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12 October 2021

Meetings of Council Committees are broadcast live through the [Mid Sussex District Council's YouTube channel](#). Owing to continuing public health restrictions, very limited space is available to observe proceedings in-person. Those wishing to do so must reserve a seat by completing a [Registration Form](#) by 4pm on the day prior to the meeting.

Dear Councillor,

A meeting of **DISTRICT PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER** at these offices on **THURSDAY, 21ST OCTOBER, 2021 at 2.00 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 Minutes of the previous meeting of the District Planning Committee held on 16 September 2021. | <b>3 - 6</b>  |
| 4.                               | To consider any items that the Chairman agrees to take as urgent business.                               |               |
| <b>Recommended for Approval.</b> |  |               |
| 5.                               | DM/21/1118 - East Lodge Farm, Malthouse Lane, Hurstpierpoint, West Sussex, BN6 9LA.                      | <b>7 - 58</b> |

#### **Recommended for Refusal.**

None.

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## Other Matters.

None.

6. 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 District Planning Committee:** Councillors D Sweatman, R Bates, A Eves, B Forbes, S Hatton, R Jackson, C Laband, A Peacock, C Trumble, R Webb and R Whittaker

**Minutes of a meeting of District Planning Committee  
held on Thursday, 16th September, 2021  
from 2.00 pm - 3.00 pm**

**Present:** D Sweatman (Chairman)  
B Forbes (Vice-Chair)

R Bates

A Eves

R Jackson

C Laband

A Peacock

R Webb

R Whittaker

**Absent:** Councillors S Hatton and C Trumble

**Also Present:** Councillor Chris Phillips

**1. WELCOME AND SAFETY ANNOUNCEMENT.**

The Chairman welcomed the Members to the meeting and read out the fire safety announcement.

**2. TO ELECT THE VICE-CHAIRMAN OF THE DISTRICT PLANNING COMMITTEE.**

The Chairman nominated Councillor Forbes as Vice-Chairman of the District Planning Committee for the 2021/22 Council year. This nomination was seconded by Councillor Peacock and with no further nominations put forward, this was agreed.

**RESOLVED**

The Chairman nominated Councillor Forbes as Vice-Chairman of the District Planning Committee for the 2021/22 Council year. This nomination was seconded by Councillor Peacock and with no further nominations put forward, this was agreed.

The Chairman advised the Members that officers had requested item 8, DM/21/1118 East Lodge Farm, Malthouse Lane, Hurstpierpoint, BN6 9LA be deferred.

**3. TO RECEIVE APOLOGIES FOR ABSENCE.**

Apologies were received from Cllrs Hatton and Trumble.

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

None.

**5. TO CONFIRM MINUTES OF THE PREVIOUS MEETING OF THE DISTRICT PLANNING COMMITTEE HELD ON 8 JULY 2021.**

The Minutes of the Committee meeting held on 8 July 2021 were agreed as a correct record and signed by the Chairman.

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

None.

**7. DM/20/4127 - BARNS COURT AND FRIDAY FARM, TURNERS HILL ROAD, CRAWLEY DOWN, RH10 4HQ.**

Steven King, Planning Applications Team Leader introduced the application. He drew Members' attention to the Agenda Update Sheet noting the amendments to the recommendations, additional works to add an extra footway next to Turners Hill Road and their intention to install fibre to premises and ducting for EV charging points to future proof the estate.

The Officer advised the application was seeking outline planning permission for expansion of the existing commercial estates and the replacement of the existing dwelling known as Friday Farm Bungalow. The application would determine the principle of development and access only. He highlighted three listed buildings adjacent to the site and the public right of way to the southern boundary. The existing buildings and replacement dwelling will use the existing access points and summarised the proposed works to improve the Dukes Head roundabout.

The Committee were advised the history of the site, including two dismissed appeals which were material planning considerations. The Team Leader noted the relevant policies: DP12 Protection and Enhancement of the Countryside, DP1 Sustainable Economic Development, DP14, Sustainable Rural Development and the Rural Economy, and the emerging draft policy SA34 in the Site Allocations Development Plan Document which allows for expansion of Existing Commercial Sites. He noted the impact of the development on the setting of the listed buildings which was considered to result in less than substantial harm. The public benefits of the application was considered to outweigh this harm. The Highway Authority had no objections to the application as with the proposed highway improvements there would not be a severe impact on the highway network. The site is adjacent to ancient woodland and the MSDC Ecology Consultant has no objections.

The Chairman read a letter of objection to the application from Mr Douglas Ford.

Cllr Chris Phillips, Ward Member for Copthorne and Worth spoke in objection to the application. He noted the previous history of the site and questioned why the new application was acceptable. The application was contrary to DP12 and he considered that there was already sufficient commercial employment opportunities in the village. As the Neighbourhood Plan for Copthorne was progressing it should be given more weight. The site was unsustainable due to the lack of public transport and provision for cyclists. He welcomed the improvements to the Dukes Head roundabout but did not think it would ease the heavy congestion on the road network. He noted the difficulties leaving the site i.e., no turn right and that vehicles regularly contravened the existing road signs. He urged members to reject the application as the site was not suitable for expansion and would affect the rural nature of the area.

The Chairman reiterated that the Highway Authority had no objections.

Members queried the proposed improvements to the Dukes Head roundabout and increase in traffic movements with the increased commercial floor space, improved

provision for cyclists and the proposed timing and lighting temperature which was unfriendly to ecology.

The Members welcomed the expansion of an existing commercial site, the proposed additional pavement and requested additional signage to make the no right turn clearer for road users.

The Team Leader confirmed there would be physical changes to widen the roundabout at the north and south bound lanes and pavement improvements. He confirmed the footway changes would be part of the S106 agreement and changes to the central reservation would be controlled by condition 15. If Members wished reference could be made for additional signage / road markings. The Members agreed to this extra detail on condition 15 to direct road users to turn left and not right. He confirmed the Environmental Health Team had suggested the start time of 8 am for the site. A full transport statement had been provided with the application and the Highway Authority use recognised data bases to work out any extra movements. They would identify and object if any transport statements supplied were incorrect. He confirmed they were satisfied with the proposed improvements to mitigate any impact on the highway network.

A Member confirmed this was a successful well screened employment site and the council must provide sites to increase employment provision as more houses are built in the District. The application for small-scale units encourages small businesses and there is good access to the M23. Several Members noted their support of the application.

The Chairman confirmed if the outline application was approved an application for the reserved matters for design, layout and associated works would need to be submitted to the Council for determination.

In response to a Member's request for clarification on the additional white lining, the Team Leader confirmed the extra lining would be on the access within site directing traffic to turn left. There were no proposals to add an additional right turn lane into the site.

As there were no further questions the Chairman took Members to a named vote on the recommendations outlined in the report, the amendment to condition 15 and the amendments as detailed on the Agenda Update Sheet. This was proposed by Cllr Peacock and seconded by Cllr Laband and was approved.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstained</b>
Bates, R.	Y		
Eves, A.		Y	
Forbes, B.	Y		
Jackson, R.	Y		
Laband, C	Y		
Peacock, A	Y		
Sweatman, D	Y		
Webb, R.	Y		
Whittaker, R.	Y		

## **RESOLVED**

Recommendation A

It is recommended that, subject to the completion of a satisfactory S106 Legal Agreement and/or legal undertaking to secure financial contributions and offsite improvements to the Dukes Head roundabout, planning permission be granted subject to the conditions set out in Appendix A, the amendment to condition 15 and the Agenda Update sheet.

Recommendation B

If by 10 December 2021, the applicants have not submitted a satisfactory signed S106 Legal Agreement and/ or legal undertaking securing 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 55 and 57 of the National Planning Policy Framework in respect of the infrastructure required to serve the development.'

**8. DM/21/1118 - EAST LODGE FARM, MALTHOUSE LANE, HURSTPIERPOINT, BN6 9LA.**

This item had been deferred at the request of the Officers.

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

None.

The meeting finished at 3.00 pm

Chairman

MID SUSSEX DISTRICT COUNCIL

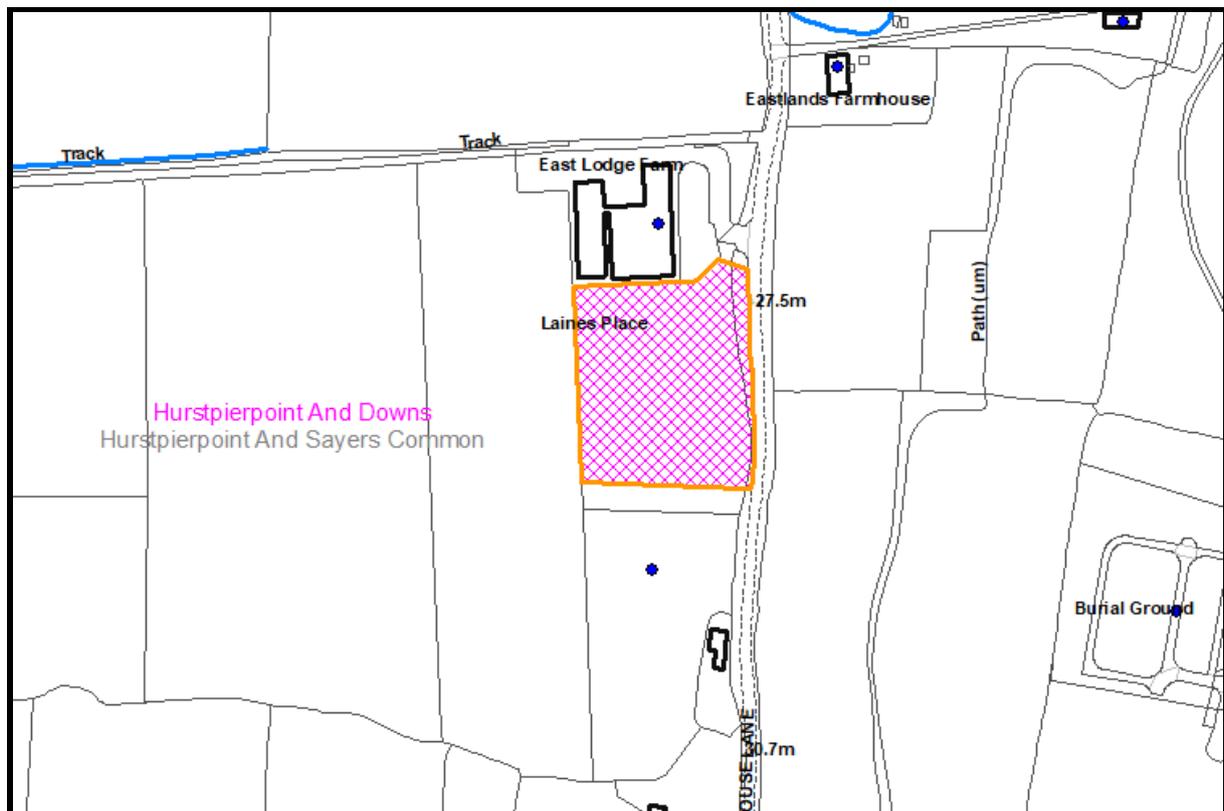
District Wide Committee

**21 OCT 2021**

RECOMMENDED FOR PERMISSION

**Hurstpierpoint And Sayers Common**

**DM/21/1118**



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**EAST LODGE FARM MALHOUSE LANE HURSTPIERPOINT WEST SUSSEX**

**ERECTION OF CLASS E(G) BUILDING TO INCLUDE A MIX OF OFFICE, RESEARCH AND DEVELOPMENT AND INDUSTRIAL PROCESSES WITH CARPARK, NEW VEHICLE ACCESS ONTO MALHOUSE LANE AND ASSOCIATED LANDSCAPING. 'CORRECTED PRELIMINARY ECOLOGICAL APPRAISAL RECEIVED 2 SEPTEMBER 2021 AND CORRECTED SUSTAINABILITY STATEMENT RECEIVED 8 SEPTEMBER.'**  
**MS CLAUDIA REES**

