

3 August 2021

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Dear Councillor,

A meeting of **PLANNING COMMITTEE** will be held in the **Council Chamber** at these offices on **THURSDAY, 12TH AUGUST, 2021 at 4.00 pm** when your attendance is requested.

Yours sincerely,  
KATHRYN HALL  
Chief Executive

#### **A G E N D A**

#### **Pages**

- |    |  |               |
|----|--|---------------|
| 1. | To receive apologies for absence.  |               |
| 2. | To receive Declarations of Interest from Members in respect of any matter on the Agenda. |               |
| 3. | To confirm the Minutes of the meeting of the Committee held on 15 July 2021.             | <b>3 - 12</b> |
| 4. | To consider any items that the Chairman agrees to take as urgent business.               |               |

#### **Items Recommended for Approval.**

- |    |   |                |
|----|---|----------------|
| 5. | DM/21/1441 - Kemps House, London Road, Balcombe, Haywards Heath, West Sussex, RH17 6JH.                               | <b>13 - 26</b> |
| 6. | DM/21/1758 - Willow Tree Pre School, Barn Cottage Pavilion, Barn Cottage Lane, Haywards Heath, West Sussex, RH16 3QW. | <b>27 - 48</b> |

## Items Recommended for Refusal.

None.

## Other Matters.

None.

7. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.

### Human Rights Act

The reports and recommendations set out in this agenda have been prepared having regard to the requirements of the Human Rights Act 1998.

### Risk Assessment

In formulating the recommendations on the agenda, due consideration has been given to relevant planning policies, government guidance, relative merits of the individual proposal, views of consultees and the representations received in support, and against, the proposal.

The assessment of the proposal follows the requirements of the 1990 Town and Country Planning Act and is based solely on planning policy and all other material planning considerations.

Members should carefully consider and give reasons if making decisions contrary to the recommendations, including in respect of planning conditions.

Where specifically relevant, for example, on some applications relating to trees, and on major proposals which are likely to have a significant impact on the wider community, potential risks associated with the proposed decision will be referred to in the individual report.

**NOTE:** All representations, both for and against, the proposals contained in the agenda have been summarised. Any further representations received after the preparation of the agenda will be reported verbally to Members at the meeting. Any other verbal or additional information will be presented at the meeting.

The appropriate files, which are open to Member and Public Inspection, include copies of all representations received.

Members are also reminded the representations, plans and application file will also be available for inspection at these offices from 6.00 p.m. on the day of the meeting.

To: **Members of Planning Committee:** Councillors G Marsh, P Coote, P Brown, R Cartwright, E Coe-Gunnell White, J Dabell, R Eggleston, B Forbes, C Phillips, M Pulfer, D Sweatman and N Walker

**Minutes of a meeting of Planning Committee  
held on Thursday, 15th July, 2021  
from 4.00 - 6.47 pm**

**Present:** G Marsh (Chairman)  
P Coote (Vice-Chair)

J Dabell  
R Eggleston  
B Forbes

C Phillips  
M Pulfer  
D Sweatman

N Walker

**Absent:** Councillors R Cartwright, E Coe-Gunnell White and S Hatton

**Also Present:** Councillors J Ash-Edwards and R de Mierre

**1 TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Councillors Coe-Gunnell White, Cartwright and Hatton.

**2 TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.**

Councillor Pulfer declared an interest in item 5 as he is a Member of Haywards Heath Town Council Planning Committee but he comes to the meeting with an open mind.

**3 TO CONFIRM THE MINUTES OF THE MEETINGS OF THE COMMITTEE HELD ON 8 APRIL AND THE MEETING OF THE ANNUAL PLANNING COMMITTEE HELD ON 28 APRIL 2021.**

The minutes of the meetings of the Planning Committees held on 8 April and 28 April were agreed as a correct record and signed by the Chairman.

**4 TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.**

The Chairman had no urgent business.

**5 DM/20/3310 - 23-25 BOLNORE ROAD, HAYWARDS HEATH, WEST SUSSEX, RH16 4AB.**

Andy Watt, Senior Planning Officer introduced the application for the demolition of 25 Bolnore Road and garage to 23 Bolnore Road and the erection of a 67 bedroom residential care facility with associated access works, car parking, servicing, private amenity space, landscaping and boundary treatment. He also drew Members attention to the amendments and conditions noted in the Agenda Update Sheet.

He took Members through the access arrangements and location of the proposed building within the site and noted that the Norway Maple Tree will be retained as part

of the application. He also noted the planning history as the site benefits from permission for 15 sheltered dwellings and therefore the principle of the demolition of Number 25 Bolnore Road and 2 garages has already been established and could be implemented.

The new application amends the proposed layout and landscaping following consultation with the Urban Designer. It is now proposed to be a single block of 4 stories with set back entrance with landscaping retained to the front. There will be 20 parking spaces plus an ambulance bay residents' gardens to the side and front and an orchard with managed access as well as a staff break out area. The application is also for a change of use from C3 to C2 and therefore no affordable housing requirement applies.

Zeb Nash-Henry provide a written statement in opposition to the application to be read in his absence and Lulu Kaynes also spoke against the application.

Damien Wood developer spoke in support of the application.

Councillor de Mierre spoke as Ward Member for the application noting concerns about overdevelopment of the site and that it is out of character with the area which may impact negatively on neighbouring properties. She noted that the road was protected when access to Bolnore Village Phase 4 was planned and raised concern over the future of 23 Bolnore Road as to whether it would be possible to sell as a private residence with the proposed car parking right up to the rear of the property.

A Member noted the significant number of care homes already within Haywards Heath but it was also noted that the market suggests a number of elderly residents looking to downsize into suitable application, therefore making family houses available. Discussion was held around the construction management plan to ensure all contractor vehicles are parked on site following demolition, that dust suppression takes place during demolition and that there is wheel washing apparatus on site. It was also confirmed that electric charging points will be available on site. The Senior Planning Officer confirmed that wheel washing is included in the current construction management plan conditions as recommended by the Highways Authority and with Members in agreement the dust suppression will be added to this condition as well.

The Chairman took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Pulfer and agreed unanimously.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
P. Coote	y		
J. Dabell	y		
R. Eggleston	y		
B. Forbes	y		
G. Marsh	y		
C. Phillips	y		
M. Pulfer	y		
D. Sweatman	y		
N Walker	y		

## RESOLVED

That the application be approved subject to the following recommendations and amendments contained in the Agenda Update Sheet:

### Recommendation A

That subject to the completion of a satisfactory S106 Legal Agreement and/or legal undertaking to secure the required level of infrastructure contributions, planning permission be granted subject to the conditions set out in Appendix A.

### Recommendation B

If by 15 October 2021, the applicants have not submitted a satisfactory signed S106 Legal Agreement and/or legal undertaking securing the necessary financial contributions, then it is recommended that planning permission be refused at the discretion of the Divisional Leader for Planning and Economy for the following reason(s):

*'The application fails to comply with Policy DP20 of the Mid Sussex District Plan and paragraphs 54 and 56 of the National Planning Policy Framework in respect of the infrastructure required to serve the development.'*

## **6 DM/20/4659 - LAND SOUTH EAST OF TILTWOOD EAST, HOPHURST LANE, CRAWLEY DOWN, WEST SUSSEX, RH10 4LL.**

Susan Dubberley, Senior Planning Officer introduced the application for 3 detached dwellings each with detached garages. The site is designated as within the countryside in the District Plan and the site is within 7km of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). The Senior Planning Officer noted that the southern edge of the site is contiguous with the built-up area boundary of Crawley Down and as it proposes only three dwellings it therefore complies with policy DP6. The proposal does not result in an incursion into the wider countryside and therefore the quality of the rural and landscape character of this part of the District is maintained, thereby complying with policy DP12.

It was noted as a material consideration that there is extant approval for 2 properties on the site and that there are new houses on the estate from prior applications, as well as other new applications which have been granted. It was also noted that Worth Parish Council has objected on the grounds of piecemeal development which has resulted in a loss of affordable housing, however this is due to the estate not being under the ownership of one individual.

A Member noted the multiple applications for the site had resulted in more traffic on the lane into Hophurst Road which was of concern to local residents. The Chairman acknowledged the concern but noted that the current application had to be considered individually and no objections had been raised by the Highways Authority.

A Member queried the lack of construction management plan for this application. The Senior Planning Officer confirmed that a plan was not required as it was a small development, and similar applications on site also did not require one in the past. A Member requested that Officers make it clear to the contractors that the site should be kept tidy.

The Chairman took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Phillips and agreed unanimously.

Councillor	For	Against	Abstain
P. Coote	Y		
J. Dabell	Y		
R. Eggleston	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N Walker	Y		

## RESOLVED

That permission be granted subject to the following recommendations:

### Recommendation A

That planning permission be granted subject to the completion of a section 106 legal agreement to secure the necessary SAMM and SANG contributions and the conditions listed in the appendix.

