

MID SUSSEX DISTRICT COUNCIL

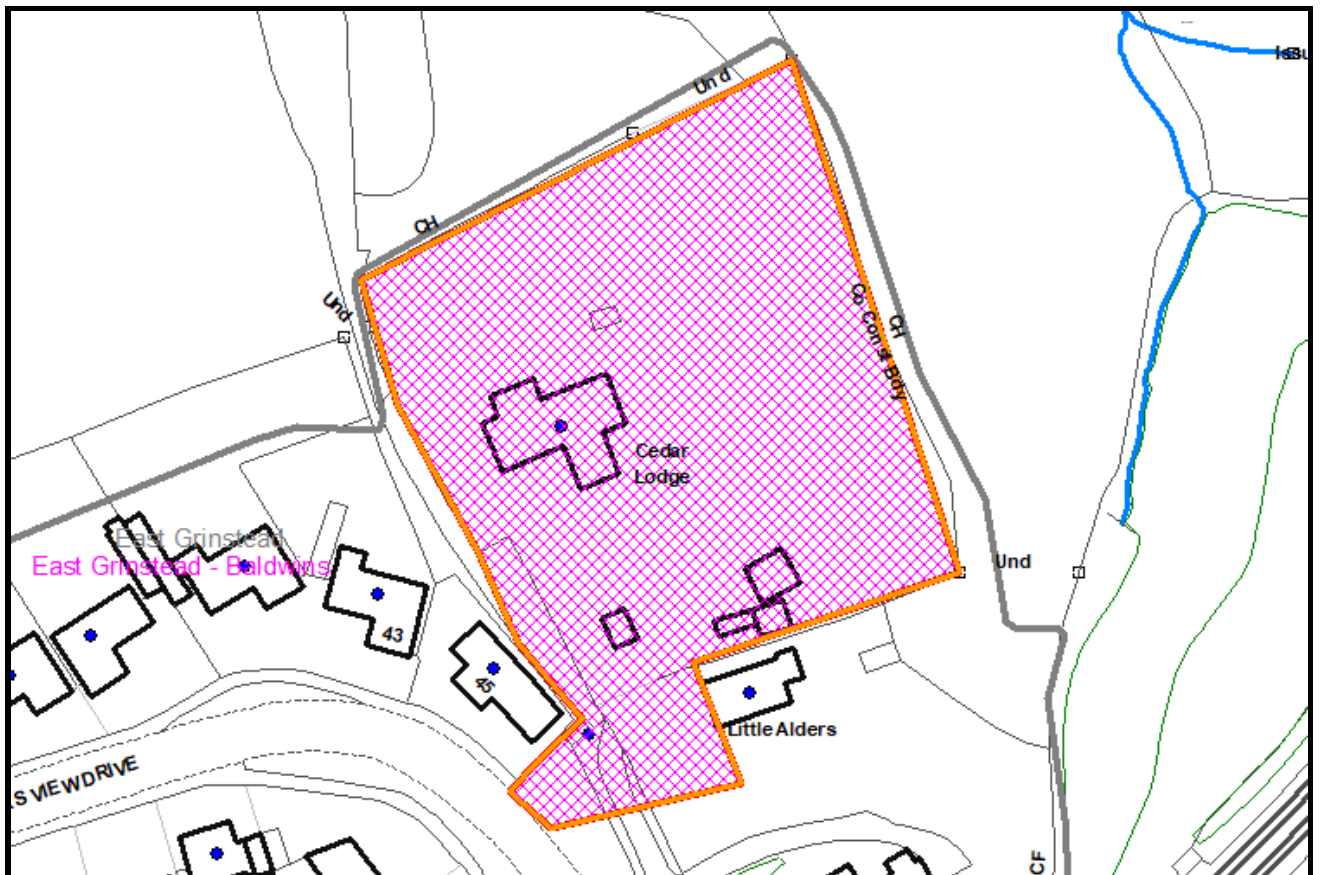
Planning Committee

**30 MAR 2023**

RECOMMENDED FOR PERMISSION

**East Grinstead**

**DM/22/3871**



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**CEDAR LODGE HACKENDEN LANE EAST GRINSTEAD WEST SUSSEX  
RH19 2DL**

