

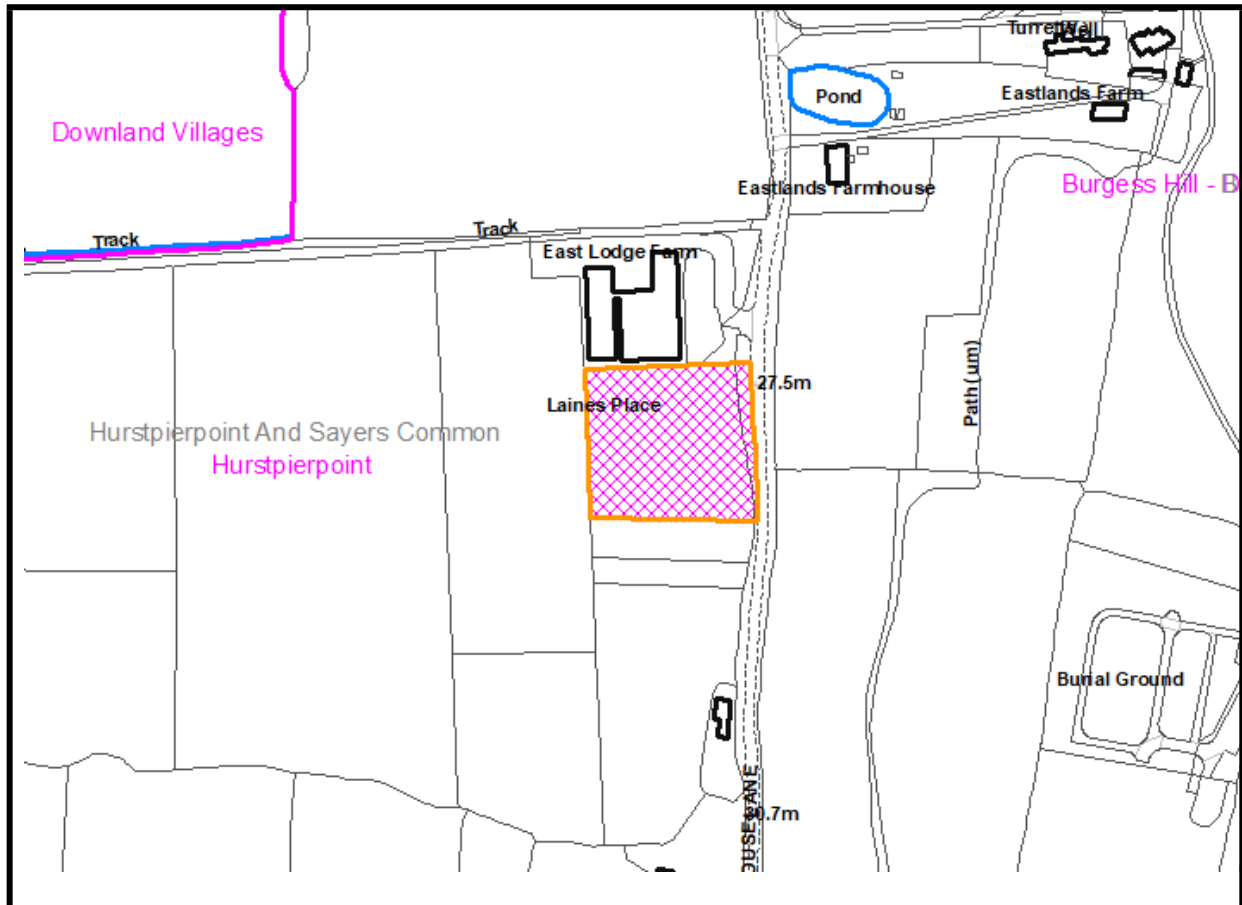
District Planning Committee



Recommended for Permission

17th April 2025

DM/24/2932



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Site:	Land South Of Contego Safety Wearmaster House Malthouse Lane Hurstpierpoint Hassocks
Proposal:	Proposed variation of conditions 17 and 18 relating to planning application DM/21/1118 to allow 24 hours access to the site for 365 days a year with no exceptions and deliveries during the night. (Description of application amended on 11/02/2025).
Applicant:	Mr Wayne Channon
Category:	Smallscale Major Offices
Target Date:	13th March 2025
Parish:	Hurstpierpoint And Sayers Common
Ward Members:	Cllr Alison Bennett / Cllr Rodney Jackson /