### Recommendation B

That if the applicants have not entered into a satisfactory section 106 agreement to secure the necessary SAMM and SANG payments by 15th October 2021 then the application should be refused at the discretion of Divisional Lead for Planning and Economy for the following reason:

*The proposal does not adequately mitigate the potential impact on the Ashdown Forest Special protection Area (SPA) and Special Area of Conservation (SAC) and would therefore be contrary to the Conservation and Habitats and Species Regulations 2010, policy DP17 of the District Plan and Paragraph 175 of the National Planning Policy Framework.*

## 7 **DM/21/0041 - HUMPHREYS BAKERY, 65 HIGH STREET, LINDFIELD, WEST SUSSEX, RH16 2HN.**

Hamish Evans, Planning Officer introduced the application for a change of use of the bakehouse to residential C3 use. He noted that the Highstreet to the east is a mixture of residential and commercial properties and the site is within the Lindfield built up area boundary, Lindfield Conservation Area and the setting of a Grade II\* Listed Building to the east of site.

In discussing the proposal for a 2-bedroom single story unit the Planning Officer noted that it is within a sustainable location in the built-up area of Lindfield and with minimal external changes it is acceptable in terms of design and visible impact. It would not seek to convert the existing commercial unit at 65A High Street. It proposed no significant harm to neighbouring amenities, it would provide a good standard of accommodation for future occupiers and there has been no objection from the Highways Authority. It would also preserve the setting and special interest of Lindfield Conservation Area and the setting of the Listed Building.

David MacMillan spoke against the application.

Roger Harris spoke in support of the application.

Councillor Ash-Edwards spoke as Ward Member acknowledging that the site has a lot of local affection based on the business that has been there for many years. He noted resident's concerns that the bakehouse was of significant importance to the retail unit and that without that it may not be able to function, and that loss of commercial space is potentially detrimental to the economic vitality of the village. He also noted the recent change on permitted development brought in by the Government since this application had been called in.

The Chairman acknowledged the emotions involved but noted that this should not detract from the application. He noted that consideration should be made regarding the loss of a facility that may not come back.

The Planning Applications Team Leader clarified the definition of Grade II\* listing which accounts for roughly 6% of listed buildings and that the same test applies regarding the impact on the settings of listed buildings as set out in p102 of the report. He also noted that the site is now Class E, as established by the Government in September 2020 which is a significant change to the use class order as it has amalgamated a lot of uses into one class. It is a fundamental change as it means a property can swap between a number of previous use classes without the need for planning permission.

A Member sought clarification on what would occur from 1 August when new rules apply, should the committee decide to reject the application. The Team Leader confirmed that if the application was rejected, from 1 August permitted development rights to change the building from class E to residential use apply subject to a prior approval process where the Council looks at specific criteria such as transport impact, flooding, noise from commercial premises or the impact on the character and sustainability of conservation area. The Planning Applications Team Leader advised that in his view this was more directed at frontage properties to prevent the loss of retail floor space on a high-street but in this case as its not on the frontage it would be hard to say in a prior approval application that it has adverse impact on character and conservation area.

A number of Members acknowledged the history of the site and concerns for the future but noted that the application has to be determined based on what is in front of the committee now.

A Member sought clarification on recent case law concerning listed buildings. The Team Leader noted that the Courts have clarified that here there is some harm caused to the setting of a listed building, this should be given significant weight by the decision maker to reflect the fact that preservation of the setting of listed buildings is desirable as per the Listed Buildings Act. However in this application Officers do not consider there is harm to the setting of the listed building. It was also clarified that the bakehouse building itself isn't listed, just those buildings to the east of the site referred to in the committee report.

The Chairman took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Dabell and agreed unanimously.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
P. Coote	y		
J. Dabell	y		
R. Eggleston	y		
B. Forbes	y		
G. Marsh	y		
C. Phillips	y		
M. Pulfer	y		
D. Sweatman	y		
N Walker	y		

**RESOLVED:**

That permission be granted subject to the conditions as outlined at Appendix A.

**8 DM/21/0485 - MILTON HOUSE, BLACK HILL LANE, LINDFIELD, WEST SUSSEX, RH16 2HE.**

Deborah Lynn, Planning Officer introduced the application for a two storey replacement rear extension. She drew Members' attention to the location of the site noting that residents had concerns that it would be detrimental to the setting of nearby listed buildings. As the Conservation Officer advises that there would be limited intervisibility between the proposal and listed properties, it is the Officer's opinion that there would be no harm to the setting of the listed buildings. The Planning Officer noted that the new extension would have a slightly larger footprint than the existing but would be no closer to Primavera to the north. The existing extension is not considered sympathetic to the character of the original dwelling whereas the new extension would be, and amendments have been made to the atrium extension so that the original gothic windows are not obscured. As the proposed extension would represent an improvement upon the existing, the proposal is considered to enhance the appearance of the building and conservation area, thereby complying with policy DP35 of the District Plan. There is also no anticipated harm to the non-designated heritage asset and whilst there may be some impact upon neighbouring amenities, the proposal is not considered to cause significant harm in terms of affecting outlook, light levels or appearing overbearing due to the scale proposed and existing relationship between properties.

Michael Crofts and Simon Tollit provided a statement in their absence in objection to the application.

Adam Heyburn spoke in support of the application. James Minett also provided a statement in his absence in support of the application.

Councillor Ash Edwards waived his right to speak as Ward Member.

The Team Leader clarified policy DP26 regarding development and the assessment in terms of its design as set out on p125. The policy sets out to achieve a high standard of design and in terms of the impact on neighbouring amenities an application must not cause significant harm. He noted that this application proposes a superior design to the existing extension, and no significant harm to the amenities therefore it does comply with DP26.

The Chairman took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Walker and agreed unanimously.



Councillor	For	Against	Abstain
P. Coote	Y		
J. Dabell	Y		
R. Eggleston	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N Walker	Y		

Councillor Eggleston left the meeting at 6.09pm

**RESOLVED:**

That permission be granted subject to conditions set out in Appendix A.

The Chairman advised the Committee that it is unacceptable for Members to call in an item and not attend to speak.

**9 DM/21/1524 - BRIDGE HALL, CUCKFIELD ROAD, BURGESS HILL, WEST SUSSEX, RH15 8RE.**

Steve King, Planning Applications Team Leader introduced the application for the erection of 35 residential dwellings with new access created onto Cuckfield Road, landscaping, open space and parking. He noted that the site recently came to the committee and has full planning permission. He drew Members attention to the Agenda Update Sheet with clarification regarding carparking spaces and the County Council's comments regarding infrastructure contributions.

He noted that the house that used to be on site has been demolished and the site lies within the built up area boundary of Burgess Hill as defined in the District Plan in an area allocated for development within the Northern Arc. The layout is similar to the previous proposal and the access remains the same. The main change is that the flats originally proposed to the front of the site have been swapped for houses of a similar external appearance to the previously approved flats in response to market conditions. He also noted that works have started on site pursuant to the previous planning permission and the principle of development is accepted.

Tom Davies provided a written statement in his absence in support of the application.

The Chairman noted there is no construction management plan as one has already been provided for the prior permission. Condition 2 refers back to the original one, as the details have already been approved.

A Member queried if there is a piling machine onsite as one may have been visible in a photograph in the Planning Officers presentation. If so he requested that work is being carried out properly. The Team Leader noted that the development would require building control consent to ensure everything is done correctly in respect if construction work on site.

The Chairman noted that more than 30% affordable housing is being provided which is very much welcome.

The Chairman took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Walker and agreed unanimously.

Councillor	For	Against	Abstain
P. Coote	Y		
J. Dabell	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N Walker	Y		

**RESOLVED:**

That planning permission be approved subject to the completion of a S106 Legal Agreement to secure affordable housing and infrastructure contributions and the conditions set out in appendix A and the Agenda Update Sheet.

**10 DM/21/1963 - 11 THE STENNINGS, EAST GRINSTEAD, WEST SUSSEX, RH19 1PF.**

The Chairman noted that this application is before the Committee as it relates to a District Councillor. Permission is sought for the reduction of the apex of both stems of one Cedar by up to 2m and thin by up to 30% at 11 The Stennings, East Grinstead.

He confirmed with Members that they did not require a presentation from the Planning Officer and took Members to a recorded vote on the item. This was proposed by Councillor Coote and seconded by Councillor Sweatman and agreed unanimously.

Councillor	For	Against	Abstain
P. Coote	Y		
J. Dabell	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman	Y		
N Walker	Y		

**RESOLVED:**

That permission is granted.

**11 DM/20/4676 - HIGH TREES, 54A LEWES ROAD, HAYWARDS HEATH, WEST SUSSEX, RH17 7SN.**

Andrew Horrell, Planning Officer introduced the application for replacement windows to white UPVC. He noted that the site is set back from Lewes Road and is a modern built 2 story hip roof dwelling with soft wood windows. The external materials and finish in 2007 were considered to complement the design and character of dwelling and the wider conservation area and therefore condition 14 removed permitted development rights to preserve it and avoid harmful alterations. Therefore UPVC windows are not considered appropriate and the Officers recommendation is for permission to be refused. He noted that several properties nearby still have permitted development rights so they could replace existing timber with UPVC windows but as permitted development rights are removed in this case it is contrary to DP35 of the District Plan and Haywards Heath Neighbourhood Plan. The Conservation Officer noted that where there is less than substantial harm to a heritage asset, the harm as outlined under paragraph 196 of the National Planning Policy Framework (NPPF) should be weighed against the public benefits. As the sole benefit is private to the occupier it is seen that the harm caused outweighs public benefit as it fails to preserve and enhance the building.

