

MID SUSSEX DISTRICT COUNCIL

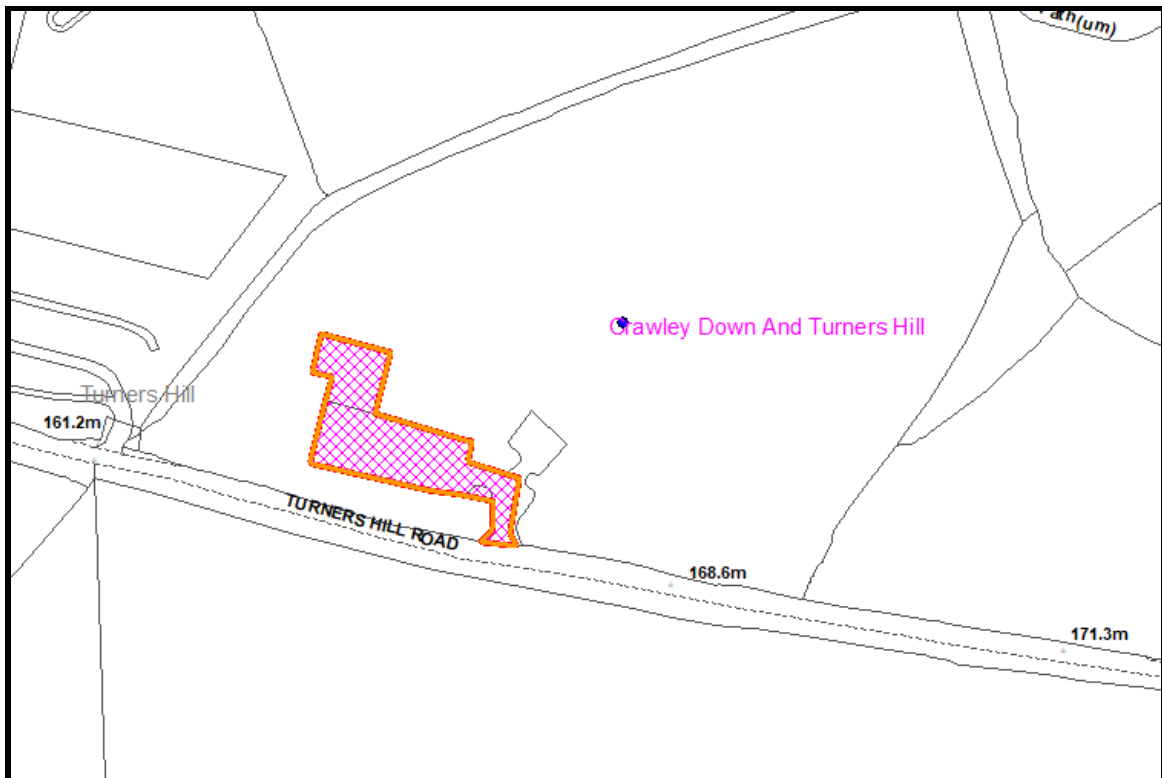
Planning Committee

**27 FEB 2020**

RECOMMENDED FOR PERMISSION

**Turners Hill**

**DM/19/5100**



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**LAND AT TURNERS HILL BURIAL GROUND TURNERS HILL ROAD  
TURNERS HILL WEST SUSSEX  
OUTLINE APPLICATION FOR CONSTRUCTION OF A BARN/WORKSHOP  
FOR THE STORAGE AND MAINTENANCE OF OPERATIONAL VEHICLES.  
ALL MATTERS RESERVED EXCEPT FOR ACCESS, APPEARANCE,  
LAYOUT AND SCALE.  
HARTMIRES INVESTMENTS LTD**

POLICY: Areas of Special Control for Adverts / Ashdown Forest SPA/SAC / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Radar Safeguarding (NATS) / Minerals Local Plan Safeguarding (WSCC) /

ODPM CODE: Minor Other

8 WEEK DATE: 14th February 2020

WARD MEMBERS: Cllr Phillip Coote / Cllr Ian Gibson / Cllr Roger Webb /

CASE OFFICER: Andrew Watt

### **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**

Outline planning permission is sought for the construction of a barn/workshop for the storage and maintenance of operational vehicles. The application seeks approval for the access, appearance, layout and scale. Landscaping would be reserved for future consideration.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material considerations 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.