**PROPOSED AUTOMATED TIMBER 5-BAR ENTRANCE GATE,  
PERMEABLE DRIVEWAY SURFACE TREATMENT, DROPPED KERB AND  
PLANTING. (REVISED DESCRIPTION AGREED 12.01.2023) (UPDATED  
PLANS AND FURTHER INFORMATION RECEIVED 12.01.2023 AND  
24.01.2023)**

**MR P.LEDERER**

POLICY: Ancient Woodland / Aquifer (Source) Protection Zone / Aquifer (Source) Protection Zone / Area of Special Control of Adverts / Area of Special Control of Adverts / Ashdown Forest SPA/SAC / Built Up Areas / Countryside Area of Dev. Restraint / Green Belt / Planning Agreement / Planning Obligation / Public Right Of Way / Public Right Of Way / Public Right Of Way / Aerodrome Safeguarding (CAA) / Aerodrome Safeguarding (CAA) / Aerodrome Safeguarding (CAA) / Minerals Local Plan Safeguarding (WSSC) /

ODPM CODE: Householder

8 WEEK DATE: 3rd April 2023

WARD MEMBERS: Cllr Norman Webster / Cllr Julie Mockford /

CASE OFFICER: Caroline Grist

### **Purpose of Report**

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

### **Executive Summary**

Please note that this is an updated version of the report published for the cancelled meeting of the 9th March 2023

This application seeks planning permission for an automated timber 5-bar entrance gate, permeable driveway surface treatment, dropped kerb and planting at Cedar Lodge, Hackenden Lane East Grinstead.

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.

It is considered that whilst a number of concerns have been raised regarding the proposal, the development would not appear incongruous in the surrounding area, significantly harm amenity, result in significant highways safety concerns or drainage issues, subject to planning conditions. The distinction has been lost between the built up area and the countryside and the proposed access is not substantial in width and would be surrounded by landscaping. The additional level of use, given the purpose of the development, would not give rise to significant amenity concerns for residents on Alders View Drive. An automatic gate is included as part of the development, which would prevent direct through traffic, and no objections have been raised by the Highways Authority, Public Rights of Way Officer or Drainage Engineer.

The proposal would therefore comply with policies DP12, DP21, DP26 and DP41 of

the Mid Sussex District Plan 2014-2031, policy EG3 of the East Grinstead Neighbourhood Plan, the Design Guide Supplementary Planning Document as well as the broader requirements of the NPPF.

Planning permission should therefore be granted, subject to the conditions outlined at Appendix A.

### **Recommendation**

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

### **Summary of Representations**

31 representations were originally received in response to this application. Of these 29 are in objection and, in summary, raise the following matters:

- No reference is made to dropping the kerb,
- Plans are unclear,
- Letter not received by resident,
- Previous planning applications have been refused,
- Proposal constitutes unnecessary development within the countryside,
- Development would be harmful to the rural character,
- Will have an adverse impact on the character of Alders View Drive,
- Question if the proposed gate is timber or metal,
- Trees and vegetation have been removed from the land,
- Adverse impact to residents of Alders View Drive,
- Noise impact,
- Increase in traffic would create more pollution,
- Desk top responses have been provided by consultees,
- Permission has been refused by the Highways Authority,
- Permission will be required from the Highways Authority to drop the kerb,
- There is an existing access to the property,
- There will be two accesses to the property,
- Increased traffic onto Alders View Drive and surrounding roads,
- Hackenden Lane is not suitable for further traffic,
- Other people may use the access,
- The access arrangement for The Oaks is not comparable to this proposal,
- Concern relating to if the gate is not closed,
- Concern regarding the access being used as a rat run,
- Emergency services can reach Cedar Lodge,
- Safety concerns for pedestrians, including children walking to/from school,
- Safety concerns for other vehicle users,
- Safety concerns relating to railway traffic and the bridge,
- There will be potential for the access to be used as a road,
- Bollards or a gate should be installed in the pavement opposite Cedar Lodge,

