

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/1623	Case Officer:	Andrew Clarke
Application Type:	Full Application		
Proposal:	Retrospective application for the expansion of existing car park area.		
Site:	Hurstpierpoint College, College Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9JS, ,		
Validation Date	20 Nov 2024	Overall Expiry Date:	27 Dec 2024
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	9 Apr 2025
Target Date:	15 Jan 2025	Recommending Officer Signature:	<i>Andrew Clarke</i>

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	<i>Stephen Ashdown</i>	Date:	10 Apr 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/1623

**Hurstpierpoint College, College Lane, Hurstpierpoint, Hassocks, West Sussex, BN6 9JS,
Retrospective application for the expansion of existing car park area.**

Mr Dan Higgins

SUMMARY OF REPRESENTATIONS

None received.

SUMMARY OF CONSULTEES

MSDC Conversation Officer

The application site, Hurstpierpoint College, is an extensive college campus with at its heart a linked pair of Grade II listed buildings- the original quadrangle dating from 1853, and Star House to the east, built as the headmaster's house and dating from 1873. The College campus has developed significantly since its foundation, by incremental additions to the built form around the quadrangle, particularly to the west, north west, and east. The College sits in a rural setting to the north of Hurstpierpoint- this surviving rural setting contributes positively to the historical illustrative value of the listed buildings as a 19th century school deliberately established in a semi-isolated rural position, and to their aesthetic value.

The current proposal, which is retrospective, is for extensions to the car parking area to the western side of the campus, to create additional bays to the north and south of the area.

In my opinion aspects of this work are contentious in terms of their impact on the surviving rural character of the setting of the listed College buildings:

- The extended parking area to the north is adjacent to the approach to the campus from the west along Chalkers Lane. Planning permission for a car park in this area was originally granted in 2017, replacing playing fields. It is assumed that the retained grass and trees between the car park and the road were intended at that time to create a verdant buffer between this approach and the extensive hard surfaced area. However, as now constructed, the additional parking area has reduced this green buffer, and brings the hard surfacing and the cars on it closer to the boundary with the road, making the both more prominent in views from Chalkers Lane. This detracts from the setting of and approach to the listed buildings within the campus.
- Furthermore, I note the Tree officers' concerns regarding the adverse impact on the trees lining the road. Deterioration in the health of or loss of these trees will have a further adverse impact on the setting of the listed buildings.
- The works to the southern end of the car park are not considered to materially affect the setting of the listed buildings.

In summary, the works to the northern end of the car park are considered to detract from the setting of the listed buildings within the college campus, their special interests and the manner in which these are appreciated. This is contrary to the requirements of District Plan Policy DP34. In terms of the NPPF, I would place this harm as less than substantial, at the lower end of that scale. I note that the applicant's own heritage statement concurs that the works have resulted in less than substantial harm to the affected heritage assets.

□dditional

The applicant suggests mitigatory works including enhancement of the hedgerow and new tree planting. Without seeing details of these works it is hard to comment on how effective these would be, but given the above point on views through the vehicle entrance, the likely seasonal variability of appropriate native species planting, and the impact that the Council's lack of long term effective control over the

retention of new planting has on the weight that can be attached to it as a mitigatory factor, I would expect that at best such works would result in only a reduction in the level of less than substantial harm caused.

MSDC Trees

The retrospective nature of this application is regrettable, as the undeniable damage caused to these trees could have easily been prevented, should the applicant have submitted a pre application enquiry to the council to check whether planning permission was required.

The construction of the additional parking area within the root protection areas of category B trees, in addition to the compaction to the root protection area of a category A (Highway) tree, is contrary to policy DP37 Trees, Woodlands and Hedgerows. The damage to these trees will impact the amenity value of the street scene, as well as the loss of biodiversity, should these trees fail.

There is also a concern for the safety of these trees, which overhang the public highway, as the extent of root damage is unknown. Without details of the construction measures and how porous the surfacing is (or isn't), gaseous exchange may also be affected and could cause further decline in the health of these valuable trees.

I find that the proposed remedial work may alleviate some of the impact of the soil compaction around the trees, but my concern is that the damage has already been done.

I quote from the AIA:

"The extension to the car park has likely resulted in tree harm, this harm if left untreated would lead to a degree of stress and decline of the trees, therefore remediation should be undertaken to provide the trees with the best opportunity to react and adapt to this damage"

This statement proposes to carry out the remediation suggested from the report. However, what it doesn't do, is mitigate against the damage caused by the construction, excavation, and soil compaction within the root protection areas of the high and moderate quality trees.

