

MID SUSSEX DISTRICT COUNCIL

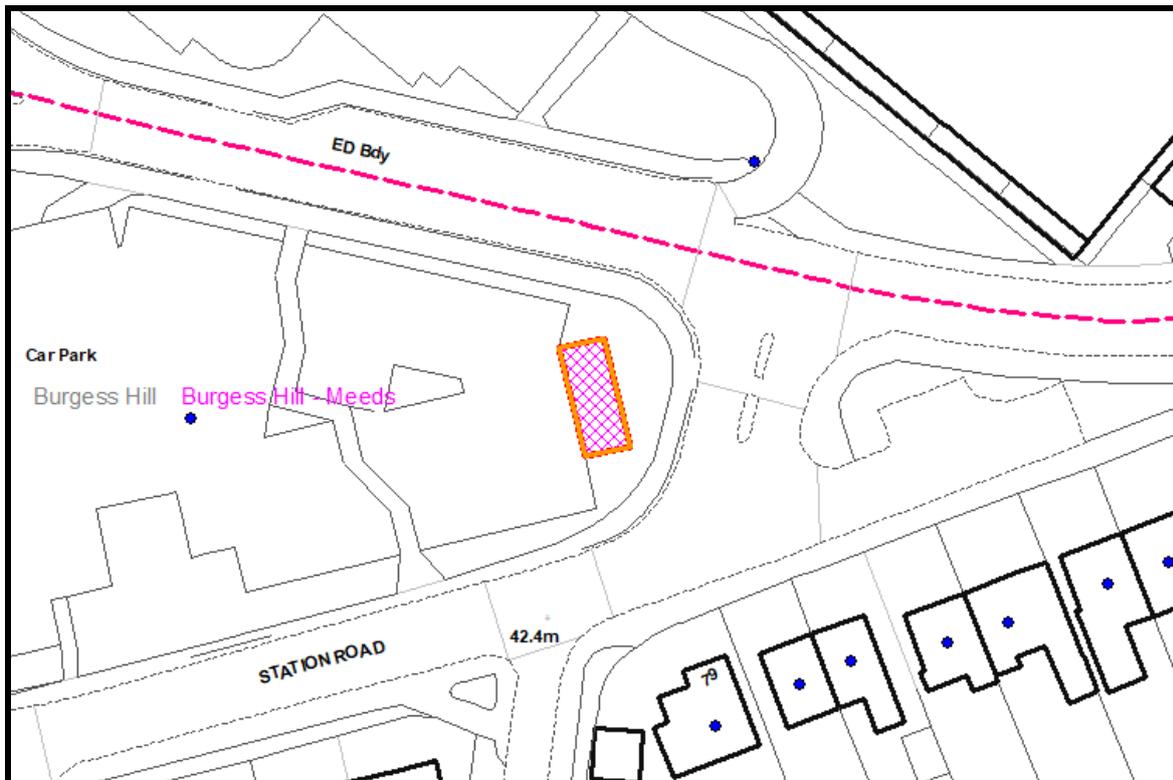
Planning Committee

11 FEB 2021

RECOMMENDED FOR PERMISSION

Burgess Hill

DM/20/4535



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MID SUSSEX DISTRICT COUNCIL STATION ROAD CAR PARK STATION ROAD BURGESS HILL

SHIPPING CONTAINER TO BE PLACED IN THE EAST SIDE OF THE EXISTING CAR PARK WITH A 2M HIGH CLOSE BOARDED TIMBER FENCE AROUND THE OUTSIDE. FIBRE EXCHANGE EQUIPMENT WILL BE LOCATED INSIDE OF THE SHIPPING CONTAINER WITH 2 AIR CONDITIONING UNITS ON THE OUTSIDE.

MR MARIUS KYNASTON

POLICY: Built Up Areas / Classified Roads - 20m buffer / Aerodrome Safeguarding (CAA) / Radon Gas Safeguarding Zone / Sewer Line (Southern Water) /

ODPM CODE: Minor Other

8 WEEK DATE: 28th January 2021

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Katherine Williams

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

Planning permission is sought for a shipping container to be placed within Station Road Car Park, Burgess Hill with a 2 metre high close boarded timber fence around the outside. 2 No. air conditioning units would also be attached to the outside of the container.

This application is before committee as the application site is located on land owned by Mid Sussex District Council.