National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The need for this building for secure covered storage was identified by the most recent appeal Inspector. The location of the building has been changed and the scale significantly reduced from the previous scheme. It is considered that the siting is acceptable, due to being between two previously consented buildings, rather than isolated in the landscape. It is considered that the scale of the building is reasonable for the purposes to which the building will be put and would not be harmful to the landscape character of the area. Subject to a condition requiring details of the facing materials to be agreed, it is considered that the appearance of the building could blend in more sympathetically with the naturalistic materials used on the consented buildings adjoining it. The means of access remains as it is and the Highway Authority raise no objection to the proposal.

Other matters such as biodiversity can be covered by condition. Land contamination has been assessed as not requiring a condition to be applied to any planning permission.

There will be no likely significant effect on the Ashdown Forest SPA and SAC.

For the above reasons, it is considered that the proposal would comply with Policies DP1, DP12, DP14, DP17, DP21, DP25, DP26 and DP38 of the Mid Sussex District Plan, Policies THP8 and THP13 of the Turners Hill Neighbourhood Plan and the provisions of the National Planning Policy Framework. As such, planning permission should be granted.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the conditions set out in Appendix A.

### **CONSULTATIONS**

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

#### **MSDC Consultant Ecologist**

To be reported.

#### **MSDC Consultant Landscapes Officer - East Sussex County Council Landscape Architect**

#### **Recommend for approval in principle subject to the imposition of conditions**

The proposal could comply with NPPF Section 15 policies for conserving and enhancing the natural environment.

This is with particular reference to Paragraph 170 which requires planning policies and decisions to contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

The proposals could comply with paragraph 172:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

### **MSDC Contaminated Land Officer**

Approve with condition.

### **WSCC Highways**

Given the very small scale of the proposal and availability of turning space on the site, the highway authority has no objection to the application.

### **PARISH COUNCIL OBSERVATIONS**

The Parish Council does not support this planning application. We still question the need for this unit as the Natural Burial Ground is still not in operation, has no buildings and no sign of work commencing despite permission being granted in September 2015. The need for this unit in relation to a small-scale, low intensity use of the site has not yet been demonstrated and it appears to us that it is not necessary for the running of the business.

We are pleased to note that our previous comments and those of MSDC and the Inspector have been taken into account with the re-siting of this building and the reduction in size. However, we feel that the unit is still too big being 10m x 10m, 3m in height and 4.95m to the roof ridge. Are two or three large vehicles really required for cutting grass and hedges or for providing graves? With three employees this does not seem necessary.

The original application for the Natural Burial Ground said that it was designed to be left with just mown paths with no formal pathways, so that visitors can experience the woodland as a natural environment.

We are concerned about the access for any large machinery as, unless the applicant intends to leave the unit and surrounding area unscreened, it appears that machines would have no access to the grounds. The plans submitted are not clear in this respect and it appears that visitors moving to the chapel would have a very open view of the unit. Should the roller door be on a different side of the building to avoid conflict with visitors and maintain separation?

If permission is granted then the area must be well screened from visitors and noise levels contained to a minimum, especially during any services. In addition, we would want to see a condition placed on the building to ensure it is only used for the storage and maintenance of operational vehicles relevant to the Natural Burial Ground.

The applicants comment on THP12 and the requirement for three-dimensional visualisations. They state that they consider this relates to residential developments in Turners Hill and not functional and operational commercial buildings. This is not the case and plans showing the visual perspective should be provided in accordance with this policy. They may actually assist in the understanding of the impact of all the buildings on this site.

We also note that this application is contrary to DP12, DP17 and DP26.

## **LETTERS OF REPRESENTATIONS**

Petition from 48 signatories objecting to the application to scar this Turners Hill area of outstanding natural beauty and to tarmac the strawberry field for parking spaces. These applications would still ruin views in an area of outstanding natural beauty and still be outside the approved Turners Hill village plan. Access is still a traffic hazard.

2 letters of objection: Reasons set out above.

1 letter of support: The site is implemented and is a community asset. It is not AONB. It is non-agricultural land.

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## **INTRODUCTION**

Outline planning permission is sought for the construction of a barn/workshop for the storage and maintenance of operational vehicles. The application seeks approval for the access, appearance, layout and scale. Landscaping would be reserved for future consideration.

The application has been referred to committee for determination by officers given the planning history of this site, in line with the council's Constitution.

