

MID SUSSEX DISTRICT COUNCIL

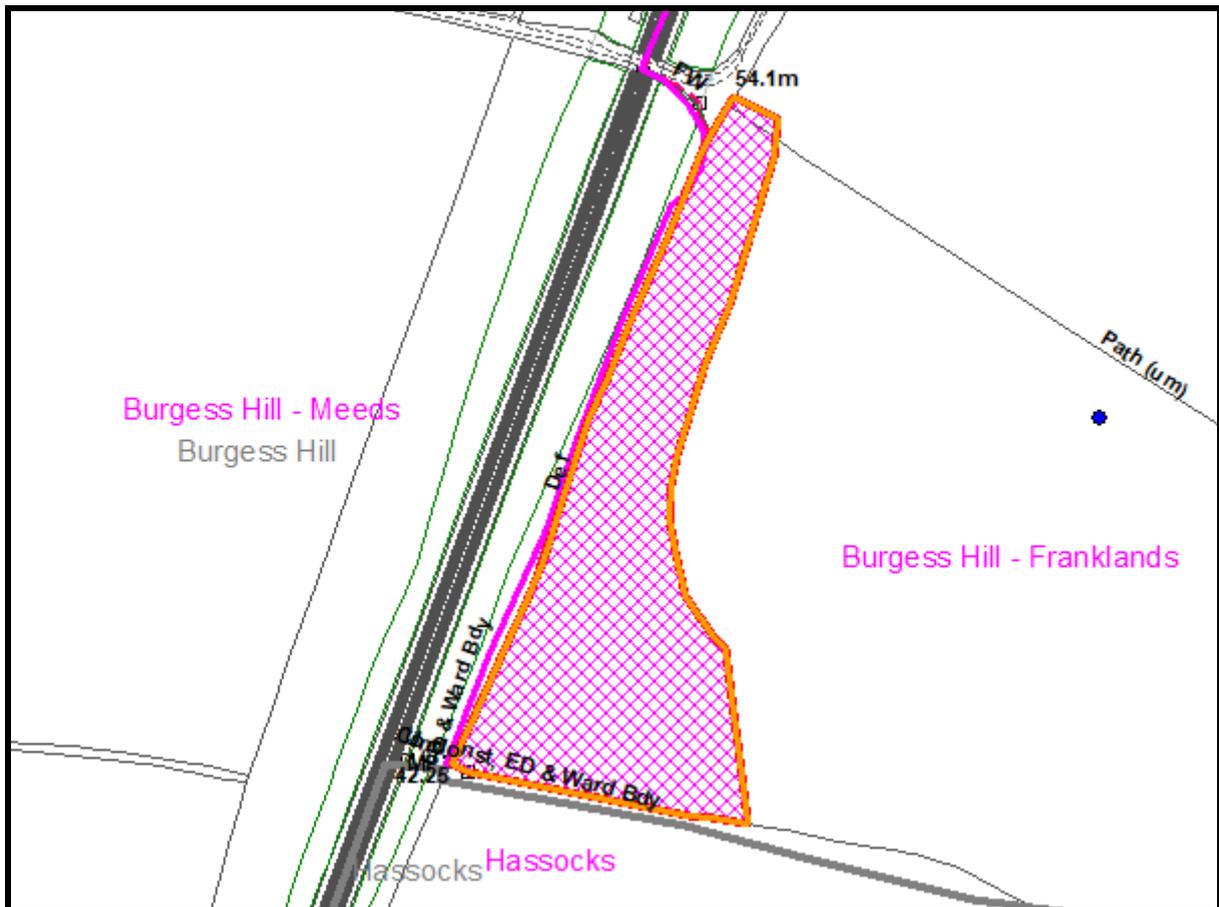
District Wide Committee

**20 FEB 2020**

RECOMMENDED FOR PERMISSION

**Burgess Hill**

**DM/18/4980**



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**LAND AT GRID REFERENCE 531337 117617 KEYMER ROAD BURGESS HILL WEST SUSSEX  
CONSTRUCTION OF BRIDLEWAY LINK.  
MR ROBERT PHILLIPS**

POLICY: Areas of Special Control for Adverts / Countryside Area of Dev. Restraint / Informal Open Space / Aerodrome Safeguarding (CAA) / Radon Gas Safeguarding Zone /

ODPM CODE: Minor Other

8 WEEK DATE: 30th August 2019

WARD MEMBERS: Cllr Janice Henwood / Cllr Graham Allen /

CASE OFFICER: Stephen Ashdown

## **PURPOSE OF REPORT**

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

## **EXECUTIVE SUMMARY**

Planning permission is sought for the creation of part of a bridleway link that would help provide an off-road link between Hassocks and Burgess Hill. The application should be read in conjunction with application DM/18/4979, reported elsewhere on this agenda, which provides the main bulk of the route as part of the strategic development of land north of Clayton Mills that is allocated for development in the Mid Sussex District Plan, policy DP11 refers.

