

MID SUSSEX DISTRICT COUNCIL

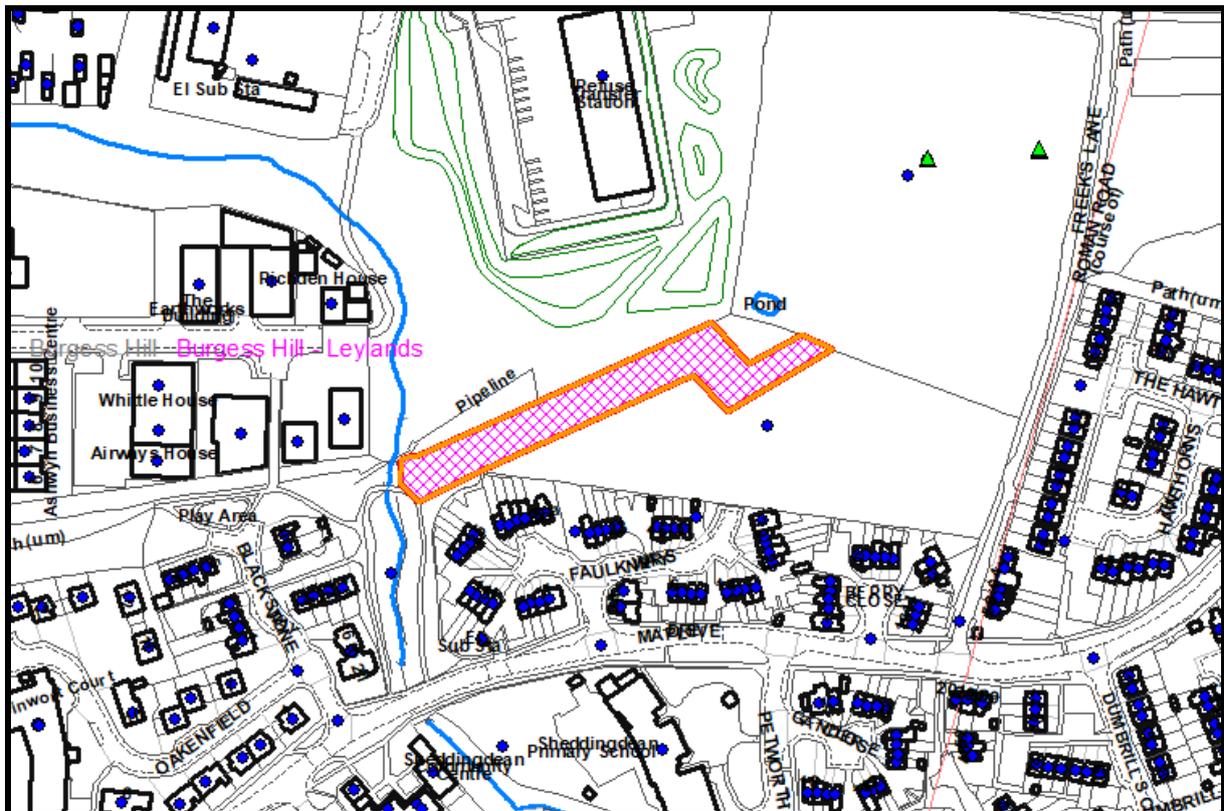
Planning Committee

12 NOV 2020

RECOMMENDED FOR PERMISSION

Burgess Hill

DM/20/2899



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**LAND TO THE WEST OF FREEKS LANE FREEKS LANE BURGESS HILL
WEST SUSSEX
INSTALLATION OF A SURFACE WATER DRAINAGE PIPE TO SUPPORT
SUDS, FEATURES APPROVED UNDER APPLICATION DM/19/3845
COUNTRYSIDE PROPERTIES**

POLICY: Area of Special Control of Adverts / Built Up Areas / District Plan Policy / Methane Gas Safeguarding / Planning Agreement / Planning Obligation / Public Right Of Way / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) / Trees subject to a planning condition / Minerals Local Plan Safeguarding (WSSC) / Waste Local Plan Site (WSSC) /

ODPM CODE: Minor Other

8 WEEK DATE: 30th September 2020

WARD MEMBERS: Cllr Simon Hicks / Cllr Anne Eves /

CASE OFFICER: Stuart Malcolm

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

This application seeks full planning permission for the installation of a surface water drainage pipe to support SUDS features approved under the Freeks Farm development (DM/19/3845).

