

MID SUSSEX DISTRICT COUNCIL

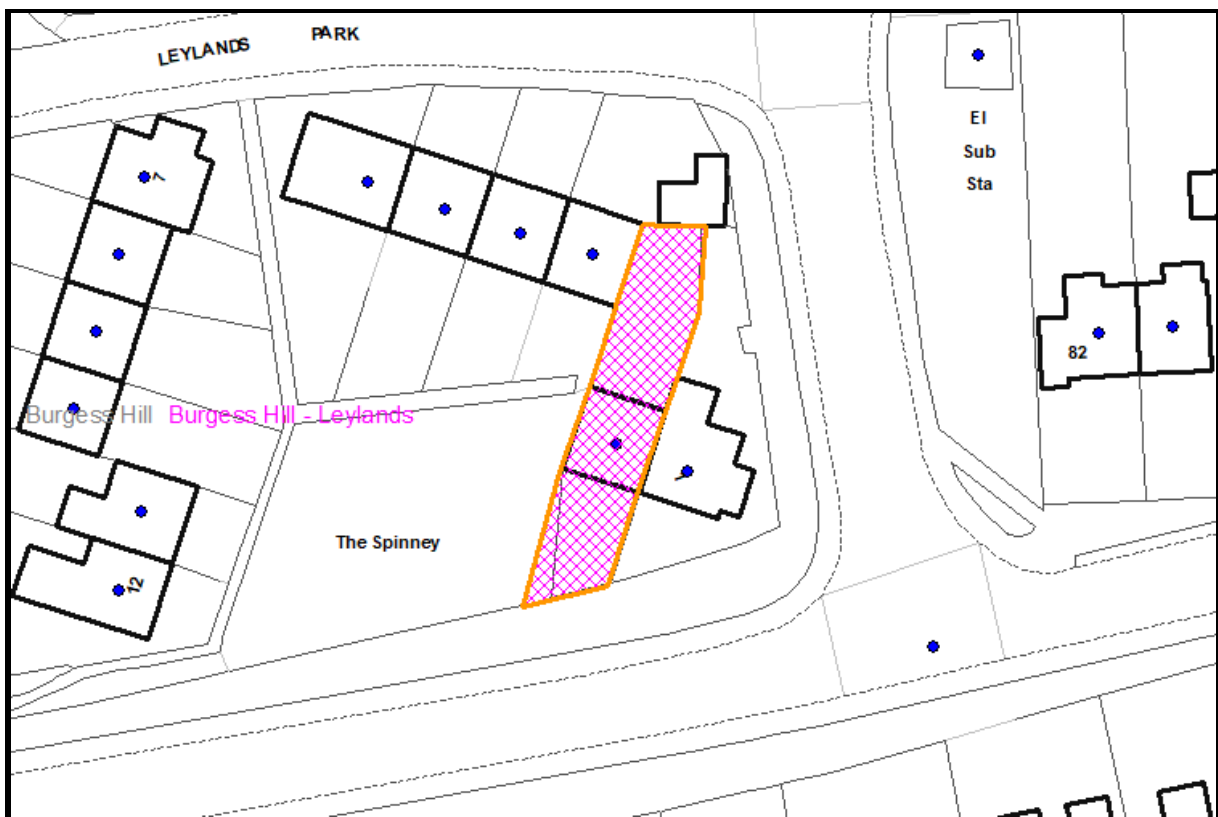
Planning Committee

9 FEB 2023

RECOMMENDED FOR PERMISSION

**Burgess Hill**

**DM/22/2634**



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**2 THE SPINNEY BURGESS HILL WEST SUSSEX RH15 8AG  
NEW ACCESS, DROP KERB AND DRIVEWAY OFF LEYLANDS ROAD TO  
FRONT OF PROPERTY (TREE REPORT RECEIVED 03.11.2022).  
MR KIERAN LUSK**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Methane Gas Safeguarding / Aerodrome Safeguarding (CAA) / Minerals Local Plan Safeguarding (WSCC) /

ODPM CODE: Householder  
8 WEEK DATE: 10th February 2023  
WARD MEMBERS: Cllr Simon Hicks / Cllr Anne Eves /  
CASE OFFICER: Katherine Williams

### **PURPOSE OF REPORT**

To consider the recommendation of the Assistant Director Planning and Sustainable Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

Planning permission is sought for a new access, drop kerb and driveway off Leylands Road to front of No. 2 The Spinney. This application is before committee as part of the application site is located on land owned by Mid Sussex District Council. This is a modest proposal that would improve access and parking provision for the property and is acceptable in terms of its design and impact on the character of the area, its impact on trees, impact on highway safety and parking. It would not cause harm to the amenities of neighbouring properties. The proposal complies with Mid Sussex District Plan policies DP21, DP26, and DP37, policy S4 of the Burgess Hill Neighbourhood Plan and the relevant provisions of the NPPF.