- Confusion as to how to access properties,
- Alders View Drive should remain as a cul-de-sac,
- Applicant and others are currently driving over this area to gain access to the dwelling,
- The land has become muddy and unsafe,
- Heavy vehicles have crossed the land,
- There is no gate to stop others from using the access,
- Development will increase water runoff onto Alders View Drive,
- Loss of ecology,
- No need for the proposed development,
- Question the purpose of the application,
- There will be a future application for houses at Cedar Lodge,
- Conditions should be imposed on any permission to prevent the future development of the property,
- Will create a precedent of linking Hackenden Lane and Alders View Drive,
- Disagree with comments made in support of the application,
- The applicant was aware of the access arrangement when purchasing the property,
- The application is inaccurate and untruthful, and
- Concerns regarding the applicant.

One letter was also received from a resident stating that they now wished their view to be neutral, rather than objecting.

One further representation was received supporting the application. In summary the points made are as follows:

- There is a gate between Hackenden Lane and Alders View Drive, which is assumed to be retained,
- Previously advised that planning permission would not be required to create an access onto Alders View Drive from The Alders,
- Highways Authority advised that an application would be needed to drop the kerb and for a locked gate, or similar, to prevent through traffic,
- The route from Hackenden Lane to Charlwood Road is blocked at both ends to prevent through traffic,
- The Oaks has access to both Hackenden Lane and Alders View Drive and has not increased traffic,
- Hackenden Lane is designated a footpath for public access only, therefore any other vehicle using it, other than a resident, would be illegal,
- There is a weight limit on the bridge and a tight bend after and delivery vans have refused to make deliveries,
- Fire services could not reach The Alders, Little Alders and Cedar Lodge using Hackenden Lane,
- An ambulance was hampered trying to access The Alders and Little Alders,
- The northern end of Hackenden Lane can become impassable,
- Hackenden Lane can become blocked at the southern end, causing access problems,

- Planning permission has been previously refused for houses at Cedar Lodge, and
- Land to the north and the east of the site is within Surrey and is designated for ecology reasons, which would prevent future development.

Following revisions to the description and the submission of updated plans and further information, a re-consultation was undertaken. A further fifteen responses were received in objection. In summary the following matters were raised:

- Question if the Highways Authority have been consulted as this application is linked to a future submission for a dropped kerb,
- The site notice has not been positioned to show the position of the access,
- There appears to be a missing drawing,
- Detrimental impact to the countryside,
- Affect the character of Alders View Drive,
- The land has already been cleared and a hedge has been removed,
- The access will become a rat run,
- There will be an increase in traffic,
- Hackenden Lane is not suitable for more traffic,
- Will cross a Public Right of Way,
- Safety concern for pedestrians,
- Safety concerns for vehicle users,
- Visibility concerns,
- Any type of vehicle could use the access,
- Will become a through road,
- Will be more cars on Alders View Drive and surrounding roads,
- A condition should be attached to any permission that states that only the homeowners can have a fob to use the gate,
- Gate could be removed,
- Concern that the gate will not always be closed,
- Permeable surface would not be sufficient to prevent water running onto Alders View Drive,
- Loss of amenity to Alders View Drive,
- Noise and disturbance concerns,
- Detrimental impact to residents,
- The works at The Oaks are not comparable,
- The land is a being driven over,
- The land has become very muddy,
- Will result in an application to redevelop the land further,
- Groundworks have taken place at this property,
- This development is not needed,
- Question if a decision will be made by Planning Committee, and
- Concerns raised regarding the applicant.

Five further representations have also been received. In summary it has been advised that moterbikes have been using the piece of land off Alders View Drive into Hackenden Lane and over the railway bridge. It has also been advised that traffic is using Hackenden Lane as a cut through from Alders View Drive into Blackwell Farm

Road. Issues surrounding a blind spot, pedestrian safety, absence of a barrier and residents dissatisfaction have been raised.

It should be noted that the Local Planning Authority are required to assess each application they receive on its own merits, against relevant local and national policies, as well as any other material considerations.