POLICY: Area of Special Control of Adverts / Countryside Area of Dev. Restraint / Classified Roads - 20m buffer / Methane Gas Safeguarding / Aerodrome Safeguarding (CAA) / Minerals Local Plan Safeguarding (WSSCC) /

ODPM CODE: Smallscale Major Offices

13 WEEK DATE: 15th July 2021

WARD MEMBERS: Cllr Colin Trumble / Cllr Alison Bennett / Cllr Rodney Jackson /

CASE OFFICER: Steven King

#### **PURPOSE OF REPORT**

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

#### **EXECUTIVE SUMMARY**

This application seeks planning permission for the construction of a building to be used for business use together with associated car parking, vehicular access and landscaping at East Lodge Farm, Malthouse Lane, Hurstpierpoint.

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development 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.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan (DP) and the Hurstpierpoint and Sayers Common Neighbourhood Plan (HSCNP).

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

The site lies in the countryside as defined in the DP and so that starting point for assessing the application is policy DP12 of the DP. This seeks to protect the

character of the countryside by ensuring that proposals maintain or enhance the quality of the rural character of the District and they are supported by a specific policy reference elsewhere in the DP or a neighbourhood Plan. Policy Hurst C1 in the Hurstpierpoint and Sayers Common Neighbourhood Plan (HSCNP) has similar aims. Policy DP14 in the DP allows for new small scale economic development in the countryside.

It is a material planning consideration that there are two extant planning permissions on this site for a redevelopment to provide a building containing B1 business floor space. The fact that these consents could be implemented is a fall-back position for the applicants. It is relevant that the fallback position is for a business building of a similar scale to the current proposal, which was predicted to generate a similar amount of vehicular movements to the current proposal.

It is considered that whilst the proposal would change the character of this part of the countryside compared to the current situation, given the fact that there is an extant planning permission on the site, that the building would be well designed and landscaped, it is not felt that there would be harm to the countryside from this development. As such there is support for the principle of the development in policies DP12 and DP14 of the DP and policy Hurst C1 in the HSCNP.

The building would impact upon the setting of a listed building at Kents Farmhouse. By virtue of developing a site that is currently open it is considered that the proposal would have an adverse impact on the setting of this listed building and this would be less than substantial as defined in the NPPF. As such there would be a conflict with policy DP34 of the DP. It is the case that within the bracket of 'less than substantial harm, there is range of impacts. In this case it is considered that the harm to the setting of the listed building lies at the lower end of the scale. In accordance with section 66 Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) 1990 - significant weight should be attached to that less than substantial harm that arises from this impact. However, that does not mean that any harm, however minor, necessarily requires planning permission to be refused. As set out in paragraph 202 of the NPPF, the considerable weight attached to the less than substantial harm needs to be weighed against the public benefits of the proposal.

It is considered that there are important public benefits that need to be weighed in the planning balance required under paragraph 202 of the NPPF. The scheme would provide a good quality building that would provide high quality employment floorspace. The applicants indicate that 31 people would be employed on the site in high quality jobs. This will provide an economic benefit to the local economy. It is your Planning Officers view that these economic benefits should be afforded significant weight

The scheme would conflict with policy DP34 in the DP as there would be harm to the setting of the listed building at Kents Farm. In your Planning Officers view this harm

falls within the category of less than substantial as defined in the NPPF. In order to properly reflect the statutory presumption in the PLBCAA Act 1990 this less than substantial harm should be given significant weight in the planning balance. As such this harm to the setting of the listed building weighs against the application.

It is your Planning Officers view that there are important economic benefits that would arise from this application. The provision of this building would deliver high quality commercial floorspace that would deliver high quality jobs. This would accord with the aims of policy DP1 in the DP, which refers to '*encouraging inward investment, especially the location, promotion and expansion of clusters or networks of knowledge, creative or high technology industries.*' It is considered that these benefits should be given significant weight in the planning balance and that these benefits outweigh the less than substantial harm to the setting of Kents Farmhouse.

It is considered that the proposed access to the site is satisfactory and that there will not be a severe impact on the local highway network, which is the test in policy DP21 and the NPPF. There are no objections from the Highway Authority to the proposal. As such there are no grounds to resist the application based on highways matters.

The site can be satisfactorily drained and there are no objections from your Drainage Engineers or WSCC as the Lead Local Flood Authority.

To conclude, whilst there would be conflict with policy DP34, it is felt that given the compliance with other policies identified in this report it is considered that the proposal complies with the development plan when read as a whole, which is the proper basis for decision making. In light of the above the application is recommended for approval.

## **RECOMMENDATION**

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

## **SUMMARY OF REPRESENTATIONS**

106 letters of objection:

- the proposal is contrary to policies DP1, DP12, DP21, DP26 in the District Plan and Neighbourhood Plan as this site is in the countryside and is not allocated for industrial development
- there is no need for the development to be located in the countryside, it should be located in an industrial estate
- is there a need for development when so many people are now working from home
- will have an adverse impact on the character of the area

- will cause a highway safety hazard with additional vehicles on the road
- there are no public transport options to access the site
- Malthouse Lane is entirely unsuitable for this development
- will cause a conflict with horse riders who use this road
- will have an adverse impact on ecology and wildlife
- will erode the strategic gap between Burgess Hill and Hurstpierpoint
- will set a precedent for further development in the countryside
- ecological report submitted with the application is inaccurate and cannot be relied upon
- ecological surveys were undertaken at the wrong time of year
- will cause noise and disturbance to existing residents
- economic benefits will be minimal as the proposal involves economic activity moving from other parts of Sussex
- Malthouse Lane suffers from drainage problems
- proposal would be next to a battery storage facility and this presents a risk to occupiers of the building in the event of a fire at the battery storage site
- a research laboratory on the site could attract public disorder
- the site would be used to store hazardous materials
- There should be a condition regarding both construction traffic and deliveries, prohibiting HGV traffic using College Lane for access and egress at anytime. A traffic management plan during the construction period should be provided.
- The applicant is seeking consent for hours of use Monday to Friday only. There should be a condition prohibiting construction traffic and deliveries on Sundays and Bank holidays
- will cause light pollution
- we believe that if the site is to be developed a much smaller development, more in keeping with the character of the Lane and less likely to increase traffic volumes, would be more appropriate
- will harm the setting of a listed building
- will adversely affect livery yards

1 letter of support:

-This is a well considered scheme providing an excellent use of redundant land and giving a respected local company the resources they need to continue to support business in Mid Sussex.

## **SUMMARY OF CONSULTEES**

### **Highway Authority**

No objection subject to conditions

### **WSSC Lead Local Flood Authority**

No objections

### **WSSC Water and Access Manager**

Requests a condition regarding the provision of a fire hydrant

### **Archaeological Officer**

I would prefer an Archaeological Desk Based Assessment to be submitted with the application. In the absence of this I would recommend that an appropriate and proportionate level of archaeological work would be a programme of archaeological monitoring to be carried out as the development proceeds

### **Ecological Consultant**

Recommends conditions regarding clearance of the site under a watching brief and a condition regarding the removal of hedgerows

### **Mid Sussex Drainage Engineer**

No objection subject to the drainage being implemented as per the details submitted

### **Environmental Health Officer**

No objection subject to conditions

### **Contaminated Land Officer**

No objection subject to conditions

### **Conservation Officer**

Development of this nature would have a fundamental impact on the site's currently open and rural nature, and would remove the positive contribution which it currently makes to the setting of Kent's Farm, including the largely rural character of the approach to the historic farmstead travelling south along Malthouse Lane. The impact of the proposed development would be exacerbated by its scale, bulk, design and materials, which are unsympathetic to the rural location. For these reasons I consider that the proposal will be harmful to the setting and special interest of Kent's Farm House and the associated historic farmstead.

This would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF I would consider the harm caused to the heritage assets to be less than substantial, such that the criteria set out in paragraph 196 of that document would apply.

### **Urban Designer**

No objection subject to conditions regarding details of the external elevations, materials and landscaping.

## **Tree Officer**

Whilst the loss of the mature oak category A is regrettable, nevertheless there is significant mitigation planting. I would request a condition regarding the proposed landscaping.

## **PARISH COUNCIL OBSERVATIONS**

The Committee considered the corrected Sustainability Statement and the Preliminary Ecological Appraisal and the response from the MSDC Ecological Consultant.

The Committee AGREED that:

- i) due to the original appraisal being carried out in December, repeated errors contained in the report, and corrections referring to a "Sussex Council", that they could not trust nor have any confidence in the contents of the report and therefore request a further ecological appraisal be carried out at the appropriate time of year for such a study or;
- ii) if MSDC were minded to approve the application then the conditions recommended by their Ecological Consultant be applied.

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## **INTRODUCTION**

This application seeks planning permission for the construction of a building to be used for business use together with associated car parking, vehicular access and landscaping at East Lodge Farm, Malthouse Lane, Hurstpierpoint.

## **RELEVANT PLANNING HISTORY**

Planning permission was granted in December 2007 under reference 07/03319/FUL for the demolition of existing disused chicken coop, removal of existing portacabin construction of new building to create new B1 floorspace, new carpark and associated landscaping. The buildings that used to occupy the site were subsequently demolished and the site was cleared.

A subsequent application for a lawful development certificate (LDC), reference DM/17/4445 was approved in January 2018. This LDC established that the 2007 planning consent (reference 07/03319/FUL) was still extant and could be implemented as works had commenced to implement it within the time limit of that permission. As such the fact that the 2007 consent could still be implemented is a fall-back position and is a material planning consideration.

Following on from this, planning permission was granted on 6th September 2019 under reference number DM/18/4419 for the construction of a building to be used for B1 business use together with associated car parking, vehicular access and landscaping at the site. This planning permission is extant.

To the west of the site planning permission was granted under reference DM/17/0572 for a proposed energy storage facility to provide energy balancing services to the National Grid. This development is currently under construction.

## **SITE AND SURROUNDINGS**

The site of the application lies to the west of Malthouse Lane. The site has been cleared of all buildings.