## **RELEVANT PLANNING HISTORY**

A hedgerow application for the removal of the frontage hedgerow was refused on 12 May 2014 (14/01227/HEDGE) and a prior notification application for the erection of a proposed agricultural building on a field parcel to the north of that which adjoins the highway was refused in May 2014.

Full planning permission was refused on 23 May 2014 for the construction of a new access to two field parcels on the site, including removal of a boundary hedgerow and replanting of a replacement boundary hedgerow (14/01226/FUL). The reason for refusal stated:

*"In the opinion of the Local Planning Authority, the proposed access is considered to be too large for the intended use of the land such that it would have an unacceptably harmful impact on the rural character of the area, contrary to paragraphs 7, 14, 17, 56 and 58 of the National Planning Policy Framework and policies C1 and C10 of the Mid Sussex Local Plan."*

An appeal was lodged against this decision and dismissed in September 2014.

In September 2015, planning permission was granted for a change of use of the land to a natural burial ground and the erection of a reception building with associated access, parking and landscaping (DM/15/1035). This permission has been lawfully implemented.

In August 2016, outline planning permission was refused for the development of 22 affordable dwellings with new footway and means of access (DM/16/1887). The reasons for refusal were as follows:

- 1. The proposed development lies within a relatively isolated and unsustainable rural location and would be unacceptable in principle, as the extent of the built form would result in harm to the rural character of the area and setting of the High Weald Area of Outstanding Natural Beauty, which would not be contiguous with the built-up area boundary of the village and the existing scattered settlement pattern of housing in the immediate vicinity. Future residents would be more dependent upon the car to access day-to-day services as the footpath link to the village would be largely unlit and consequently unsafe. The proposed development would therefore be socially and environmentally unsustainable and these adverse impacts would significantly and demonstrably outweigh the benefits (in terms of helping to meet a District-wide need for housing, including provision of affordable housing, and economic benefits through the construction phase and spending in the local area from future residents). Moreover, the site is not allocated for housing in the 'made' Turners Hill Neighbourhood Plan. Accordingly the application would conflict with Policies C1, C4, B1 and T4 of the Mid Sussex Local Plan, Policy THP8 of the 'made' Turners Hill Neighbourhood Plan, Policies DP10, DP14, DP19 and DP24 of the draft Mid Sussex District Plan and paragraphs 7, 8, 14, 17, 29, 35, 115 and 198 of the National Planning Policy Framework.*
- 2. The proposal does not adequately mitigate the potential impact on the Ashdown Forest SPA and SAC and therefore would be contrary to the Conservation of Habitats and Species Regulations 2010, Policy C5 of the Mid Sussex Local Plan, Policy DP15 of the draft Mid Sussex District Plan and paragraph 118 of the National Planning Policy Framework.*
- 3. The application fails to comply with Policies G3 and H4 of the Mid Sussex Local Plan, Policy THP19 of the 'made' Turners Hill Neighbourhood Plan, Policies DP18 and DP29 of the draft Mid Sussex District Plan and paragraphs 203 and 204 of the National Planning Policy Framework in respect of the infrastructure and affordable housing required to serve the development.*

An appeal was lodged against this decision and dismissed in June 2017.

In June 2017, planning permission was refused for the construction of a new chapel building with associated landscaping within the approved burial ground and enlarged car parking area for 37 cars (DM/17/1167). The reason for refusal was as follows:

1. *The scale and design of the proposed chapel building and the extent of the hard standing car park would have an adverse impact on the landscape, contrary to Policies C1 and B1 of the Mid Sussex Local Plan, Policy THP8 of the Turners Hill Neighbourhood Plan and Policy DP24 of the draft Mid Sussex District Plan.*

An appeal was lodged against this decision and allowed in December 2017. This has not been implemented.

In May 2018, full planning permission was granted for the re-siting of the consented chapel building with excavation and construction of new basement, internal site access road and associated landscaping (DM/18/0677). This has not been implemented.

