MID SUSSEX DISTRICT COUNCIL

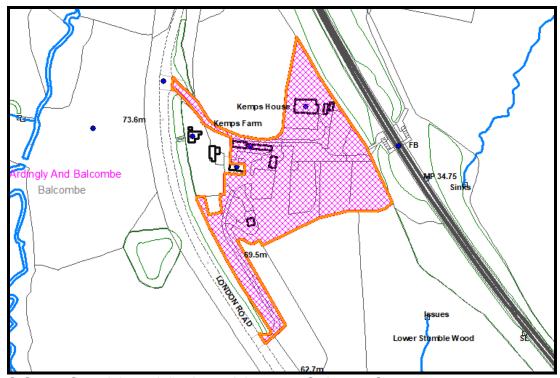
Planning Committee

12 AUG 2021

RECOMMENDED FOR PERMISSION

Balcombe

DM/21/1441



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

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

ODPM CODE: Smallscale Major Other

8 WEEK DATE: 27th July 2021

WARD MEMBERS: Cllr Gary Marsh / Cllr Jenny Edwards /

CASE OFFICER: Caroline Grist

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

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

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

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

Planning legislation requires the application to be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the National Planning Policy Framework (NPPF).

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

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

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

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

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

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

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

RECOMMENDATION

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

Summary of Representation Letters

No representations have been received in response to this application.

Summary of Consultations

Conservation Officer

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

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

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

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

Historic England

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

PARISH COUNCIL OBSERVATIONS

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

INTRODUCTION

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

RELEVANT PLANNING HISTORY

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

SITE AND SURROUNDINGS

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

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

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

APPLICATION DETAILS

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

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

LEGAL FRAMEWORK AND LIST OF POLICIES

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

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

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

Mid Sussex District Plan

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

Relevant policies:

DP1 - Sustainable Economic Development

DP12 - Protection and Enhancement of Countryside

DP16 - High Weald Area of Outstanding Natural Beauty

DP26 - Character and Design

DP34 - Listed Buildings and Other Heritage Assets

Balcombe Neighbourhood Plan

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

Relevant policies:

Policy 1 - Built Up Area Boundary

Policy 3 - Design

Other Planning Guidance

High Weald AONB Management Plan 2019 - 2024

Mid Sussex Design Guide

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

National Policy

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

Legislation

Countryside and Rights of Way Act 2000 Planning (Listed Buildings and Conservation Areas) Act 1990

ASSESSMENT

Economic Considerations

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

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

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

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

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

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

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

Paragraph 176 of the NPPF states that 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues'. A similar ethos is found within the High Weald Management Plan, Policy DP16 of the Mid Sussex District Plan and Policy 3 of the Balcombe Neighbourhood Plan.

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

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

Design and impact upon the listed building

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

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

Policy DP34 of the District Plan is relevant and states:

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

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

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

Paragraphs 199 - 203 of the NPPF state:

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

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

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

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

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

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

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

In terms of design, policy DP26 of the Mid Sussex District Plan states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- is of high quality design and layout and includes appropriate landscaping and greenspace;
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;
- protects open spaces, trees and gardens that contribute to the character of the area;
- protects valued townscapes and the separate identity and character of towns and villages;
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP27);
- creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;
- positively addresses sustainability considerations in the layout and the building design;
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;

optimises the potential of the site to accommodate development.'

Policy 3 of the Balcombe Neighbourhood Plan also requires the scale, density, massing, height, landscape design, layout and materials of all development proposals, including alterations to existing buildings to reflect the architectural and historic character and scale of the surrounding buildings.

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

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

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

Your Planning Officer agrees with this assessment.

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

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

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

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

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

CONCLUSION

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

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

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

APPENDIX A - RECOMMENDED CONDITIONS

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

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

- development for a limited period and to accord with Policy DP1 of the Mid Sussex District Plan 2014 2031.
- 2. The use hereby permitted shall not be operated on Sundays or Public Holidays or at any time otherwise than between the hours of 8am and 6pm Mondays to Fridays and 8am to 1pm on Saturdays.

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

INFORMATIVES

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

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location Plan			27.04.2021
Block Plan			08.04.2021
Site Plan	01		08.04.2021
Street Scene	02		08.04.2021
Existing Floor and Elevations Plan	03		08.04.2021
Existing Floor and Elevations Plan	04		08.04.2021

APPENDIX B - CONSULTATIONS

Parish Consultation

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

Conservation Officer - Emily Wade

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

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

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

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

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

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

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

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

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

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

Historic England

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

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