To the north of the site is Contego Workwear, a former poultry shed building that has been converted to a storage use. To the south of the building there is a rise in levels and then open fields. To the east there is a hedge around 1.6m in height along the roadside. To the west there is a slight rise in levels and then the site of the energy storage facility that is currently under construction. The site is within the countryside as defined in the District Plan (DP).

## **APPLICATION DETAILS**

This application seeks planning permission for the erection of a building to be used for business purposes, comprising a mix of office, research and development and industrial processes.

The building would have a footprint measuring some 66m by 18m with a maximum roof height of some 8m. It would be a two storey building. The external elevations would feature a mixture of vertical natural sweet chestnut cladding, timber columns, a zinc roof, curtain walling with grey aluminium framing and aluminium windows in the wall. There would be four steel roller shutter doors on the rear (west) elevation.

The vehicular access to the site would be positioned at the southern end of the site and would be onto Malthouse Lane. There would be a total of 83 car parking spaces at the site. These would be located to the front (east) and rear (west) of the building.

The landscaping plans show that there would be additional landscape planting around the boundaries of the site. Five new trees are shown as being planted on the eastern boundary of the site with Malthouse Lane and nine new trees are shown on the western boundary.

The applicants plans indicate that the car parking areas would be lit by ten 6m high lighting columns and 6 lights affixed to the building. The lighting would not be operational when the proposed development is not in use. After this time, lighting would be activated by sensors for the purposes of security, where lighting will operate for a predetermined time- period before switching off. An override will be provided for safety.

The applicants have advised on the application form that the operating hours of the business would be 8am to 5pm Monday to Friday.

The applicants have provided a supporting statement with their application. In summary it makes the following points:

- Cells4Life was founded in 2002 and was the first private company to offer a stem cell storage and collection service in the UK.
- iosBio Ltd and CyteTech are sister companies to Cells4Life. iosBio Ltd is a biotechnology company which aims to change the way vaccines are made and taken.
- The three businesses employ 31 people (laboratory technicians, sales, research and development, finance, software development, quality assurance, operations, management, marketing, business development, administration)
- All of the site constitutes previously developed land as defined in the NPPF, the effective reuse of which is encouraged by national and local planning policy.
- The scheme is immediately deliverable and will therefore have a positive impact on the company if approved. The application seeks to positively deliver the development requirements within policy DP 14 of the Mid Sussex District Plan relating to economic development within the countryside, and to achieve balance with other design, heritage, nature conservation, transport, infrastructure and sustainability policies in the Mid Sussex District Plan.
- The development is an improvement from the previously permitted development, reference DM/18/3319.

## **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:

*i '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 Hurstpierpoint and Sayers Common 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.

DP1 Sustainable economic development  
DP12 Protection and enhancement of countryside  
DP13 Preventing coalescence  
DP14 Sustainable rural development and the rural economy  
DP21 Transport  
DP26 Character and design  
DP29 Noise, air and light pollution  
DP34 Listed buildings and other heritage assets  
DP37 Trees, woodlands and hedgerows  
DP39 Sustainable design and construction  
DP41 Flood risk and drainage

### **Hurstpierpoint and Sayers Common Neighbourhood Plan**

The HSCNP was made in 2016 and forms part of the development plan for this part of Mid Sussex.

Policy Countryside Hurst C1 Conserving and Enhancing Character  
Policy Countryside Hurst C3 - Local Gaps and Preventing Coalescence

#### *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 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.

Paragraphs 84 and 85 in the NPPF seek to promote a prosperous rural economy and will be referred to later in this report.

## National Planning Policy Guidance

### *National Design Guide*

### *Ministerial Statement and Design Guide*

On 1 October 2019 the Secretary of State for the Ministry of Housing, Communities and Local Government made a statement relating to design. The thrust of the statement was that the Government was seeking to improve the quality of design and drive up the quality of new homes. The Government also published a National Design Guide, which is a material planning consideration.

The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social, economic and environmental change will influence the planning, design and construction of new homes and places.

## ASSESSMENT

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

- The principle of development;
- Impact on heritage assets
- Design/layout
- Trees and Ecology
- Access and Transport
- Drainage
- Neighbour amenity
- Ashdown Forest
- Planning Balance and Conclusion

### Principle of development

As the site lies within the countryside, the starting point for an assessment of the application is policy DP12 of the DP. The supporting text to policy DP12 states in part:

*'The countryside is a working environment that needs to be managed in a way that enhances the attractiveness of the rural environment whilst enabling traditional rural activities to continue. The rural economy will be supported by other policies within this Plan that permit small-scale development and changes of use that will further economic activities that are compatible with the District's rural character.'*

The policy itself states:

*'The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:*

- *it is necessary for the purposes of agriculture; or*
- *it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.*

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

*The Mid Sussex Landscape Character Assessment, the West Sussex County Council Strategy for the West Sussex Landscape, the Capacity of Mid Sussex District to Accommodate Development Study and other available landscape*

*evidence (including that gathered to support Neighbourhood Plans) will be used to assess the impact of development proposals on the quality of rural and landscape character.*

*Built-up area boundaries are subject to review by Neighbourhood Plans or through a Site Allocations Development Plan Document, produced by the District Council. Economically viable mineral reserves within the district will be safeguarded.'*

The above policy is a key part of the overall spatial strategy of the DP, which seeks to protect the countryside and to focus development on the higher category settlements which have a wider range of services, facilities and better accessibility.

A fundamental principle of this policy is that the countryside is protected for its intrinsic beauty. Development can be permitted where it maintains or enhances the quality of the rural landscape character of the District and it is supported by a policy reference elsewhere in the DP, a development plan document or a neighbourhood plan.

In this case the proposed new building would clearly change the appearance of the site by introducing a new modern business building where there is currently no development. However the proposal would retain the majority of screening along the road frontage and the proposal includes a landscaping scheme for the whole site. It is also the case that there is an existing commercial business to the north of the site so the proposed building would not be seen in isolation. In addition to this there is a battery storage facility that is being built to the west of the site. It is therefore felt that the overall character of the wider area in which this site lies would still be retained.

It is also a material consideration that both the 2007 consent and the more recent consent granted under reference DM/18/4419 are extant and that development could be completed. It should also be noted that there was a building on the site in the past which has now been removed. As such the principle of a redevelopment of the site has been accepted in the past and therefore the principle of some change to the character of the immediate site has been accepted. The building previously approved under reference DM/18/4419 is two storeys in height with a footprint measuring 18m by 64m and a flat roof 9m in height. As such it is of a similar scale to the current proposal.

Policy DP1 in the DP states in part:

*'The total number of additional jobs required within the district over the plan period is estimated to be an average of 543 jobs per year. This will be achieved by:*

- Encouraging high quality development of land and premises to meet the needs of 21st century businesses;*
- Supporting existing businesses, and allowing them room to expand;*
- Encouraging inward investment, especially the location, promotion and expansion of clusters or networks of knowledge, creative or high technology industries; and*
- Seeking the provision of appropriate infrastructure to support business growth - in particular high speed broadband connections.*
- Provision for new employment land and premises will be made by:*

- *Allocating 25 hectares of land as a high quality business park at Burgess Hill to the east of Cuckfield Road;*
- *Allocating further sites within the Site Allocations DPD;*
- *Incorporating employment provision within large scale housing development as part of a mixed use development where it is appropriate; and*
- *Allowing new small-scale economic development, in the countryside, including tourism (in accordance with Development in the Countryside policies).*

*Effective use of employment land and premises will be made by:*

- *Protecting allocated and existing employment land and premises (including tourism) unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment or it can be demonstrated that the loss of employment provision is outweighed by the benefits or relative need for the proposed alternative use;*
- *Permitting appropriate intensification, conversion, redevelopment and/ or extension for employment uses providing it is in accordance with other policies in the Plan;*
- *Giving priority to the re-use or adaptation of rural buildings for business or tourism use and to the diversification of activities on existing farm units (in accordance with Development in the Countryside policies). Neighbourhood Plans should:*
- *Identify the needs of local businesses and their local residents for employment opportunities and any areas requiring economic regeneration, infrastructure provision or environmental enhancement as required by paragraph 21 of the National Planning Policy Framework; and*
- *Allocate sufficient land within their towns and villages to meet these needs.*

*If monitoring indicates that there is an insufficient supply of allocated employment sites to meet the District's jobs needs, then the Council will consider allocating sites through a Site Allocations Development Plan Document, produced by the District Council.*

Policy DP1 in the DP allows for new small scale economic development in the countryside. Policy DP14 in the DP allows for new small scale economic development in the countryside, provided that it is not in conflict with policy DP12. Policy DP14 states:

*'Provided it is not in conflict with Policy DP12: Protection and Enhancement of Countryside and DP13: Preventing Coalescence:*

- *new small-scale economic development, including tourism-related development, within the countryside (defined as the area outside of built up area boundaries as per the Policies Map) will be permitted provided:*
- *it supports sustainable growth and the vitality of the rural economy; and*
- *where possible, utilises previously developed sites.*
- *diversification of activities on existing farm units will be permitted provided:*
- *they are of a scale which is consistent to the location of the farm holding; and*
- *they would not prejudice the agricultural use of a unit.*
- *the re-use and adaptation of rural buildings for business or tourism use in the countryside will be permitted provided:*

- *the building is of permanent construction and capable of re-use without substantial reconstruction or extensive alteration;*
- *the appearance and setting is not materially altered; and*
- *it is not a recently constructed agricultural building which has not been or has been little used for its original purpose.'*

Overall it is considered that there is support in the DP for the principle of the development providing its tests are met.

Policy Countryside HurstC1 in the Neighbourhood Plan states Development, including formal sports and recreation areas, will be permitted in the countryside, where:

- It comprises an appropriate countryside use;
- It maintains or where possible enhances the quality of the rural and landscape character of the Parish area;
- In the South Downs National Park, policy HurstC2 will take precedent.'

This policy has similar aims to policy DP12 in the DP and for the same reasons as outlined above, it is not considered that the proposal would conflict with this Neighbourhood Plan policy.

### Coalescence

Policy DP13 in the DP states:

*"The individual towns and villages in the District each have their own unique characteristics. It is important that their separate identity is maintained. When travelling between settlements people should have a sense that they have left one before arriving at the next.*

*Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements.*

*Local Gaps can be identified in Neighbourhood Plans or a Site Allocations Development Plan Document, produced by the District Council, where there is robust evidence that development within the Gap would individually or cumulatively result in coalescence and the loss of the separate identity and amenity of nearby settlements. Evidence must demonstrate that existing local and national policies cannot provide the necessary protection.*

*Policy Hurst C3 states 'Development will be permitted in the countryside provided that it does not individually or cumulatively result in coalescence and loss of separate identity of neighbouring settlements, and provided that it does not conflict with other Countryside policies in this Plan. Local Gaps between the following settlements define those areas covered by this policy:*

*Hurstpierpoint and Hassocks;  
Sayers Common and Albourne;  
Hurstpierpoint and Albourne;  
Hurstpierpoint and Burgess Hill.'*

It is not considered that the proposal will result in coalescence and therefore there is no conflict with this policy.