All adjoining neighbours were notified of the application, as required, and were notified again during the re-consultation. The re-consultation also included any resident who had previously commented and a general site notice was put up. The site notice was attached to the fence of the application property and opposite the land where the access is proposed. The application file has been kept up to date with the latest versions of the plans which were ready for publication.

It should be noted that only material planning considerations can be taken into account when assessing an application. As such matters such as to the motive of the application or concerns about the applicant cannot be taken into account.

## **Summary of Consultations**

### **WSCC Highways Authority**

No objection. Informative recommended.

### **WSCC Public Rights of Way Officer**

No objection. Conditions recommended.

### **MSDC Drainage Engineer**

No objection.

## **TOWN COUNCIL OBSERVATIONS**

The Committee recommends refusal based on the same reason as was previously discussed on 23rd of January. The application has not addressed the issues that were the reasons for refusal beforehand.

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## **Introduction**

This application seeks planning permission for the installation of an automated timber five-bar entrance gate, permeable driveway surface treatment, dropped kerb and planting at Cedar Lodge, Hackenden Lane, East Grinstead.

## **Planning History**

GR/337/98 - Erection of 3 extensions and brick surround, erection of 2 outbuildings. Permission.

DM/17/3001 - Outline planning application for residential development of up to 8no. new units with associated access, all other matters reserved. Refused.

Reasons for refusal:

1. The proposed development within the Countryside Area of Development Restraint would be harmful to the character and appearance of the area as a result of the formation of its access from Alders View Drive and the incongruous urbanisation of a spacious plot on the rural fringe. The proposal is contrary to policies C1, B1 and B7 of the Mid Sussex Local Plan, Policies EG2, EG3 and EG5 of the East Grinstead Neighbourhood Plan, policies DP10, DP13, DP24 and DP36 of the Mid Sussex District Plan 2014-2031 Submission Version and paragraphs 7, 14, 17, 53, 58 and 61 of the National Planning Policy Framework.
2. The applicant has failed to provide sufficient ecological information in regard to protected species to enable proper assessment of the proposals against relevant planning policies for biodiversity conservation. In addition, the proposal does not provide for an undeveloped semi-natural habitat buffer zone to the adjacent ancient woodland and does not mitigate the potential impact on the Ashdown Forest Special Protection Area (SPA). The proposal is contrary to the Conservation and Habitats and Species Regulations 2010, policies C5 and C6 of the Mid Sussex Local Plan, policies DP15 and DP37 of the Mid Sussex District Plan 2014-2031 Submission Version and paragraphs 109 and 118 of the National Planning Policy Framework.

## **Site and Surroundings**

Cedar Lodge is a detached, south facing bungalow that is situated to the east of Hackenden Lane. There are further residential properties located to the south and ancient woodland lies to the north and east. There is an area of land to the west of Cedar Lodge that separates Hackenden Lane from Alders View Drive. This parcel of land is where the proposed development is to be sited and has an area of approximately 161.9 square metres.

Whilst Cedar Lodge is within the countryside, the built up area boundary of East Grinstead lies to the west of Hackenden Lane. As such, the majority of the land to which this application relates is within the built up area. There are also Public Rights of Way around the application site. Hackenden Lane is identified as a footpath (416Sy) and to the north is a further footpath, that connects Hackenden Lane to

Alders View Drive (417aSy). The second footpath does not form part of the application site.

### **Application Details**

Planning permission is sought for an automated timber 5-bar entrance gate, permeable driveway surface treatment, dropped kerb and planting. It is intended to create a driveway across the site, including a dropped kerb on Alders View Drive, in order to create direct access from Alders View Drive to Cedar Lodge. This access is to be approximately 2.9 metres wide and would be finished in a permeable surface.

Along the northern boundary of the land an automated, timber, gate and fencing are to be sited. The fencing is to be some 1.0 metre high whilst the gate would be 1.2 metres high. Around the access landscaping is proposed including a hedge, along the northern boundary, and trees.

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

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

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

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

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

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

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

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

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



Using this as the starting point the development plan for this part of Mid Sussex consists of the Mid Sussex District Plan, East Grinstead Neighbourhood Plan and Site Allocations Development Plan Document.