### **RECOMMENDATIONS**

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

### **SUMMARY OF REPRESENTATIONS**

None received

### **SUMMARY OF CONSULTATIONS**

### **BURGESS HILL TOWN COUNCIL OBSERVATIONS**

Recommend Approval. The Committee expressed concern regarding recent flooding in the area, and suggested the use of both a permeable surface, and a raised kerb.

### **Tree Officer**

Following the submission of further information no objection, subject to condition

## **Corporate Estates**

No comment

## **WSCC Highways Authority**

No objection

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## **OFFICER REPORT**

### **Introduction**

The application seeks permission for a new access, dropped kerb and driveway off Leylands Road to front of No. 2 The Spinney. The application has been referred to Committee because part of the land is owned by the Council.

### **Relevant Planning History**

None relevant

### **Site and Surroundings**

The application property consists of a two storey semi-detached dwelling located off the northern side of Leylands Road, within the built up area of Burgess Hill.

The wider locality of Leylands Road is characterised largely by detached and semi-detached dwellings of varying designs and forms. The dwellings are set back evenly from the highway with active frontages including low boundary walls and fences with off street parking. The properties of The Spinney consist of two storey terraced and semi-detached dwellings of the same design and form which are orientated at differing angles around an area of open space and verge owned by Mid Sussex District Council, which fronts onto Leylands Road. The properties at present are accessed off the vehicular highways by footpaths which run along the front boundaries of the properties and distinguishes the area of open space from the curtilages of the properties.

The application property is located to the eastern side of the open space and is visually separated from this area by existing close boarded boundary fence which defines the front garden of the property. The semi-detached pair have a symmetrical appearance with a shared pitched roof and mirroring front porch canopies. The front elevation of the attached neighbour, No. 1 The Spinney, is partly obscured from the streetscene of Leylands Road by existing front boundary hedging. The front garden of the application property however has a more open character to the highway with an existing wire fence.

### **Application Details**

The proposed driveway would be constructed in porous stone paving and would extend over the majority of the front garden, with an area of soft landscaping along the front elevation of the dwelling. This area would be accessed via a tarmac

entrance and crossover that extends over the verge onto Leylands Road. This access would be positioned between the two existing trees on the verge.

The proposal would also maintain the boundary treatment around the front garden of the property.

## **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, Burgess Hill Neighbourhood Plan and the Site Allocation DPD.

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:

DP21 - Transport

DP26 - Character and Design

DP37 - Trees, Woodland and Hedgerows

### **Burgess Hill Neighbourhood Plan (made January 2016)**

Relevant policies:

Policy S4 - Parking Standards for New Developments

*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.

### **Mid Sussex District Plan 2021-2039 Consultation Draft**

The District Council is now in the process of reviewing and updating the District Plan. The new District Plan 2021 - 2039 will replace the current adopted District Plan. The draft District Plan 2021-2039 was published for public consultation on 7th November and the Regulation 18 Consultation period runs to 19th December 2022. No weight can currently be given to the plan due to the very early stage that it is at in the consultation process.

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

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.

Paragraph 111 of the NPPF 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.*

## National Planning Policy Guidance

### *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,

- Design and Character
- Impact on neighbouring properties
- Impact on the Highway and Parking
- Impact on Trees
- Planning Balance and Conclusions

## **Assessment**

### **Character and 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.'*

The Mid Sussex Design Guide SPD also requires development to respond to and respect the character of the area as well as the original property.

The proposed driveway would be located to the front of the dwelling and would be visible from Leylands Road, where off street parking and driveways form part of the established character of the area. A number of the surrounding properties within The Spinney face onto the central area of open space. However, due to the position of the application property to the eastern side of the main open area, and the existing close boarded fence line in between, it is considered that the proposal would be visually separate from this area of open space and would be seen within the context of the driveways within the wider locality. Due to existing appearance of the property and the nature of the proposed works it is considered that the proposal would reflect the character of the area.

#### **Impact on the amenities of neighbouring properties**

Policy DP26 in part seeks to ensure that development:

*'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),'*

The closest neighbouring property to the proposed works is No. 1 The Spinney, which is attached to the application property through its shared western side

elevation with a close boarded fence line in between. Given the nature of the proposal it is considered that it would not cause harm to the amenities of neighbouring properties.