As the crow flies there is a gap of some 1.6km between the defined built up area boundaries of Burgess Hill and Hurstpierpoint at their closest points. It is not considered that the proposal would erode the sense of leaving one settlement before arriving at another. As the crow flies the site is some 295m to the west of the built up area of Burgess Hill. The built up area boundary runs alongside the Jane Murray Way and provides a strong and defined boundary to the settlement of the town. It is not felt that the proposal would have unacceptably urbanising effect on the area between settlements.

### **Impact on heritage assets**

To the south of the site along Malthouse Lane and also to the west of the road is Kent's Farm House, which is a Grade II listed building. Associated with it are Kent's Farm Cottages and a group of agricultural buildings at Kent's Farm.

Section 66 of the Planning (Listed Buildings and Conservation Areas) (PLBCAA) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority 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. In addition, in enacting section 66(1) of the Listed Buildings Act, the desirability of preserving the settings of listed buildings should be given 'considerable importance and weight' when the decision taker carries out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable.

*Case law has stated that "As the Court of Appeal has made absolutely clear in its recent decision in **Barnwell**, the duties in **sections 66 and 72 of the Listed Buildings Act** do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in **Barnwell** it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."*

*The Courts further stated on this point "This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in **Barnwell**,*

*that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering."*

Policy DP34 of the DP states in part:

*'Listed Buildings*

*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;*
- o 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.'*

Paragraph 199 of the NPPF states:

*'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.'*

Paragraph 202 of the NPPF states:

*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.'*

Kent's Farm House, which is a Grade II listed building. It is located some 200m to the southwest of the application site. Kent's Farm including the former farmhouse is recognised in the West Sussex Historic Farmstead and Landscape Character assessment as a Historic Farmstead dating to the 17th century.

The full comments of the Councils Conservation Officer are set out in the appendix and summarised at the start of this report. The Councils Conservation Officer states *“The surviving rural setting of the farm house and farmstead, including the application site, which was once part of the farmlands to Kent's Farm, would be regarded as making a positive contribution to the special interest of the listed building and any associated curtilage listed buildings or NDHAs within the historic farmstead, in particular those parts of that interest which are drawn from illustrative or aesthetic values.*

*The current proposal is for the erection of a Class E(g) building to include a mix of office, research and development and industrial processes with a carpark, new vehicle access onto Malthouse Lane and associated landscaping.*

*Development of this nature would have a fundamental impact on the site's currently open and rural nature, and would remove the positive contribution which it currently makes to the setting of Kent's Farm, including the largely rural character of the approach to the historic farmstead travelling south along Malthouse Lane. The impact of the proposed development would be exacerbated by its scale, bulk, design and materials, which are unsympathetic to the rural location. For these reasons I consider that the proposal will be harmful to the setting and special interest of Kent's Farm House and the associated historic farmstead.*

*This would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF I would consider the harm caused to the heritage assets to be less than substantial, such that the criteria set out in paragraph 196 of that document would apply.’ It should be noted that paragraph 196 as referred to by the Conservation Officer is now paragraph number 202 in the revised NPPF.*

Your Planning Officer agrees that there would be impact on the setting of the heritage asset as a result of the change from a currently undeveloped site to a site with a modern two storey commercial building. It is your Planning Officer's view that the extent of this impact is tempered by the fact that there is further development adjacent to the application site (the existing commercial buildings to the north and the battery storage facility under construction to the west). As such the proposal is not introducing new development into a completely undeveloped area in the setting of the heritage asset.

Nonetheless, your Planning Officer agrees with the Councils Conservation Officer that there would be some harm and that in terms of the NPPF, this would be classed as less than substantial. It is the case that within the bracket of 'less than substantial harm', there is range of impacts. In this case it is considered by your Planning Officer that the harm to the setting of the listed building lies at the lower end of the scale. In accordance with section 66 PLBCAA Act 1990, significant weight should be attached to that less than substantial harm that arises from this impact. However, that does not mean that any harm, however minor, necessarily requires planning permission to be refused. As set out in paragraph 202 of the NPPF, the considerable weight attached to the less than substantial harm needs to be weighed against the public benefits of the proposal.

In this case, the main benefits of the scheme are economic benefits arising from the provision of additional employment floorspace. The scheme would provide modern floorspace for companies involved in high technology businesses. It is your Planning Officers view that significant weight should be afforded to the economic benefits of the proposal. It is a clear aim of Government policy in the NPPF to support sustainable economic growth and to support the rural economy.

In this case, given the existing development that is adjacent to the site, it is felt that the public benefits of the proposal do outweigh the less than substantial harm to the setting of the listed building at Kents Farmhouse.

The Councils Archaeological Consultant has recommended that an archaeological Desk Based Assessment be produced and provided for this application. She stated in her initial comments *'The Assessment, and possibly a report on an evaluation, will need to be submitted both before I am in a position to provide informed comments on the application, and before determination of any planning permission. Without such information, I am not in a position to comment on the archaeological implications of the proposal. If such information is not forthcoming before determination, I would recommend that the application be refused on the grounds of insufficient supporting information having been received.'*

*Notwithstanding these comments, if the planning authority deems that a strategy of preservation by record is sufficient to mitigate the loss of the archaeological Assets that may be present, and that the archaeological work can be undertaken after any decision on permission, the necessary archaeological work will need to be secured by the addition of the standard archaeological condition to any planning permission granted.'* Following discussion with your Planning Officer regarding this issue, the Archaeological Consultant has further stated *'...should the applicant be prepared to accept the archaeological risk, in the absence of a full archaeological assessment it would be best to assume that there will be potential for archaeological heritage assets on the site which will be impacted in the course of the construction, and therefore assume that a level of archaeological work will be required.'*

*In the above instance, I would recommend that an appropriate and proportionate level of archaeological work would be a programme of archaeological monitoring to be carried out as the development proceeds, with the contingent excavation, recording and analysis of any Archaeological Assets revealed (often referred to as a watching brief). The archaeological monitoring would need to be carried out by professional archaeologists to advance the understanding of the significance of any Archaeological Assets present before they are destroyed by the development.'*

The site used to have a poultry shed building on it and there is hardstanding within the site. Given these points and the comments of the Archaeological Advisor, it is felt that in this case it would be appropriate to use a planning condition to require a programme of archaeological work to be carried out. With such a condition in place it is felt the application is acceptable in relation to archaeological matters.

## Design/layout

Policy DP26 in the DP seeks a high standard of design in new development. It 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;*
- *o does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development.'*

It is undoubtedly the case that the proposed building will make a significant change to this site compared to its current undeveloped state. However whilst the site is currently cleared, there is an extant planning permission that could come forward on the site.

It is considered that the proposal is a well-designed contemporary building. The front façade of the building would be broken up by the timber columns so the building does not appear as a bland monotonous structure. The details of the external materials and layering to the timber facades can be controlled by a planning condition. The hard and soft landscaping of the site can also be controlled by a planning condition.

Principle DG44 Design of commercial buildings in the Mid Sussex Design Guide is relevant to this application. In part it states that :

*"The design of commercial buildings must consider:*

- Measures to create a more human scale for example through the vertical articulation / subdivision of the facade;*
- Careful selection of facing materials that blend with the surroundings and/or complement existing adjacent buildings.*
- The location of reception areas and office space so that it positively contributes to the surveillance of entrance areas and forecourts;*
- The location and coordination of signage to minimise its impact and ensure that signage on buildings is not overbearing on the surrounds or out of proportion with the scale of buildings; and*
- Measures to mitigate the impact of their height/bulk. For example, low profile pitches / barrel vault roofs may be preferable to angular flat roofs. Green roofs should be considered where appropriate.'*

In this case the front facade of the building has been broken down by the vertical columns. The lobby areas of the building overlook the front car parking and entrance to the site to contribute to the surveillance of these areas. The use of sweet chestnut cladding and vertical open battened cladding to the ground floor is felt to be an appropriate choice of materials for this rural site.

The comments of the Council's Urban Designer are set out in full in the appendix. In part he states *'The overall building envelope is approximately the same as the consented scheme. The landscaping strategy is also similar with the inclusion of tree/shrub planting of the east and west boundaries to soften the impact of the building from the surrounding landscape. Consequently, the principle of the scheme is accepted.*

*This application proposal has a more coherent and worked-through design than the consented scheme. It benefits from a simple elegance and the natural sweet chestnut timber cladding will enable it to sit more comfortably with its rural surrounds.*

*The extended roof canopy at the front is supported by a series of equally spaced columns that are naturally generated from the regular structure of the building. These columns vertically articulate the façade and, as well as breaking up the scale of the façade, they provide underlying order and elegance. While there was discussion about reducing the number of columns to avoid them looking too repetitive, this was not changed as it would not have coordinated with the layout.'*

The Urban Designer has requested conditions to control matters of detail regarding the materials, window reveals, timber louvred screening and landscaping. These matters can be controlled by a suitably worded planning condition.

In your officers view it is considered that the proposed building is now of a suitable design quality. It is therefore felt that policy DP26 of the DP and Principle DG44 of the Design Guide SDP are met.

With regards to sustainable design, it is the applicant's intention to essentially adopt a fabric first approach to minimise heat loss and reduce the energy consumption of the building. The applicants have referred to the building exceeding the minimum

building regulation requirements in relation to this matter. The applicants have advised that they will look at feasibility of solar panels on the roof of the building. The applicants have advised that all white goods will be rated minimum 'A' under the EU Energy Labelling Scheme. With regards to water consumption the applicants have advised that they would meet the equivalent of a 'Good' standard, as a minimum, with regard to the BREEAM water consumption.

It is therefore felt the applicants have had appropriate regard to policy DP39 in the DP.

### **Trees and Ecology**

Policy DP38 in the DP seeks to protect and enhance biodiversity.

The application is accompanied by a Preliminary Ecological Appraisal (PEA). This states that In December 2020, CSM Ecology was commissioned by Wayne Channon of Cells4Life Group to undertake an updated Preliminary Ecological Appraisal (PEA) of land at East Lodge Farm, Malthouse Lane, Hurstpierpoint, West Sussex. The PEA notes that the site has previously been surveyed for GCN and reptiles in 2018 although none were recorded during the surveys and CSM Ecology also carried out a Preliminary Ecological Appraisal at the site in 2019.

CSM Ecology attended the site on 18/12/2020 to undertake the survey. The purpose of the PEA was to identify the major habitats present, identify potential for legally protected species to be present and recommend additional ecological surveys should they be required. A PEA does not constitute a full survey for protected species to standard survey methodologies but is used as a tool to recommend which surveys are required for protected species (or other species of significant nature conservation interest).

The PEA describes the site as comprising scrub, ruderal plants, rough grasses, bare ground, partially wet ditches, earth banks, and scattered trees and unmanaged hedgerows on the site boundaries.

The PEA concludes that *'It is not anticipated that the proposed development will result in any negative impacts on statutory or none statutory sites on or within 2km of the site or result in the loss or affect habitats of principle importance. It is understood that the development proposals are to be confined to an area with limited conservation importance.'*

In respect of reptiles the PEA states the site has the potential to support reptiles and therefore recommends a precautionary approach be adopted, with potential habitat piles and debris be removed/dismantled during the spring, summer and early autumn under an ecological watching brief.