Case Officer:	Steven King

Link to Planning Documents:

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SNVHCVKT0D200>

1.0 Purpose of Report

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

2.0 Executive Summary

- 2.1 This application seeks planning permission for a variation of conditions 17 and 18 relating to planning application DM/21/1118 to allow 24 hours access to the site for 365 days a year with no exceptions.
- 2.2 Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the National Planning Policy Framework (NPPF).
- 2.3 The principle of the redevelopment of this site for a commercial building has been established. The issues to consider in this case relate solely to the impact of the proposed change to the hours of operation of the site.
- 2.4 It is not considered that the proposal would result in a greater degree of harm to the setting of the heritage assets near the site than the consented scheme. The less than substantial harm from the development, including the increase in activity beyond the originally consented hours of operation, are considered to be outweighed by the public benefits of the proposal.
- 2.5 The increased level of vehicular movements that are expected to be associated with the proposal would not have a material impact on the operation of the local highway network. The additional operating hours beyond those currently consented would be outside of peak hours on the highway network.
- 2.6 It is considered necessary to replace the current operating hours condition and deliveries condition, with a condition requiring a Noise Management Plan to be submitted to the Local Planning Authority (LPA) for its approval. This would allow the LPA to control how the site was operated into the future. It is considered necessary for this Noise Management Plan to be submitted on a regular basis to the LPA for its approval, so as to address potential changes in how the business operates. It is felt that a period of every two years from the date of approval of the first Noise Management Plan would be appropriate.
- 2.7 With such a condition in place, it is considered the application would comply with policies DP21, DP26 and DP29 in the Mid Sussex District Plan (MSDP), policy SA38 in the Site Allocations Development Plan Document (SADPD) and policy Hurst C1 in the Hurstpierpoint and Sayers Common Neighbourhood Plan (HSCNP).

Whilst there would be some conflict with policy DP34 in the MSDP, in light of the above it is considered the proposal complies with the development plan when read as a whole. The proposal is therefore considered to be acceptable.

3.0 Recommendation

- 3.1 It is recommended that planning permission be approved subject to the conditions set in Appendix A

4.0 Summary of Representations

4.1 Original description

12 letters of objection:

- the business should have been located in one of the many business parks in the local area.
- The Applicant is seeking to chip away at the conditions originally imposed. 24/7 activity at this site will be disruptive to neighbours and effectively turn the site into an extension of the business park.
- It is absolutely critical that these conditions are maintained and that there be no reasonable basis to modify or revoke these specific conditions. To do so would make a mockery of the prior approval process.
- Malthouse Lane is already unsuitable for the heavy and constant flow of traffic it is subject to.
- Allowing 24/7 industrial access will make the lane even more dangerous to use for horse, bicycle and pedestrian traffic.
- If this is waived, just suppose the operators move away within a year to the Science & Technology Park (where one might say they would be better off), leaving any subsequent user of the site entitled to 24/7 lorry movements down this country lane.
- C roads are designed for linking primary routes to villages and/or housing estates. They are not designed for the transport needs of large companies or the infrastructure needs of battery energy storage systems, which is what is now being requested.

1 letter of support:

- This is needed for the applicant's purpose and doesn't have any negative impact.

Amended description

3 letters of objection:

- This lane is a narrow rural lane, heavy vehicles driving up and down it 24/7 would greatly impact the residents and users of the local footpaths and bridleways.
- Pedestrians, dog walkers and horse riders would be at significantly greater risk.
- The noise and disturbance to residents and users of the road, including children from Hurst College, when evening and early morning heavy traffic would significantly increase the risk of serious accidents.
- Absolute planning creep and should be rejected.

- What kind of business can make a planning application and forget that they need 24/7 access?
- It seems totally extraordinary that Mid Sussex Environmental Protection deem this application will have no impact.
- It may be worth mentioning that the DPD site in Goddards Green started out as a science led business and is now an industrial estate. No one that supports this application lives in or around this area.

1 letter of support:

- This is needed for the applicants purpose and doesn't have any negative impact.

5.0 Summary of Consultees

5.1 Highway Authority

Original description

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

Amended description

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

Environmental Protection Officer

Original description

I recommend that a noise management plan is required of the operator and secured through a suitable condition. This would be submitted by the operator and approved by the LPA and thereafter implemented and maintained by the operator. In order to minimise the noise impact from night-time deliveries, it would be expected that a cap of vehicle movements be included in the plan together with a description of type and size of vehicles to be used. There could be a requirement to review the noise management plan periodically, every 2 years for example, or in the event of noise complaints received by the LPA.