This application was on the agenda for the meeting held on the 17th December 2019 however, following the earlier deferment of application DM/18/4979, and given the links between the two, it was considered that the applications should be determined at the same time so the application was deferred to be report back alongside DM/18/4979.

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

In this case the proposed provision of part of a new bridleway route, that in tandem with the remainder proposed under application DM/18/4979, would enable a connection between Hassocks and Burgess Hill to be formed (which would also utilise existing routes), accords with policies DP11, DP12 and DP22 of the District Plan. The proposal not only encourages sustainable transport links between Hassocks and Burgess Hill but would also enable people to access additional leisure and recreational routes between the two settlements.

The route can be provided without impacting on any existing trees and proposed enhancements will enable some genuine biodiversity gains to be achieved. In this regard the proposal accords with policies DP37 and DP38 of the District Plan.

The proposal clearly accords with the Development Plan and there are no material considerations that indicate an alternative conclusion should be reached in this instance. The application is recommended for approval.

## **RECOMMENDATION**

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

## **SUMMARY OF REPRESENTATIONS**

A total of 3 letters of representation in support of the application, and 1 neither supporting or objecting, have been received making the following comments;

- Not clear whether it is a cycle path or a bridleway
- If horses are allowed, fencing needs to be provided to prevent trespassing on adjacent fields.
- Notices to cyclist should also say horse riders.
- Route should be permanent and not permissive.
- Further links should be explored.

## **SUMMARY OF CONSULTEE'S**

### **MSDC Tree and Landscaping Officer**

No objection.

### **MSDC Ecology Consultant**

No objection subject to condition.

### **WSSC Highways**

No objection.

### **WSSC Public Rights of Way (PRoW)**

No objections.

### **Burgess Hill Town Council**

RECOMMEND APPROVAL - clear signage should be installed to encourage cyclists and pedestrians to use the bridleway.

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## **INTRODUCTION**

Planning permission is sought for the creation of part of a bridleway link that would help provide an off-road link between Hassocks and Burgess Hill. The application should be read in conjunction with application DM/18/4979, reported elsewhere on this agenda, which provides the main bulk of the route as part of the strategic

development of land north of Clayton Mills, which is allocated for development in the Mid Sussex District Plan, policy DP11 refers.

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## **RELEVANT PLANNING HISTORY**

There is no planning history that is relevant to this application.

## **SITE AND SURROUNDINGS**

The site subject to this application covers approximately 0.67ha in size and forms part of the Batchelors Farm Nature Reserve. The site is predominately open pasture with a belt of mature trees along its western edge, adjacent to the boundary with the railway.

At present the footpath 60BH stops at the southern end of the application site, but is used as part of the recreation loop within the nature reserve.

It should be noted that the site is owned by Burgess Hill Town Council.

## **APPLICATION DETAILS**

The proposal involves the laying of a 3m wide path from the southern end of the site to the northern, which will be formed into a bridleway. When considered in tandem with the proposals contained within DM/18/4979, the route would provide a bridleway connection from Hassocks to Burgess Hill, with the proposals at the northern end linking to existing bridleway routes 19bBH and 18BH, the later provides onward links to Burgess Hill station and the town centre.

The proposed route would broadly follow the line of the existing footpath and while the final surface material would need to be agreed with WSCC PRoW, the submitted drawings show a crushed stone surface (fine material), with bollards set at the northern end to prevent access from unauthorised vehicles.

## **LIST OF POLICIES**

### **District Plan**

- DP11 - Strategic Allocation to the north of Clayton Mills, Hassocks
- DP12 - Protection and Enhancement of Countryside
- DP21 - Transport
- DP22 - Rights of Way and other Recreational Routes
- DP37 - Trees, Woodland and Hedgerows
- DP38 - Biodiversity

It should be noted that the site does not fall within a Neighbourhood Plan area.