In respect of bats the PEA states *"the site has good potential to support foraging bats along the field boundaries and roosting bats within the mature trees. It is understood that these are to remain undisturbed under the current proposals, although if this is to change at a later date bat surveys would be required to*

*investigate any standing mature trees to assess the potential of each of these to support roosting bats.'*

*With regards to amphibians the PEA states 'No protected amphibians have been identified at the site during the surveys although suitable refugia has been found, if any are identified during the deconstruction of the rubble piles works should cease until an ecologist has made an assessment as further mitigation may be required.'*

*With regards to birds the PEA states 'The preliminary survey has confirmed that the site has potential to support local bird species within the trees, hedgerows and scrub. The mature trees and hedgerow provide breeding sites for a range of passerine species and a shelter bed/dispersal corridor. If any of these features are to be removed then it is considered prudent that a breeding bird survey be undertaken if the proposed works are to take place within the breeding bird season (March - September inclusively) and any clearance works be carried out outside of the breeding season unless supervised by an ecologist, if active nests are found a suitable buffer would need to be adhered to until the young have fledged the nest.'*

The Council's Ecological Consultant has assessed the applicant's ecology report. He has advised:

#### Common reptile species

*Conditions for widespread common reptile species appear to have improved since the site was previously cleared. However, although presence is quite possible, it is unlikely to support a substantial breeding population and so I would not assess there to be a significant impact on the conservation of local populations due to re-clearance of the site. As all reptile species are protected against intentional killing and injury, reasonable avoidance measures to avoid this will be required, but may be conditioned.*

#### Great crested newts

*Great crested newts are not properly considered in the preliminary ecological appraisal (other than a generic comment about no protected amphibians being identified during the survey but acknowledging suitable refugia exist). One would not expect to see evidence of the species during a walkover of the site, especially during December when the animals are hibernating. However, an assessment of likelihood of presence can be made from assessment of habitat and proximity to potential breeding ponds/water bodies. Although there are records of the species in the local area, research undertaken for Natural England's predecessor, English Nature indicates that great crested newts are rarely found more than 250m from a suitable body of water for breeding and that most utilise habitat within 100m, with the authors recommending that careful consideration needs to be given to "whether attempts to capture newts are necessary or the most effective option to avoid incidental mortality [at greater distances than 100m]." OS mapping indicates the presence of one pond to the northeast, which is 110m away, but separated by a road, and a ditch 140m to the northwest. Furthermore, there appears to be more suitable habitat closer to the NE pond on the same side of the road making it less likely that newts would cross to*

*use the relatively poor-quality habitat within the site. Therefore, in conclusion, I would assess the risk to be very low.*

### Other notable species

*Based on the habitats present, I would not expect rare/notable invertebrate populations to be impacted and specific invertebrate surveys would only normally be undertaken where indicated by the habitat, although it is strange to see in the report a comment about none being identified during site surveys as little could be inferred from lack of direct observations from walkover survey in December.*

*There is the potential for impact on birds from any cutting back of hedgerow / shrubs during the nesting season, but this can be addressed by timing. In my view there is no significant risk of other protected / notable species being significantly affected.*

He has not raised an objection to the application and has recommended that planning conditions be imposed regarding clearance work being undertaken under a watching brief.

In light of the conclusions of the Councils Ecological Consultant, it is not considered that there are grounds to resist the application based on ecological matters. There is an opportunity enhance the landscaping around the site through the planting of additional trees. With the recommended conditions from the Councils Ecological Consultant it is considered that the proposal would comply with policy DP38 in the DP.

Policy DP37 states in part:

*'The District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.*

*Development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance, will not normally be permitted.*

*Proposals for new trees, woodland and hedgerows should be of suitable species, usually native, and where required for visual, noise or light screening purposes, trees, woodland and hedgerows should be of a size and species that will achieve this purpose.'*

The proposal would require the removal of two category C trees and one category A tree. The category A tree is an Oak located on the eastern boundary within the hedgerow, which is required to be removed to accommodate the car park.

The loss of the category A tree on the road frontage is regretted. However the scheme is accompanied by a proposed landscaping scheme that includes planting of 4 extra heavy standard nursery stock trees along the eastern boundary to the road frontage and further heavy standard tree planting on the western boundary. As such,

in the longer term it is not considered there would be a conflict with policy DP37 since the additional tree planting that is proposed will enhance the character of the area.

The new access point on the eastern boundary would require the removal of a section of hedgerow some 28m in length. The plans also show the replanting of some 30m of hedgerow at the north eastern side of the site where the existing access point would be closed up and elsewhere around the boundary of the site.

Overall it is considered that there would be an improvement in relation to trees and landscaping around the boundaries of the site as a result of the proposal. As such the proposal would comply with policy DP37 of the DP. It should be noted that the proposed landscaping scheme, including the removal of the Oak along the road frontage, is essentially the same as on the previously approved scheme reference DM/18/4419.

As the proposal would involve the removal of a section of hedgerow and a mature Oak it is considered to be necessary to impose a planning condition that will set out the practical steps to be taken to avoid impacts on wildlife during site preparation and construction. With such a safeguarding condition in place it is considered that policies DP37 and DP38 of the DP are complied with.

## **Access and Transport**

Policy DP21 in the District Plan states:

*'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:*

- *A high quality transport network that promotes a competitive and prosperous economy;*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- *Access to services, employment and housing; and*
- *A transport network that feels, and is, safer and healthier to use.*

*To meet these objectives, decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*

- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

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

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

*The reference to development not causing a severe cumulative impact reflects the advice in paragraph 111 of the NPPF, which states Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

The proposed new access is of sufficient width to allow 2 cars to pass clear of the public highway and to allow for a large articulated vehicle to enter the site and turn in order to leave the site in a forward gear. The proposed bellmouth access would measure up to 10m in width. Visibility from the site access is achievable to 2.4m x 90m in both directions in line with Design Manual for Roads and Bridges (DMRB) guidance for 85th percentile speeds of 37mph. These splays have previously been accepted by the Highway Authority and they advise that such splays remain acceptable now.

In relation to vehicular movements the application is accompanied by a Transport Statement that utilises the TRICS database to calculate the likely number of vehicular movements from the development. The TRICS database is a nationally recognised source for calculating vehicular movements. The proposed development is anticipated to generate 40 movements in the AM peak hour, 35 movements in the PM peak hour, and 235 movements across a 12-hour period. Given the site's location, the Highway Authority has assumed that 75% of this traffic will arrive from

the north from Jane Murray Way (A273), while 25% will arrive from the south from the B2116.

Capacity analysis of the junction was undertaken for the proposed development using Junctions 9 software to assess the traffic impact on the Malthouse Lane left-in/left-out junction with Jane Murray Way (A273). The same modelling outputs as previously utilised for the junction capacity assessment within consented application DM/18/4419 have been used, which was agreed by the Highway Authority as part of their assessment of this application. The Highway Authority are satisfied the additional movements would not have a detrimental effect from a capacity perspective.

The predicted vehicular movements generated by the current proposal are similar to those predicted for the previously approved scheme. On the previous scheme the TRICS database identified that the development would result in 42 two-way vehicle trips in the morning peak hour and 38 two-way trips in the evening peak hour.

With regards to the accessibility of the site, whilst close to Burgess Hill, there is no footway alongside the road and the road is not street lit. Accordingly it is likely that the majority of trips to the site would be made by car. This would not fully accord with the Principle DG9 in the Mid Sussex Design Guide SPD which seeks to reduce reliance on the private car.

However it should be recognised that there is an extant scheme on the site for a commercial development to which this point would also have applied. Government advice in the NPPF is supportive of sustainable economic growth and the rural economy. Paragraph 84 states in part that *'Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;'* It is felt this provides some support for the principle of the development.

Overall, it is considered that prospective employees on this site are likely to use the private car to access the site rather than walking/cycling. Policy DP21 seeks to sustainably located development to minimise the need for travel but does recognise that there may be circumstances where development needs to be located in the countryside, such as rural economic uses. This is reflected in the advice paragraph 105 of the NPPF, which states in part *'However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.'* This point is also recognised in paragraph 85 of the NPPF which states *'Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.'*

In light of these points and the fact that there is an extant consent on the site, it is not felt that the application should be resisted on matters related to the site's accessibility.

Concerns have been raised about the impact of the development on horse riders who may be using Malthouse Lane. There are bridleways to the north, south and east of the site. Whilst the proposal would result in more vehicular movements on Malthouse Lane, as has been set out above, this would not result in a severe impact on the highway network. It is therefore felt it would be difficult to substantiate a case that the impact on horse riders from the development would be so severe as to warrant refusal of the scheme. Rule 215 of the Highway Code states *'Horse riders and horse-drawn vehicles. Be particularly careful of horse riders and horse-drawn vehicles especially when overtaking. Always pass wide and slowly. Horse riders are often children, so take extra care and remember riders may ride in double file when escorting a young or inexperienced horse or rider. Look out for horse riders' and horse drivers' signals and heed a request to slow down or stop. Take great care and treat all horses as a potential hazard; they can be unpredictable, despite the efforts of their rider/driver.'* It is the responsibility of all users of the highway to adhere to the rules of the Highway Code.

## **Drainage**

Policy DP41 in the DP seeks to ensure that sites can be satisfactorily drained without causing a risk to flooding off site.

The proposed development is within flood zone 1 and is deemed as low fluvial flood risk. The proposed development is not within an area identified as having possible pluvial flood risk.

The applicants supporting drainage information states that for surface water, the intention is to use clusters of micro-borehole soakaways to discharge water to the sub-stratum. The parking bays will be surfaced in permeable paving over a porous sub-base of 30% voided stone. The applicants advise that all surface water runoff from the roof and external areas will be conveyed through the porous sub-bases under the parking bays and/or the granular blankets over the micro-boreholes. This will filter out pollutants prior to discharge to ground.

In respect of foul drainage, as there is no foul infrastructure to which the site could connect, the applicants propose a private sewerage treatment plant.

The Council's Drainage Engineer has no objection to the proposal and has recommended that a condition be imposed to require further details of the proposed drainage works. There is no reason in principle why this site cannot be satisfactorily drained and with such a condition in place the application complies with policy DP41 of the DP.

## Neighbour amenity

Policy DP26 in the DP seeks to avoid development that cause significant harm to neighbouring amenity. In respect of noise, air and light pollution, policy DP29 in the DP states:

*' The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

*Noise pollution:*

- It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*
- 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;*
- Light pollution:*
- The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;*
- The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;*
- Air Pollution:*
- It does not cause unacceptable levels of air pollution;*
- Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;*
- Development proposals (where appropriate) are consistent with Air Quality Management Plans.*
- The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'*

In this case the nearest neighbouring properties are Eastlands Farmhouse, some 105m to the northeast and 2 Kents Farm Cottages, some 140m to the south.

It is not considered that the proposed development would cause any loss of amenity to Eastlands Farmhouse due the distances between the properties in terms of noise and disturbance. Likewise, it is considered that the distance between the properties

and the intervening screening will prevent any loss of amenity to the occupiers of 2 Kents Farm Cottages.