Kevin Stagg provided a written statement in his absence in support of the application.

The Chairman noted comments from Ward Member Councillor Clarke which were circulated prior to the meeting.

Councillor Pulfer, also the Ward Member concurred with Councillor Clarke's comments. He noted that when looking at a conservation area it is always subjective. In this case the new windows would benefit the house in terms of efficiency and would reduce the use of hard woods. It was also noted that other properties nearby retained the permitted development rights and already had UPVC windows so there was no consistency. He proposed a separate motion that the application be approved. This was seconded by Councillor Dabell who noted that the new windows will be similar in look, will improve thermal efficiency and the house is set back far enough from view to not harm the conservation area.

A Member disagreed, noting that the Council's Design Guide and District Plan should be acknowledged. The application does not comply and therefore the committee needs to be consistent.

The Chairman acknowledged both sides of the issue. He agreed there was a need to maintain the character of the conservation area, but not the detriment of making a house as economical and sustainable as it could be.

The Team Leader noted that Members could put forward a motion to approve the application on the grounds that it does not adversely impact the conservation area, however if they believe there is some harm, this must be balanced against the public benefit, of which there is none in this application. He also noted that this application must be looked at in isolation and not on the basis of what might happen in future applications.

The Chairman took Members to a vote to approve the application on the grounds that it does not cause harm to the conservation area due to the distance that the house is set back. This was proposed by Councillor Pulfer and seconded by Councillor Dabell and approved with 6 votes in favour and 2 against.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
P. Coote	Y		
J. Dabell	Y		
B. Forbes	Y		
G. Marsh	Y		
C. Phillips	Y		
M. Pulfer	Y		
D. Sweatman		Y	
N Walker		Y	

**RESOLVED:**

That permission be approved.

**12 QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.**

None.

The meeting finished at 6.47 pm

Chairman

MID SUSSEX DISTRICT COUNCIL

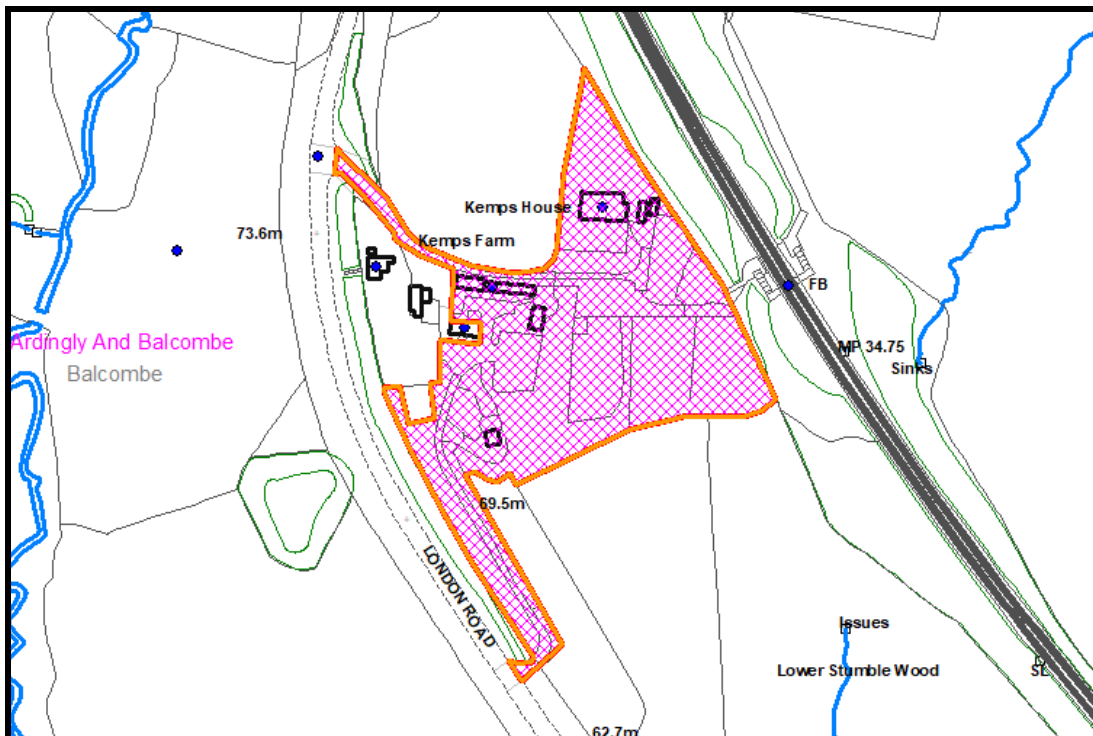
Planning Committee

**12 AUG 2021**

RECOMMENDED FOR PERMISSION

**Balcombe**

**DM/21/1441**



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**KEMPS HOUSE LONDON ROAD BALCOMBE HAYWARDS HEATH  
TEMPORARY RETENTION OF TWO MARQUEES FOR TWO YEARS  
MR ALEX WILLCOCK**

POLICY: Ancient Woodland / Areas of Outstanding Natural Beauty / Area of Special Control of Adverts / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Listed Building / Public Right Of Way / Aerodrome Safeguarding (CAA) / SWT Bat Survey / Minerals Local Plan Safeguarding (WSCC) /

ODPM CODE:            Smallscale Major Other

8 WEEK DATE:        27th July 2021

WARD MEMBERS: Cllr Gary Marsh / Cllr Jenny Edwards /

CASE OFFICER: Caroline Grist

## **PURPOSE OF REPORT**

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

## **EXECUTIVE SUMMARY**

This application seeks temporary planning permission for the retention of two marquees for two years at Kemps House, London Road, Balcombe.

The application has been referred to committee for determination by officers, in line with the council's Constitution whereby the application would result in a decision contrary to the Council's adopted Policies.

The application site is situated outside of the defined built up area of Balcombe and is therefore within the countryside. Furthermore the site is located within the High Weald Area of Outstanding Natural Beauty and the setting of a Grade II and Grade II\* listed buildings.

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 National Planning Policy Framework (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 two marquees are situated within an existing complex of buildings, however they are visible from a Public Right of Way that runs through the site as well as from a car park associated with the property. Some harm has been identified to the character of countryside and the Area of Outstanding Natural Beauty by virtue of their scale, design and position as well as less than substantial harm to the listed buildings. The proposal is therefore considered to conflict with policies DP12, DP16, DP26 and DP34 of the Mid Sussex District Plan and policies 1 and 3 of the Balcombe Neighbourhood Plan.

Weighing in favour of scheme is that the proposal would support an established local business that employs residents from the surrounding area. The marquees were constructed to allow the business to continue to operate safely during the pandemic and would provide some stability in order for them to remain open.

In summary, the proposal would fail to comply with the requirements of policies DP12, DP16, DP26 and DP34 of the Mid Sussex District Plan and policies 1 and 3 of

the Balcombe Neighbourhood Plan as harm has been identified to the setting of listed buildings as well as to the character and beauty of the countryside and the natural beauty of the High Weald Area of Outstanding Natural Beauty.

The harm to the setting of the listed building is considered to be less than substantial. Paragraph 202 of the NPPF requires a balancing exercise to be undertaken between the less than substantial harm to the setting of the listed building and the public benefits of the proposal. In carrying out this balancing exercise, the decision maker must give the less than substantial harm, considerable importance and weight to reflect the statutory position that the preservation of the settings of listed buildings is desirable.

In this case, in carrying out the balancing exercise it is considered that the economic benefits of allowing this local business to continue operating in the challenging and changing circumstances brought about by the Covid pandemic do amount to a public benefit that outweighs the less than substantial harm to the setting of the listed building. In addition to this, the application would accord with policy DP1 as the proposal would keep an established, local business running and protect the economy. The harm identified would also only last two years and would not set a precedent for the structures being retained permanently. On balance, therefore, it is considered there are material considerations that indicate that despite the conflict with the development plan, the proposal is acceptable in this instance.

### **RECOMMENDATION**

It is recommended that permission be granted subject to the conditions outlined at Appendix A.

### **Summary of Representation Letters**

No representations have been received in response to this application.

### **Summary of Consultations**

#### **Conservation Officer**

The proposal fails to meet the requirements of District Plan Policy DP34 and the Council's Design Guide. In terms of the NPPF I would consider the harm caused to be less than substantial, at the mid-range of this scale.