Amended description

I recommend that a noise management plan is required of the operator and secured through a suitable condition. This would be submitted by the operator and approved

by the LPA and thereafter implemented and maintained by the operator. In order to minimise the noise impact from night-time deliveries, it would be expected that a cap of vehicle movements be included in the plan together with a description of type and size of vehicles to be used. There could be a requirement to review the noise management plan periodically, every 2 years for example, or in the event of noise complaints received by the LPA.

Conservation Officer

Amended description

I have identified a less than substantial level of harm through impact on setting to the listed farmhouse- I would place this on the basis of a low and controlled level of night time activity as remaining around the low-mid level of that scale, as for the approved scheme. Uncontrolled night time activity may result in a higher level of less than substantial harm.

6.0 Town/Parish Council Observations

6.1 Original description

Our recommendation is that MSDC should give permission, but with conditions exactly matching the access requirements as requested in the application, i.e. no more than 3 deliveries a night, in small vans only (suggest maximum of 3.5-tonne) and access only from the Jane Murray Way end of Malthouse Lane.

Amended description

The committee had no further comment.

7.0 Introduction

- 7.1 This application seeks planning permission for a variation of conditions 17 and 18 relating to planning application DM/21/1118 to allow 24 hours access to the site for 365 days a year with no exceptions.

8.0 Relevant Planning History

- 8.1 There have been a number of previous planning permissions at this site. Of most relevance to this application is the planning permission that was granted on 26th October 2021 under reference number DM/21/1118 for the erection of a class E(G) building to include a mix of office research and development and industrial processes with carpark, new vehicle access onto Malthouse Lane and associated landscaping.

- 8.2 Condition 17 of this planning permission states:

'Hours of use of the units shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs

Weekends and Public Holidays: 08:00 - 18:00 hrs

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.'

- 8.3 Condition 18 of this planning permission states:

'Deliveries or collection of goods, equipment other than waste shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs

Saturday: 08:00 - 18:00 hrs

Sunday and Public/Bank holidays: None permitted

Waste collection may take place between the following hours:

Monday to Friday: 07:00 - 18:00 hrs

Saturday: 08:00 - 18:00 hrs

Sunday and Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.'

9.0 Site and Surroundings

- 9.1 The site of the application lies to the west of Malthouse Lane. The site has been cleared of all buildings, with excavation taking place to level the site.
- 9.2 To the north of the site is Contego Workwear, a former poultry shed building that has been converted to a storage use. To the south of the building there is a rise in levels and then open fields. To the east there is a hedge around 1.6m in height along the roadside. To the west there is a slight rise in levels and then the site of the energy storage facility that is currently under construction. The site is within the countryside as defined in the Mid Sussex District Plan (MSDP).

10.0 Application Details

- 10.1 This application seeks planning permission for a variation of conditions 17 and 18 relating to planning application DM/21/1118 to allow 24 hours access to the site for 365 days a year with no exceptions.
- 10.2 The applicants explain the rational for the application as follows:

'The restriction of the hours of use of the premises are not suitable for the operation of the business as the premises has to be manned 24 hours a day, 7 days a week.

Cells4Life, the UK's largest and one of Europe's leading cord blood stem cell banks. The company offers families the opportunity to store their baby's cord blood stem cells, which can be used in the future for potential medical treatments. Cells4Life uses advanced processing and cryopreservation techniques to ensure that the stem cells are preserved at their maximum viability.

The restriction of the hours of use of the premises are not suitable for the operation of the business as the premises must be manned 24 hours a day, 7 days a week. However, out of hours operation is reduced significantly down to 1 or 2 operators and deliveries are also reduced to as little as 1/3 times a night.

In terms of disturbance to local households there are only 2 residential properties on the route down Malthouse Lane from the A273 the 1st being East Lodge and that property is set back approx. 40/50 meters from the roadside. (see photo)

The nearest residential property to the site appears to be Eastlands Farmhouse set on the east side of Malthouse Lane and also set back from the roadside behind trees and shrubs. (see photo)

In terms of volume, we are looking at 1/3 potential deliveries by a small van per night. Most nights there will be no deliveries.

During out of hours a skeleton crew are required on site to ensure that critical tasks are met and the business kept running. There is no heavy machinery or equipment in use at any time.