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.

This application is before the Committee because the development is on land that is owned by the Council.

The proposal is acceptable in principle and will help to facilitate the development at Freeks Farm that itself forms part of the strategic allocation of development to the north and northwest of Burgess Hill. There is no objection to the loss of the trees identified for removal whilst the wider visual impact of the proposal is minimal as the verdant backdrop to the PROW and field will remain a defining characteristic. A landscaping condition will ensure the land is suitably restored.

The proposal accords with the Council's biodiversity policy requirements in respect of the ecological effects of the development although additional protection and mitigation measures will be secured through condition.

There are no technical reasons to object to the scheme in respect of water resources, flood risk and drainage whilst the proposal will not cause significant harm to residential amenity.

The application is deemed to comply with Policies DP6, DP22, DP26, DP37, DP38 and DP41 of the Mid Sussex District Plan, Policies LR1, G3 and G6 of the Burgess Hill Neighbourhood Plan and the NPPF

The application is therefore recommended for approval, subject to the conditions listed in Appendix A.

RECOMMENDATION

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

SUMMARY OF REPRESENTATIONS

No representations have been made

SUMMARY OF CONSULTEES

MSDC Drainage: No objection subject to condition

MSDC Trees: No objection subject to condition

MSDC Ecological Consultant: No objection subject to condition

WSCC Lead Local Flood Authority: No objection

WSCC Public Rights of Way: No objection

BURGESS HILL TOWN COUNCIL COMMENTS

Recommend Approval: The loss of trees and undergrowth was regrettable, the Committee requested that the developer should commit to a replanting scheme.

INTRODUCTION

This application seeks full planning permission for an underground surface water drainage pipe that will connect from the Freeks Farm development to the north and discharge into an unnamed watercourse to the west. As noted in the Executive Summary, the application is before the committee because it is on land that is owned by the District Council.

RELEVANT PLANNING HISTORY

Relevant history near application site

DM/18/0509 - Residential development comprising up to 460 dwellings, public open space, recreation areas, play areas, associated infrastructure including roads, surface water attenuation and associated demolition (outline application with all matters reserved except for principal means of access from Maple Drive) at Land to the west of Freeks Lane - Approved 24.07.2019

DM/19/3845 - Approval of reserved Matters pursuant to Condition 1 of DM/18/0509 for the erection of 460 dwellings, including public open space, play areas, associated infrastructure including roads, surface water attenuation and associated demolition - Approved 19.12.2019

DM/19/4506 - Discharge of planning condition number 4 (drainage) relating to planning application DM/18/0509 - Approved 27.03.2020

SITE AND SURROUNDINGS

The site is approximately 0.2 hectares in size, located on the northern side of Burgess Hill and is owned by the Council. The application site follows the north western boundary line of an open field and includes some of the trees and hedging that form this boundary. The field extends to the south, where it borders the back gardens of a number of properties off Faulkners Way and the east, where it adjoins Freeks Lane. To the north west, the woodland extends into the refuse transfer station site and to the north east is where the Freeks Farm development (DM/18/0509 and DM/19/3845) is located. A public footpath, BH41, runs across the field in a west/east direction before turning in a south west direction at the west of the site as it leads to the watercourse

In terms of planning policy, the site is not within the area of land allocated for strategic development to the north and west of Burgess Hill under Policy DP9 in the District Plan (DP) but is however within the defined built up area boundary.