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:

DP12 - Protection and Enhancement of Countryside

DP21 - Transport

DP26 - Character and Design

DP41 - Flood Risk and drainage

### **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.

### **Site Allocations Development Plan Document**

The Site Allocations DPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

### **East Grinstead Neighbourhood Plan**

The East Grinstead Neighbourhood Plan was made in November 2016.

Relevant policies:

Policy EG3 - Promoting Good Design

### **Site Allocations Development Plan Document**

The Site Allocations DPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

### *Mid Sussex Design Guide Supplementary Planning Document*

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*

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 that is well designed, beautiful and safe, 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.

Paragraph 134 of the NPPF states:

*'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:*

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes, and/or*
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings'.*

## *National Planning Policy Guidance*

### *Ministerial Statement and National 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,

- Impact on the character of the surrounding area,
- Impact on neighbouring properties,
- Highways safety,
- Drainage, and
- Planning balance and conclusions.

### **Impact on the character of the surrounding area and neighbouring properties**

Policy DP12 of the Mid Sussex District Plan relates to development within the countryside and seeks to protect the countryside in recognition of its intrinsic character and beauty.

Policy DP26 relates to character and design and 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.'*

East Grinstead Neighbourhood Plan policy EG3 states:

*'Planning permission will normally be granted where development proposals meet the following criteria:*

- *The form of the proposed development is proportionate and in keeping with the scale, height, materials and site coverage of the surrounding area,*
- *The layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity,*
- *The proposal does not result in the loss of buildings or spaces that would have an unacceptable impact on the character of the area,*
- *The proposal ensures satisfactory means of access for vehicles and pedestrians and provides adequate parking, cycle storage and refuse facilities on site,*
- *The design of new buildings and the layout of spaces, including footways, car and cycle parking areas, should be permeable and provide connectivity with neighbouring areas,*
- *New development must be inclusive and where appropriate make satisfactory provision for the safe and easy access for those with mobility impairment, and*
- *The design of new developments must result in the creation of a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour, and*
- *Proposals make provision for green infrastructure and biodiversity enhancement.'*

Planning permission is sought for an automated timber 5-bar entrance gate, permeable driveway surface treatment, dropped kerb and planting.

The area of land, where the proposed development is to be sited, was previously undeveloped and characterised by dense vegetation. Under application DM/17/3001, this land was identified as providing a visual barrier between the 1970s estate development of Alders View Drive and the expansive, verdant plots of Cedar Lodge, Little Alders and The Alders. This vegetation did not benefit from statutory protection and was not considered worthy of such protection under the previous application.

The vast majority of the application site is within the built up area of East Grinstead as defined in the District Plan. The built up area is sited to the west of Hackenden Lane.

The vegetation has now been cleared from the site and, given its status, would not have required permission to do so. It would also appear that vehicles have been crossing the land for a period of time.

The removal of the vegetation is considered to have changed the character and appearance of the area. There is no longer a green buffer separating the defined built up area and the countryside and, as such, these areas are less distinct. The access road that is being proposed would only be suitable for one way traffic and is significantly narrower than Alders View Drive. Landscaping is also proposed, which would soften the proposed development and would be of benefit to the surrounding area. A post and rail style fence and five bar gate are also proposed which would additionally provide an appropriately designed separation between these areas again. Conditions can be attached to any permission to secure the final details of hard and soft landscaping.

Concern has been raised regarding the change that would occur to Alders View Drive. The access is only intended to be used by the residents of Cedar Lodge, therefore there should not be a significant intensification of traffic along Alders View Drive. Details have been provided of the proposed gate mechanism that sets out that the gate is to be accessed by remote control. This would restrict the number of vehicles using the access. Furthermore the application description specifies that the gate to be installed is automated.

Due to the nature and position of the proposed works it is considered that there would not be a harmful impact to neighbour's light, outlook or privacy as a result of the development. As set out above, given the limited use of the access, it is considered that there would not be a significant harm in terms of noise, air and light pollution above and beyond the current situation for residents of Alders View Drive.