24 hours access is an absolute requirement for the business and in our opinion will have no impact whatsoever on the amenity of local residents.

It should also be noted that almost all local businesses and institutions accessed from Malthouse Lane have 24-hour access, in particular the electricity storage site which is noisy 24/7 and of course we have Hurstpierpoint College at the other end of Malthouse Lane which I'm confident contributes to the majority of traffic on Malthouse Lane.'

11.0 Legal Framework and List of Policies

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

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

11.3 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.'

11.4 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.

11.5 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.

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

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

11.8 Mid Sussex District Plan

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

Relevant policies:

DP21 - Transport

DP26 - Character and Design

DP29 - Noise, air and light pollution

DP34 - Listed Buildings and Other Heritage Assets

11.9 Site Allocations DPD

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

Relevant policies.

SA38 - Air Quality

11.10 Neighbourhood Plan

The HSCNP was made in 2016 and forms part of the development plan for this part of Mid Sussex.

Relevant policies:

Policy Countryside Hurst C1 Conserving and Enhancing Character

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

11.11 Other Material Considerations

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 some of the 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:

DPE8 Sustainable Rural Development and the Rural Economy
DPN7 Noise Impacts
DPN8 Light Impacts and Dark Skies
DPN9 Air Quality
DPB2 Listed Buildings and Other Heritage Assets
DPE1 Sustainable Economic Development
DPT1 Placemaking and Connectivity

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.

National Planning Policy Framework (NPPF) (December 2024)

- 11.12 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 with accessible local services; and using natural resources prudently.

- 11.13 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.'

- 11.14 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 Planning Policy Guidance (PPG)

12.0 Assessment

Principle of development

- 12.1 This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. The Act states that:

'On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and-

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.'

- 12.2 Accordingly, it is not necessary to reassess all of the issues from the original planning application; it is only necessary to assess the issues that are relevant in relation to the conditions that are proposed to be amended.

- 12.3 It is therefore considered that the key issues in this case are the impacts of the proposed change to the hours of operation on the business, on neighbour amenity, transport impacts and impacts on the setting of heritage assets.

Impact on the business

- 12.4 Policies DP1 and DP14 in the MSDP are supportive of business development. These policies reflect the guidance in paragraph 85 of the NPPF, which states in part,

'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'

- 12.5 It is acknowledged that the proposed change to the hours of operation condition would benefit the operation of the business that is proposed to operate from the site. The above policies and guidance therefore weigh in favour of the proposed change.

Impact on neighbour amenity

- 12.6 Policy DP26 in the MSDP seeks to avoid 'significant harm' to neighbouring amenities from new development. In respect of noise and light pollution, policy DP29 in the MSDP states:

'The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:

Noise pollution:

o It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;
o If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;

Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.

In appropriate circumstances, the applicant will be required to provide:

o an assessment of the impact of noise generated by a proposed development; or
o an assessment of the effect of noise by an existing noise source upon a proposed development;

Light pollution:

o The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings;
o The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes;

The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'

- 12.7 Policy SDA38 in the SADPD replaces the part of policy DP29 dealing with air pollution.
- 12.8 In this case, the nearest neighbouring properties are Eastlands Farmhouse, some 105m to the northeast and 2 Kents Farm Cottages, some 140m to the south.
- 12.9 The removal of the condition would allow the site to operate 24 hours a day. Whilst the intended means of operating as set out by the applicants would not have a significant impact on neighbour amenity, it needs to be recognised that in the future, the operating methods of the business could change and the site could have a more intense level of activity, with a greater number of vehicular movements at night, for example. Alternatively, a new business could move into the building and operate in a different way. Without an hours of operation condition, the site could be used 24 hours a day.
- 12.10 Therefore, it is your officers view that a key issue is to seek to avoid significant harm to neighbouring amenity from the proposal to remove the hours of operation condition. It is considered that the potential for adverse impacts relating to noise is the main issue relating to neighbouring amenity. It has not been suggested by the Councils Environmental Protection Officer (EPO) that there would be any negative impact in relation to air quality from the proposal.
- 12.11 Your officer has given consideration to the use of a planning condition to control the number of evening/nighttime deliveries to the site and the number of people that could work on the site overnight. The tests that should be met for the imposition of planning conditions on planning permissions are set out in the PPG. One of the tests is that conditions should be enforceable.