The site also lies wholly within the boundary of the Burgess Hill Neighbourhood Plan area (BHNP). The site falls within the land subject to Policy LR1 (improved recreational facilities and new community/sports hall at leylands park) where the land has been identified for *"up to 20 self build units."*

APPLICATION DETAILS

The proposal is for an underground surface water drainage pipe that will connect from the Freeks Farm development to the north and discharge into an unnamed watercourse to the west of the application site.

This will involve taking water from a SUDS feature at the southern end of the Freeks Farm development, through the underground pipe subject to this application, before

it connects to the existing watercourse. To construct and install the proposed pipe a 1.5 metre construction zone either side of the pipe will be required. The proposal is in accordance with the drainage details that have been approved for the Freeks Farm development under discharge of condition but the pipe installation needs planning consent in its own right.

DEVELOPMENT PLAN

Mid Sussex District Plan 2014-2031 (2018) (District Plan)

The District Plan was adopted on 28th March 2018. The relevant policies are considered to be consistent with the NPPF 2019 and should be afforded full weight. The relevant Policies are:

- DP6 Settlement Hierarchy
- DP22 Rights of Way and other Recreational Routes
- DP26 Character and Design
- DP37 Trees, Woodland and Hedgerows
- DP38 Biodiversity
- DP41 Flood Risk and Drainage

Burgess Hill Neighbourhood Plan

As noted in the site and surroundings section, the site is within the Burgess Hill Neighbourhood Plan area.

The Burgess Hill Neighbourhood Plan has been 'made' and therefore forms part of the development plan. Relevant policies of the Burgess Hill Neighbourhood Plan for the proposal are:

- LR1 Improved Recreational Facilities And New Community/Sports Hall At Leylands Park
- G3 Nature Conservation and Biodiversity
- G6 Footpaths, Rights of Way and Cycle Links

National Planning Policy Framework (NPPF) (February 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 role, a social role and an environmental role. 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 (NPPG)

ASSESSMENT

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

- Principle of Development
- Visual Impact and trees
- Ecology & Biodiversity
- Water Resources, Flood Risk & Drainage
- Impact on the Public Right of Way
- Other Issues
- Planning Balance and Conclusion

Principle of Development

In respect of the principle of development, the site is located within the built up area of Burgess Hill. Policy DP6 states that "*development will be permitted within towns and villages with defined built-up area boundaries.*" Furthermore, the proposal will help to support the strategic development, identified under policies DP7 and DP9 of the District Plan, that benefit from the planning permissions outlined in the earlier section of the report (DM/18/0509 and DM/19/3845).

In addition, the pipe will be able to be utilised by the self-build scheme, as identified by Policy LR1 of the Burgess Hill Neighbourhood Plan, if this comes forward for development in the future. It is therefore a material planning consideration that this proposal could help facilitate development that is identified in the Development Plan.

In light of the above points, it is evident that the principle of the proposal is acceptable.

Visual Impact and Trees

Policy DP26 states that:

"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 DP37 of the District Plan refers specifically to trees and states that:

"The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected. Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted. Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose. Trees, woodland and hedgerows will be protected and enhanced by ensuring development:

- *incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme; and*
- *prevents damage to root systems and takes account of expected future growth; and*
- *where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management; and*
- *has appropriate protection measures throughout the development process; and*
- *takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change; and*
- *does not sever ecological corridors created by these assets.*

The felling of protected trees will only be permitted if there is no appropriate alternative. Where a protected tree or group of trees is felled, a replacement tree or group of trees, on a minimum of a 1:1 basis and of an appropriate size and type, will normally be required. The replanting should take place as close to the felled tree or trees as possible having regard to the proximity of adjacent properties. Development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary."

Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by, inter alia, *"recognising the intrinsic character and beauty of the countryside."*

The main issue in this case is the visual impact of the development as a result of the loss of some of the trees and hedging along the north western boundary of the site.