The shipping container will provide a temporary fibre exchange facility as part of the Local Full Fibre programme which will provide better connectivity within the wider area. This facility is required to connect the new fibre optic network to the Brighton Digital Exchange, where the connection is coming from. The permanent exchange facility is being planned to be incorporated into the New River Martlets Shopping Centre Development which is likely to be 18 - 36 months away from completion and therefore the requiring a temporary facility in the meantime.

The proposal would be located within the eastern side of the Station Road Car Park and would be visible from Station Road, which extends around both sides of the car park. The proposed container, although partly obscured by the proposed fencing, would be of a form and design that is not considered to be in keeping with the character of the area and would result in the loss of 5 No. parking spaces. However, given the temporary nature of the proposal, its importance to the full fibre project and that the land will be returned to its current state following the removal of the container, this impact would be temporary and localised.

It is therefore considered that with sufficient conditions, the proposal would be acceptable in terms of its principle, its temporary impact on the character of the area and parking, would not cause significant harm to the amenities of neighbouring properties, and would not cause harm to highway safety. Therefore, the proposal complies with Mid Sussex District Plan policies DP1, DP20, DP21, DP23, DP26, and DP29, 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

Three letters of representation were received and raised the following concerns:

- No. 85 Station Road, not notified on the application (*Officer Comments: Neighbour notification letters are only sent to properties that are adjacent to the application site.*)
- Impact on the character of the area, not in keeping
- Impact on neighbour amenities from noise generated by the plant and machinery within the container along with the air conditioning unit
- The area is quiet at night and therefore the proposal would be more audible at this time
- No information on radiation, impact on health
- No information on the impact the proposal will have on neighbouring properties Wi-Fi and broadband application
- Loss of parking spaces
- An alternative location should be sought

SUMMARY OF CONSULTATIONS

BURGESS HILL TOWN COUNCIL OBSERVATIONS

Recommend Approval.

Environmental Protection

No objection, subject to condition.

WSSC Highways Authority

No objection; recommend informative.

Introduction

The application seeks permission for a shipping container to be placed in the eastern side of Station Road Car Park, Burgess Hill with a 2 metre high close boarded timber fence around the outside. 2 No. air conditioning units would also be attached to the outside of the container.

The application has been referred to Committee because the land is owned by the District Council.

Relevant Planning History

None relevant

Site and Surroundings

The application site is located on the eastern side of Station Road Car Park, within the town centre of Burgess Hill.

The car park is accessed off the southern side off Civic Way Roundabout and has a one way system. The perimeter of the car park consists of low level hedging and trees which gives it an open character which is visible from distance views along Station Road, Civil Way and Queen Elizabeth Avenue. The proposal would be located on the eastern side of the car park which is visible from Station Road which continues along both sides of the car park and has pedestrian access onto both sides of the car park.

The locality is characterised by commercial properties located to the north with large car parks and varying building designs. To the south along Station Road there is a distinctly different character with two storey semi-detached dwellings of similar designs and forms set back evenly from the highway with off street parking. Some of these dwellings have changed uses to dentists however the character of this side remains predominantly residential.

Application Details

The proposed shipping container would have a width and depth of 2.438 and 6.058 metres with an overall height of 2.896 metres. The door into the container and the external 2 No. air conditioning units, would be located on the northern side elevation and would not protrude beyond the side or height of the container. These units would be used infrequently to maintain the ambient temperature within the container.

The proposed 2 metre high close boarded fencing would extend around the proposal with a width and length of some 4.7 metres and 12 metres. The proposal as a whole would be located on the existing 5 No. end parking spaces within the car park.

List of Policies

Mid Sussex District Plan (adopted March 2018)

DP1 - Sustainable Economic Development

DP20 - Securing Infrastructure

DP21 - Transport

DP23 - Communication Infrastructure

DP26 - Character and Design

DP29 - Noise, Air and Light Pollution

BURGESS HILL NEIGHBOURHOOD PLAN (made January 2016)

None relevant

National Policy

The National Planning Policy Framework (NPPF) 2019 is also a material consideration and paragraphs 8, 11, 15, 38, 112, 124 and 127 are considered to be relevant to this application.

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.

Assessment

Principle of Development

Policy DP23 relates to Communication Infrastructure and states:

'The Council will encourage the incorporation of digital infrastructure including fibre to premises, in major new housing, employment and retail development.

The expansion of the electronic communication network to the towns and rural areas of the District will be supported.