I would like to see 4 replacement oak trees, replanted elsewhere on the site, in a suitable location, as mitigation for the inevitable damage to these trees. Further, should these trees die, or become dangerous, and require felling because of the damage caused to them, replacement, native trees should be planted in the same location of these trees. The species would need to be carefully considered given the reduced rooting area, caused by the increased parking area.

T4 is a category A oak tree and is also a highways tree. I would suggest that prior to undertaking any remedial works within the RPA of this tree, that West Sussex Highways Department would need to be consulted (and informed of the potential damage to their tree) as they may require additional measures to be taken in response to the damage.

□dditional

Agreement to revised planting plans

WSCC Highway Trees

From an LHA point of view only, unfortunately we're unable to take any actions ourselves as there are no legal restrictions other than planning considerations and it's unlikely that the works implicate the stability of the tree given the distance of the works.

In terms of planning considerations and the trees RPA, it appears that the works undertaken were circa. 15m from the trees stem and therefore on the periphery of the maximum 'un-modified' theoretical RPA possible (though I would imagine a lesser radial RPA). Whilst unlikely, perhaps the AIA might identify temporary construction works that occurred within the RPA and the level of impact. If root/soil damage

has occurred and was considered significant by MSDCs Arboricultural Officers, I would consider it sensible to apply section 5.3 of BS 5837 (2012) and ensure they:

- a) demonstrate that the tree(s) can remain viable and that the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA;
- b) propose a series of mitigation measures to improve the soil environment that is used by the tree for growth.

PARISH COUNCIL OBSERVATIONS

Our recommendation is that MSDC should give permission. Though the committee dislike retrospective applications and are surprised and disappointed with Hurst College, who should know better.

INTRODUCTION

The application seeks retrospective planning permission for the creation of all additional parking spaces at Hurstpierpoint College.

RELEVANT PLANNING HISTORY

The wider site has been subject to a large number of applications and permissions, however, the following are relevant to the current application.

07/00269/FUL - Alterations to existing prep school, surface car park required to improve circulation flow, extend parking provision off of main road and provide a safe playground enclosure - Approved 19th April 2007

10/02887/FUL - Construction of All Weather Pitch with associated infrastructure including car parking, footpaths and landscaping. - Approved 25th March 2011

11/01351/FUL - Construction of 1 full size and 1 half size All Weather Pitch with additional sports facilities, associated infrastructure car parking, footpaths. - Approved 4th July 2011

DM/17/2448 - Alteration of existing Pre-Prep and Prep School car park to provide secondary exit to highway and associated alterations. - Approved 15th August 2017

DM/17/4429 - Formation of new car park. - Approved 20th December 2017

DM/18/2635 - Non Material Amendment to planning application DM/17/4429 - Additional pedestrian walkways. Low-level (height 1m) lighting bollards. Change from 54 parking spaces to 50. Increase in car parking area by 1.1m width (north) and 2.3 length (west). - Approved 26th July 2018

SITE AND SURROUNDINGS

The site of the extended car park forms part of the prominent frontage of Hurstpierpoint College, a grade II listed building and surrounding school campus set in semi-rural area to the north of Hurstpierpoint. The extended car parking area forms part of the car park originally approved under permission DM/17/4429 and immediately abuts the northern boundary of the main campus bordering Chalkers Lane. To the south and east lies the remaining car park with the main building beyond and to the west the all weather pitch. The wider campus extends to the south with playing fields to the north of Chalkers Lane.

Chalkers Lane is characterised as a rural highway with high prominent and mature trees lining each side and immediately adjacent to the application site and which contribute significantly to the rural character of the area and frame the wider campus and listed buildings.

The site and wider college campus lies in an area designated as countryside by the development plan but is semi-rural in character with the wider campus dominating the immediate wider surroundings.

APPLICATION DETAILS

The application seeks retrospective permission for an enlargement of the parking area to the north by approximately 350sq metres to create 9 additional car parking spaces and a reconfiguration to form overall an additional 20 spaces (including the 9 on the new area of hardstanding).

To the southern end of the parking area a further 26 car parking spaces have been created around the existing car park and green space with 6 of these spaces benefitting from fast charge electric charging points.

The spaces are finished in porous brick paving with the spaces to the north also having concrete edging and narrow pathway around.

The development is complete and therefore the application is made under s.73a of the Town and Country Planning Act 1990.

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, and*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

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

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

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

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

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Hurstpierpoint and Sayers Common Neighbourhood Plan.

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

Mid Sussex District Plan

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

Relevant policies:

DP12 - Countryside

DP21 - Transport and parking
DP26 - Design
DP34 - Listed Buildings
DP37 - Trees
DP41 - Flood Risk

Site Allocations DPD

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

There are no relevant policies.