## **National Policy and Legislation**

*National Planning Policy Framework (NPPF)*

## **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) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

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

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

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

Using this as the starting point the Development Plan for this part of Mid Sussex consists of the District Plan (DP).

The site falls within the countryside, as defined within the Mid Sussex District Plan (DP).

Policy DP12 of the DP seeks to protect the countryside in recognition of its intrinsic character and beauty. The policy permits development that maintains the quality of the rural and landscape character of the District and is either necessary for the purposes of agriculture or support by a specific policy.

In this instance policy DP11 (land north of Clayton Mills) states, inter alia, that development at the site will

*'provide safe pedestrian/cycling routes within the development and to connect with existing residential area, the services within Hassocks village centre, Hassocks railway station, and enhance that there is an agreed cycle route to Burgess Hill'.*

As already stated, the outline application for land north of Clayton Mills (DM/18/4979) is reported elsewhere on this agenda. Furthermore, Policy DP22 deals with rights of way and other recreational routes and states that access to the countryside will be encouraged by, inter alia,

*'supporting the provision of additional routes within and between settlements that contribute to providing a joined up network of routes where possible'*.

Having regard to the above, the principle of the proposed bridleway link is acceptable and therefore consideration needs to be given to any other issues that may impact on the suitability of the proposal.

## **Biodiversity**

The application is supported by an ecology survey that outlines that in respect of habitats, the application site is generally made up semi-improved grasslands, which are common and widespread throughout the local area. The survey does not identify the presence of protected species within the application site. The survey notes;

*'The route ... will only run through an area of short grassland within the nature reserve before joining an existing bridleway in the northwest corner. As such, the creation of this bridleway is expected to have no significant impacts on these habitats and provides the opportunity to enhance habitats...'*

The survey outlines a number of enhancements that include hedgerow infilling, additional planting, creation of log piles, and bat/bird boxes where appropriate.

Policy DP38 of the DP deals with Biodiversity matters and seeks to ensure that development *'contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity'*, amongst other things.

The Council's ecology consultant has reviewed the application and has not raised an objection, subject to a condition to secure the proposed enhancements outlined in the applicant's ecology statement. Your officer agrees with this position and notes that the proposed enhancements do offer genuine gains in biodiversity, in addition to the wider benefits offered by the promotion of non-vehicular movements the provision of a new bridleway between Hassocks and Burgess Hills will enable. It is considered that the application complies with policy DP38 of the DP.

## **Tree Matters**

Policy DP37 of the DP *'supports the protection and enhancement of trees, woodland and hedgerows, and encourage new planting'*. In support of the application, an 'Arboricultural Impact Assessment and Method Statement', which includes a tree survey and measures to protect the retained trees retained during the construction process, has been submitted.

The submitted information identifies a number of trees, both individual and groups, within the application, however, none of these will be affected by the proposals. The

only vegetation required to be removed to facilitate the proposal is a small section of hedgerow along the southern boundary to link up with the remainder of the route contained in application DM/18/4979.

The Council's Tree and Landscaping Officer has considered the application and has not raised an objection and given that the proposal will protect the existing trees within the site, your officer agrees with this position. A suitably worded condition is proposed to require the works to be carried out in accordance with the submitted report and with this the application accords with policy DP37 of the DP.

### **Other Matters**

It is noted that the process of dedication to form a public bridleway will need to be undertaken through a separate process with the WSCC, under the Highways Act 1980, and that the final details of the proposals, including surfacing and any structures, will also need to be agreed with WSCC PRoW under a separate process. A suitable condition is proposed to cover this latter point.

The provision of the new route is covered by two separate applications and it is important that they are implemented as one, to ensure that the continuous route is provided at the same time. Given that the majority of the route is to be provided under DM/18/4979, it is considered that it is appropriate that suitable provision is made within any permission granted under that proposal to ensure continuous provision within an appropriate timetable.

### **PLANNING BALANCE AND CONCLUSION**

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

In this case the proposed provision of part of a new bridleway route, that in tandem with the remainder proposed under application DM/18/4979, would enable a connection between Hassocks and Burgess Hill to be formed (which would also utilise existing routes), accords with policies DP11, DP12 and DP22 of the District Plan. The proposal not only encourages sustainable transport links between Hassocks and Burgess Hill but would also enable people to access additional leisure and recreational routes between the two settlements.