The Councils EHO has recommended conditions to control the hours of use of the building and deliveries, and with these in place there should be no significant impact on neighbouring amenity arising from noise.

With regards to lighting, the applicants have provided a lighting assessment with their application. The site has been assessed as falling within Zone E1, which is a dark area, with examples given as relatively uninhabited rural areas, National Parks, Areas of Outstanding Natural Beauty. The applicants have provided a supporting plan to demonstrate that light spill at ground level from the amenity lighting will be suitably contained to 1.0 lux within the application site boundary.

The Councils EHO has recommended a condition to control the lighting of the site. With such a condition in place it is considered that the relevant criteria of policy DP29 would be met.

The site is not in an air quality management area (AQMA) and there is no evidence that the proposal would cause an unacceptable level of air pollution that would justify refusal of the application on this ground.

### **Land contamination**

The Councils Contaminated Land Officer has recommended that a contaminated land condition be imposed to ensure that this is investigated and if any contamination is found, it is dealt with appropriately. With such a condition in place this issue will be properly addressed in accordance with the guidance in paragraph 183 of the NPPF.

### **Ashdown Forest**

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

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

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

### Recreational disturbance

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

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

This planning application does not result in a net increase in dwellings within the 7km zone of influence and so mitigation is not required.

### Atmospheric pollution

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

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

### Conclusion of the Habitats Regulations Assessment screening report

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

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

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

### **Other matters**

Concerns have been raised about the proximity of the site to the battery storage facility that is being constructed to the west. The concerns relate to the potential for an accident, resulting in fire and explosions, to cause damage to the new building on the application site.

The battery storage facility was approved under planning reference DM/17/0572. The facility will need to be constructed in accordance with the relevant building control legislation. The Fire and Rescue Service at WSCC have been approached about the concerns that have been raised in relation to this issue. They have stated *'FRS Water and Access will make their comments at planning stage and then it comes to Fire Safety from a Building Control body for consultation, where B1 - B5 is assessed along with the notional boundaries. WSFRS does not have any comments to add to this proposal at this stage.'*

The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity.

Government guidance on the use of planning conditions is contained with the Planning practice guidance (PPG). Planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

Conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. There are no policies within the development plan that prescribe a minimum distance between battery storage facilities and other development. The WSFRS has advised that they would comment on the fire safety aspects of the proposed development when building regulations consent is sought for the proposal. Therefore the safety of the building in respect of fire is dealt with by another regime and it would not be appropriate to impose planning conditions relating to the fire safety of the proposed building.

The County Council originally requested an infrastructure contribution for Total Access Demand (TAD) of £137,485 to go towards traffic calming and management schemes across Hurstpierpoint, as identified in the Hurstpierpoint & Sayers Common Neighbourhood Plan.

As Members will know the NPPF sets out the government's policy on planning obligations in paragraphs 55 and 57, which state:

*'55 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

and:

*'57 Planning obligations must only be sought where they meet all of the following tests:*

- a) *necessary to make the development acceptable in planning terms;*
- b) *directly related to the development; and*
- c) *fairly and reasonably related in scale and kind to the development.'*

These tests reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

Developers are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

The extant planning permission (reference DM/18/4419) does not have a requirement for infrastructure payments. In addition the Highway Authority have not objected to the current planning application. In light of these points the County Council have advised that they are no longer seeking a TAD payment for this scheme.

## **CONCLUSION**

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

The site lies in the countryside as defined in the DP and so that starting point for assessing the application is policy DP12 of the DP. This seeks to protect the character of the countryside by ensuring that proposals maintain or enhance the quality of the rural character of the District and they are supported by a specific policy reference elsewhere in the DP or a neighbourhood Plan. Policy Hurst C1 in the Hurstpierpoint and Sayers Common Neighbourhood Plan (HSCNP) has similar aims. Policy DP14 in the DP allows for new small scale economic development in the countryside.

It is a material planning consideration that there are two extant planning permissions on this site for a redevelopment to provide a building containing B1 business floor space. The fact that these consents could be implemented is a fall-back position for the applicants. It is relevant that the fallback position is for a business building of a similar scale to the current proposal, which was predicted to generate a similar amount of vehicular movements to the current proposal.

It is considered that whilst the proposal would change the character of this part of the countryside compared to the current situation, given the fact that there is an extant planning permission on the site, that the building would be well designed and landscaped, it is not felt that there would be harm to the countryside from this development. As such there is support for the principle of the development in policies DP12 and DP14 of the DP and policy Hurst C1 in the HSCNP.

The building would impact upon the setting of a listed building at Kents Farmhouse. By virtue of developing a site that is currently open it is considered that the proposal would have an adverse impact on the setting of this listed building and this would be less than substantial as defined in the NPPF. As such there would be a conflict with

policy DP34 of the DP. It is the case that within the bracket of 'less than substantial harm, there is range of impacts. In this case it is considered that the harm to the setting of the listed building lies at the lower end of the scale. In accordance with section 66 PLBCAA Act 1990 - significant weight should be attached to that less than substantial harm that arises from this impact. However, that does not mean that any harm, however minor, necessarily requires planning permission to be refused. As set out in paragraph 202 of the NPPF, the considerable weight attached to the less than substantial harm needs to be weighed against the public benefits of the proposal.

It is considered that there are important public benefits that need to be weighed in the planning balance required under paragraph 202 of the NPPF. The scheme would provide a good quality building that would provide high quality employment floorspace. The applicants indicate that 31 people would be employed on the site in high quality jobs. This will provide an economic benefit to the local economy. It is your Planning Officers view that these economic benefits should be afforded significant weight

The scheme would conflict with policy DP34 in the DP as there would be harm to the setting of the listed building at Kents Farm. In your Planning Officers view this harm falls within the category of less than substantial as defined in the NPPF. In order to properly reflect the statutory presumption in the PLBCAA Act 1990 this less than substantial harm should be given significant weight in the planning balance. As such this harm to the setting of the listed building weighs against the application.

It is your Planning Officers view that there are important economic benefits that would arise from this application. The provision of this building would deliver high quality commercial floorspace that would deliver high quality jobs. This would accord with the aims of policy DP1 in the DP, which refers to *'encouraging inward investment, especially the location, promotion and expansion of clusters or networks of knowledge, creative or high technology industries.'* It is considered that these benefits should be given significant weight in the planning balance and that these benefits outweigh the less than substantial harm to the setting of Kents Farmhouse.

It is considered that the proposed access to the site is satisfactory and that there will not be a severe impact on the local highway network, which is the test in policy DP21 and the NPPF. There are no objections from the Highway Authority to the proposal. As such there are no grounds to resist the application based on highways matters.

The site can be satisfactorily drained and there are no objections from your Drainage Engineers or WSCC as the Lead Local Flood Authority.

To conclude, whilst there would be conflict with policy DP34, it is felt that given the compliance with other policies identified in this report it is considered that the proposal complies with the development plan when read as a whole, which is the proper basis for decision making. In light of the above the application is recommended for approval.

## 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.

### **Pre commencement**

2. 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 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 and Policy DP41 of the Mid Sussex District Plan 2014 - 2031

3. The applicant, or their agent, or successors in title, shall implement a programme of archaeological work in accordance with an agreed Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority prior to development commencing on the site.

Reason: The site is potentially of archaeological interest and to accord with Policy DP34 of the Mid Sussex District Plan 2014 - 2031

4. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,
  - the anticipated number, frequency and types of vehicles used during construction,
  - the method of access and routing of vehicles during construction,
  - the parking of vehicles by site operatives and visitors,
  - the loading and unloading of plant, materials and waste,
  - the storage of plant and materials used in construction of the development,
  - the erection and maintenance of security hoarding,
  - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
  - details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area and to accord with Policies DP21 and DP26 of the Mid Sussex District Plan 2014 - 2031.

5. No development above slab level shall be carried out unless and until details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Reason: In the interests of amenity and in accordance with policy DP20 of the Mid Sussex District Plan 2014 - 2031 and in accordance with The Fire & Rescue Service Act 2004.

6. No development above slab level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- Detailed 1:20 scale elevation and section vignettes showing the typical elements in context including: the aluminium window (and reveal) with timber louvred screening and a typical frontage bay including the roof canopy, columns, sweet chestnut cladding and curtain wall glazing featuring the opening lights.
  - A revised roof plan showing the solar PV's.
  - Detailed hard and soft landscaping including boundary treatment and incorporating the bunding on the western boundary with a section drawing of this also included.
  - Details of the facing materials.

Reason: In order to achieve a building of visual quality and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

### **Pre occupation**

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

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

8. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Visibility Splays' and numbered 083.0007.001.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

9. The building shall not be occupied until the parking spaces/turning facilities shown on the submitted plans have been provided and constructed. The areas of land so

provided shall not thereafter be used for any purpose other than the parking/turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways and to accord with Policy DP21 of the District Plan 2014 - 2031

10. External lighting shall only be installed in accordance with the details specified in the submitted Lighting Strategy documents (designs for Lighting Ltd. Ref 1801-DFL-LS-001 and Lighting Plan rev A) and thereafter shall be maintained in accordance with the approved details unless otherwise agreed in writing.

Reason: To protect the character of the area and to comply with policy DP29 of the District Plan 2014-2031.

11. Prior to the first occupation of any building forming part of the proposed development the developer will at their own expense install the fire hydrant in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.  
The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

Reason: In the interests of amenity and to accord with policy DP20 in the Mid Sussex Local Plan 2014-2031 and in accordance with The Fire & Rescue Service Act 2004.

### **Post occupation**

12. Hours of use of the units shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs

Weekends and Public Holidays: 08:00 - 18:00 hrs

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.

13. Deliveries or collection of goods, equipment other than waste shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs

Saturday: 08:00 - 18:00 hrs

Sunday and Public/Bank holidays: None permitted

Waste collection may take place between the following hours:

Monday to Friday: 07:00 - 18:00 hrs

Saturday: 08:00 - 18:00 hrs

Sunday and Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.

14. Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (air conditioning, condensers etc) shall be no higher than background noise levels when measured at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commencement of the use applied for and thereafter be maintained in accordance with the approved details.

Reason: To protect the amenity of local residents and to comply with policy DP29 of the District Plan 2014-2031.

### **Construction phase**

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

Reason: In the interests of health of future occupiers and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031 and paragraph 170 of the National Planning Policy Framework.

16. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday: 08:00 - 18:00 Hours

Saturday: 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays: No work permitted

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.

17. **Approved Plans**

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.

### **INFORMATIVES**

1. The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader

(01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

2. 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 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.