Hurstpierpoint and Sayers Common Neighbourhood Plan

The Hurstpierpoint and Sayers Common Neighbourhood Plan Neighbourhood Plan was made in 2015.

Relevant policies:

C1 - Conserving and enhancing character
C5 - Hurstpierpoint College

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

Other Material Considerations

- Landscaping scheme

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to the of Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS1 - Climate Change
DPS4 - Drainage
DPN4 - Trees
DCP1 - Countryside
DPB1 - Design
DPB2 - Listed Building
DPT3 - Sustainable Transport
DPT4 - Parking
DPE8 - Rural development

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.

Development Infrastructure and Contributions Supplementary Planning Document (SPD)

Affordable Housing Supplementary Planning Document (SPD)

Development Viability Supplementary Planning Document (SPD)

National Planning Policy Framework (NPPF) (December 2024)

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 overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

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 39 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 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Design Guide

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

ASSESSMENT

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

- o Principle
- o Design and Impact on the character and appearance of the area
- o Highways and parking
- o Flood Risk and Drainage
- o Heritage Assets
- o Trees
- o Biodiversity Net Gain
- o Other material considerations
- o Planning Balance and Conclusion

Principle

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

In terms of policy designations, the starting point for this assessment is that the application site falls outside of the built-up area of Hurstpierpoint as defined by the District Plan. As such the site is located within the defined Countryside.

Policy DP12 of the District Plan refers to the protection of the Countryside and states, in part, that development will be permitted in the countryside provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and is necessary for the purposes of agriculture or is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.

Policy C5 of the Neighbourhood Plan refers to Hurstpierpoint College directly and states:

'Development will be permitted within the environs of Hurstpierpoint College where:

- *It does not detract from the special architectural character and appearance of the existing collection of buildings and their setting in the landscape;*
- *It conserves or enhances the character and appearance of Listed Buildings;*
- *It complies with the requirements of Policy C1 ;*
- *It enhances the role of the College as a school and local employer;'*

Policy C1, as referred to in policy C5, relates to development in the countryside and has much the same emphasis as policy DP12 in stating:

*_*development, including formal sports and recreation areas, will be permitted in the countryside, where:

- It comprises an appropriate countryside use;
- It maintains or where possible enhances the quality of the rural and landscape character of the Parish area;

Policy C5 lends support to development at the college subject to criteria and would represent a policy of the relevant Neighbourhood Plan for the purposes of policy DP12. The car park is directly related to the use of the college and is appropriate in respect of its purpose such it is in principle acceptable and compliant with policy DP12, C1 and C5. An assessment of the impact upon the character and appearance of the area is made below.

Design and Impact on the character and appearance of the area

The development lying to the front of the site is in a prominent and sensitive location, albeit it is viewed in context with the large car park to the south. The finish of the additional spaces is in keeping with the wider car park and loss of open space to the front is not immediately apparent, with an area approximately 2m - 3m of grass retained which forms a buffer between the car park as extended the main road.

The additional spaces further to the south within the site are not visible from wider public viewpoints and represent an appropriate extension to existing parking provision which does not erode open space important to the character and appearance of the area.

With respect to the wider character of the rural area the additional parking spaces represent a minor addition and are viewed in the wider context of the large Hurstpierpoint College site and maintains the overall character and appearance of the area.

Highways and Parking

Policy DP21 seeks to promote sustainable transport and suitable parking provision and requires of application:

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 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;

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

The provision of additional parking spaces in a rural location would not seek to support sustainable means of transport nor discourage the use of private motor car, however, the applicant has confirmed that the college previously has 343 car parking spaces, which has been increased to 389 spaces following the development.

Whilst this represents a significant level of parking, noting the presence of up to 500 staff, minibuses and other parking requirements, it is not considered that the parking provision is excessive and would fall within the parking standards required of education establishments.

It is also noted that the additional spaces within the site are served by EV charging points and as such the development is considered compliant with this aim of policy DP21. The development as a whole therefore seeks to provide sufficient parking for the college and whilst does not seek to promote alternative means of travel to the site is considered compliant with the overall aims of policy DP21.

Trees

The northern extension of the parking area extends into the Root Protection Area of four large substantial English Oak trees which both individually and collectively contribute significantly to the character and appearance of the area and the setting of the listed building.

Policy DP37 states:

'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.'

The application is accompanied by an Arboricultural Assessment which grades the trees as either category A or B trees and notes that the development would have an adverse impact upon the trees and states:

'The loss of RPA will likely result in tree decline with the tree becoming stressed with an increase in epicormic growths and in the volume of dead parts in the crown and loss of foliage. It is

unlikely the damage will result in tree death and ultimately loss, however, it will reduce the trees ability to have a strong growth vigour that will result in further decline..... The damage to the trees is irreversible...'