#### *Impact on the Highway and Parking*

Policy DP21 of 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.'*

Policy S4 of the Burgess Hill Neighbourhood Plan in part states:

*'In cases where planning permission is necessary for alterations and extensions to properties support will not be given for the conversion of garage space to habitable rooms/ residential use unless there is adequate space to park cars off street in line with the parking standards.*

*Design and layout of off-site parking areas, on street parking areas, garage/parking blocks will be designed to allow ease of access from driveways and accessibility to parking areas without causing obstruction.'*

Appendix D of the Burgess Hill Neighbourhood Plan sets out that 3 bedroom dwellings located outside the defined Town Centre area are required to provide 2 designated spaces and 1 non-designated space per 2 dwellings. West Sussex County Council September 2020 Parking Standards Guidance, outlines that for a 3 bedroom dwelling in this location 1.7 parking spaces have to be provided. The proposal would provide provision for 2 No. parking spaces for the dwelling. The property does not appear to have any other allocated parking provision and therefore the proposal would result in an increase to the parking provision for the property. It is therefore considered the proposal would comply with the parking requirements set out within policy S4 of the Burgess Hill Neighbourhood Plan and the WSCC Parking Standards Guidance.

Paragraph 111 of the NPPF 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.*

West Sussex County Council Highways Authority have been consulted on the application and raises no objection to the proposal. The site is located on Leyland Road, a C-classified road subject to a speed restriction of 30 mph in this location. The proposed vehicle crossover (VCO) would have a width of 3 metres and there are no apparent visibility concerns with the proposed point of access.

On site turning does not appear achievable so cars may have to exit the site in reverse, however, this is not anticipated to give rise to an adverse highway safety impact due to the good visibility and that neighbouring properties operate similar access arrangement with no known highway safety concerns.

The proposed dropped kerb would be subject to a licence obtained through the Local Area Office and would be constructed to a specification agreed with the Local Area Engineer. The LHA has raised points regarding the proximity of the proposal to two trees within the verge and sets out the requirements in terms of distances to trees and their root protection areas.

In conclusion, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National



Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

### **Impact on Trees**

Mid Sussex District Plan policy DP37 states:

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

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

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

*Trees, woodland and hedgerows will be protected and enhanced by ensuring development:*

- *incorporates existing important trees, woodland and hedgerows into the design of new development and its landscape scheme, and*
- *prevents damage to root systems and takes account of expected future growth, and*
- *where possible, incorporates retained trees, woodland and hedgerows within public open space rather than private space to safeguard their long-term management, and*
- *has appropriate protection measures throughout the development process, and*
- *takes opportunities to plant new trees, woodland and hedgerows within the new development to enhance on-site green infrastructure and increase resilience to the effects of climate change, and*
- *does not sever ecological corridors created by these assets.*
  
- *Proposals for works to trees will be considered taking into account:*
  - *the condition and health of the trees, and*
  - *the contribution of the trees to the character and visual amenity of the local area, and*
  - *the amenity and nature conservation value of the trees, and*
  - *the extent and impact of the works, and*
  - *any replanting proposals.*

*The felling of protected trees will only be permitted if there is no appropriate alternative. Where a protected tree or group of trees is felled, a replacement tree or group of trees, on a minimum of a 1:1 basis and of an appropriate size and type, will*

*normally be required. The replanting should take place as close to the felled tree or trees as possible having regard to the proximity of adjacent properties.*

*Development should be positioned as far as possible from ancient woodland with a minimum buffer of 15 metres maintained between ancient woodland and the development boundary.'*

The Council's Tree Officer has been consulted on the application and following the submission of an amended tree protection plan no objection has been raised subject to a condition to adhere to the protection measures within the Arboricultural Impact Assessment and Tree Protection Plan. With these protection measures in place the trees can be retained.

### **Planning Balance and Conclusions**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

This is a modest proposal that would improve access and parking provision for the property and is acceptable in terms of its design and impact on the character of the area, its impact on trees, impact on highway safety and parking. It would not cause harm to the amenities of neighbouring properties. The proposal complies with Mid Sussex District Plan policies DP21, DP26, and DP37, policy S4 of the Burgess Hill Neighbourhood Plan and the relevant provisions of the NPPF.

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### **APPENDIX A – RECOMMENDED CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading 'Plans Referred to in Consideration of this Application'.  
  
Reason: For the avoidance of doubt and in the interest of proper planning.
3. No external materials shall be used other than those specified on the approved plans and application details without the prior approval of the Local Planning Authority.  
  
