreation areas will be supported in the countryside, defined as the areas outside the Built up Area Boundary shown on the policy map where the following criteria are met:*

- 1. It is necessary for the purposes of agriculture, or some other use which has to be located in the countryside;*
- 2. It maintains, or where possible enhances, the quality of the rural and landscape character of the Parish area;*
- 3. It is supported by a specific policy reference elsewhere in this Plan.*
- 4. It is necessary for essential infrastructure and it can be demonstrated that there are no alternative sites suitable and available, and that the benefit outweighs any harm or loss.'*

Policy DP26 in the DP states:

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

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- protects valued townscapes and the separate identity and character of towns and villages;*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- positively addresses sustainability considerations in the layout and the building design;*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development.'*

Due to the location of the dwelling, set within the set and set against the north bank of the site, it is not considered that the proposed dwelling would have any significant impact on the wider character of the countryside. In this respect it is not considered that there would be a conflict with the aims of policy ALC1 or policy ALC2 (which seeks to protect the setting of the South Downs National Park). It is considered that as a piece of architecture the proposed dwelling would be a high quality design as required by policy DP26 in the DP. It should be noted that the design of the proposed dwelling is the same as was proposed under application reference DM/17/3123 and this 2017 application was not refused on matters relating to the design of the building or its impact on the character of the countryside.

The dwelling would meet the national dwelling space standards, thereby complying with policy DP27 in the DP.

It is considered that the proposed dwelling could be appropriately insulated so that there was no adverse impact on future occupiers from road traffic noise from the A23. As such this part of policy DP29 in the DP would be met.

It is not considered that the proposed development would have an adverse impact on local amenity in relation to light pollution. As such this part of policy DP29 in the DP would be met.

### **Transport matters**

Policy DP21 in the DP relates to transport. It seeks to minimise the need for travel, noting there might be circumstances where development needs to be located in the countryside, such as for rural economic uses. It also seeks to ensure that the development protects the safety of road users and pedestrians.

It is considered that in terms of highway safety, there would be no adverse impact from the proposal. The site lines onto the highway are satisfactory and the proposal would add a very limited number of additional movements compared to the comings and goings associated with the business.

The applicants have previously referred to the site being on a bus route. The 100 bus, operated by Compass Travel, departs Burgess Hill station at 6.40am and there after every hour until 6.05pm, travelling all the way to Pulborough via Albourne, Henfield, Small dole, Bramber, Steyning and Washington and returns again. A similar service operates on Saturdays. Whilst this is recognised, it is still the case that it is likely to be more attractive to occupiers of the dwelling to use the private car rather than the limited public transport that is available. Therefore in terms of its sustainability, it would be in a relatively isolated location. Although a number of trips to and from work could be saved, visits to shops, surgeries, schools, entertainment, leisure and other services would still need to be made from the site and these would outweigh the benefits of reduced journeys to and from work. The fact that prospective occupiers of the dwelling would be reliant on the private car does weigh against the proposal.

However policy DP21 does recognise that '...there might be circumstances where development needs to be located in the countryside, such as rural economic uses'. This reflects national advice in the NPPF. If the principle of having a managers dwelling on site is accepted, this element of policy DP21 would be complied with.

The applicants also make the point that given the number of visitors to the site per year (they state 16,000), that the additional movements associated with the proposed house would be negligible. Whilst this point is noted, the existing business on the site is well established and policy DP21 notes that there will be instances where development needs to be located in the countryside. A business that provides noisy outdoor sports, such as go karting is such a business that is suitable to be located in the countryside. However the key point from policy DP21 is whether the proposed development needs to be located in the countryside; for the reasons already set out in this report, on balance, it is not felt that it has been demonstrated that it is necessary to have this proposed new house in the countryside.

## **Drainage**

It is proposed that surface water would be dealt with by a soak away and foul water would be via a packaged sewerage treatment plant. It is considered that the means of satisfactorily draining the site can be secured by a planning condition thereby complying with policy DP41 of the DP.

## **Impact on Ashdown Forest**

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

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

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

### Recreational disturbance

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

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

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

### Atmospheric pollution

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



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

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

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

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

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

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

To summarise planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the development plan comprises the DP and ANP.

The application site lies within the countryside and therefore policy DP12 of the DP is the proper starting point for assessing the application. To comply with policy DP12 the proposal must maintain or enhance the quality of the rural and landscape character of the District and either be necessary for agricultural purposes or be supported by a specific policy reference elsewhere in the plan, a Development Plan Document or a Neighbourhood Plan.