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan	2035 AP(0)01 P1		16.03.2021
Topographical Survey	2035 AP(0)02 P1		16.03.2021
Proposed Site Plan	2035 AP(0)05 P1		16.03.2021
Proposed Floor Plans	2035 AP(0)10 P1		16.03.2021
Proposed Floor Plans	2035 AP(0)11 P1		16.03.2021
Proposed Roof Plan	2035 AP(0)12 P1		16.03.2021
Proposed Elevations	2035 AP(0)20 P1		16.03.2021
Proposed Elevations	2035 AP(0)21 P1		16.03.2021
Proposed Sections	2035 AP(0)30 P1		16.03.2021
Drainage Details	11044/1102		16.03.2021
Tree Survey	LLD2183-ARB-DWG-001		16.03.2021
Lighting Layout/Light Pollution	1801-DFL-LC-001		16.03.2021
Landscaping Details	LLD2183-LAN-DWG-200		16.03.2021
Landscaping Details	LLD2183-LAN-DWG-300		16.03.2021
Landscaping Details	LLD2183-LAN-DWG-100		16.03.2021
Topographical Survey	11044/1101		16.03.2021

## APPENDIX B – CONSULTATIONS

### Parish Consultation

The Committee considered the corrected Sustainability Statement and the Preliminary Ecological Appraisal and the response from the MSDC Ecological Consultant.

The Committee AGREED that:

- i) due to the original appraisal being carried out in December, repeated errors contained in the report, and corrections referring to a "Sussex Council", that they could not trust nor have any confidence in the contents of the report and therefore request a further ecological appraisal be carried out at the appropriate time of year for such a study or;
- ii) if MSDC were minded to approve the application then the conditions recommended by their Ecological Consultant be applied.

### Highway Authority

#### Background

WSCC in its role of Local Highway Authority (LHA) has been consulted on the proposals for a planning application for the development of a 2240sqm building for E(g) land use on land off Malthouse Lane, Hurstpierpoint. In terms of planning history it should be noted that the site has an existing planning consent for 2400sqm B1 (office) land use ( DM/18/4419). The LHA requested some further information from the applicant on highway aspects as part of these earlier proposals. The outstanding highway issues were eventually resolved however and the application was subsequently approved by the Local Planning Authority (LPA).

The application is supported by way of a Transport Statement (TS) which includes a Stage 1 Road Safety Audit (RSA) on the access strategy.

#### Access and Visibility

The proposed access to the site would be taken from Malthouse Lane through the creation of a priority bellmouth junction. The proposed bellmouth access would measure up to 10m in width. Visibility from the site access is achievable to 2.4m x 90m in both directions in line with Design Manual for Roads and Bridges (DMRB) guidance for 85th percentile speeds of 37mph. These splays have previously been accepted by the LHA and would be in this applications case.

The proposed new access is of sufficient width to allow 2 cars to pass clear of the public highway and to allow for a large articulated vehicle to enter the site and turn in order to leave the site in a forward gear.

#### Stage 1 RSA

In accordance with the adopted WSCC 'Road Safety Audit Policy', a Stage 1 RSA has been undertaken in accordance with the GG119 governance document by an independent Audit. A Design Team response to the RSA has also been prepared. No were matters raised in the RSA and there are no outstanding matters raised through the audit process.

#### Parking and Layout

The proposed development will provide 83 unallocated parking spaces, in line with the LHA's parking guidance disabled persons parking spaces are of 4% of the total are provided within the proposed parking provision.

It is currently expected that the site would accommodate a maximum of 50 staff at any one time. However the proposed allocation at 83 will accommodate any potential overspill from staff or visitors if necessary. There would also be sufficient levels of parking to aid the build up of parking on Malthouse Lane.

## **Capacity**

The TS utilises the TRICS database to provide an indication of the likely number of vehicular movements to and from the site. The proposed development is anticipated to generate 40 movements in the AM peak hour, 35 movements in the PM peak hour, and 235 movements across a 12-hour period. Given the site's location, it is assumed that 75% of this traffic will arrive from the north from Jane Murray Way (A273), while 25% will arrive from the south from the B2116.

Capacity analysis of the junction was undertaken for the proposed development using Junctions 9 software to assess the traffic impact on the Malthouse Lane left-in/left-out junction with Jane Murray Way (A273). The same modelling outputs as previously utilised for the junction capacity assessment within consented application DM/18/4419 have been used, which was agreed by the LHA as part of our assessment of this application.

On that basis the above the LHA would be satisfied the additional movements would not have a detrimental effect from a capacity perspective.

## **Conclusion**

Given the previous history already associated with this site the LHA would not raise an objection to the proposals under Paragraph 108 and 109 of the National Planning Policy Framework (NPPF). Any approval of planning consent would be subject to the following conditions:

### *Access (Access to be provided prior to first occupation)*

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Visibility Splays' and numbered 083.0007.001

Reason: In the interests of road safety.

### *Construction Management Plan*

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area.

### WSCC Lead Local Flood Authority

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage.

The following is the comments of the LLFA relating to surface water drainage and flood risk for the proposed development and any associated observations, recommendations and advice.

### Flood Risk Summary

Current surface water flood risk based on 30 year and 100 year events	Low risk
<p>Comments:</p> <p>Current surface water mapping shows that the proposed site is at low risk from surface water flooding. An area to the west of the site is shown to be at moderate risk.</p> <p>This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.</p> <p>Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.</p> <p>Reason: NPPF paragraph 163 states – ‘When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.’</p>	

Modelled groundwater flood hazard classification	Low risk
<p>Comments:</p> <p>The area of the proposed development is shown to be at low risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.</p> <p>Ground water contamination and Source Protection Zones.</p> <p>The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.</p>	

Watercourses nearby?	No
<p>Comments:</p> <p>Current Ordnance Survey mapping shows no ordinary watercourses running near the site.</p> <p>Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around or across the site. If present these should be maintained and highlighted on future plans.</p> <p>Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.</p>	

Records of any surface water flooding within the site?	No
<p>Comments:</p> <p>We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that the site itself has never suffered from flooding, only that it has never been reported to the LLFA.</p>	

### **Future development - Sustainable Drainage Systems (SuDS)**

The Drainage Strategy shows that sustainable drainage techniques (permeable paving, attenuation and infiltration) would be used to control the surface water from this development.

All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles.

The maintenance and management of the SuDS system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

### **WSCC Water and Access Manager**

This proposal has been considered by means of desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC mapping and Fire and Rescue Service information. A site visit can be arranged on request. I refer to your consultation in respect of the above planning application and would provide the following comments:

- 1) Prior to the commencement of the development details showing the proposed location of [1] one fire hydrant or stored water supply (in accordance with the West Sussex Fire and Rescue Guidance Notes) shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. These approvals shall not be unreasonably withheld or delayed.
- 2) Prior to the first occupation of any dwelling/unit forming part of the proposed development that they will at their own expense install the fire hydrant (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

As part of the Building Regulations 2004, adequate access for firefighting vehicles and equipment from the public highway must be available and may require additional works on or off site, particularly in very large developments. (BS5588 Part B 5) for further information please contact the Fire and Rescue Service

If a requirement for additional water supply is identified by the Fire and Rescue Service and is subsequently not supplied, there is an increased risk for the Service to control a potential fire. It is therefore recommended that the hydrant condition is implemented.

Reason: In the interests of amenity and in accordance with Mid Sussex District Plan (2014 - 2031) Key Policies DP18 and DP19 and in accordance with The Fire & Rescue Service Act 2004.

#### **Archaeological Officer**

Comments received 11 May 2021

#### **Further Information Required:**

**The Historic Environment Planning Team, Surrey County Council provides advice to Mid Sussex District Council in accordance with the Mid Sussex Local Plan and the National Planning Policy Framework. The district council is located within the County Council of West Sussex.**

**The National Planning Policy Framework (Revised 2018 - Section 16) places the conservation of archaeological interest as a material consideration in the planning process. Paragraph 189 of the NPPF says that: 'Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.' This information should be supplied to inform the planning decision.**

The application site is relatively large (covering an area of over 0.5ha) and appears to be a previously undeveloped site, and as such has an enhanced potential to contain previously unknown below ground archaeological remains. A Heritage Statement has been submitted in support of this application, which provides further detail about the expected impact on built heritage but given the potential for the proposed groundworks to impact on below ground archaeological Heritage Assets I would have also expected supporting archaeological information to be submitted with the application. This is in line with the advice given in the National Planning Policy Framework and Mid Sussex Local Plan policy DP34 and ensures that full and proper consideration is given to the likely impact of the development proposal.

I would recommend in the first instance that an archaeological Desk Based Assessment be produced and provided for this application. The Desk Based Assessment should aim to determine the potential for and significance of any archaeological assets affected, provide information about previous impact that has occurred on the site, and detail the level of groundworks proposed and the potential for these impacting on archaeological assets. Once the Assessment has been produced, this will enable decisions to be made on what, if any, further archaeological work is necessary, although should the Assessment prove inconclusive further intrusive methods of site assessment will be required.

Subsequent phases of archaeological work on a site of this scale usually comprise site evaluation, and then any necessary mitigation measures. Evaluation usually comprises a programme of trial trenching, and it may be necessary to require the applicants to submit the results of an evaluation in advance of determination of any planning permission. The mitigation measures usually involve more detailed excavation of any archaeological Heritage Assets present to advance understanding of their significance before their loss, but in the event of Assets of exceptional significance being present, preservation in situ is the preferred option.

The Assessment, and possibly a report on an evaluation, will need to be submitted both before I am in a position to provide informed comments on the application, and before determination of any planning permission. Without such information, I am not in a position to comment on the archaeological implications of the proposal. If such information is not forthcoming before determination, I would recommend that the application be refused on the grounds of insufficient supporting information having been received.

Notwithstanding these comments, if the planning authority deems that a strategy of preservation by record is sufficient to mitigate the loss of the archaeological Assets that may be present, and that the archaeological work can be undertaken after any decision on permission, the necessary archaeological work will need to be secured by the addition of the standard archaeological condition to any planning permission granted. The appropriate condition is:

*"No development shall take place until the applicant, or their agent, or successors in title, has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority."*

Please note these comments relate to below ground archaeological matters only.

#### Further comments received 22 June 2021

This is something which I used to recommend on occasion in the past where one could be reasonably confident that mitigation measures would be sufficient rather than preservation in situ, but I have since made stopped recommending as primarily as it would be contrary to National and Local Policy, namely NPPF para 189, copied below for reference. We also found that it was very difficult to write a properly enforceable archaeological condition which could take into account the wide range of potential possible archaeological types and stages of archaeological work and outcomes.

189. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been

consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Given the nature and specifics of the application, the document need not be especially detailed in this instance but should incorporate an assessment of potential based on the results of a Historic Environment Record search (as per the minimum set out in National Policy), and provide the necessary details as previously discussed regarding the expected archaeological impact based on the likelihood of surviving soil horizons and the extent of proposed ground impacts.

That said, without such a document in place, if as a Local Planning Authority you are minded to grant permission, and should the applicant be prepared to accept the archaeological risk, in the absence of a full archaeological assessment it would be best to assume that there will be potential for archaeological heritage assets on the site which will be impacted in the course of the construction, and therefore assume that a level of archaeological work will be required.