The route can be provided without impacting on any existing trees and proposed enhancements will enable some genuine biodiversity gains to be achieved. In this regard the proposal accords with policies DP37 and DP38 of the District Plan.

The proposal clearly accords with the Development Plan and there are no material considerations that indicate an alternative conclusion should be reached in this instance. The application is recommended for approval.

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## APPENDIX A – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

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

2. The recommendations set out in the Ecology Walkover Survey by the Ecology Partnership (December 2018) shall be implemented in full, prior to the route being first made available to the public, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the ecological value of the site and to accord with policy DP38 and of the Mid Sussex District Plan 2014 - 2031 and paragraph 175 of the NPPF.

3. The development hereby permitted shall only be implemented in accordance with the details set out in the Arboricultural Impact Assessment and Method Statement (December 2018), unless first agreed in writing with the Local Planning Authority.

Reason: To protect the trees within the site and to accord with policy DP37 of the Mid Sussex District Plan 2014-2031.

4. Prior to the route hereby approved being open for public use, details of the proposed surfacing and any public right of way structures shall be submitted to and approved in writing with the Local Planning Authority. The route shall only be brought into public use in accordance with the approved details.

Reason: In the interest of user safety and to accord with policy DP22 of the Mid Sussex District Plan 2014 - 2031.

5. 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 Applications".

Reason: For the avoidance of doubt and in the interest of proper planning.

### INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Plans Referred to in Consideration of this Application

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Proposed Site Plan	ITB11335-GA-03		11.12.2018
Planning Layout	1209.103		11.12.2018
Location Plan	1209.101		11.12.2018
Existing Site Plan	1209.102		11.12.2018

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

RECOMMEND APPROVAL - clear signage should be installed to encourage cyclists and pedestrians to use the bridleway.

### **MSDC Tree and Landscaping Officer**

Further to reviewing the tree reports that accompany the above application and a recent site visit, I can confirm that any impact on surrounding trees will be mitigated by measures detailed within the AMS section of the submitted tree report.

No objection.

### **MSDC Ecology Consultant**

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

The recommendations set out in the Ecology Walkover Survey by the Ecology Partnership (December 2018) shall be implemented in full unless otherwise agreed in writing by the local planning authority.

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

### **WSCC Highways**

The complete proposed bridleway is included as part of the Land North of Clayton Mills development. The route is split over two planning applications; DM/18/4979 that includes the southern section and DM/18/4980 that includes the northern section. No objection in principle would be raised to the proposed bridleway given that this secures an off-road route available for pedestrians, cyclists, and equestrians between Hassocks and Burgess Hill. The comments of the WSCC Rights of Way team should be sought regarding the proposed details of the cycle route and the legal process associated with the creation of this new route.

A mechanism (presumably as part of a s106 agreement) would also be required to ensure that both parts of the route are secured and delivered.

### **WSCC PRow**

West Sussex County Council's (WSCC) Public Rights of Way (PROW) Service welcomes this proposed development to create a Public Bridleway link under section 25 of the Highways Act to connect the proposed development 'North of Clayton Mills' to the existing rights of way network to the south of Burgess. This will provide an excellent off road link between Hassock and Burgess Hill for pedestrians, cyclists and equestrians.

In the event any new PROW is to be created or an existing PROW is proposed to be altered in status, given the surface of the path will thereafter be maintained by WSCC PROW then the future status, surfacing and provision of structures (such as bollards) must be agreed in advance with WSCC PROW. The proposed surfacing materials of crushed stone and short sections of tarmac, also the provision of 3m width with 0.5m margins and the installation of bollards, are acceptable in principle subject to final approval of WSCC PROW.

The drawings shown in the proposals section of the Planning Supporting Statement show bollards being installed at the northern end of the route along with the potential 'removal / relocation' of the existing gate. With the bollards being installed there is no perceived need for the gate to be kept on the line of this route and this will allow free passage of users through this point. We would require that the gates are removed for this reason.

These ambitions can be realised through the legal dedication of Public Bridleway status using section 25 of the Highways Act 1980. Further advice for the process of this legal dedication can be sought through WSCC PROW.

During the construction period of this bridleway a Temporary Path Closure Order may be required, for which an application must be made to WSCC PROW. Should planning consent be approved by the Local Planning Authority this would not confer consent for such a closure, which would require a separate application to WSCC PROW.