- 12.12 The Council's EPO has advised that a requirement could be imposed for the applicants to provide a noise management plan, which could include a cap of vehicle movements together with a description of type and size of vehicles to be used. It is considered that it would be appropriate and necessary for there to be a requirement for the plan to be reviewed periodically, or in the event of noise complaints. This would also address the issue of controlling the operation of the site in the future if the current operator were to move out and a new business move onto the site.
- 12.13 The Local Planning Authority (LPA) has used such conditions requiring noise management plans on other commercial developments within the district (for example at Cedars, Brighton Road, Pease Pottage, DM/20/2332). It is considered that such a condition would be enforceable and would meet the tests in the PPG for the use of planning conditions.
- 12.14 With regards to light pollution, it is considered that the above noise management plan, could also require details of the lighting of the site so that a suitable level of lighting is provided that does not adversely impact either neighbouring amenity or the character of the countryside, so as to comply with the above policies and policy Hurst C1 in the HSCNP.

Transport

- 12.15 Policy DP21 in the MSDP states:

'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:

- o A high quality transport network that promotes a competitive and prosperous economy;*
- o A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- o Access to services, employment and housing; and*
- o 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:

- o 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);*
- o 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;*
- o The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- o 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;*

o 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;

o 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;

o The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;

o The scheme protects the safety of road users and pedestrians; and

o 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.'

- 12.16 The reference to development not causing a severe cumulative impact reflects the advice in paragraph 116 of the NPPF, which 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, following mitigation, would be severe, taking into account all reasonable future scenarios.'

- 12.17 The additional levels of vehicular movement that are envisaged by the applicant as a result of the removal of the operating hours condition are minimal. This level of vehicular movement would not result in any capacity issues on the highway network and there would be no conflict with policy DP21 in the MSDP or the guidance in the NPPF. The Local Highway Authority (LHA) has no objection to the application.
- 12.18 The use of a condition requiring a management plan would address the issue of potential changes in the future that might change the level of vehicular movement at the site.
- 12.19 Whilst concerns have been raised about the impact of the proposal on the number of vehicular movements at the site, the proposal itself would not make a difference to the daytime operations on the site compared to the originally consented scheme. The currently permitted hours of operation are Monday to Friday: 08:00 - 18:00, Weekends and Public Holidays: 08:00 - 18:00, so there would be no new impact during these hours. Given the level of activity that the applicant is advising would take place outside of these hours, there should be no material impact on the local highway network.
- 12.20 The use of a management plan condition as set out above, would allow the LPA control over the use of the site going forward. If, for example, a change was proposed to the way the site operated that would result in significantly more

vehicular movements, this would need to be assessed under a revised noise management plan.

Impact on heritage assets

- 12.21 To the south of the site along Malthouse Lane and also to the west of the road is Kent's Farm House, which is a Grade II listed building. Associated with it are Kent's Farm Cottages and a group of agricultural buildings at Kent's Farm. Kent's Farm including the former farmhouse is recognised in the West Sussex Historic Farmstead and Landscape Character assessment as a Historic Farmstead dating to the 17th century.
- 12.22 Section 66 of the Planning (Listed Buildings and Conservation Areas) (PLBCAA) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, in enacting section 66(1) of the Listed Buildings Act, the desirability of preserving the settings of listed buildings should be given 'considerable importance and weight' when the decision taker carries out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable.
- 12.23 The above legislation is reflected in policy DP34 in the MSDP.
- 12.24 The impact of the proposed building on the setting of the above heritage assets has already been assessed during the determination of the planning application for the redevelopment of the site (DM/21/1118). The conclusion was that the public benefits of the proposal did outweigh the less than substantial harm to the setting of the listed building at Kents Farmhouse.
- 12.25 The impact on the setting of the heritage asset only needs to be assessed in relation to the proposed removal of the hours of operation condition. It is considered that the increased level of activity that would arise from the site being operated during the night would not result in an increased level of harm to the setting of the heritage assets, which would go beyond the level of less than substantial harm that was found when the original scheme was approved.
- 12.26 It is your officers view that the less than substantial harm that would arise from the operation of the site through the night would be outweighed by the public benefits of the proposal. These benefits are the economic benefits from providing a high technology company with suitable floorspace with operating conditions to allow the business to operate to its full potential. It is a clear aim of Government policy in the NPPF to support sustainable economic growth and to support the rural economy and this should be given significant weight.