In the above instance, I would recommend that an appropriate and proportionate level of archaeological work would be a programme of archaeological monitoring to be carried out as the development proceeds, with the contingent excavation, recording and analysis of any Archaeological Assets revealed (often referred to as a watching brief). The archaeological monitoring would need to be carried out by professional archaeologists to advance the understanding of the significance of any Archaeological Assets present before they are destroyed by the development. In which case to ensure the required archaeological work is secured satisfactorily, the following archaeological condition would be appropriate and should be attached to any planning permission granted: *"The applicant, or their agent, or successors in title, shall implement a programme of archaeological work in accordance with an agreed Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority."*

### **Ecological Consultant**

Further to review of the revised preliminary ecological appraisal, case officer photos, previous site visit and desk study sources, I can advise as follows.

#### Common reptile species

Conditions for widespread common reptile species appear to have improved since the site was previously cleared. However, although presence is quite possible, it is unlikely to support a substantial breeding population and so I would not assess there to be a significant impact on the conservation of local populations due to re-clearance of the site. As all reptile species are protected against intentional killing and injury, reasonable avoidance measures to avoid this will be required, but may be conditioned.

#### Great crested newts

Great crested newts are not properly considered in the preliminary ecological appraisal (other than a generic comment about no protected amphibians being identified during the survey but acknowledging suitable refugia exist). One would not expect to see evidence of the species during a walkover of the site, especially during December when the animals are hibernating. However, an assessment of likelihood of presence can be made from assessment of habitat and proximity to potential breeding ponds/water bodies. Although

there are records of the species in the local area, research undertaken for Natural England's predecessor, English Nature<sup>1</sup> indicates that great crested newts are rarely found more than 250m from a suitable body of water for breeding and that most utilise habitat within 100m, with the authors recommending that careful consideration needs to be given to "whether attempts to capture newts are necessary or the most effective option to avoid incidental mortality [at greater distances than 100m]." OS mapping indicates the presence of one pond to the northeast, which is 110m away, but separated by a road, and a ditch 140m to the northwest. Furthermore, there appears to be more suitable habitat closer to the NE pond on the same side of the road making it less likely that newts would cross to use the relatively poor-quality habitat within the site. Therefore, in conclusion, I would assess the risk to be very low.

Cresswell, W. and Whitworth, R. (2004). English Nature Research Reports Number 576: An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt *Triturus cristatus*. English Nature, Peterborough.

### Other notable species

Based on the habitats present, I would not expect rare/notable invertebrate populations to be impacted and specific invertebrate surveys would only normally be undertaken where indicated by the habitat, although it is strange to see in the report a comment about none being identified during site surveys as little could be inferred from lack of direct observations from walkover survey in December.

There is the potential for impact on birds from any cutting back of hedgerow / shrubs during the nesting season, but this can be addressed by timing. In my view there is no significant risk of other protected / notable species being significantly affected.

Recommended conditions:

If MSDC is minded to grant consent, the following conditions are recommended:

No development, including ground works, shall commence until vegetation and any piles of rubble or other suitable reptile refugia have first been cleared under a watching brief from an experienced and qualified ecologist / wildlife advisor and a written statement of compliance provided by them to the local planning authority. This work must be completed during suitable daytime temperatures > 10 °C between March and the end of October to allow any reptiles to move out of harm's way.

No hedgerow trees or shrubs shall be removed without prior written approval from the local planning authority and no woody vegetation shall be removed or cut back during the main period of bird nesting (1 March to end of August) unless first checked and declared free of active nests by experienced and qualified ecologist / wildlife advisor.

Reason: to prevent loss of, and contribute to a net gain in, biodiversity, in accordance with Policy DP38 of the Mid Sussex District Plan and 180 of the NPPF.

### **Mid Sussex Drainage Engineer**

The information submitted in support of the foul and surface water drainage at application stage is detailed drainage design. Therefore, the Flood Risk and Drainage Team have no objection subject to the drainage being implemented as per the details submitted and shown on drawing 11044/1102 Rev P1.

Any alterations to the proposed development as part of the application process will likely result in alternation to the drainage system. At which point the Flood Risk and Drainage Team should be reconsulted to determine whether the system continues to be acceptable or whether a drainage condition is required.

### **Environmental Health Officer**

The application is in a rural setting, approx. 110m from the nearest residential property. To keep aligned with the rural setting it is suggested that hours of use be restricted to daytime only. A lighting scheme has been submitted which is sensitive to the rural setting. Accordingly, should planning permission be granted, recommended conditions are as follows:

### **Implementation phase**

- Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday      08:00 - 18:00 Hours  
Saturday              09:00 - 13:00 Hours  
Sundays and Bank/Public Holidays no work permitted

Reason: to protect the amenity of local residents.

### **Operational phase**

Hours of Use (operational): Hours of use of the units shall be limited to the following times:

- Monday to Friday: 08:00 - 18:00 hrs  
Weekends and Public Holidays: 08:00 - 18:00 hrs

Deliveries (operational): Deliveries or collection of goods, equipment or waste shall be limited to the following times:

- Monday to Friday: 07:00 - 18:00 hrs  
Saturday: 08:00 - 18:00 hrs  
Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents

- Plant & Machinery (operational): Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (air conditioning, condensers etc) shall be no higher than background noise levels when measured at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commencement of the use applied for and thereafter be maintained in accordance with the approved details.

Reason: To protect the amenity of local residents

- Lighting: External lighting shall only be installed in accordance with the details specified in the submitted Lighting Strategy documents (Designs for Lighting Ltd. Ref 1801-DFL-LS-001) and thereafter shall be maintained in accordance with the approved details unless otherwise agreed in writing.

### **Contaminated Land Officer**

Comments: The application looks to construct a commercial building with a car park.

A contaminated land risk assessment by Environmental Assessment Services Ltd (Ref: NJA/EastlodgeFrm/CRA), dated October 2018 has been submitted with the application. This report has been assessed and has been found to meet the necessary standards.

While the investigation found a number of contaminants, none of them were above the guidance value for commercial use, and the risk to end users is seen as minimal. However there is some risk to ground workers for the development, future maintenance workers, and supply services.

As identified by Environmental Assessment Services Ltd, the report should be submitted to the local water company to establish what protective piping is required for potable water.

With regards to site works, this is a health and safety matter, and while the developer will need to follow the recommendations made, it is not something Environmental Protection would comment on.

While none of the contaminants found exceeded guide line values for commercial use, due to the findings a discovery strategy condition should be applied. This is to ensure that works stop if any further possible contamination is found during ground works, investigated, and remediated if required. The developer will need to confirm prior to occupation whether any further contamination was found, and if so, how it was dealt with.

Recommendation:

Approve with the following condition:

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

### **Conservation Officer**

The application site is an open field to the south of East Lodge Farm, to the west of Malthouse Lane. East Lodge Farm now appears to be in use as a light industrial site or similar, although the buildings retain an agricultural character. Further south along Malthouse Lane and also to the west of the road is Kent's Farm House, which is a Grade II listed building. Associated with it are Kent's Farm Cottages and a group of agricultural buildings at Kent's Farm. Although there appear to be a number of modern agricultural buildings on the site, Kent's Farm including the former farmhouse is recognised in the West

Sussex Historic Farmstead and Landscape Character assessment as a Historic Farmstead dating to the 17th century. Depending on their age as well as other factors former farm buildings within the farmstead may be regarded as curtilage listed, or as non-designated heritage assets (NDHAs). The farm is visible from Malthouse Lane; the farmhouse itself is well screened by hedges and trees along the road frontage but may be visible in glimpsed views in winter.

It is likely that Kent's Farm House would be considered to possess historical evidential and illustrative value as a good example of a 17th century Sussex farmhouse, altered and extended over the years in response to changing socio-economic conditions and the evolving needs and aspirations of successive owners. It also possesses aesthetic value based in part on the use of vernacular materials viewed within the landscape from which they were drawn. Any other surviving historic farm buildings within the farmstead might possess similar values, although depending on age and character they may be of less interest than the house itself.

The surviving rural setting of the farm house and farmstead, including the application site, which was once part of the farmlands to Kent's Farm, would be regarded as making a positive contribution to the special interest of the listed building and any associated curtilage listed buildings or NDHAs within the historic farmstead, in particular those parts of that interest which are drawn from illustrative or aesthetic values.

The current proposal is for the erection of a Class E(g) building to include a mix of office, research and development and industrial processes with a carpark, new vehicle access onto Malthouse Lane and associated landscaping.

Development of this nature would have a fundamental impact on the site's currently open and rural nature, and would remove the positive contribution which it currently makes to the setting of Kent's Farm, including the largely rural character of the approach to the historic farmstead travelling south along Malthouse Lane. The impact of the proposed development would be exacerbated by its scale, bulk, design and materials, which are unsympathetic to the rural location. For these reasons I consider that the proposal will be harmful to the setting and special interest of Kent's Farm House and the associated historic farmstead.

This would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF I would consider the harm caused to the heritage assets to be less than substantial, such that the criteria set out in paragraph 196 of that document would apply.

### **Urban Designer**

The overall building envelope is approximately the same as the consented scheme. The landscaping strategy is also similar with the inclusion of tree/shrub planting of the east and west boundaries to soften the impact of the building from the surrounding landscape. Consequently, the principle of the scheme is accepted.

This application proposal has a more coherent and worked-through design than the consented scheme. It benefits from a simple elegance and the natural sweet chestnut timber cladding will enable it to sit more comfortably with its rural surrounds.

The extended roof canopy at the front is supported by a series of equally spaced columns that are naturally generated from the regular structure of the building. These columns vertically articulate the façade and, as well as breaking up the scale of the façade, they provide underlying order and elegance. While there was discussion about reducing the number of columns to avoid them looking too repetitive, this was not changed as it would not have coordinated with the layout.

It is nevertheless disappointing that the design has not evolved further since the pre application stage when further information and details were requested in respect of the incorporation of the following:

- A grass bund on the western boundary (as included in the previous consent): while a continuous run of trees is shown on this boundary, a bund will help screen the car park during the winter months from the countryside and public right of way.
- Additional layering of the façade.
- Detailed drawings showing typical junction/facade details to demonstrate the quality of the finish.
- Solar PV panels included on the roof plan (the butterfly roof is ideally designed to discreetly accommodate them).

The architect has now agreed to provide further details to address the above requirements. I therefore raise no objections to this planning application but would recommend conditions to secure them including:

- Detailed 1:20 scale elevation and section vignettes showing the typical elements in context including: the aluminium window (and reveal) with timber louvred screening and a typical frontage bay including the roof canopy, columns, sweet chestnut cladding and curtain wall glazing featuring the opening lights.
- A revised roof plan showing the solar PV's.
- Detailed hard and soft landscaping including boundary treatment and incorporating the bunding on the western boundary with a section drawing of this also included.
- Details of the facing materials.

### **Tree Officer**

Whilst the loss of the mature oak category A is regrettable, nevertheless there is significant mitigation planting.

I still have concerns over the wild flower area as per my comments on the previous application.

Whilst I accept that some non native planting may occur within the confines of the site, I have concerns with the native understorey. Neither *Frangula alnus*, nor *Vinca* are natives and, in particular *Frangula* is known to be invasive in this country. I would therefore require a suitable alternative.

I would be grateful if you would request this amendment and, should permission be granted, condition adherence with all planting and landscaping documents.

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