In September 2018, outline planning permission was refused for the construction of a new barn/workshop, hard standing area, internal site access road and footway, crossing to an existing public right of way and associated works - on the northern field (DM/18/2675). The reasons for refusal were as follows:

1. *The proposed development lies in a Countryside Area of Development Restraint, where planning policies seek to protect the countryside for its own sake by minimising the amount of land taken for development and preventing development that does not need to be there. The proposed access would have an urbanising effect on the rural character of the area and the proposed scale of the building (and its siting within the tightly-drawn red-lined area) would be harmful to the landscape quality of the area, particularly in views from the public right of way. The need for this building in relation to the small-scale, low intensity lawful use of the site has not been demonstrated, and neither has its siting at some distance from the previously approved cluster of buildings and car parking areas. As such, the proposal would not comply with Policies DP12, DP25 and DP26 of the Mid Sussex District Plan, Policy THP8 and THP13 of the Turners Hill Neighbourhood Plan and paragraphs 11, 12, 130 and 170 of the NPPF.*
2. *Insufficient information has been submitted to justify the loss of good quality trees that the proposed development would entail, so the application would be contrary to Policy DP37 of the Mid Sussex District Plan.*

An appeal was lodged against this decision and dismissed in April 2019.

In February 2019, planning permission was granted for a staff car park comprising 8 car parking spaces (DM/18/5092). This has not been implemented.

A planning application was submitted alongside this one for the re-siting and construction of a staff car parking area comprising 8 car parking spaces (DM/19/5107). This was approved on 14 February 2020.

## **SITE AND SURROUNDINGS**

The site consists of a sunken parcel of land sited between an approved chapel building and to the north of an approved reception building and car parking area for a natural burial ground, none of which is operational.

The wider site lies immediately adjacent to an access to Tulleys Farm to the west, and is located just beyond the village church to the south-east. Turners Hill Road is a 60mph road of rural character, bounded by hedging on both sides, which connects the village of Turners Hill with Crawley some 2 miles or so to the west. Running along the western and north-western boundaries and splitting the two fields is a public right of way, which leads to an ancient woodland (Butchers Wood) to the east. Land to the south on the opposite side of Turners Hill Road consists of fields within the High Weald Area of Outstanding Natural Beauty.

## **APPLICATION DETAILS**

Outline planning permission is sought for the construction of a barn/workshop for the storage and maintenance of operational vehicles. The application seeks approval for the access, appearance, layout and scale. Landscaping would be reserved for future consideration.

In detail, the barn would be sited in the location of the previously approved chapel building (DM/17/1167) and the subsequently approved staff car park (DM/18/5092) - i.e. between the consented reception building and the re-positioned chapel building.

The building would measure 10m x 10m x 4.95m in height at its maximum. Materials would be concrete blockwork with timber cladding above for the elevations and a composite metal dual pitched roof. There would be a shutter door up to 3m in height on the eastern elevation.

## **POLICY CONTEXT**

### **Mid Sussex District Plan (Mar 2018)**

The Mid Sussex District Plan 2014-2031 was adopted by Full Council on 28 March 2018. Relevant policies include:

Policy DP1: Sustainable Economic Development

Policy DP12: Protection and Enhancement of Countryside

Policy DP14: Sustainable Rural Development and the Rural Economy

Policy DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)

Policy DP21: Transport

Policy DP25: Community Facilities and Local Services

Policy DP26: Character and Design

Policy DP38: Biodiversity



## **Turners Hill Neighbourhood Plan (Mar 2016)**

Mid Sussex District Council formally 'made' the Turners Hill Neighbourhood Plan part of the Local Development Plan for the Parish of Turners Hill as of 24 March 2016. The policies contained therein carry full weight as part of the Development Plan for planning decisions within Turners Hill.

Relevant policies include:

Policy THP8: Countryside Protection  
Policy THP12: Visual Perspective  
Policy THP13: Business Development

## **National Policy and Other Documents**

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

The National Planning Policy Framework (NPPF) 2019 is also a material consideration and paragraphs 8 (overarching objectives), 11 (presumption in favour of sustainable development), 12 (status of development plan), 38 (decision-making), 47 (determining applications), 54 and 55 (use of conditions), 80 (building a strong, competitive economy), 83 and 84 (supporting a prosperous rural economy), 108 and 109 (highways matters), 124 and 127 (design), 148 (transition to low carbon future), 153 and 154 (sustainability), 170 (enhancing the natural and local environment), 175 (biodiversity and ancient woodland), 177 (habitats sites), 178 and 179 (land contamination) and 180 (noise and light pollution) are considered to be relevant to this application.