Biodiversity Net Gain

- 12.27 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 73 of the Town and Country Planning Act 1990 and the original planning permission to which the Section 73 planning permission relates was granted before 12th February 2024. This application is therefore exempt from the requirement to provide biodiversity net gain.

13.0 Planning Balance and Conclusion

- 13.1 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.
- 13.2 The principle of the redevelopment of this site for a commercial building has been established. The issues to consider in this case relate solely to the impact of the proposed change to the hours of operation of the site.
- 13.3 It is not considered that the proposal would result in a greater degree of harm to the setting of the heritage assets near the site than the consented scheme. The less than substantial harm from the development, including the increase in activity beyond the originally consented hours of operation, are considered to be outweighed by the public benefits of the proposal.
- 13.4 The increased level of vehicular movements that are expected to be associated with the proposal would not have a material impact on the operation of the local highway network. The additional operating hours beyond those currently consented would be outside of peak hours on the highway network.
- 13.5 It is considered necessary to replace the current operating hours condition and deliveries condition, with a condition requiring a Noise Management Plan to be submitted to the LPA for its approval. This would allow the LPA to control how the site was operated into the future. It is considered necessary for this Noise Management Plan to be submitted on a regular basis to the LPA for its approval, so as to address potential changes in how the business operates. It is felt that a period of every two years from the date of approval of the first Noise Management Plan would be appropriate.
- 13.6 With such a condition in place, it is considered the application would comply with policies DP21, DP26, and DP29 in the MSDP, policy SA38 in the SADPD and policy Hurst C1 in the HSCNP. Whilst there would be some conflict with policy DP34 in the MSDP, in light of the above it is considered the proposal complies with the development plan when read as a whole. The proposal is therefore considered to be acceptable.

APPENDIX A – RECOMMENDED CONDITIONS

Conditions

1. 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.

2. The development shall be implemented in accordance with the details that were approved under condition 2 of planning permission DM/21/1118.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the Mid Sussex District Plan 2014 - 2031

3. The development shall be implemented in accordance with the details that have been submitted under conditions discharge reference DM/24/2001 in relation to condition 3 of planning permission DM/21/1118.

Reason: The site is potentially of archaeological interest and to accord with Policy DP34 of the Mid Sussex District Plan 2014 - 2031.

4. The development shall be implemented in accordance with the details that were approved under condition 4 of planning permission DM/21/1118.

Reason: In the interests of highway safety and the amenities of the area and to accord with Policies DP21 and DP26 of the Mid Sussex District Plan 2014 - 2031.

5. No development above slab level shall be carried out unless and until details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service.

Reason: In the interests of amenity and in accordance with policy DP20 of the Mid Sussex District Plan 2014 - 2031 and in accordance with The Fire & Rescue Service Act 2004.

6. No development above slab level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

- o Detailed 1:20 scale elevation and section vignettes showing the typical elements in context including: the aluminium window (and reveal) with timber louvred screening and a typical frontage bay including the roof canopy, columns, sweet chestnut cladding and curtain wall glazing featuring the opening lights.
- o A revised roof plan showing the solar PV's.
- o Detailed hard and soft landscaping including boundary treatment and incorporating the bunding on the western boundary with a section drawing of this also included.
- o Details of the facing materials.

Reason: In order to achieve a building of visual quality and to accord with policy DP26 of the Mid Sussex District Plan 2014-2031.

7. The development shall be implemented in accordance with the details that were approved under condition 7 of planning permission DM/21/1118.

Reason: In the interests of securing a sustainable development and to accord with policy DP39 of the Mid Sussex District Plan 2014-2031.

8. The development shall be implemented in accordance with the details that were approved under condition 8 of planning permission DM/21/1118.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy DP26 of the District Plan 2014 - 2031

9. The development shall be implemented in accordance with the details that were approved under condition 9 of planning permission DM/21/1118.

Reason: To prevent loss of, and contribute to a net gain in, biodiversity, in accordance with Policy DP38 of the Mid Sussex District Plan and 193 of the NPPF.

10. The development shall be implemented in accordance with the details that were approved under condition 10 of planning permission DM/21/1118.

Reason: To prevent loss of, and contribute to a net gain in, biodiversity, in accordance with Policy DP38 of the Mid Sussex District Plan and 193 of the NPPF.

11. Prior to the occupation of the building subject of this permission 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. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development 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 DP26 and DP37 of the Mid Sussex District Plan 2014 - 2031.

12. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled 'Visibility Splays' and numbered 083.0007.001.

Reason: In the interests of road safety and to accord with Policy DP21 of the Mid Sussex District Plan 2014 - 2031.

13. The building shall not be occupied until the parking spaces/turning facilities shown on the submitted plans have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking/turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways and to accord with Policy DP21 of the District Plan 2014 - 2031.

14. External lighting shall only be installed in accordance with the details specified in the submitted Lighting Strategy documents (designs for Lighting Ltd. Ref 1801-DFL-LS-001 and Lighting Plan rev A) and thereafter shall be maintained in accordance with the approved details unless otherwise agreed in writing.

Reason: To protect the character of the area and to comply with policy DP29 of the District Plan 2014-2031.

15. Prior to the first occupation of any building forming part of the proposed development the developer will at their own expense install the fire hydrant in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

The fire hydrant shall thereafter be maintained as part of the development by the water undertaker at the expense of the Fire and Rescue Service if adopted as part of the public mains supply (Fire Services Act 2004) or by the owner / occupier if the installation is retained as a private network.

Reason: In the interests of amenity and to accord with policy DP20 in the Mid Sussex Local Plan 2014-2031 and in accordance with The Fire & Rescue Service Act 2004.

16. The building shall not be occupied until provision has been made within the site in accordance with details to be submitted to and approved by the Local Planning Authority for the parking of bicycles clear of the public highway, to be both secure and safe, and such space shall not thereafter be used other than for the purposes for which it is provided.

Reason: To enable adequate provision for a facility which is likely to reduce the amount of vehicular traffic on existing roads and to accord with Policy DP21 of the District Plan 2014 - 2031.

17. Prior to the occupation of the building, a Noise Management Plan (including hours of operation, hours of deliveries, full details of loading/unloading arrangements and any noise mitigation measures) shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan submitted shall be implemented in full on occupation of the building and complied with thereafter unless otherwise agreed in writing by the Local Planning Authority. The Noise Management Plan shall be updated and resubmitted for approval every two years from the date of first approval and shall thereafter be implemented in accordance with the approved details.

In the event of complaints being received about noise from the site, the occupiers will be required to resubmit the Noise Management Plan for approval at the discretion of the Local Planning Authority and the Noise Management Plan shall thereafter be implemented in accordance with the approved details.

Reason: To protect the amenity of neighbouring residents and to accord with Policy DP26 of Mid Sussex District Plan.

18. Waste collection may take place between the following hours:

Monday to Friday: 07:00 - 18:00 hrs
Saturday: 08:00 - 18:00 hrs
Sunday and Public/Bank holidays: None permitted

All other deliveries or collection of goods, equipment must only take place in accordance with the details contained in the management plan that has been submitted and approved under condition 17 of this planning permission.

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.

19. Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (air conditioning, condensers etc) shall be no higher than background noise levels when measured at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commencement of the use applied for and thereafter be maintained in accordance with the approved details.

Reason: To protect the amenity of local residents and to comply with policy DP29 of the District Plan 2014-2031.

20. The premises shall be used for Class E (g) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order, 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To ensure that the approved uses, which are appropriate for the site are retained and to comply with policies DP1 and DP14 of the Mid Sussex District Plan 2014 - 2031.

21. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the LPA.

Reason: In the interests of health of future occupiers and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031 and paragraph 170 of the National Planning Policy Framework.

22. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday: 08:00 - 18:00 Hours
Saturday: 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays: No work permitted

Reason: To protect the amenity of local residents and to comply with policy DP26 of the District Plan 2014-2031.

Biodiversity Net Gain

Informatives

1. The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
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 identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Location Plan	2035 AP(0)01 P1		02.12.2024
Proposed Floor Plans	2035 AP(0)11 P1	First	02.12.2024
Proposed Elevations	Proposed East and West Elevation Plan	East and West	02.12.2024
	2035 AP(0)20 P1		
Proposed Floor Plans	2035 AP(0)10 P1	Ground	02.12.2024
Proposed Elevations	2035 AP(0)21 P1	North and South	02.12.2024
Photographs			02.12.2024

APPENDIX B – CONSULTATIONS

Highway Authority

Original description

This application seeks the variation of Condition 17 of permitted application DM/21/1118, to allow 24-hour access to the site 365 days a year with no exceptions.

For context, WSCC in its role as Local Highway Authority (LHA) was a consultee for application DM/21/1118, and raised no objections from a highway safety point of view.