I understand that the applicant has made an argument in favour of the retention of the structures relating to the continuing viability of the business which operates from the site during the COVID pandemic. Whilst I have every sympathy with this, I would be concerned that any temporary permission would potentially lead to an application for renewal on its expiry if the situation with respect to the need for social distancing etc. does not improve, which no one can currently predict. I would therefore suggest that any granting of permission for the current proposal (should the public benefits be considered to outweigh the identified harm to the heritage assets) should be very cautiously approached. As much as it is possible it should be made clear that the

permanent or longer term retention of the structures beyond a 2 year period will not be favourably viewed.

Alternatively (and preferably) the applicant should be encouraged to consider a temporary or permanent solution to the problem which does not cause harm to the settings of the adjacent heritage assets.

## **Historic England**

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

## **PARISH COUNCIL OBSERVATIONS**

Balcombe Parish Council have no comments or concerns in regards to this application.

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## **INTRODUCTION**

Planning permission is sought for the temporarily retention of two marquees for two years.

## **RELEVANT PLANNING HISTORY**

BA/024/98 - Change of use from redundant farm buildings to commercial usage with proposed new access road. Permission.

## **SITE AND SURROUNDINGS**

Kemps House is a Grade II\* listed, two storey, detached dwelling that was formally the farmhouse of Kemps Farm. It is constructed of red brick, with a plain tile roof and timber sash windows. The dwelling is set back behind a front garden, which is enclosed by a wall, and is positioned on higher land than surrounding buildings.

To the east of the dwelling is the first marquee (A), that has been in use as a photography studio. The second (B) is to the south and used as a showroom. The buildings are clad in oak shingle and pine timber cladding, with fabric roofs and timber windows and doors. Further buildings and a carpark are located to the south of the marquees. To the east of the site is the railway line, whist to the west is Balcombe Road and there is a vehicular access to the site. A further listed building, Kemps Farm, is located adjacent to the entrance track leading from the main road. This building is Grade II listed.

It should be noted that the application site falls outside of the built up area of Balcombe and is therefore within the countryside. It is also within the High Weald Area of Outstanding Natural Beauty (AONB) and a Public Right of Way (PROW) runs through the site.



## **APPLICATION DETAILS**

Planning permission is sought for the temporary retention of two marquees. Marquee A has been used as a photography studio. It is some 8.9 metres wide and 12.1 metres deep. Marquee B is used as a showroom and is some 9.0 metres wide and 18.0 metres deep. Both marquees have pitched roofs that measure approximately 2.4 metres to the eaves and 3.8 metres to the ridge.

The marquees do not have planning permission and so the application is retrospective.

## **LEGAL FRAMEWORK AND LIST OF POLICIES**

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan and Balcombe Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan but is an important material consideration.

### **Mid Sussex District Plan**

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

Relevant policies:

- DP1 - Sustainable Economic Development
- DP12 - Protection and Enhancement of Countryside
- DP16 - High Weald Area of Outstanding Natural Beauty
- DP26 - Character and Design
- DP34 - Listed Buildings and Other Heritage Assets

### **Balcombe Neighbourhood Plan**

The Balcombe Neighbourhood Plan was formally made on 22nd September 2016.

Relevant policies:

- Policy 1 - Built Up Area Boundary
- Policy 3 - Design

## **Other Planning Guidance**

High Weald AONB Management Plan 2019 - 2024

*Mid Sussex Design Guide*

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

## **National Policy**

The National Planning Policy Framework (NPPF) 2021 is also a material consideration and paragraphs 8, 11, 126, 130 and 199 to 203 are considered to be relevant to this application.

## **Legislation**

Countryside and Rights of Way Act 2000

Planning (Listed Buildings and Conservation Areas) Act 1990

## **ASSESSMENT**

### **Economic Considerations**

Policy DP1 relates to sustainable economic development within the district. This policy seeks to support existing businesses and encourage inward investment. The supporting information provided sets out that there is an established furniture business operating from this site that is family run and employs local residents. During the pandemic the marquees were erected to allow the business to stay functioning in line with Covid restrictions. Their retention would allow the business to continue safely.

The proposal would therefore support an existing local business that employs residents from the surrounding area through the pandemic, thereby protecting the local economy and retaining jobs. The marquees are to be retained for two years, as a temporary measure, to ensure that the business can continue operating safely. It is therefore considered that the economic benefits of the proposal weigh in favour of the application.

### **Impact on the countryside and the High Weald Area of Outstanding Natural Beauty**

The development site is located outside of the built up area boundary of Balcombe, therefore Policy DP12 is required to be considered. This policy states that development will only be permitted in these areas providing it maintains or, where possible enhances, the quality of the rural and landscape quality of the district. The

proposal is not for the purposes of agriculture however it is supported by policy DP1 of the Mid Sussex District Plan, as set out later in this report.

Policy 1 of the Balcombe Neighbourhood Plan requires development outside of the built up area boundary to *'conform to development plan policies in respect of the control of development in the countryside'*.

The site is also situated within the High Weald Area of Outstanding Natural Beauty. The legal framework for Areas of Outstanding Natural Beauty (AONB) in England and Wales is provided by the Countryside and Rights of Way Act 2000. Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty. It also requires Local Planning Authorities to *'take all such action as appears to them expedient for accomplishment of the purpose of conserving and enhancing the natural beauty of the AONB'*.

Paragraph 176 of the NPPF states that *'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'*. A similar ethos is found within the High Weald Management Plan, Policy DP16 of the Mid Sussex District Plan and Policy 3 of the Balcombe Neighbourhood Plan.

The application relates to the temporary retention of two marquees. Whilst they are sited outside of the defined built up area, they are positioned within an existing complex of buildings and would therefore not form an isolated development within the wider landscape.

A PROW passes both marquees and they are also visible from the public car park to the south. It is acknowledged that the marquees are partly viewed in the context of the existing buildings on the site, however these structures are large, readily visible and are of a design that is not in keeping with the character of the countryside or of an appearance encouraged within the AONB. As such, it is considered that the proposal would cause some harm to the countryside, as the structures would not maintain or enhance its character, as well as the natural beauty of the AONB. The proposal would therefore not fully accord with the requirements of policies DP12 and DP16 of the Mid Sussex District Plan and policies 1 and 3 of the Balcombe Neighbourhood Plan.

### **Design and impact upon the listed building**

The erected marquees are considered to be within the setting of the Grade II\* listed Kemps House and Grade II listed Kemps Farm. The Local Planning Authority is therefore also under a duty by virtue of s.66 (1) of the Listed Building and Conservation Area (LBCA) Act 1990 (Decision on application):

*'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'*

Policy DP34 of the District Plan is relevant and states:

*'Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:*

- A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of a listed building retain its significance and character whilst ensuring that the building remains in a viable use;*
- Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- Special regard is given to protecting the setting of a listed building;*
- Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric.'*

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraphs 199 - 203 of the NPPF state:

*'199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

*200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional*

*201. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a) *the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) *conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) *the harm or loss is outweighed by the benefit of bringing the site back into use.*

*202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*

*203. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

In terms of design, policy DP26 of the Mid Sussex 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 DP27);*
- *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 3 of the Balcombe Neighbourhood Plan also requires the scale, density, massing, height, landscape design, layout and materials of all development proposals, including alterations to existing buildings to reflect the architectural and historic character and scale of the surrounding buildings.

Due to the location of the proposed development, the Conservation Officer has commented on the application and their comments are summarised at the start of this report and set out in full in the appendix.

The Conservation Officer has stated that both of these structures are prominent in views of the Grade II\* listed Kemps House and its immediate setting from the adjacent PROW. The marquee to the south is also particularly prominent in views from the principal frontage of Kemps House. They are substantial in size and of a relatively poor quality of design and construction, to which the unusual combination of materials contributes, and, as such, they do not relate well in character to the context. Due to this and their proximity to Kemps House in particular, they are considered to detract from the verdant rural/agricultural setting of Kemps House, Kemps Farm and the historic farmstead of which they are part.

The Conservation Officer is of the view that the proposal would fail to meet the requirements of policy DP34 and the Council's Design Guide. In terms of the NPPF it has been advised that the harm caused would be less than substantial, at the mid-range of this scale.

Your Planning Officer agrees with this assessment.

Under the NPPF, where harm is identified to a heritage asset this must be weighed against the benefits of the scheme. This harm has been identified as less than substantial; therefore the test under paragraph 202 of the NPPF applies. This is the balancing exercise that must be undertaken by the decision maker, ensuring that considerable importance and weight is given to the less than substantial harm to the heritage asset that has been identified.

The marquees have been constructed in relation to an existing and established family business. Supporting information has been provided setting out the business's success and that the company employs local people. These structures were erected during the pandemic to allow the company to run safely and it is proposed for them to be retained for two years to allow the business to continue during these changing and challenging times. Further to this national advice to Local Planning Authorities is to support businesses to help the economy recover from the adverse economic effects of the Covid pandemic.

The structures that have been installed are not considered to represent best design and have an harmful impact on the setting of both listed buildings, which is agreed to be less than substantial. The proposal would therefore fail to comply with Policy DP34.