The applicant's submissions indicate the following with regards to the vegetation removal:

- 15 individual trees all of Category C value (includes 2 field maples, 2 oaks, 4 hawthorns, 3 hazels, 1 cherry and 2 blackthorn and 1 dead specimen)
- 1 group of Category C value (blackthorn)

The Council's Tree Officer has been consulted on the merits of the application and has commented that:

"It has been noted that in order to allow the proposed drainage works that a number of native trees are to be removed along the northwest boundary of the field. These trees however have been categorised as C category trees in accordance with British Standards and category C trees should not act as a constraint on the proposed developments. Accordingly I do not object to the proposed Water Drain Link provided the above arboricultural report is adhered to, particularly with regard to the protection of the trees that are to be retained."

No objection is therefore raised to the loss of any specific specimens. It is also reasonable to conclude that given the woodland beyond the site boundary is not

affected by this proposal, the views from the PROW and in the field will remain as it is currently with the backdrop of trees and vegetation along the north western side. The wider visual impact of the proposal is therefore minimal as the verdant backdrop to the PROW and field will remain a defining characteristic. A landscaping condition will be used to ensure the land is restored to an acceptable standard, along with any necessary planting, post installation of the pipe. This addresses the town council request but it is also relevant to confirm here that on the Freeks Farm site itself re-planting will be carried out on a 2 for 1 basis.

To conclude this section, the visual impact and the effects on the trees and vegetation is considered acceptable. The application therefore complies with Policies DP26 and DP37 of the District Plan and the NPPF.

Ecology & Biodiversity

Policy DP38 of the 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."

Policy G3 (Nature Conservation and Biodiversity) of the Burgess Hill Neighbourhood Plan states that the Town Council will seek appropriate improvements to the habitat network in development proposals wherever possible.

At national level, the NPPF states in part at paragraph 170 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;.....

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;....."

Paragraph 175 is also relevant to the determination of planning applications with this stating that:

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

a) 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;

b) 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;

c) 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

d) 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."

It is important to highlight that the proposal does not result in the loss of any ancient woodland, areas of which are found well outside of the application site but not within it or adjacent to it.

In support of the application, the applicant has submitted an 'Ecology Impact Assessment Report' that is available to view in full on the planning file. This sets out an assessment of the existing site conditions, mitigation and recommendations.

The Council's ecological advisor has commented on the submissions and originally requested the applicant provide further information on the impact of the development on the woodland area along the north west boundary of the site. The applicant subsequently provided an 'Ecology Note' on the 12th October which is available in full on the planning file. This Note concludes that the biodiversity benefits secured under the Freeks Farm development will off-set the loss of 0.017ha of relatively species-poor broadleaved woodland. The Council's Ecological Advisor has commented on the submissions as set out in full within Appendix B but concludes:

"Whilst I would still consider the information provided to be a bit limited, based on what has been supplied in conjunction with my own investigations, I am persuaded that at least woodland flora within the strip of land is likely to recover to current conditions within a relatively short period of time and that, subject to careful protection of the trees and rest of the woodland adjacent to pipeline run, there should be no significant harm to the remaining woodland."

The ecological advisor has questioned the route of the pipe within the field but planning officers consider, as the site is allocated for a self-build scheme, the pipe location will provide less of a constraint to future development with it being as close to the boundary as possible.

The ecological advisor has confirmed that no objections are raised to the application subject to details of a protection plan and method statement setting out measures to be taken to mitigate harm to biodiversity being secured by condition. This condition is duly set out in Appendix A.

The application is therefore considered to be in accordance with Policies DP38 of the District Plan, Policy G3 of the Burgess Hill Neighbourhood Plan and the NPPF.

Impact on the Public Right of Way

Policy DP22 of the District Plan states:

"Rights of way, Sustrans national cycle routes and recreational routes will be protected by ensuring development does not result in the loss of or does not adversely affect a right of way or other recreational routes unless a new route is provided which is of at least an equivalent value and which does not sever important routes.