## **Planning Practice Guidance**

### **ASSESSMENT**

The main issues for consideration are:

- The principle of development and the design and visual impact on the character of the area;
- Highways matters;
- Land contamination;
- Biodiversity;
- Habitats Regulations;
- Other matters; and
- Planning Balance and Conclusion

### **Principle of development and design and visual impact on the rural character of the area**

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:*

- *The provisions of the development plan, so far as material to application,*
- *Any local finance considerations, so far as material to the application, and*
- *Any other material considerations.'*

Section 38(6) of the 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 in Mid Sussex consists of the Mid Sussex District Plan (2018) together with the Turners Hill Neighbourhood Plan.

Policy DP12 of the Mid Sussex District Plan states (in part):

*'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.'*

The supporting text sets out the following:

*'The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there. At the same time, it seeks to enhance the countryside, support the rural economy by accommodating well-designed, appropriate new forms of development and changes in land use where a countryside location is required and where it does not adversely affect the rural environment. It is therefore necessary that all development in the countryside, defined as the area outside of built up area boundaries, must seek to maintain or enhance the intrinsic beauty and tranquillity of the countryside.'*

Policy DP25 of the District Plan relates to Community Facilities and Local Services and states (in part):

*"The provision or improvement of community facilities and local services that contribute to creating sustainable communities will be supported."*

Policy DP26 of the District Plan 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."*

Policy THP8 of the Neighbourhood Plan states:

*"Outside the Built up Area Boundary (which is shown on the proposals map on page 24), priority will be given to protecting and enhancing the countryside from inappropriate development. A proposal for development will only be permitted where:*

- a. *It is allocated for development in Policy THP1 or would be in accordance with Policies THP7 and THP14 of this Plan or other relevant planning policies applying to the area; and:*
- b. *It must not have a detrimental impact on, and would enhance, areas of substantial landscape value or sensitivity, and*
- c. *It must not have an adverse impact on the landscape setting of Turners Hill and*
- d. *It must maintain the distinctive views of the surrounding countryside from public vantage points within, and adjacent to, the built up area; and*
- e. *Within the High Weald Area of Outstanding Natural Beauty it must conserve and enhance the natural beauty and would have regard to the High Weald AONB Management Plan.*
- f. *It is essential to meet specific necessary utility infrastructure needs and no alternative feasible site is available.*

*Our Strategic Gaps are identified in MSDC Local Plan policy C2 and the High Weald Area of Outstanding Natural Beauty by Local Plan policy C4.*

*Policies in the emerging District Plan will provide protection and enhancement in relation to trees, woodland and hedgerows as well as biodiversity."*

Policy THP13 of the Neighbourhood Plan referring to Business Development states:

*"The conversion of existing buildings and the small-scale expansion of existing employment premises across the parish will be supported. Development of this nature must meet all the following criteria:*

- *Respect the character of the area;*
- *Not harm the surrounding landscape; and*
- *Safeguard residential amenity and road safety."*

It is clear that the thrust of these policies is consistent with the NPPF in respect of protecting the intrinsic character of the countryside. Importantly, in considering the appeal for the previously refused workshop under ref: DM/18/2675, the Inspector confirmed at paragraph 19:

'... I am in no doubt that the burial ground requires secure covered storage, including for maintenance vehicles ...'

The applicant has responded to this by proposing this building 'to provide for the storage and maintenance of two or three operational vehicles (depending on their individual size) and ancillary equipment for the management of the Natural Burial Ground.' (as set out in the covering letter from the applicant's agent).

The location of the building has been re-positioned from the previously proposed area in the northern field to one between two consented buildings and car parking areas. As such, the visual harm would be much reduced from the previous scheme. Additionally, the scale of the building has been reduced from 30m in length to 10m (with the same depth and virtually similar height).

The need for this building is therefore deemed acceptable and the siting and scale also acceptable. The building is utilitarian in design and the council's Landscape consultant and planning officer suggested that the building could be improved as per the advice set out in Appendix B. Whilst the applicant has agreed that a grey colour can be used for the roof and the steel door, it is considered that the remainder of the walls can be faced with timber boarding as per the upper levels, rather than the exposed concrete blockwork. This would ensure that the building could blend in better with the more naturalistic materials used in the consented reception building and consented chapel building. As this could be secured by means of condition of any permission, it is considered that the appearance of the building would be acceptable. The access would remain as per the existing access. Given the above, it is considered that the above policies would be met by this proposal.

## Highways matters

Policy DP21 of the Mid Sussex District Plan states (in part):

*'... Decisions on development proposals will take account of whether:*

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

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

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

The Highway Authority has commented that due to the small scale of the proposal and availability of turning space on site, no objection is raised to the application. As such, it is considered that the scheme would comply with Policy DP21 of the Mid Sussex District Plan.