It is therefore considered that, on balance, given the changes that have occurred to the streetscene the proposed development would not be significantly harmful to the character of the area. Due to the intended use of the gate and, considering the details of the mechanism that have been provided, it is considered that there would not be significant harm to the amenity of surrounding residents. The proposal would consequently meet the requirements of policies DP12 and DP26 of the Mid Sussex District Plan and policy EG3 of the East Grinstead Neighbourhood Plan.

### **Highways safety**

Policy DP21 of the Mid Sussex District Plan relates to transport and 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'.*

*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.'*

Comments have been received from the Highways Authority during the course of the application. It has been advised that they undertook a site visit in January 2023 and noted that activity had been taking place on site. With regards to highways safety it is advised that suitable visibility will be provided onto Alders View Drive and that the Highway Authority would be satisfied with the installation of a gate to prevent the access from being used as a rat run by other highway users.

No comment has been provided in terms of the dropped kerb, as this would be subject to a licence application under the Highways Act. Planning applications need to be considered with regards to planning matters and it would be the responsibility of the developer to ensure that they comply with all relevant legislation.

The Public Rights of Way Officer has drawn attention to the surrounding designated footpaths. No objection has been raised by the Public Rights of Way Officer in terms of vehicles crossing Hackenden Lane and a number of conditions have been recommended. The matters referred to, however, are understood to relate to matters covered in the Countryside and Rights of Way Act (2000) and, as such, they would not meet the tests required for planning conditions. They can be included as informatives, so the applicant is aware of these requirements.

A number of representations have been made relating to other vehicles using the access to reach Blackwell Farm Road, where Blackwell Primary School is also located. It is also recognised that the surrounding rights of way are frequently used by pedestrians and the condition of Hackenden Lane, which is not an adopted highway, would not be suitable for heavy traffic. A condition is therefore proposed that would require the automatic gate to be installed prior to the first use of the proposed access, to ensure the installation of the gate at an appropriate time. This condition should ensure that the development is used as intended and prevent the intensification Hackenden Lane.

It is therefore considered that the proposed development, with the recommended condition, would accord with the requirements of policy DP21 of the Mid Sussex District Plan.

## **Drainage**

Policy DP41 of the District Plan also relates to flood risk and, in part, states:

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

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

The area where the development is to take place is situated within flood zone 1 and is not advised as being in an area at risk of surface water drainage. It is noted that there may currently be issues with regards to surface water drainage, however the site is not in a good condition due to having been driven over. The proposed development will create a formalised access, which would use permeable paving, creating an appropriate surface. The remaining area is to comprise soft landscaping.

The Council's Drainage Engineer has reviewed the application and advised that, as the access is to be formed of permeable paving, no objection is raised to the proposed development.

It is therefore concluded that the proposed development would comply with the requirements of policy DP41 of the Mid Sussex District Plan.

### **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.

Planning permission is sought for an automated timber 5-bar entrance gate, permeable driveway surface treatment, dropped kerb and planting. Whilst the concerns raised are acknowledged it is considered that, subject to the inclusion of relevant planning conditions, the proposed development would not appear incongruous in the surrounding area, result in significant highways safety concerns or drainage issues. The distinction has been lost between the built up area and the countryside and the proposed access is not substantial in width and would be surrounded by landscaping. The additional level of use, given the purpose of the development, would not give rise to significant amenity concerns for residents on Alders View Drive. An automatic gate is included as part of the development, which would prevent direct through traffic, and no objections have been raised by the Highways Authority, Public Rights of Way Officer or Drainage Engineer.

It is therefore recommended that planning permission should be granted.



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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 Applications'.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. Prior to the commencement of development, 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 prior to the first use of the driveway 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 DP12 and DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy EG3 of the East Grinstead Neighbourhood Plan.

4. Prior to the first use of the driveway the automated gate shall be installed and fully operational, in accordance with the details submitted as part of this application. It shall be retained as such thereafter.

Reason: In the interests of highway safety and to accord with Policy DP21 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.

2. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

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

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

3. The granting of planning permission does not authorise obstruction of, interference to or moving of any Public Right of Way (PROW), this can only be done with the prior consent of West Sussex County Council (WSCC), as highway authority, and possibly also a legal Order process by (Mid Sussex District Council) as the local planning authority. Further advice can be provided on request.
4. Safe and convenient public access is to be available at all times across the full width of the PROW, which may be wider than the available and used route - advice on the legal width can be provided by the WSCC PROW Team.
5. The path is not to be obstructed by vehicles, plant, scaffolding or the temporary storage of materials and / or chemicals during any works. These will constitute an offence of obstruction under the Highways Act 1980.
6. No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSCC PROW Team. These will constitute an offence of obstruction under the Highways Act 1980.
7. Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.
8. Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.
9. Any alteration to or replacement of the existing boundary with the PROW, or the erection of new fence lines, must be done in consultation with the WSCC PROW Team to ensure the legal width of the path is not reduced and there is no unlawful encroachment.

10. The applicant is advised that a public access right has precedence over a private access right. Where a PROW runs along a route also used for private access purposes, usually for private vehicle access, this shared use has the potential for accident or injury - the applicant must consider how access is managed so the public is not endangered or inconvenienced.
11. Some properties have private rights over them for the benefit of a particular individual or property, for example, a landowner may have the right to drive over a neighbour's track to gain access to property. This right of access is granted to individuals and / or properties only and does not extend to the public. The WSCC PROW Team does not hold records of private rights of access, the applicant is encouraged to check that no private access rights will be detrimentally affected by this proposal.
12. It is an offence to damage the surface of a PROW without the prior consent of the WSCC PROW Team. The applicant must supply a specification and secure the approval of the WSCC PROW Team before works affecting the PROW begin, even if the surface is to be improved. Where a PROW surface is damaged and there was no prior consent, the applicant will be liable and required to make good the surface to a standard satisfactory to the WSCC PROW Team.
13. Where it is necessary to undertake works within the legal width of a PROW (or for development works immediately adjacent to a PROW that can not reasonably be managed through different Health and Safety practice) the applicant must be advised to apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved, that a minimum of 2 weeks is needed to consider an application.
14. 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:

Plan Type	Reference	Version	Submitted Date
Proposed Block Plan	02	D	12.01.2023
Proposed Elevations	02	D	12.01.2023
Location and Block Plan	01	A	21.12.2022
Existing Elevations	01	A	21.12.2022

## APPENDIX B – CONSULTATIONS

### East Grinstead Town Council

Recommend Refusal: WSCC have carried out a desk top planning study, which is exceptionally disappointing, this needs to be seen to understand the affect that the clearance work has had. There is no understood reason as to why this entrance is necessary as there is adequate access to the property along Hackenden Lane. The Public Right of Way must be maintained, there are concerns as to the use of this by pedestrians not least youngsters attending school. Mid Sussex policies DP22 would not be satisfied also DP26 is affected as this will change the nature of Alders View Lane as a cul de sac. Committee cannot see the logic to this application, creating a rat run is not supported which could have far reaching changes to this part of the town. It would appear that for highways to be satisfied more work is needed including a personal visit.

#### *Further response*

The Committee recommends refusal based on the same reason as was previously discussed on 23rd of January. The application has not addressed the issues that were the reasons for refusal beforehand.

### WSCC Highways Authority

This application is for the creation of a new driveway with 5-bar entrance gate and planting. The site is located off Alders View Drive, an unclassified road subject to a speed restriction of 30 mph.

WSCC in its role as Local Highway Authority (LHA) undertook a site visit on 11/01/2023. It was evident from the site visit that works have retrospectively begun in preparing the site for the proposed development.

Regarding the proposals, the proposed driveway will connect the site to Alders View Drive from Hackenden Lane. The proposed driveway exhibits suitable visibility in both directions at the proposed access point on to Alders View Drive. In addition, the provision of a gate will prevent the use of the proposed driveway being used as a 'rat-run' by other highway users.

The proposed works will require a dropped kerb, which would be subject to a licence obtained through the local Highway Area Office, and would be constructed to a specification agreed with the local Highway Area Engineer.

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.