Access to the countryside will be encouraged by:

- *Ensuring that (where appropriate) development provides safe and convenient links to rights of way and other recreational routes;*
- *Supporting the provision of additional routes within and between settlements that contribute to providing a joined up network of routes where possible;*

- *Where appropriate, encouraging making new or existing rights of way multi-functional to allow for benefits for a range of users. (Note: 'multi-functional will generally mean able to be used by walkers, cyclists and horse-riders).'*

Policy G6 (footpaths, rights of way and cycle links) of the Burgess Hill Neighbourhood Plan states that:

"All existing footpaths, public rights of way and cycleways within Burgess Hill will be retained and maintained by the appropriate authorities and owners."

The proposed pipe location will have an impact on the existing line of the public footpath that runs through the site but this will be temporary during the construction period. The applicant has confirmed that they will put in place a temporary diversion during the construction works, but once complete the footpath can remain in its current location.

The Public Rights of Way team at West Sussex County Council has been consulted on the application and raises no objections to the proposal. To undertake this work the applicant must apply for a closure of this public footpath to West Sussex. One of the requirements for WSCC will be that upon completion of the works the surface must be reinstated to the same standard or better than what existed prior to the construction works taking place. An informative will be used to direct the applicant to their responsibilities about the public footpath as these fall outside the scope of this planning application.

The proposal will not have a long term impact on the existing public right of way and the application therefore complies with Policy DP22 of the District Plan and Policy G6 of the Burgess Hill Neighbourhood Plan.

Water Resources, Flood Risk & Drainage

Policy DP41 of the District Plan states:

"Proposals for development will need to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. The District Council's Strategic Flood Risk Assessment (SFRA) should be used to identify areas at present and future flood risk from a range of sources including fluvial (rivers and streams), surface water (pluvial), groundwater, infrastructure and reservoirs."

Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates."

Sustainable Drainage Systems (SuDS) should be implemented in all new developments of 10 dwellings or more, or equivalent non-residential or mixed development unless demonstrated to be inappropriate, to avoid any increase in flood risk and protect surface and ground water quality. Arrangements for the long term maintenance and management of SuDS should also be identified."

For the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through SuDS following the remediation of any previously contaminated land.

SuDS should be sensitively designed and located to promote improved biodiversity, an enhanced landscape and good quality spaces that improve public amenities in the area, where possible.

The preferred hierarchy of managing surface water drainage from any development is:

- 1. Infiltration Measures*
- 2. Attenuation and discharge to watercourses; and if these cannot be met,*
- 3. Discharge to surface water only sewers.*

Land that is considered to be required for current and future flood management will be safeguarded from development and proposals will have regard to relevant flood risk plans and strategies."

The Council's drainage officer has been consulted on the merits of this application, having been consulted on the outline planning consent as well the discharge of the drainage condition application that accepted the principle of the pipe. The drainage officer has confirmed the following:

"The proposed pipe follows the existing surface water flood flow route that borders the MSDC owned Faulkners Way site. This, in conjunction with the already approved formal surface water drainage scheme of Freeks farm, will see that this flood risk is not exacerbated, and is likely to be improved.

The outfall of this pipe is also subject to an Ordinary Watercourse Consent (OWC) application. An application has been made and formal approval should be arriving from WSCC shortly. MSDC Drainage Engineers have no objection to the granting of OWC here. The MSDC Drainage Engineers have no objection to this proposal; and I suggest the overleaf condition."

The required condition is included in Appendix A.

West Sussex Drainage, in their capacity as the lead local flood authority, raise no objections to the application either.

In light of the above comments, and subject to the suggested condition set out in Appendix A, the proposal is considered to be in accordance with Policy DP41 of the District Plan and the NPPF.

Other Issues

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.

The application will not cause significant harm to neighbouring residential amenity as the permanent works are underground. A condition will however be used to restrict construction times to normal working hours.

Planning Balance and Conclusion

The proposal is acceptable in principle and will help to facilitate the development at Freeks Farm that itself forms part of the strategic allocation of development to the north and northwest of Burgess Hill. There is no objection to the loss of the trees identified for removal whilst the wider visual impact of the proposal is minimal as the verdant backdrop to the PROW and field will remain a defining characteristic. A landscaping condition will ensure the land is suitably restored.