## **Land contamination**

The NPPF Glossary defines Site Investigation Information as:

*'Includes a risk assessment of land potentially affected by contamination, or ground stability and slope stability reports, as appropriate. All investigations of land potentially affected by contamination should be carried out in accordance with established procedures (such as BS10175 (2001) Code of Practice for the Investigation of Potentially Contaminated Sites). The minimum information that should be provided by an applicant is the report of a desk study and site reconnaissance.'*

Following submission of a Preliminary Risk Assessment, the Council's Contaminated Land Officer considered the proposal and originally requested a condition be applied to any permission, in the event that any further contamination not identified was discovered. The applicant did not agree that this condition would be necessary or reasonable, so the CLO made the following comments:

*'In terms of the condition recommended, I would note their own reports recommends such an approach is undertaken, and this is stated in section 7.2, page 22:*

*Whilst the investigations undertaken to date have provided a robust assessment of potential contamination across the site, there is a residual risk, albeit very small, of contamination being present in small discrete areas (hot spots) and there can be no certainty that such areas have been located and/or sampled. As such, a discovery strategy should be implemented by all those involved with development at the site, including the main contractor and sub-contractors, and particularly those involved in ground works (e.g. groundwork contractor, gravediggers etc.).*

*This a common approach for any potentially contaminated site. While samples have been taken at targeted locations, there is always a risk, however small that there may be hot spots of contamination that were missed, as they may fall between the targeted samples sites.*

*If they find no unexpected contamination during the ground works, then the suggested condition can be signed of with a letter at that stage.'*

and

*'Further to the below, and our discussion, I agree to the suggested contaminated land discovery condition not being attached.*

*However I would like to make it clear, the developer is still responsible under section 78F of The Environmental Protection Act 1990 Part 2A for ensuring that no substances excavated that would cause the land to be considered contaminated are permitted to stay in, on or under the land. As such, given the recommendations in their own report, I would strongly recommend the developer still follows a discovery strategy despite it not being conditioned.*

*As below, a discovery strategy is a common approach for any potentially contaminated site. While samples have been taken at targeted locations, there is always a risk, however small, that there may be hot spots of contamination that were missed, as they may fall between the targeted sample locations.*

*I would also like to make it clear that if we receive queries about the land under The Environmental Information Regulations 2004 in the future, that we will have to disclose that the applicants contaminated land consultant's advice was that the land be developed with a discovery strategy in place, but the outcome of that discovery strategy was not reported to us.'*

Accordingly the above requirements would be met.

## **Biodiversity**

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the Mid Sussex District Plan states:

*'Biodiversity will be protected and enhanced by ensuring development:*

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation*

*measures (or compensation measures in exceptional circumstances); and*

- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- *Promotes the restoration, management and expansion of priority habitats in the District; and*
- *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

*Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.*

*Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution.*

*Geodiversity will be protected by ensuring development prevents harm to geological conservation interests, and where possible, enhances such interests. Geological conservation interests include Regionally Important Geological and Geomorphological Sites.'*

Chapter 15 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value by minimising impacts on and providing net gains for biodiversity. In particular, paragraph 175 states:

*'When determining planning applications, local planning authorities should apply the following principles:*

- *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should*



- be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

As before, an Extended Phase 1 Habitat Survey, Great Crested Newt Survey and Reptile Survey have been submitted in support of the application and the council's Ecological consultant previously raised no objection to the proposed development. Subject to compliance with a suitably worded condition, it is considered that the proposal would comply with Policy DP38 of the Mid Sussex District Plan, Chapter 15 of the NPPF (including paragraph 175) and the legislation outlined above.

### **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.

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

### Conclusion of the Habitats Regulations Assessment screening report

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

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

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

### **Other matters**

All the other issues raised during the consultation period have been taken into account and these other issues are either considered not to warrant a refusal of permission, are items that could be dealt with effectively by planning conditions or other legislation or are not even material planning considerations.

### **PLANNING BALANCE AND CONCLUSION**

Planning legislation requires the application to be determined in accordance with the Development Plan unless material considerations 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.