When considering proposals for new telecommunication equipment the following criteria will be taken into account:

- *The location and appearance of the proposed apparatus and associated structures should seek to minimise impact on the visual amenity, character or appearance of the surrounding area. On buildings, apparatus and associated structures should be located and designed in order to seek to minimise impact to the external appearance of the host building;*
- *New telecommunication equipment should not have an unacceptable effect on sensitive areas, including areas of ecological interest, areas of landscape importance, Areas of Outstanding Natural Beauty, the South Downs National Park, archaeological sites, conservation areas or buildings of architectural or historic interest and should be sensitively designed and sited to avoid damage to the local landscape character;*
- *Preference will be for use to be made of existing sites rather than the provision of new sites.*

When considering applications for telecommunications development, regard will be given to the operational requirements of telecommunications networks and the technical limitations of the technology.'

Policy DP1 seeks the *'provision of appropriate infrastructure to support business growth - in particular high speed broadband connections'*

Policy DP20 also states: *'Proposals by service providers for the delivery of utility infrastructure required to meet the needs generated by new development in the District and by existing communities will be encouraged and permitted, subject to accordance with other policies within the Plan.'*

The Full Fibre network is being delivered in conjunction with neighbouring local authorities and will run from Brighton through to Crawley which will improve the digital infrastructure and connectivity for residential and commercial properties, which will provide long term social and economic benefits to the whole of the District by supporting economic growth and public services.

The proposed shipping container would allow the fibre optic network currently being installed around Burgess Hill to be connected to the Brighton Digital Exchange and come into use. This would improve the digital infrastructure of Burgess Hill and will then allow the continuation of the project north to other areas within the District. The proposal would be located within the built up area of Burgess Hill and is not within a sensitive area.

It is considered that the proposal will enable the Full Fibre project to come into use within Burgess Hill and allow its continued progress through the District which complies with policies DP1, DP20 and DP23 of the Mid Sussex District Plan and is acceptable in principle.

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 requires extensions to respond to and respect the character of the area as well as the original property.

The proposed shipping container would be positioned within an area with an open character, and although there are trees and hedging around the perimeter of the car park the proposal would be visible from the highway and the wider locality. A close boarded fence is proposed around the container which would obscure the majority of the proposal from view, however the top portion of the proposal would be visible over the top of this 2 metre high fence. Shipping containers by the nature of their form and materials are not considered to be of high-quality design and would not be in keeping with the character of the locality. The proposal seeks temporary permission for the placement of the shipping container and the fencing on the site, which will be removed following the creation of the permanent fibre exchange facility within the New River Martlets Shopping Centre Development to the north. Given the temporary nature of the proposal, along with the improvements to the digital infrastructure of the area which would result from the proposal, it is considered that the design and appearance of the proposal would not warrant the refusal of the application in this instance.

To ensure that the proposal would not result in any long term or permanent impact on the character of the area the proposal will be given a 3 years limit following which the land must return to its current state.

Impact on the amenities of neighbouring properties

DP26 states:

"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);"

To the northern side of the proposal are commercial properties including a supermarket and car park. On the southern side are a number of residential properties which face onto the southern side of Station Road Car Park. The closest neighbouring property to the application site is No. 79 Station Road which would be some 24 metres away. It is considered that although the proposal would be visible from a number of residential properties on the southern side of Station Road given the separation distance it is not considered to cause harm to their amenities by a loss of privacy, outlook or light.

The majority of the plant and machinery would be located within the container itself with only the 2 No. air conditioning units located on the outside. These units would be positioned on the northern side elevation of the container, furthest from the neighbouring residential properties.

The Council's Environmental Protection Officer has been consulted on the application and has made the following comments:

'The plant is around 28m from the nearest residential façade and is in a town centre location. In my view, given the likely background noise and the additional shielding provided by the close boarded fencing, noise from the plant is unlikely to disturb residential amenity. Nonetheless, given the 24 hr nature of the noise, Environmental Protection recommends a condition aimed at ensuring residents are protected from the noise from the plant should it prove to be problematic.'

It is considered that with the inclusion of the requested noise condition restricting the noise generated by the proposal this will ensure that the proposal would not cause significant harm to the neighbouring residential properties by way of noise pollution.

Highway safety and parking

The proposal would be positioned on 5 No. existing parking spaces within the Station Road Car Park, however given the temporary nature of the proposal and that these spaces would be reinstated following the removal of the shipping container, the loss of the parking spaces would be temporary and any impact would be outweighed by the infrastructure benefits of the proposal.