The proposal accords with the Council's biodiversity policy requirements in respect of the ecological effects of the development although additional protection and mitigation measures will be secured through condition.

There are no technical reasons to object to the scheme in respect of water resources, flood risk and drainage whilst the proposal will not cause significant harm to residential amenity.

The application is deemed to comply with policies DP6, DP22, DP26, DP37, DP38 and DP41 of the Mid Sussex District Plan, Policies LR1, G3 and G6 of the Burgess Hill Neighbourhood Plan and the NPPF

The application is therefore recommended for approval, subject to the conditions listed in Appendix A.

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. Prior to the commencement of the development subject of this permission, full details of a soft landscaping scheme shall be submitted to and approved by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. These works shall be carried out as approved. The works shall be carried out in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to accord with Policies DP26 and DP37 of the Mid Sussex District Plan 2014 - 2031

3. The development hereby permitted shall not commence unless and until details of the proposed surface water drainage system have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the system. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

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

4. No development shall commence until a protection plan and method statement setting out measures to be taken to mitigate harm to biodiversity has been submitted to, and approved by, the local planning authority. The approved details shall be implemented in full.

Reason: to prevent loss of, and contribute to a net gain in, biodiversity, in accordance with policies DP37 and DP38 of the Mid Sussex District Plan and 175 of the NPPF.

5. Construction work on the site, including the use of plant and machinery, necessary for implementation of this consent shall, unless otherwise agreed in writing, be limited to the following times:

Monday -Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays No work permitted

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

INFORMATIVES

1. I wish to inform you that the Council has a legal interest in the property which is subject of your planning application, and wish to advise you that this permission does not convey the consent of the Council as owners. You should, therefore, apply separately to Leisure and Property Services if you have not already done so, for a consent or a grant of a right that is necessary to enable the planning permission to be implemented.
2. Your attention is drawn to the comments of the West Sussex County Council Rights of Way Team in respect of your responsibilities concerning the public footpath.
3. 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.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location Plan			05.08.2020
Sections	S00023-C-SE- HB1-045 C1		05.08.2020
Sections	S00023-C-SE- HB1-039 C2		05.08.2020
Sections	S00023-C-SE- HB1-038 C1		05.08.2020
Drainage Details	S00023-L-S- IN4-002		05.08.2020

APPENDIX B – CONSULTATIONS

Parish Consultation

OBSERVATIONS: Recommend Approval

The loss of trees and undergrowth was regrettable, the Committee requested that the developer should commit to a replanting scheme.

MSDC Drainage

This application is for the installation of a surface water drainage pipe that will communicate the formal discharge from Freeks Farm to the watercourse to the south-west. This will be taken through MSDC owned land and is subject to a third-party agreement.

The proposed pipe follows the existing surface water flood flow route that borders the MSDC owned Faulkners Way site. This, in conjunction with the already approved formal surface water drainage scheme of Freeks farm, will see that this flood risk is not exacerbated, and is likely to be improved.

The outfall of this pipe is also subject to an Ordinary Watercourse Consent (OWC) application. An application has been made and formal approval should be arriving from WSCC shortly. MSDC Drainage Engineers have no objection to the granting of OWC here.

The MSDC Drainage Engineers have no objection to this proposal; and I suggest the overleaf condition.

In order to meet with this condition, I will need to receive copies of all the finalised design drawings, details drawings, sections and outfall details. In addition, I will need to see a maintenance and management plan for this particular surface water drainage run. This will need to identify what work is required to keep this system working at its optimum for the lifetime of the development, who will undertake this work and how it will be funded.

CONDITION

The development hereby permitted shall not commence unless and until details of the proposed surface water drainage system have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the system. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

MSDC Trees

I have been out and visited this site previously and have now reviewed the Arboricultural report dated June 2020.

It has been noted that in order to allow the proposed drainage works that a number of native trees are to be removed along the northwest boundary of the field. These trees however have been categorised as C category trees in accordance with British Standards and category C trees should not act as a constraint on the proposed developments.