It has also been identified, however, that there are public benefits that will enable an established local business to continue and retain local staff. Under the current circumstances, your Planning Officer is of the view that significant weight should be given to support local businesses. Further to this the permission sought would only keep the structures in situ for two years. The harm identified would not be permanent and would cease once the temporary permission expires and the marquees are removed. It should be stressed that this recommendation is based in the circumstances that apply at this point in time and do not set any form of precedent for retaining the structures beyond the two year time period that has been sought.

In this case, the public benefit of the proposal is considered to outweigh the harm identified when carrying out the balancing exercise required under paragraph 202 of the NPPF.

## **CONCLUSION**

In conclusion, the proposal would fail to comply with the requirements of policies DP12, DP16, DP26 and DP34 of the Mid Sussex District Plan and policies 1 and 3 of the Balcombe Neighbourhood Plan as harm has been identified to the setting of listed buildings as well as to the character and beauty of the countryside and the natural beauty of the High Weald Area of Outstanding Natural Beauty.

The harm to the setting of the listed building is considered to be less than substantial. Paragraph 202 of the NPPF requires a balancing exercise to be undertaken between the less than substantial harm to the setting of the listed building and the public benefits of the proposal. In carrying out this balancing exercise, the decision maker must give the less than substantial harm, considerable importance and weight to reflect the statutory position that the preservation of the settings of listed buildings is desirable.

In this case, in carrying out the balancing exercise it is considered that the economic benefits of allowing this local business to continue operating in the challenging and changing circumstances brought about by the Covid pandemic do amount to a public benefit that outweighs the less than substantial harm to the setting of the listed building. In addition to this, the application would accord with policy DP1 as the proposal would keep an established, local business running and protect the economy. The harm identified would also only last two years and would not set a precedent for the structures being retained permanently. On balance, therefore, it is considered there are material considerations that indicate that despite the conflict with the development plan, the proposal is acceptable in this instance.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. The works hereby permitted shall be removed and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 12 August 2023.

Reason: The Local Planning Authority would not normally grant permission for such a development in this location but under the circumstances prevailing it is considered reasonable to make an exception in this instance and to allow the

development for a limited period and to accord with Policy DP1 of the Mid Sussex District Plan 2014 - 2031.

2. The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 8am and 6pm Mondays to Fridays and 8am to 1pm on Saturdays.

Reason: To safeguard the amenities of neighbouring properties and to accord with policy DP26 of the Mid Sussex District Plan 2014 - 2031.

## 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.

### 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			27.04.2021
Block Plan			08.04.2021
Site Plan	01		08.04.2021
Street Scene	02		08.04.2021
Existing Floor and Elevations Plan	03		08.04.2021
Existing Floor and Elevations Plan	04		08.04.2021

## APPENDIX B – CONSULTATIONS

### Parish Consultation

Balcombe Parish Council have no comments or concerns in regards to this application.

### Conservation Officer - Emily Wade

The application site is a Grade II\* listed house, formerly the farmhouse of Kemps Farm, dating from the 17th century or earlier. It is located in a rural position just outside the village of Balcombe. A short distance to the west, adjacent to the entrance track leading from the main road to the application site is a second Grade II listed building now known as Kemps Farm but previously Kemps Cottage. The two buildings appear to have been functional parts of the same historical farmstead, and a range of farm buildings around a yard survive to the south west of Kemps House (south east of Kemps Farm), at least some of which would be likely to be regarded as curtilage listed. A public right of way runs through the farmstead east-west.

I would note that the Heritage Statement is significantly flawed in that the existence of this PROW running through the site is not recognised and that as a result the impact of the proposal on the public appreciation of the listed buildings and their settings is fundamentally inaccurate. Whilst public views of a listed building are not the only or even necessarily the most significant component of its setting, they are important and should be recognised and



any impact on them correctly assessed. I would therefore suggest that the Heritage Statement should be revised to address this error.

Both Kemps House and Kemps farm would be considered to possess historical evidential and illustrative interest as good (exceptional in the case of Kemps House) examples of their period and type, altered and extended over the years in response to the changing socio-economic conditions and the needs and expectations of successive owners. They also possess aesthetic value which depends in part on the use of vernacular materials viewed within the landscape from which they were drawn. The buildings also have group value with each other and with the other buildings within the former farmstead.

As constituent elements of a historic farmstead, the verdant and rural setting of the listed buildings makes a strong positive contribution to the special interest of both and the manner in which this is appreciated.

The current proposal relates to the retention on a temporary basis (2 years) of a pair of marquees one located to the south east of Kemps House, and one to the south, adjacent to the former farmyard. The structures have fabric roofs but are clad to the elevations in cedar shingles and weatherboarding, into which doors and windows have been set.

Both of these structures are prominent in views of the Grade II\* listed Kemps House and its immediate setting from the adjacent PROW. The marquee to the south is also particularly prominent in views from the principal frontage of Kemps House. They are substantial in size and of a relatively poor quality of design and construction, to which the unusual combination of materials contributes, and they do not relate well in character to the context. As a result and because of their proximity to Kemps House in particular they detract from the verdant rural/agricultural setting of Kemps House, Kemps Farm and the historic farmstead of which they are part.

This fails to meet the requirements of District Plan Policy DP34 and the Council's Design Guide. In terms of the NPPF I would consider the harm caused to be less than substantial, at the mid-range of this scale.

I understand that the applicant has made an argument in favour of the retention of the structures relating to the continuing viability of the business which operates from the site during the COVID pandemic. Whilst I have every sympathy with this, I would be concerned that any temporary permission would potentially lead to an application for renewal on its expiry if the situation with respect to the need for social distancing etc. does not improve, which no one can currently predict. I would therefore suggest that any granting of permission for the current proposal (should the public benefits be considered to outweigh the identified harm to the heritage assets) should be very cautiously approached. As much as it is possible it should be made clear that the permanent or longer term retention of the structures beyond a 2 year period will not be favourably viewed.

Alternatively (and preferably) the applicant should be encouraged to consider a temporary or permanent solution to the problem which does not cause harm to the settings of the adjacent heritage assets.

## **Historic England**

Thank you for your letter of 13 May 2021 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

MID SUSSEX DISTRICT COUNCIL

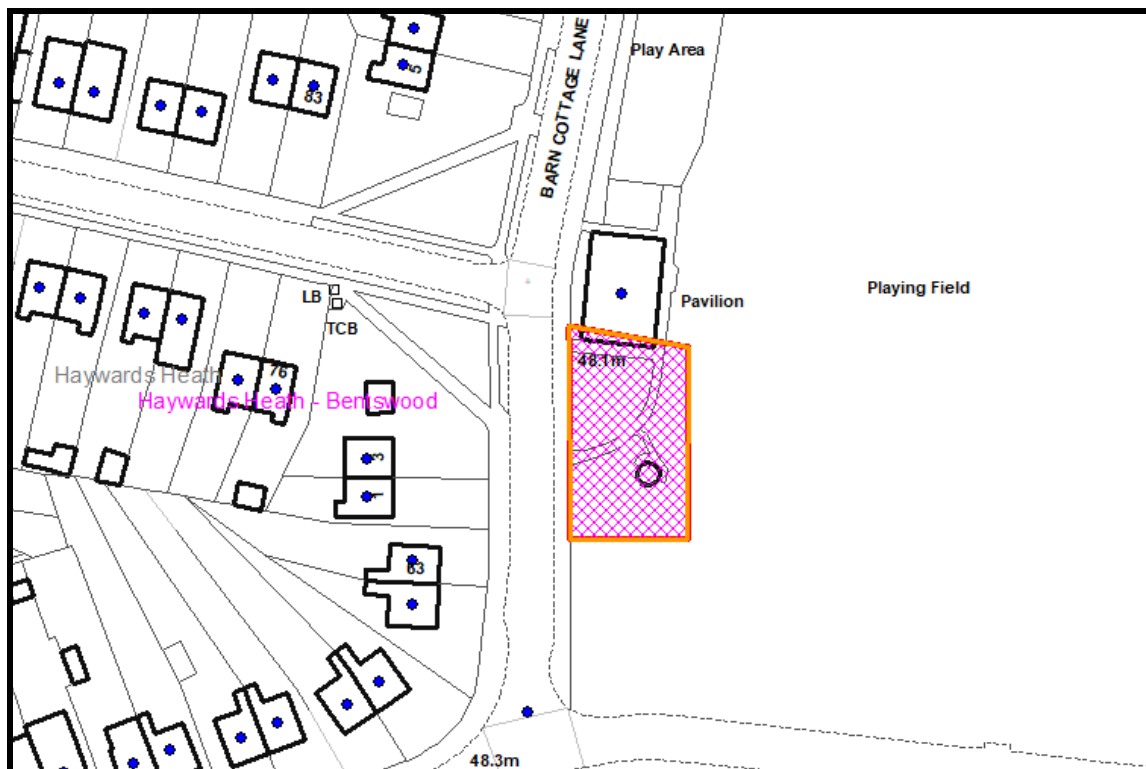
Planning Committee

**12 AUG 2021**

RECOMMENDED FOR PERMISSION

**Haywards Heath**

**DM/21/1758**



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**WILLOW TREE PRE SCHOOL BARN COTTAGE PAVILION BARN COTTAGE LANE HAYWARDS HEATH  
NEW MIXED USE PURPOSE-BUILT COMMUNITY CENTRE WITH USE BY DAY NURSERY TOGETHER WITH JOINING TUNNEL TO EXISTING PAVILION.  
MR TONY PEARSON**

POLICY: Built Up Areas / Aerodrome Safeguarding (CAA) /

ODPM CODE: Minor Other

8 WEEK DATE: 30th June 2021

WARD MEMBERS: Cllr Rachel Cromie / Cllr Stephen Hillier /

CASE OFFICER: Anna Tidey

### **PURPOSE OF REPORT**

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

### **EXECUTIVE SUMMARY**

This application seeks planning permission to build a new mixed use purpose-built community centre with use by a day nursery and a joining tunnel to link onto the existing pavilion building at the site, to the western side of the Playing Field off Barn Cottage Lane in Haywards Heath. The application follows a previous approval under DM/19/1624, which remains extant.