WSCC Highways Authority have been consulted on the application and raise no objection to the proposal. The site is located on a corner plot of Station Road, an unclassified and B-classified road, subject to a 30mph speed limit. The proposed works would be located within the site confines and would not be placed on land considered as highways. The proposal is not anticipated to obstruct visibility for vehicle users along Station Road. A few parking spaces may be lost, however the LHA does not anticipate that the potential loss of parking spaces will result in a highways safety concern, given the presence of comprehensive parking restrictions. The Highways Authority therefore does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impact on the operation of the highway network and therefore not contrary to the NPPF and that there are not transport grounds to resist the proposal.

The statutory undertaker will need to submit the necessary notification to the Highway Authority independently and any traffic management during the connection of the temporary fibre exchange into the existing chamber which is placed on the highway will need to be agreed with WSCC Highways Authority prior to works taking place.

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.

The proposal is acceptable both in terms of its principle and impact on highway safety and would not cause significant harm to the amenities of neighbouring properties. The proposal would result in a loss of parking spaces within the public car park and would be of a design and form that is not in keeping with the character of the area, however both of these impacts would be temporary and would be outweighed by the improvements to the digital infrastructure of the area which would result from the proposal, and therefore the proposal is considered to be acceptable on balance.

Therefore the proposal complies with Mid Sussex District Plan policies DP1, DP20, DP21, DP23, DP26, and DP29, and the relevant provisions of the NPPF.

It is therefore recommended that planning permission be granted.

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 12th February 2024.

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 DP23 of the Mid Sussex District Plan.

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. Noise from the plant/machinery hereby permitted shall be at least 5dB below the background noise level (LA90,T) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014+A1:2019.

Upon request from the LPA, an assessment shall be carried out with the plant/machinery operating at its maximum setting in order to demonstrate compliance, and evidence in the form of a report signed by a suitably qualified acoustic consultant, shall be submitted to and approved by the local planning authority.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policy DP26 of the Mid Sussex District Plan.

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 Local Highways Authority (LHA) advises the applicant that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the proposed works on the highway, please call 01243 642105.

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 and Existing Plan incl Site | MSDC_LFFN_001 | | 13.01.2021 |

APPENDIX B – CONSULTATIONS

Parish Consultation

OBSERVATIONS: Recommend Approval

Environmental Protection

The plant is around 28m from the nearest residential façade and is in a town centre location. In my view, given the likely background noise and the additional shielding provided by the close boarded fencing, noise from the plant is unlikely to disturb residential amenity. Nonetheless, given the 24 hr nature of the noise, Environmental Protection recommends a condition aimed at ensuring residents are protected from the noise from the plant should it prove to be problematic.

Conditions:

Noise from the plant/machinery hereby permitted shall be at least 5dB below the background noise level (LA90,T) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014+A1:2019.

Upon request from the LPA, an assessment shall be carried out with the plant/machinery operating at its maximum setting in order to demonstrate compliance, and evidence in the form of a report signed by a suitably qualified acoustic consultant, shall be submitted to and approved by the local planning authority.

WSCC Highways Authority

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. A site visit can be arranged on request.

I refer to your consultation in respect of the above planning application and would provide the following comments.

This proposal is for installation of shipping container to the east side of the exiting car park. The shipping container will contain fibre exchange equipment with 2 air conditioning units on the outside. This will be temporary arrangement until New River Martlets Shopping Centre Development fibre exchange is completed, and it is expected to last between 18-36 months. The site is located on the corner plot of Station Road (unclassified and B-classified road) subject to 30mph speed limit.

The proposed works are situated within the site confines and will not be placed on land considered as highways. The east side of the boundary is currently surrounded by trees, which do not appear to be removed as part of this proposal. The proposed is not anticipated to obstruct visibility for vehicle users along Station Road.

The statutory undertaker will need to submit the necessary notification to the Highway Authority independently and any traffic management during the connection of the temporary fibre exchange into the existing chamber which is placed on the highway will need to be agreed with WSCC Highways prior to works taking place. Their contact details are included below.

The application form states that no parking is to be removed as part of this proposal, however Goggle Mapping Aerial View indicates that few parking spaces may be lost. The Local Highways Authority does not anticipate that the potential loss of parking space/s will result in a highways safety concern, given the presence of comprehensive parking restrictions prohibiting vehicles to park at places that are detrimental to the highways safety. The Local Planning Authority may wish to consider any implications from an amenity perspective.

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 109), and that there are no transport grounds to resist the proposal.

If the LPA are minded to approve this application, the following informative is advised

Informative

The Local Highways Authority (LHA) advises the applicant that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the proposed works on the highway, please call 01243 642105.