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:

<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/>

### *Further Response*

This application is for the creation of a new driveway with 5-bar entrance gate, dropped kerb and planting. The site is located off Alders View Drive, an unclassified road subject to a speed restriction of 30 mph.

WSCC in its role as Local Highway Authority (LHA) previously provided comment on this application, dated 13/01/2023, raising no highway safety concerns. The applicant has submitted updated application documents and as such, the LHA has been reconsulted.

From inspection of the application documents, the newly submitted information does not warrant further comment from a highway safety point of view, and as such the LHAs previous consultation response remains valid. The LPA are advised to refer to the LHAs previous consultation response, dated 13/01/2023, for relevant comments and recommended informative.

### **WSCC Public Rights of Way Officer**

Thank you for the opportunity to comment on the above numbered planning application. This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. In respect to the above planning application I would provide the following comments.

Whilst it is clear from the application that footpath 417aSy runs separate to but alongside the proposed driveway, it is not made quite so clear that footpath 416Sy crosses the proposed driveway (This path 416Sy runs along Hackenden Lane and continues beyond the end of the lane in a north westerly direction past Cedar's Lodge - See map below).

In view of this, I would recommend that should the authority grant approval this should be subject to the following conditions:

A. The granting of planning permission does not authorise obstruction of, interference to or moving of any Public Right of Way (PROW), this can only be done with the prior consent of West Sussex County Council (WSCC), as highway authority, and possibly also a legal Order process by (Mid Sussex District Council) as the local planning authority. Further advice can be provided on request.

B. Safe and convenient public access is to be available at all times across the full width of the PROW, which may be wider than the available and used route - advice on the legal width can be provided by the WSCC PROW Team.

C. The path is not to be obstructed by vehicles, plant, scaffolding or the temporary storage of materials and / or chemicals during any works. These will constitute an offence of obstruction under the Highways Act 1980.

D. No new structures, such as gates and stiles, are to be installed within the width of the PROW without the prior consent of the WSCC PROW Team. These will constitute an offence of obstruction under the Highways Act 1980.

E. Any down pipes or soakaways associated with the development should discharge into an existing or new drainage system and away from the surface of the PROW. No drainage system is to be installed through the surface of the path without the prior consent of the WSCC PROW Team.

F. Where the ground levels adjacent to the PROW are to be raised above existing ground levels, this could increase the potential to flood the path. A suitable drainage system must be installed adjacent to the path to a specification agreed with the WSCC PROW Team prior to development commencing.

G. Any alteration to or replacement of the existing boundary with the PROW, or the erection of new fence lines, must be done in consultation with the WSCC PROW Team to ensure the legal width of the path is not reduced and there is no unlawful encroachment.

H. The applicant is advised that a public access right has precedence over a private access right. Where a PROW runs along a route also used for private access purposes, usually for private vehicle access, this shared use has the potential for accident or injury - the applicant must consider how access is managed so the public is not endangered or inconvenienced.

I. Some properties have private rights over them for the benefit of a particular individual or property, for example, a landowner may have the right to drive over a neighbour's track to gain access to property. This right of access is granted to individuals and / or properties only and does not extend to the public. The WSCC PROW Team does not hold records of private rights of access, the applicant is encouraged to check that no private access rights will be detrimentally affected by this proposal.

J. It is an offence to damage the surface of a PROW without the prior consent of the WSCC PROW Team. The applicant must supply a specification and secure the approval of the WSCC PROW Team before works affecting the PROW begin, even if the surface is to be improved. Where a PROW surface is damaged and there was no prior consent, the applicant will be liable and required to make good the surface to a standard satisfactory to the WSCC PROW Team.

K. Where it is necessary to undertake works within the legal width of a PROW (or for development works immediately adjacent to a PROW that can not reasonably be managed through different Health and Safety practice) the applicant must be advised to apply to WSCC PROW Team for a temporary path closure. The applicant must be advised there is no guarantee an application will be approved, that a minimum of 2 weeks is needed to consider an application.

### **MSDC Drainage Engineer**

Following confirmation that the surfacing of the proposed access would be formed of permeable paving the flood risk and drainage team have no objection to the above application.