The application is being reported to committee as MSDC is the landowner.

The new community centre will provide a purpose built building for growing community needs and create a hub within the area. The new building is considered to be of an appropriate design, would not harm neighbouring amenity and would meet the requirements of Policies DP26 and DP41 of the Mid Sussex District Plan and Policies L9 and E9 of the Haywards Heath Neighbourhood Plan. The new building would improve the existing community facilities for the area and meet the requirements of Policy DP24 of the District Plan.

The application is therefore recommended for conditional approval as set out in full at Appendix A.

### **RECOMMENDATION**

It is recommended that permission be granted subject to the conditions listed at Appendix A.

### **Summary of Consultations**

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

### **WSSC Highways Authority**

The applicant has highlighted the new building will not create an intensification of use, as the nursery already exists and operates out of the existing community building. Given the changes will not create any additional use WSSC would not require a parking beat survey to take place.

## **Environmental Health Officer**

I would advise great caution in placing a nursery so close to residential, but recognise that, in accordance with current policy, the amenity issues must be balanced against the need for nursery places in this area. Without an acoustic report for the site, it's very difficult to say whether the background noise level in this location lends itself to masking further noise sources, but ultimately there is no standard to look at for noise levels from nursery as the noise levels are unknown and variable.

Additional mitigation could be achieved by restricting the hours of use of the outdoor play area and/or the installation of acoustic close boarded fencing around the perimeter of the play area. This type of fencing is expensive though and its effectiveness will depend on the size and shape of the play area, as well as the weight of the fence.

If permission is granted, I would recommend that conditions are used to minimise the potential disturbance.

I also note that there are no air conditioning units on the plans, which will likely mean that doors and windows will be open during warmer weather, which potential presents further noise issues in itself. The applicant should be made aware that if we do get noise complaints regarding events these will be investigated.

## **MSDC Corporate Estates**

No comment received.

## **MSDC Drainage**

No objection subject to condition.

## **Summary of Representations**

One letter of representation received, which contains the following points:

- Initially objected due to concerns over parking, security and noise
- Now supports use of the hall by a play group.
- Confused that a further application has been submitted as approval was granted
- Would object to another extension.
- Reasons for this application should be clarified.

## **TOWN COUNCIL OBSERVATIONS**

Given that this proposal is broadly the same as that approved under application DM/19/1624, the Town Council supports this application and reiterates its response to DM/19/1624, which remains relevant:

'The Town Council fully supports this application which, if successful, would make a welcome and much needed addition to the provision of community facilities in this part of Haywards Heath. The building is of a sustainable design and the Planning

Statement accompanying the application indicates compliance with the following policies of the Mid Sussex District Plan 2014-2031: DP1, DP2, DP3, DP24, DP25, DP28 and DP39. With regard to the Haywards Heath Neighbourhood Plan, the Town Council believes that the proposal meets Objective 6A (coordinate and improve green infrastructure in the town) paragraph 6.1 and complies with elements of Policies E1 and E9'.

Request conditions regarding: construction hours, wash basin provision, bin collection hours, and hours of use.

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## **INTRODUCTION**

This application seeks planning permission for the development of a new community centre at Barn Cottage Lane in Haywards Heath. The proposed building would be linked to the existing pavilion at the site, and the proposal includes the use of the ground floor by a nursery and the provision of an outdoor nursery play area.

The application is being reported to committee as MSDC is the landowner.

## **RELEVANT PLANNING HISTORY**

Planning reference: DM/19/1624. New purpose built community centre with joining tunnel to existing pavilion. Approved July 2019.

Planning reference: HH/00798. Construction of pavilion. Removal of existing changing facilities. Approved March 1998.

## **SITE AND SURROUNDINGS**

The application site is land to the south of the existing pavilion and play area at Barn Cottage Lane, off America Lane in the built up area of Haywards Heath.

The plot is laid to grass and includes an octagonal covered shelter, which is shown to be relocated. The land to the east is laid out as a football pitch and is surrounded on three sides by adjacent residential roads.

## **APPLICATION DETAILS**

In detail the current application seeks planning permission for the construction of a 10.9m wide by 23m long building with eaves set at a height of 2.5m and the ridge at 6.5m (approx.) The building would be detached from the existing pavilion building, but linked by a 2.8m wide (max) mesh tunnel with gated access to the eastern and western ends.

The new building would be constructed in brick with vertical timber cladding on the southern end gable and on feature wall sections to the east and west elevations. The roof would be gabled and finished with plain tiles. New access paths would be installed around the perimeter of the new building.

The building would include a full height hall at the southern end of the building and a mezzanine floor at the northern end of the hall to allow the provision of an upper floor area to accommodate two store rooms. Below this a kitchen, stores, toilets and office space are provided on the ground floor. The upper rooms would be lit by windows in a 7.5m wide timber clad, eastern facing, feature dormer creating a first floor viewing area of the adjacent football pitch. The main hall would measure 10m by 13m long and this would be lit by twin glazed doors in the eastern and southern elevations, with roller security shutters, full height aluminium glazed windows in the western elevation and a series of roof lights on the eastern and western facing roof slopes. A protruding square window is proposed in the southern elevation to light the hall from the upper apex level.

The application has been accompanied with a Planning Statement which confirms that the proposal is for: 'mixed use space for the growing community needs and to provide a building with a much higher design quality to establish a new hub within the area. The centre will provide a day nursery facility with an outdoor play area'. This Statement explains the requirement for the building and the intended use.

Additional information has been submitted by the Applicant's Agent during the course of determining the application to address the concerns of the Highways Authority, and to clarify the description and proposed use of the building. In summary this information confirms:

- The existing nursery is moving from the pavilion next door, so there will be no change in traffic movements.
- The nursery has operated for several years with absolutely no issues regarding parking provision.
- The current nursery has 18 children on the books, and a maximum of 15 in the morning, the nursery is licensed for 24 children in total and it operates from 8am until 3pm, with 3 staff and 3 bank staff.
- The vast majority of the children have local postcodes, and a large proportion are walked to the nursery, as it serves the local community.
- The site is surrounded by roads that provide plenty of on site parking all day long except when the football matches are run at weekends, when the nursery is shut. The roads accommodate the football matches without any issue, as you can imagine this would be 22 players plus refs and supporters etc so a lot of traffic!

## **LEGAL FRAMEWORK AND LIST OF POLICIES**

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

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

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

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

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

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

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan and the Haywards Heath Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

### **Mid Sussex District Plan**

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

Relevant policies:

Policy DP24: Leisure and Cultural Facilities and Activities  
Policy DP25: Community Facilities and Local Services  
Policy DP26: Character and Design  
Policy DP28: Accessibility  
Policy DP39: Sustainable Design and Construction  
Policy DP41: Flood Risk and Drainage

### **Haywards Heath Neighbourhood Plan - Made December 2016.**

Relevant policies:

Policy E1: Green infrastructure  
Policy E9: Reinforce character  
Policy L9: Existing playing fields and sporting facilities

### *Mid Sussex Design Guide Supplementary Planning Document (SPD)*

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context



and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

## **National Policy**

### **National Planning Policy Framework (NPPF - July 2021)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development.

Paragraph 8 sets out the three objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently.

Paragraph 12 of the NPPF states '*The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*'

Paragraph 38 of the NPPF states '*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.

## **ASSESSMENT**

The main issues for consideration in determining the application are:

- Principle of development
- Design and impact upon residential amenity
- Highway and Parking issues
- Drainage
- Sustainability
- Habitats Regulations Assessment for Ashdown Forest
- Planning Balance and Conclusion

## Principle of development

The most relevant policies in considering the principal of this proposal are District Plan Policies DP24 and DP25 and Neighbourhood Plan Policies E1 and L9.