National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The need for this building for secure covered storage was identified by the most recent appeal Inspector. The location of the building has been changed and the

scale significantly reduced from the previous scheme. It is considered that the siting is acceptable, due to being between two previously consented buildings, rather than isolated in the landscape. It is considered that the scale of the building is reasonable for the purposes to which the building will be put and would not be harmful to the landscape character of the area. Subject to a condition requiring details of the facing materials to be agreed, it is considered that the appearance of the building could blend in more sympathetically with the naturalistic materials used on the consented buildings adjoining it. The means of access remains as it is and the Highway Authority raise no objection to the proposal.

Other matters such as biodiversity can be covered by condition. Land contamination has been assessed as not requiring a condition to be applied to any planning permission.

There will be no likely significant effect on the Ashdown Forest SPA and SAC.

For the above reasons, it is considered that the proposal would comply with Policies DP1, DP12, DP14, DP17, DP21, DP25, DP26 and DP38 of the Mid Sussex District Plan, Policies THP8 and THP13 of the Turners Hill Neighbourhood Plan and the provisions of the National Planning Policy Framework. As such, planning permission should be granted.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. Approval of the details of the landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority, prior to the commencement of development on site.

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

The development hereby permitted must be begun either not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.

### **Approved Plans**

2. 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.

### **Pre-commencement conditions**

3. No development shall be carried out until a schedule and/or samples of materials and finishes to be used for the external walls, door and roofs of the proposed

building have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

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

#### **Pre-occupation conditions**

4. No part of the development hereby permitted shall be first occupied until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved details.

Reason: To safeguard the amenities of nearby residents and to safeguard the visual appearance of the area, and to comply with Policy DP26 of the Mid Sussex District Plan.

5. An ecological impact assessment report specific to the reserved matters application, supported by up-to-date ecological survey information and full details of proposed measures for avoiding, mitigating and compensating any biodiversity impacts, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works on site. The approved details shall be implemented in full unless otherwise approved in writing by the local planning authority.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with the NPPF requirements and Policy DP38 of the Mid Sussex District Plan.

6. The building hereby permitted shall be used only for storage and maintenance of vehicles in connection with the specific use of the site as a natural burial ground and for no other purpose whatsoever.

Reason: To safeguard the amenities of nearby residents and to safeguard the visual appearance of the area, and to comply with Policies DP12 and DP26 of the Mid Sussex District Plan.

#### **INFORMATIVES**

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by 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. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £116 will be payable

per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.

### **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	402B		20.12.2019
Proposed Floor and Elevations Plan	401a		20.12.2019

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

The Parish Council does not support this planning application. We still question the need for this unit as the Natural Burial Ground is still not in operation, has no buildings and no sign of work commencing despite permission being granted in September 2015. The need for this unit in relation to a small-scale, low intensity use of the site has not yet been demonstrated and it appears to us that it is not necessary for the running of the business.

We are pleased to note that our previous comments and those of MSDC and the Inspector have been taken into account with the re-siting of this building and the reduction in size. However, we feel that the unit is still too big being 10m x 10m, 3m in height and 4.95m to the roof ridge. Are two or three large vehicles really required for cutting grass and hedges or for providing graves? With three employees this does not seem necessary.

The original application for the Natural Burial Ground said that it was designed to be left with just mown paths with no formal pathways, so that visitors can experience the woodland as a natural environment.

We are concerned about the access for any large machinery as, unless the applicant intends to leave the unit and surrounding area unscreened, it appears that machines would have no access to the grounds. The plans submitted are not clear in this respect and it appears that visitors moving to the chapel would have a very open view of the unit. Should the roller door be on a different side of the building to avoid conflict with visitors and maintain separation?

If permission is granted then the area must be well screened from visitors and noise levels contained to a minimum, especially during any services. In addition, we would want to see a condition placed on the building to ensure it is only used for the storage and maintenance of operational vehicles relevant to the Natural Burial Ground.

The applicants comment on THP12 and the requirement for three-dimensional visualisations. They state that they consider this relates to residential developments in Turners Hill and not functional and operational commercial buildings. This is not the case and plans showing the visual perspective should be provided in accordance with this policy. They may actually assist in the understanding of the impact of all the buildings on this site.

We also note that this application is contrary to DP12, DP17 and DP26.

### **MSDC Consultant Ecologist**

To be reported.

## **MSDC Consultant Landscapes Officer - East Sussex County Council Landscape Architect**

### **Recommend for approval in principle subject to the imposition of conditions**

The proposal could comply with NPPF Section 15 policies for conserving and enhancing the natural environment.