It is not considered that it has been demonstrated that it is essential to have this new permanent dwelling to serve the proposed eco pods. As such the proposal would conflict with policy DP15 in the DP. Whilst not pre judging any future application, it is considered that a more policy compliant proposal would be for a temporary dwelling/mobile home to be erected on the site to serve the eco pods for a specified period of time, after which if there was still a need for on site accommodation, a subsequent application could be made for a permanent dwelling on the site. As with the last application on site, it remains the case that prospective occupiers of the new dwelling would be reliant on the private car for access to shops and services. As such there would still be a conflict with policy DP21 in the DP in respect of the aim of seeking to minimise the need for travel and promote alternative means of access to the private car.

It is acknowledged that the proposed dwelling would have a limited impact on the character of the area as it would be cut into the land and would be well screened within the site. There would be no adverse impact on the setting of the South Down National Park. There would be no highway safety issues arising from the proposal.

There would also be security benefits to the business arising from having an onsite presence. All of these points weigh in favour of the scheme.

To conclude, it is considered that on balance, it has not been demonstrated that it is essential to the operation of the business for this proposed dwelling to be constructed. It is therefore felt that the application conflicts with policies DP12, DP15 and DP21 of the Mid Sussex District Plan 2014-2031 and policy ALC1 of the Albourne Neighbourhood Plan and the application cannot be supported.

---

## **APPENDIX A – REASONS FOR REFUSAL**

1. It has not been demonstrated that the proposed new dwelling is essential to the operation of the business. In addition the site is in a relatively isolated location and future residents would be reliant on the private car for transportation. The application therefore conflicts with policies DP12, DP15 and DP21 of the Mid Sussex District Plan 2014-2031 and policy ALC1 of the Albourne Neighbourhood Plan.

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan			17.09.2019
Block Plan			17.09.2019
Proposed Sections			17.09.2019
Proposed Floor and Elevations Plan	289.PA001	A	17.09.2019
Levels	16/133/01		17.09.2019

## **APPENDIX B – CONSULTATIONS**

### **Highway Authority**

To be reported

### **Sussex Police**

To be reported

### **Drainage Engineer**

To be reported

### **Environmental Health Officer**

### **LAND CONTAMINATION**

The proposed development site was a former quarry and there has been some importation of soils to create earth bunds and for land profiling of the site. The proposal is to introduce a residential use on the site for security purposes. In terms of the source-pathway-receptor found within the "*Model procedures for the management of land contamination - contaminated land report CLR11*", the proposal will be introducing a receptor to a potential source of contamination and it is therefore important that these risks to human health are appropriately assessed and, if necessary, addressed. I therefore recommend a condition

which, in the first instance, requires a desktop study and then requires further assessment and/or remediation if recommended. In accordance with paragraph 179 of the *National Planning Policy Framework*, the information must be prepared by a competent person, i.e. a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.

The following conditions are recommended:

1. Prior to the commencement of the development hereby approved, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
  - 1) 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.
  - 2) A site investigation scheme, based on part 1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - 3) The results of the site investigation and detailed risk assessment referred to in part 2) above and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To ensure that the historic contamination does not cause an impact to human health, controlled waters and other ecosystems as a result of the proposed development; that any remediation, if deemed necessary, is satisfactorily completed; and to ensure that any contamination identified during the demolition or construction phases of the development is fully characterised and assessed in accordance with the NPPF.

2. Prior to occupation a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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.

## NOISE AND NUISANCE

Where commercial activities occur close to residences, these can have significant adverse impacts on residential amenity on account of noise. Q Leisure offer a number of activities for their customers which are likely to create noise, for example clay pigeon shooting and go-karting. The proposal specifies that the residential use is for a staff presence on site throughout the night to ensure the safety and security of the visitors using the pods. I recommend that this connection between the use of the residential unit and the business is

secured by agreement or condition. If this link ceases, it is conceivable that future residents could complain that noise from commercial activities is causing a statutory nuisance and if the local authority is satisfied that a nuisance is occurring, they are legally obliged to serve an abatement notice. In this case the business would be required to abate the nuisance which could jeopardise the viability of the business. It is therefore important that the business and residential unit remain in the same ownership.

Subject to the above, I have no objection to the proposal.