District Plan Policy DP24 states:

*'Development that provides new and/or enhanced leisure and cultural activities and facilities, including allotments, in accordance with the strategic aims of the Leisure and Cultural Strategy for Mid Sussex will be supported.'*

*The on-site provision of new leisure and cultural facilities, including the provision of play areas and equipment will be required for all new residential developments, where appropriate in scale and impact, including making land available for this purpose. Planning conditions and/or planning obligations will be used to secure such facilities. Details about the provision, including standards, of new leisure and cultural facilities will be set out in a Supplementary Planning Document.*

*Sites for appropriate leisure and cultural facilities to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council.*

*Proposals that involve the loss of cultural facilities, open space, sports and recreational buildings and land, including playing fields, will not be supported unless:*

- an assessment has been undertaken which has clearly shown the cultural facility, open space, sports land or recreational building to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.'*

District Plan Policy DP25 states:

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

*Where proposals involve the loss of a community facility, (including those facilities where the loss would reduce the community's ability to meet its day-to-day needs locally) evidence will need to be provided that demonstrates:*

- that the use is no longer viable; or*
- that there is an existing duplicate facility in the locality which can accommodate the impact of the loss of the facility; or*
- that a replacement facility will be provided in the locality.*

*The on-site provision of new community facilities will be required on larger developments, where practicable and viable, including making land available for this purpose. Planning conditions and/or planning obligations will be used to secure on-*

*site facilities. Further information about the provision, including standards, of community facilities will be set out in a Supplementary Planning Document.*

*Community facilities and local services to meet local needs will be identified through Neighbourhood Plans or a Site Allocations Development Plan Document produced by the District Council.'*

Policies within the Haywards Heath Neighbourhood Plan also seek to prevent the loss of open spaces of public value (Policy E1) and seek to enhance the existing playing fields and sporting facilities within the town (Policy L9).

Policy E1 states:

*'Planning applications which would result in the loss of existing open spaces of public value will generally be resisted except where:*

- *They are supported by an open space assessment that demonstrates the open space is no longer needed or*
- *Proposals for equivalent or better alternative provision are made in a suitable location or*
- *There is a proven need for essential utility infrastructure where the benefits outweigh any harm or loss and it can be demonstrated that there are no reasonable alternative sites available.'*

Policy L9 states:

*'Existing playing fields and sporting facilities within the Plan area shall be retained and where possible enhanced to the benefit of the Town. Should an existing facility come forward for redevelopment for non-sports use, and it is shown the site or facility is not surplus to requirements, the applicant will be required to provide alternative provision within the Plan area before the existing facilities are lost.'*

The proposal accords with the principals of these policies as set out in the District and Neighbourhood Plan for Haywards Heath. Whilst the provision of the new community centre would result in a small area to the side of the playing field being lost for the construction of the building and associated external play area for the nursery, the established football pitch area would remain intact and the benefit of the new facility for the local community would outweigh the small area of land lost. As such it is considered that the proposal accords with District Plan Policies DP24 and DP25 and Neighbourhood Plan Policies E1 and L9.

## **Design**

Policy E9 in the Haywards Heath Neighbourhood Plan states:

*'Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site. This will include having regard to the following design elements:*

- *height, scale, spacing, layout, orientation, design and materials of buildings,*

- *the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,*
- *respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,*
- *creates safe, accessible and well-connected environments that meet the needs of users,*
- *Will not result in unacceptable levels of light, noise, air or water pollution,*
- *Makes best use of the site to accommodate development,*
- *Car parking is designed and located so that it fits in with the character of the proposed development.*

*Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character.'*

The proposed community building has been designed to be contemporary in appearance and complementary in terms of the form and materials to the existing pavilion. It is considered that the new building will relate well to the existing development form on the site and appear in keeping with the character and appearance of the surrounding residential area. The eaves and ridge height of the new building will relate to those on the existing pavilion and as a result of the intervening tunnel the built form of the new building will read as a new and separate community centre. The design of the new building will accord with the requirements of District Plan Policy DP26 and Policy E9 of the Haywards Heath Neighbourhood Plan.

### **Impact upon residential amenity**

Policy DP26 of the Mid Sussex District Plan states that development should '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'.

In terms of the impact of the proposal upon the neighbouring amenities the proposed pavilion is located on the western side of an established playing field within a residential area. The building would be sited over 30m from the nearest properties at Nos 1 and 3 Barn Cottage Lane to the west of the site.

The size of the site allows a reasonable degree of spacing between the immediate properties and the new building and as such it is considered that the scale and form of the building would not be dominant in views from these properties and their respective gardens.

Given the presence of the existing pavilion at the site and the distance of the site from the neighbouring properties, the orientation of the new pavilion and the intervening highway it is considered that the construction of the pavilion, new play area and associated relocation of the existing youth shelter will not adversely impinge upon the occupiers of these neighbouring properties.

The Environmental Health Officer is concerned about the potential impact of noise arising from the proposed day nursery. In respect of noise, policy DP29 in the District Plan states:

*'Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.'*

*In appropriate circumstances, the applicant will be required to provide:*

- *an assessment of the impact of noise generated by a proposed development; or*
- *an assessment of the effect of noise by an existing noise source upon a proposed development;'*

The MSDC Environmental Health response recommends appropriate hours of use, that will suit the proposed nursery use and control other community use of the new pavilion to protect the neighbouring amenities.

Subject to the imposition of a series of conditions on the use of the new building the proposal is considered to accord with District Plan Policy DP26 and Neighbourhood Plan Policy E9.

### **Highway and Parking issues**

The Highway Authority have been consulted on the application, and they have raised no objection to the application. The site has no formal designated parking area. Consequently the existing pavilion relies on the users either walking to the facility or using local on street parking.

The siting of the pavilion on an established playing field within the town is sustainable. The site is within walking distance of a large residential area which it will serve. The proposal accords with Policy DP21 of the District Plan and the relevant requirements of the NPPF.

### **Drainage**

Policy DP41 of the District Plan seeks to ensure that proposals can be properly drained. The proposed development is located within flood zone 1 and is deemed to be at a low risk of fluvial flooding and is not in an area identified as having possible surface water (pluvial) flood risk. The Council's Drainage Officer has recommended a planning condition requiring details of the proposed foul and surface water drainage and means of disposal to be submitted before development commences on the site. As such the proposal will accord with Policy DP41 of the District Plan.

## **Sustainability**

District Plan Policy DP39 is relevant in the determination of this application. This states:

*'All development proposals must seek to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate the following measures:*

- *Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation;*
- *Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible;*
- *Use renewable sources of energy;*
- *Maximise efficient use of resources, including minimising waste and maximising recycling/ re-use of materials through both construction and occupation;*
- *Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment;*
- *Demonstrate how the risks associated with future climate change have been planned for as part of the layout of the scheme and design of its buildings to ensure its longer term resilience.'*

The proposal has been submitted by an architectural firm specialising in ecological design. A Sustainability Statement has been submitted with the application which addresses issues such as: Climate Change and Energy, Water Efficiency and Sustainable Energy.

In terms of the requirements of DP39 the proposal has been demonstrated to include a series of energy efficiency and sustainability measures including the use of water saving fittings, low energy lighting, and energy efficient building design features.

In terms of the location, the site is within walking distance of the town centre and bus stops and the main line railway station and is therefore considered to be a sustainable location for the development.

It is considered that the proposal has been demonstrated to represent a sustainable development on this site and therefore would accord with the requirements of District Plan Policy DP39.

## **Habitats Regulations Assessment for 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 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 prepared for the Site Allocations DPD, 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.

### **Planning Balance and Conclusions**

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.

Given the presence of the existing pavilion at the site and the distance of the site from the neighbouring properties, the orientation of the new pavilion and the intervening highway it is considered that the construction of the pavilion, new play area and associated relocation of the existing youth shelter will not adversely impinge upon the occupiers of these neighbouring properties. Subject to the imposition of a series of conditions on the use of the new building the proposal is considered to accord with District Plan Policy DP26.

The proposal has been assessed with consideration to District Plan Policy DP39 (Sustainability). The proposed development has been considered in terms of energy efficiency and is designed as an energy efficient building. For reasons including the location of the site and the proposed energy efficiency details of the scheme the proposal has been demonstrated to represent a sustainable development in accordance with District Plan Policy DP39.

The siting of the pavilion on an established playing field within the town is sustainable, being within easy access to the surrounding residential area and walking distance of a large population. The proposal accords with Policy DP21 of the District Plan and the requirements of the NPPF.

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 of the proposed development is not required.

In light of the above it is recommended that the application is approved, subject to appropriate restrictive planning conditions.

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## APPENDIX A – RECOMMENDED CONDITIONS

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

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

### **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.

3. No development shall be carried out unless and until samples of materials and finishes to be used for external walls / roofs / fenestration of the proposed pavilion building have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with the Local Planning Authority in writing.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policies E9 and L9 of the Haywards Heath Neighbourhood Plan.

4. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building or parts of 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 development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. 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 DP41 of the District Plan (2014 - 2031) and Policies E9 and L9 of the Haywards Heath Neighbourhood Plan.

5. The premises shall not be open for use except between the hours of 0700 to 2200 hours Monday to Sunday and on Public/Bank holidays (and there shall be no external illumination on the premises except between the above-mentioned hours).