Reason: To protect the appearance of the building and the area and to accord with Policy DP26 of the Mid Sussex District Plan.

4. The works shall be carried out in accordance with the protection measures set out within the Arboricultural Impact Assessment (10th October 2022) and Tree Protection Plan received 16th January 2023.

Reason: To ensure the retention and maintenance of trees and vegetation which is an important feature of the area and to accord with Policy DP37 of the Mid Sussex District Plan 2014 - 2031

## INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance. Accordingly, you are requested that:

Hours of construction/demolition on site are restricted only to: Mondays to Fridays  
0800 - 1800 hrs, Saturdays 0900 - 1300 hrs, No construction/demolition work on Sundays or Public Holidays.

Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.

No burning of materials shall take place on site at any time.

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

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 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.
3. The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the site access works on the public highway. The granting of planning permission does not guarantee that a vehicle crossover licence shall be granted.

Additional information about the licence application process can be found at the following web page:

<https://www.westsussex.gov.uk/roads-and-travel/highway-licences/dropped-kerbs-or-crossovers-for-driveways-licence/>

Online applications can be made at the link below, alternatively please call 01243 642105.

<https://www.westsussex.gov.uk/roads-and-travel/highway-licences/dropped-kerbs-or-crossovers-for-driveways-licence/vehicle-crossover-dropped-kerb-construction-applicationform/>

### **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>
Existing Site Plan	MPD-A-003	-	03.11.2022
Proposed Site Plan	MPD-A-004	-	03.11.2022
Tree Survey	-	-	03.11.2022
Location and Block Plan	MPD-A-000	-	03.11.2022
Existing Site Plan	MPD-A-001	-	03.11.2022
Proposed Site Plan	MPD-A-002	-	03.11.2022

## **APPENDIX B – CONSULTATIONS**

### **Parish Consultation**

Recommend Approval. The Committee expressed concern regarding recent flooding in the area, and suggested the use of both a permeable surface, and a raised kerb.

### **Trees And Landscape**

#### **Tree Officer**

15/12/2022:

I note from the AIA (dated 10 Oct 22) that no trees are to be removed and no facilitation pruning is involved. However sections of the new driveway are within the RPAs of T1 and T2 and it is essential the details given within the report are followed including the integration of the preliminary method statement with exact specifications that should be provided by an engineer. Furthermore, the report refers to tree protection barriers and ground protection, but I cannot locate a tree protection plan to see where these are located. Please can this be provided.

Providing the precautionary measures outlined within the report are followed, the retained trees should be adequately protected during the development, and subject to adherence to the report and an adequate protection plan being submitted, I would not object on arboricultural grounds.

19/01/2022:

I am happy with the TPP, and would ask both this and the tree report is fully adhered to as per my previous comments regarding specification for the surfacing provided by the engineer.

## **WSCC Highways Authority**

This application is for the creation of a new vehicular access with driveway. The site is located on Leylands Road, a C-classified road subject to a speed restriction of 30 mph.

The applicant proposes a 3m wide vehicle crossover (VCO) on Leylands Road to serve the property. From inspection of WSCC mapping, there are no apparent visibility concerns with the proposed point of access on to Leylands Road.

The proposed parking area will be of suitable size to accommodate two cars. On-site turning does not appear achievable, so cars may have to exit the site in a reverse gear. However, this is not anticipated to give rise to an adverse highway safety impact, as Leylands Road has good forward visibility in this location. Neighbouring properties operate similar access arrangement with no known highway safety concerns. However, the proposed access works will be subject to a licence obtained through the local Highway Area Office. The LHA notes that the proposed VCO will be positioned in between two trees, and the VCO appears to be located within their minimum Root Protection Area (RPA). This figure can be calculated by multiplying the trunk diameter by 12, and then measuring from the trunk across the proposed driveway construction. Any request with an RPA of 8 times the diameter will be refused.

Given that the proposed VCO appears to be located within the RPA, an application for a licence will likely be refused by the local Highway Area Office, and the proposed works will not be able to be implemented. In addition, applications requiring the removal of a healthy, well established highway tree are also likely to be refused.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal. However, as mentioned above, the proposed VCO is unlikely to be granted a licence for the proposed works, as it is contrary to Highway Area Office guidance.

If the LPA are minded to approve the application, the following informative should be applied:

### **Vehicle Crossover - Minor Highway Works**

The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the site access works

on the public highway. The granting of planning permission does not guarantee that a vehicle crossover licence shall be granted.

Additional information about the licence application process can be found at the following web page:

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