This is with particular reference to Paragraph 170 which requires planning policies and decisions to contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

The proposals could comply with paragraph 172:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

### **Reason for Recommendation**

1. The NPPF Section 15 provides policies for conserving and enhancing the natural environment. Paragraph 170 states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a. protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
- b. recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c. maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d. minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e. preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f. remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'

2. Further to the above, paragraph 172 requires that:

2.1 Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited.

2.2 If permitted the proposed development would need to incorporate suitable landscape mitigation measures to ensure that it would meet the design requirements of the NPPF. This would include appropriate design details for the building as well as external hard works and planting.

2.3 The site is not within the High Weald AONB however it is immediately adjacent to the boundary which is Turners Hill Road.

2.4 The proposed development is supported by an update to the Landscape Statement (HLA Dec.19) which states that on completion the proposal would have a moderate adverse impact on local landscape character and visual amenity. The Landscape Statement concludes that once the existing and proposed mitigating planting has matured that the proposal would have a minor impact on local landscape character and views. The previous application for the chapel development is supported by a landscape masterplan and some planting has already been carried out around the boundaries of the site.

2.5 The application is outline apart from the siting, scale, layout, appearance and materials. The detailed design of the approved chapel building has been carefully considered to be in keeping with the rural location. This building is proposed to have the walls and roof clad in Western Red Cedar shingles and sandstone walling from a local quarry for the terrace retaining wall. The doors and windows are to be slate grey powder coated aluminium. By contrast the new storage barn would be of utilitarian design with exposed concrete blocks, a pitched metal roof and steel shutter door. This would appear industrial and urban by comparison with the chapel building. The approved visitor building is to be faced with stained timber cladding. The detailed design of the maintenance building needs to be in keeping with the other permitted development on the site. It is recommended that all of the exposed blockwork walls are timber clad and stained to match the other approved timber building finishes. A flat roof would be less intrusive and would reduce the overall height of the building and a green meadow roof would be the most sustainable solution both visually and for wildlife enhancement. If a metal roof is deemed to be acceptable then careful consideration needs to be given to the colour finish of the metal roof and shutter door so that they tie in with the grey detailing proposed for the chapel building.

2.6 The landscape mitigation proposals would need to have regard for the landscape masterplan strategy (Lizard Landscape drawing LLD1117/01) which was submitted to support the planning application for the chapel. This masterplan would need to be updated as the proposed maintenance building and extended car park would be situated where new tree planting is indicated on the landscape masterplan. These trees would be important for integrating the proposed buildings into the local landscape and it is recommended that a revised masterplan is required to support the proposed development.

2.7 Should the planning authority be minded to permit the development it is recommended that the following are required as conditions:

- a. Revisions to the proposed building design as suggested above
- b. An updated landscape masterplan

- c. A long term management plan for the successful establishment and care of the landscaped areas.

2.8 It is recommended that the application can be supported subject to consideration of the detailed mitigation measures outlined above.

### **MSDC Contaminated Land Officer**

The Preliminary Risk Assessment by Terragen has been assessed. Given the findings of this report it is agreed that no further investigation of the site is required at this time.

It is agreed however that it is appropriate to apply a contaminated land discovery strategy for this development just in case otherwise unsuspected contamination is found during the development of the site.

Recommendation: Approve with conditions

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

### **WSCC Highways**

The following quotations are taken from the covering letter and planning statement for the proposed use:

"The barn/workshop are laid out to fit within (and to the side of) the proposed resited Chapel building and to the north of the Reception Building. The barn/workshop would be sited broadly on the footprint of the Chapel building ... and in place of the approved additional staff car parking area... (for which a separate application is being submitted for the relocation of the parking elsewhere within the Burial Ground site)."

"The external area to the new barn/workshop will be laid out with a small area of hard standing and a vehicle access as shown on the proposed plans to facilitate vehicle movements and any necessary loading/unloading of operational vehicles."

"No change or alteration to the existing access/egress arrangements to the public highway for the Burial Ground are proposed."

"No changes are proposed to the consented quantum of visitor parking for this scheme. Cycle parking and waste /recycling storage as provided in accordance with the existing consented Natural Burial Ground permission and the consented Chapel scheme and no additional provision is proposed."

"The total internal floor area would be 92 square metres (GIA) (100 square metres GEA)."



Given the very small scale of the proposal and availability of turning space on the site, the highway authority has no objection to the application.