Accordingly I do not object to the proposed Water Drain Link provided the above arboricultural report is adhered to, particularly with regard to the protection of the trees that are to be retained.

MSDC Ecological Consultant

Further to the additional information presented in the memo from Natalie Morrison of Aecom, I can have the following comments:

With regard to applicable planning policy and whether the woodland should be deemed irreplaceable, it is not a question of whether every woodland of the habitat type lowland broadleaf woodland is irreplaceable but whether the particular woodland in question can effectively be replaced to prevent loss of biodiversity. Whilst the NPPF lists several habitat types that would be considered irreplaceable there is no indication that these are intended to provide anything other than examples. The NPPF defines irreplaceable habitats as: "Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity...". With regard to the issue of time, the User Guide for the Beta version of the Biodiversity Metric 2.0 describes irreplaceable habitats as being those "...that cannot be recreated within a specified time frame (typically, the timescale of the project)". This can only be assessed by thorough expert evaluation of a woodland, not by reference to a published list, and it is reasonable to expect such evaluations to be supported by adequate woodland survey information, hence previous comments about the level of information submitted.

Given the timescales to get this application to committee, I have undertaken some additional investigation using historic mapping and it appears that this area was not under woodland cover in 1969 and has likely developed from an older line of trees. As such it could be considered relatively young woodland.

I note the additional comments that have been made confirming lack of species diversity in the ground flora noted in June (which is within the April-June window suitable for woodland flora surveys) and supports the historic mapping evidence of it being relatively recent

woodland. I also note the comments relayed from the arboricultural consultant about no impacts on trees adjacent to the pipeline path.

Whilst I would still consider the information provided to be a bit limited, based on what has been supplied in conjunction with my own investigations, I am persuaded that at least woodland flora within the strip of land is likely to recover to current conditions within a relatively short period of time and that, subject to careful protection of the trees and rest of the woodland adjacent to pipeline run, there should be no significant harm to the remaining woodland.

The additional information does not really address why the pipeline could not be routed through the grassland of lower biodiversity value to the south, where turf could be lifted and reinstated afterwards (it is within the area surveyed, but perhaps the land is not under the developers control?). The NPPF requires that developers should first seek to avoid impacts before relying on compensation. However, if MSDC is satisfied that this is not a viable option, and decides to grant consent, I would recommend the following condition:

No development shall commence until a protection plan and method statement setting out measures to be taken to mitigate harm to biodiversity has been submitted to, and approved by, the local planning authority. The approved details shall be implemented in full.

Reason: to prevent loss of, and contribute to a net gain in, biodiversity, in accordance with policies DP37 and DP38 of the Mid Sussex District Plan and 175 of the NPPF.

WSSC Lead Local Flood Authority

We have no comments/objection to this application and are happy with [the MSDC Drainage engineer's] response.

WSSC Public Rights of Way

Further to the recent planning application please see PROW Comments from WSSC below.

- The red line boundary crosses public footpath 41BH in Burgess Hill
- The proposed works suggest digging up the surface to install the drainage pipe and this will disturb the existing Public Footpath. To undertake this work the applicant must apply for a closure of this public footpath to WSSC PROW team by following the link below. We would request at least two weeks' notice to undertake this process.

<https://www.westsussex.gov.uk/land-waste-and-housing/public-paths-and-the-countryside/public-rights-of-way/request-a-change-to-a-public-path/temporary-path-closures/>

- Upon completion of the works the surface must be reinstated to the same standard or better than what existed prior to the disturbance. We would strongly recommend that photos are taken prior to the works taking place and after to confirm to WSSC, as Highway Authority, that the reinstatement works have been done to a satisfactory standard. WSSC reserve the right to request remedial works if the reinstatement works are not undertaken to an acceptable standard.
- If a new surface is proposed to the section of the Footpath the specification of this must be agreed with WSSC PROW team prior to works taking place.
- In terms of future maintenance, if the surface requires disturbance again in the future to maintain it consultation with WSSC must be undertaken and most likely a path closure required again.