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

6. No deliveries or collections in relation to the use hereby permitted shall take place other than between the hours of 0700 and 2200 Monday to Sunday and on Public/Bank holidays.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

7. The octagonal shelter shall be relocated to the position as shown on the amended Block and Location Plan, Drawing No 602/106A, received on 05.05.2021, before the opening of the new community centre unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP25 of the Mid Sussex District Plan 2014 - 2031 and Policy L9 of the Haywards Heath Neighbourhood Plan.

8. The nursery / children shall use the garden area only between 09:00 and 17:00 hours Mon to Fri excluding Public Holidays.

Reason: To safeguard the amenity of residents and to comply with policies DP26 and DP29 of the Mid Sussex District Plan 2014 - 2031.

## INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to: Mondays to Fridays 0800 - 1800 hrs; Saturdays 0900 - 1300 hrs; No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

## 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 and Block Plan	602/106	A	05.05.2021
Proposed Site Plan	602/100	A	05.05.2021
Proposed Floor Plans	602/101	A	05.05.2021
Proposed Elevations	602/102	A	05.05.2021

## APPENDIX B – CONSULTATIONS

### Town Council Consultation

Given that this proposal is broadly the same as that approved under application DM/19/1624, the Town Council supports this application and reiterates its response to DM/19/1624, which remains relevant:

The Town Council fully supports this application which, if successful, would make a welcome and much needed addition to the provision of community facilities in this part of Haywards Heath. The building is of a sustainable design and the Planning Statement accompanying the application indicates compliance with the following policies of the Mid Sussex District Plan 2014-2031: DP1, DP2, DP3, DP24, DP25, DP28 and DP39. With regard to the Haywards Heath Neighbourhood Plan, the Town Council believes that the proposal meets Objective 6A (coordinate and improve green infrastructure in the town) paragraph 6.1 and complies with elements of Policies E1 and E9.

The Town Council requests that any permission granted is subject to the following conditions:

1. in order to protect the amenity of local residents, works of construction (including the use of plant and machinery, and deliveries or collection of plant, equipment or materials) shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays or Public Holidays;
2. in accordance with the recommendation of Mid Sussex District Council's Senior Environmental Health Officer (email dated 09/05/2019 refers), a separate wash hand basin shall be fitted in the kitchen in addition to the main kitchen sink;
3. in the event that the centre is serviced by larger, Eurobin facilities - which will be collected by a commercial operator - no collections shall be permitted before 0700 hours, in order to protect resident amenity;
4. in order to protect local residents from undue noise and disturbance, all users shall vacate and secure the building by 2300 hours at the latest. This shall apply on all days of the week and on Bank Holidays and Public Holidays.

Furthermore, as the project evolves and progresses, those responsible for its delivery are asked to consider the following:

- a. the installation of an effective and robust CCTV system in order to safeguard the centre against vandalism and to deter antisocial behaviour;
- b. any proposals to install an air conditioning system (with its associated heat exchanger(s)) would have to ensure compliance with Mid Sussex District Council's environmental health requirements;

- c. any proposals to introduce a lighting scheme for the exterior of the centre must be sympathetic to the locality and must safeguard local residents from unacceptable levels of light and disturbance. Advice on 'warm white' LED lighting should be sought from Mid Sussex District Council.'

### **WSSC Highways Authority**

The above proposal has been considered and WSSC requires more information to make an informed decision.

The site has planning permission which was approved under DM/19/1624 for a community hall has previously been submitted and approved for a New purpose-built community centre with joining tunnel to existing pavilion. This application is slightly different as it is seeking planning approval for the community building to be used as a children's nursery during the daytime.

WSSC previously raised no objection in principle to this community use however at the time we asked for more information, including a parking survey to ensure there was sufficient on-street parking, as no parking is offered. Under the most recent changes to the use class system, D2 use now falls into F2 use and proposes a car parking standard of:

- 1 space per 14sqm = 20 spaces (288sqm)
- 1 space per 100sqm for cycles = 6 spaces

Whilst the development is for the local community, and it is highly likely that local people will live close enough to the site to walk, cycle or use public transport, the applicant should provide evidence that on-street parking can be accommodated. Given the new use for a day nursery, WSSC believe the above standards should be applied or at the very least some form of car parking strategy introduced based on the likely use of the site. More information is required regarding a car parking strategy considering the use class car parking standards.

Further response: Further to an e-mail from Joanna Saady in response to WSSC request for a parking beat survey, the applicant has highlighted the new building will not create an intensification of use, as the nursery already exists and operates out of the existing community building. Given the changes will not create any additional use WSSC would not require a parking beat survey to take place.

### **Environmental Health Officer**

The mixed use of this application brings multiple potential noise issues, most notably the use of the nursery, but also the potential noise from social events and workout classes that may take place in the main hall.

In terms of events, to minimise any impacts I would suggest that operations at the community centre are time limited to prevent it from having a substantial impact on local residents at unsociable hours.

The introduction of a new nursery into an existing residential area may also cause issues relating to noise from the children playing outside, as well as the noise from parents' and staff vehicles arriving and leaving in the morning and afternoon (i.e. engine noise, door slamming). There is the potential for a large number vehicle movements per day.

There is the potential for those at home during the day, such as retired residents, and those who work from home to be disturbed from the use of a nursery, especially when children are outside. I therefore am concerned that the amenity of nearby residents may be affected.

However, as with many applications of this type, it is difficult to be sure of the level of disturbance in reality.

I would advise great caution in placing a nursery so close to residential, but recognise that, in accordance with current policy, the amenity issues must be balanced against the need for nursery places in this area. Without an acoustic report for the site, it's very difficult to say whether the background noise level in this location lends itself to masking further noise sources, but ultimately there is no standard to look at for noise levels from nursery as the noise levels are unknown and variable.

Additional mitigation could be achieved by restricting the hours of use of the outdoor play area and/or the installation of acoustic close boarded fencing around the perimeter of the play area. This type of fencing is expensive though and its effectiveness will depend on the size and shape of the play area, as well as the weight of the fence.

If permission is granted, I would recommend that conditions are used to minimise the potential disturbance as much as possible.

I also note that there are no air conditioning units on the plans, which will likely mean that doors and windows will be open during warmer weather, which potential presents further noise issues in itself. The applicant should be made aware that if we do get noise complaints regarding events these will be investigated.

If the applicant was to put in ant plant or machinery, such as air conditioning or an extract unit for the kitchen, they should be made aware that we would require and acoustic report to demonstrate that these will not create a noise nuisance to neighbouring residents.

Recommended conditions if approved:

- The premises shall not be open for use except between the hours of 0700 to 2200 hours Monday to Sunday and on Public/Bank holidays
- Soundproofing: The use hereby approved shall not be carried on until evidence is provided that the perimeter of the outdoor play area is fenced/enclosed in such a manner as to minimise transmission to neighbouring premises of noise caused by the use of the nursery. Such evidence shall be first submitted to and approved in writing by the Local Planning Authority.
- Use of Play Area: The nursery / children shall use the garden area only between 09:00 and 17:00 hours Mon to Fri excluding Public Holidays.

Reason: To safeguard the amenity of residents.

- No commercial deliveries or collections in connection with the nursery outside of the following hours: Mon to Fri 07:30 to 18:30 hours;

## **MSDC Drainage**

### **FLOOD RISK**

The site is within flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The site is not within an area identified as having possible surface water (pluvial) flood risk.

There are not any historic records of flooding occurring on this site and in this area. This does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

## **SURFACE WATER DRAINAGE**

The BGS infiltration potential map shows the site to be in an area with high infiltration potential. Therefore, the use of infiltration drainage such as permeable paving or soakaways may be possible on site. This will need to be confirmed through infiltration testing on site as part of detailed drainage design.

Very little information has been provided in relation to how the development shall manage surface water flood risk. The sustainability statement states permeable surfaces shall be utilised and the application form states the main sewer shall be used to manage surface water drainage.

We would advise the applicant that surface water drainage should follow the drainage hierarchy and therefore discharge to a sewer would not be considered acceptable unless all other means of management had been discounted. Given the high infiltration potential and the open area the development is located within we consider it likely an alternative means of drainage could be found. This should be addressed as part of the detailed drainage design.

Surface water drainage from the development should be designed to cater for the 1 in 100-year storm event, with a 40% allowance for climate change. Soakaways should be sized to have a half drain time of 24 hours or less. Any discharge from the site should be restricted to the Greenfield QBar runoff rate for the drained area. Further information into our general requirements for surface water drainage is included within the 'General Drainage Requirement Guidance' section.

## **FOUL WATER DRAINAGE**

It is proposed that the development will discharge foul drainage to the main sewer. This is considered acceptable in principle.

Further information into our general requirements for foul water drainage is included within the 'General Drainage Requirement Guidance' section.

## **GENERAL COMMENT**

No details have been provided of the location of any drains which serve the existing pavilion. We would advise the applicant to undertake a site survey to identify these as part of the detailed drainage design to ensure conflicts do not arise.

## **SUGGESTED CONDITIONS**

### *FOUL AND SURFACE WATER DRAINAGE*

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building or parts of 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 development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. 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.

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