The applicants own tree report therefore states that the development which has already been carried out has damaged trees important to the character and appearance of the area. The development in this respect is therefore considered to be contrary to policy DP37.

It is noted the application is now accompanied with a new planting and landscaping plan and the applicants have agreed to a condition requiring the implementation of this plan which includes the planting of four new English Oaks and a condition requiring the replacement of the directly affected trees should they die or be felled in future. This potential mitigation is considered a material consideration to be taken into account in the determination of the application.

Setting of the listed building

The site lies in the setting of the grade II listed building which forms the centre of Hurstpierpoint College. This main and large listed building provides the centrepiece and backdrop of the wider college campus and the extended parking, especially to the front is viewed in context with the listed building.

Paras 212 - 215 of the NPPF states:

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

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

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

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

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

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use

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

The Council's Conservation Officer has commented on the application and the notes the importance of the open space between the parking area and Chalkers Lane and the importance of the large trees which frame the site and listed building and contribute greatly to the rural setting of the site and the listed building.

As noted above in assessing the impact of the development upon the trees, the extension of the car park to the northern element of the site is likely to lead to loss of up to four important trees and that any damage done is already irreversible. The likely loss of these trees therefore would cause less than then substantial harm to the setting of the heritage asset and therefore in line with the requirements of paragraph 202 of the NPPF it is necessary to weigh up this harm against the public benefit of the development.

Whilst the development relates to a school, the public benefit is minimal as it solely to support the school in providing additional parking, rather than supporting its educational offer or promoting sustainable transport. Any public benefit is minimal that it would not outweigh the harm to the heritage asset such that the development would be considered contrary to policy DP34 of the Mid Sussex District Plan, HC5 of the Neighbourhood Plan and the contents of the NPPF.

The Conservation Officer's comments in respect of potential mitigation and replacement planting lessening any harm, but not removing it is, however, noted.

Drainage

Policy DP41 requires that development is sustainably drained and does not contribute to flood risk. The site does not lie within a flood risk zone and the new parking area to the front is constructed of porous material such that no additional surface water flows would be created. The parking areas to the rear appear of a solid non-permeable construction and any surface water would run to existing drains which already serve the considerable areas of hardstanding within the site. The development therefore does not pose a flood risk and is considered compliant with policy DP41.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. This planning permission is being granted on an application made under Section 73a of the Town and Country Planning Act 1990 and as retrospective development the application therefore exempt from the requirement to provide biodiversity net gain.

Other material considerations

With respect to other material considerations, the submission of a proposed landscaping scheme confirming the additional planting of four English oak trees and agreement to replace the existing trees should they die or need to be removed is considered a material consideration. It should be noted that this landscaping scheme and replacement planting can only be secured through the grant of planning permission and the imposition of planning conditions. Were the application to be refused, and even if the unauthorised development were removed, were the trees to later die or be felled (as is suggested by the appellants Arboricultural Report) then the Council would have no way of requiring replanting or additional planting to mitigate any loss or harm to amenity.

PLANNING BALANCE AND CONCLUSION

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 Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Hurstpierpoint Neighbourhood Plan.

Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.

It is noted that applications under s.73a of the Town and Country Planning Act 1990 for development which has already taken place should be considered in the same way and against the same policies as prospective development.

In this instance whilst the need for the development is noted and, the development is acceptable in respect of drainage and new EV points, the encroachment into the root protection area of the trees is likely to have caused irreversible harm to four trees important to the character and appearance of the area and the setting of the listed building. The development as outlined in the application is therefore considered contrary to policy DP34 and DP37 of the District Plan and policy C5 of the Neighbourhood Plan.

The implication of refusing the application are, however, noted and that should enforcement action requiring the removal of the unauthorised development take place, this would not address the potential reason for refusal and harm identified to the trees and setting of the listed building. The sole means of seeking to mitigate and address the harm would be through the imposition of planning conditions should planning permission be granted. The grant of planning permission would therefore enable suitable mitigation to be secured such that, whilst the harm to amenity and non-compliance with the policies of the development plan are noted, the harm can be addressed and replacement planting secured.

The material consideration of the ability to impose planning conditions to address the harm already created is therefore considered to outweigh the identified harm to the trees and the setting of the listed building and the policies of the development plan, such that the only means of addressing and mitigating the harm is through the grant of planning permission.

The application, therefore whilst not in compliance with the policies of the District Plan and Hurstpierpoint Neighbourhood Plan provides for suitable mitigation such that this outweighs the harm identified and planning permission is granted.

Decision: Permission

Case Officer: Andrew Clarke