The current permission allows operating hours of 08:00 - 18:00 Mon - Fri and Weekends/Bank Holidays. Whilst the site will see an increase in vehicle movements outside of these times under the current proposals, the Application Form states that the site will generate approximately 1-3 small van movements per night, which is considered a negligible increase. In addition, these movements will be outside of network peak times and therefore not expected to give rise to an adverse impact on the capacity of the local network.

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

Amended description

WSCC in its role as Local Highway Authority (LHA) has been reconsulted on the above application, following the applicant's submission of additional information. The LHA previously provided comment on this application, dated 17/12/2024, raising no highway safety concerns.

The additional information submitted provides additional information regarding vehicle movements. The site will be limited to 1 HGV movement per week (possibly at night), and outside of normal operating hours will be limited to no more than five small cars or vans per night. As per the LHAs previous comments, such movements are considered a negligible increase in trips, and this is not anticipated to give rise to an adverse impact on the capacity or safety of the local highway network.

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

Environmental Protection Officer

Original description

When the application for the site was being considered under DM/21/1118, the applicant had offered a condition which permitted the operator to receive deliveries of tissue samples at any time but restricted other deliveries to the normal working day hours. This proposal was acceptable to me, however, there was an enforceability issue with this proposed condition, and it was not included in the decision notice.

The purpose of the proposed condition was to ensure that delivery of time-critical tissue samples, which are essential for the applicant's business model, were permitted. This was deemed acceptable as the number of deliveries was minimal out-of-hours, 1-3 potentially per night, and these deliveries would be made by small vans. The impact on local amenity would be minor.

The risk of allowing unrestricted 24 hour per day deliveries, by removing condition 17, is that a future site user could carry out operations in a significantly more impacting way under the same permission and have a major noise impact on local amenity. In order to protect local amenity, while at the same time permitting the applicant to receive deliveries in the evening and night-time periods, I recommend that a noise management plan is required of the operator and secured through a suitable condition. This would be submitted by the operator and approved by the LPA and thereafter implemented and maintained by the operator. In order to minimise the noise impact from night-time deliveries, it would be expected that a cap of vehicle movements be included in the plan together with a description of type and size of vehicles to be used. There could be a requirement to review the noise management plan

periodically, every 2 years for example, or in the event of noise complaints received by the LPA.

Amended description

The applicant is wishing to change the permitted hours of deliveries to the site to enable the time-critical tissue samples to be delivered at any time of the day or night. In my previous comments made on 17/12/2024, I suggested a condition which accommodated this requirement while at the same time safeguarding local amenity. I reiterate those comments here:

In order to protect local amenity, while at the same time permitting the applicant to receive deliveries in the evening and night-time periods, I recommend that a noise management plan is required of the operator and secured through a suitable condition. This would be submitted by the operator and approved by the LPA and thereafter implemented and maintained by the operator. In order to minimise the noise impact from night-time deliveries, it would be expected that a cap of vehicle movements be included in the plan together with a description of type and size of vehicles to be used. There could be a requirement to review the noise management plan periodically, every 2 years for example, or in the event of noise complaints received by the LPA.

Conservation Officer

Amended description

Brief comments in respect of the above planning application. I understand that this relates to variation of conditions relating to hours of use of the approved light industrial unit, to allow 24 hour operations, 365 days a year. As stated in on the application form, this is due to the nature of the business of the proposed occupier and according to the applicant will be limited to a skeleton overnight staff presence and 1-3 deliveries made per night. Were this to be the case, I would not expect that there would be any material impact on the effect of the development on the setting of the nearby listed building at Kent's Farmhouse, as set out in my original comments, below.

However, I would be concerned that the lack of control implied by the proposed rewording of the condition as submitted- i.e. unrestricted year round operation- might, were the nature of the applicant's business to change or a new occupier to take on the building, result in a very different situation with a noticeable increase in noise and business within the setting of the listed former farmhouse at night. I would therefore suggest that if possible the existing condition is varied so as to allow control in future over any further expansion of night time activities at the site. On this basis, my previous comments, repeated below, would remain pertinent. I have identified a less than substantial level of harm through impact on setting to the listed farmhouse- I would place this on the basis of a low and controlled level of night time activity as remaining around the low-mid level of that scale, as for the approved scheme. Uncontrolled night time activity may result in a higher level of less than substantial harm.