

PLANNING STATEMENT

IN RELATION TO:

‘Variation of the Approved Plans (detailed under Condition 2 of the Decision Notice) under DM/23/3218. Proposed amendments include: Units 1, 2 and 3 being changed to ‘Shepherd Hut’ design, Unit 1 being moved north, and the extension of the approved turning area’.

**Great Bentley Plantation, Borde Hill Lane,
Haywards Heath, West Sussex , RH16 1XP**

January 2025

1.0 INTRODUCTION

- 1.1 We submit this application on behalf of our Client, Arley Hill Ventures.
- 1.2 Pursuant to Section 73 of the Town & Country Planning Act 1990, this application seeks permission for amendments to a development for *‘the provision of 5 No. Self-contained holiday lodges. Conversion of an existing structure to provide a new reception building. (Amended plans received 15/02/2024 to include the removal of the new access)’* at Great Bentley Plantation, Borde Hill Lane, Haywards Heath, West Sussex, RH16 1XP.
- 1.3 This application seeks to vary Condition 2 listed on the decision notice for **DM/23/3218**, relating to the approved drawings attached to this existing consent for redeveloping the site.
- 1.4 The amendments now sought are material, but are all of a minor nature. They include:
- Units 1, 2 and 3 have been changed to cabins of a ‘shepherd huts’ style appearance. Similar to the original permission, these units would be fixed to the ground using ground screws;
 - Unit 1 has been moved 10.7m to the north and its access path adjusted accordingly; and
 - The turning area to the south of unit 1 and to the east of unit 2 has also been extended 8.8m to the north to allow for the required distance between a fire truck and unit 1 in its amended position.
- 1.5 This Planning Statement is submitted in support of the above application. This statement should be read in conjunction with the drawings detailed below:
- Drawing No. 00722-P00-003-H. Proposed Site Plan;
 - Drawing No. 00722-P00-004-H. Proposed Site Plan Close Up;

- Shepherd Hut. Drawing No. 1. Sheet 1-5 (Front View; Top View; Left Side; Right Side; Rear View); and
- Shepherd Hut. Drawing No. 1. Sheet 1-4.

2.0 SITE CIRCUMSTANCES

- 2.1 The Application Site comprises a section of former woodland, which is part of the wider Borde Hill Estate. The site is positioned approximately 1.25km west of Borde Hill Lane and 3.5km north-west of central Haywards Heath. It is connected to the main road via an existing track. The site area (including the access track) measures approximately 3.9 hectares.



Fig 1. Site Aerial Photograph – not to scale (*courtesy of previous DAS*)

- 2.2 The site comprises an area of previously felled woodland and an agricultural field. The site is currently utilised for agricultural/woodland activities, which includes a large game shoot that runs during the winter months (October to March). The northern portion of the site has recently been felled of trees (summer 2021), due to Ash dieback disease.

- 2.3 The land surrounding the site comprises a mixture of Ancient and Semi-Natural Woodland, Ancient Replanted Woodland, Priority Habitat Deciduous Woodland and Wood pasture, Parkland fields, ponds and ditches.
- 2.4 The site is visually well contained and currently benefits from its own access and continuous driveway off the west side of Borde Hill Lane.



Fig 2. Map showing Habitats of importance for nature conservation within and surrounding the site (*courtesy of previous EcIA*)

- 2.5 The northern portion of the site slopes gently down to the north west, while the south western field slopes gently down to the west and north west.
- 2.6 An area of Ancient Woodland borders the northern portion of the site, to the eastern side. An Ancient Woodland buffer zone therefore extends 15m into the site. The northern portion of the site was previously woodland (but was felled during Summer 2021 due to ash dieback disease). A portion of the site has been replanted with saplings using a Forestry Commission grant.

- 2.7 In terms of site designations, the site is located outside the defined built up area boundary for Haywards Heath within designated countryside. The site lies within the High Weald Area of Outstanding Natural Beauty (AONB). The site also lies within National Character Area **122: High Weald** and centrally within the West Sussex Landscape Character Area **HW3: Ouse Valley**, with the southern parts of the Borde Hill Estate lying within **HW4: High Weald Fringes**.
- 2.8 Part of the Borde Hill Estate is a Listed garden/parkland, however this Application Site lies largely outside of that area. The only part of the red line site area that falls within the heritage designation is the existing access track and the proposed access onto Borde Hill Lane.

3.0 PLANNING HISTORY

- 3.1 This Section 73 Application relates to the following approved development:-
- **Planning ref: DM/23/3218/:** The provision of 5 No. self contained holiday lodges. Conversion of an existing structure to provide a new reception building (amended plans received 15/02/2024 to include the removal of the new access). Approved Conditionally 15th May 2024.
- 3.2 Most recently we have submitted an application for the discharge of planning conditions numbered 5 (drainage) and 6 (arboricultural) in relation to planning application DM/23/3218 (current application **DM/25/0159** refers). This application remains undecided.
- 3.3 According to the Council's online planning records, Borde Hill Estate has an extensive planning history; however none of this history relates directly to the Great Bentley Plantation and in our view these Applications are not of relevance to this current proposal.

4.1 THE PROPOSALS

- 4.1 This s73 application seeks to vary the ‘approved plans’ conditions pursuant to the original permission for the *‘the provision of 5 No. self contained holiday lodges. Conversion of an existing structure to provide a new reception building (amended plans received 15/02/2024 to include the removal of the new access)’*. The amendments now sought are material, but are all of a minor nature. They include:
- Units 1, 2 and 3 have been changed to cabins of a ‘shepherd huts’ style appearance. Similar to the original permission, these units would be fixed to the ground using ground screws;
 - Unit 1 has been moved 10.7m to the north and its access path adjusted accordingly; and
 - The turning area to the south of unit 1 and to the east of unit 2 has also been extended 8.8m to the north to allow for the required distance between a fire truck and unit 1 in its amended position.
- 4.2 In all other respects the development is to remain as previously permitted, by application **ref: DC/23/3218**.
- 4.3 in this case, the planning condition applicable to planning permission **DM/23/3218** is that detailed as Condition 2 (approved plans).

5.0 PLANNING POLICY

(i) National Planning Policy Framework

- 5.1 The National Planning Policy Framework (NPPF) was originally published on 27th March 2012 and updated most recently on 12th December 2024. This sets out the Government's planning policies for England and how these are expected to be applied.
- 5.2 The NPPF confirms that planning law, as set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, requires that applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

(ii) National Planning Policy Guidance

- 5.3 The following extracts of the National Planning Policy Guidance are considered relevant to this s73 application:

- **Amending the conditions attached to a permission (application under Section 73 TCPA 1990)**

How are the conditions attached to a planning permission amended?

... an application made under [section 73 of the Town and Country Planning Act 1990](#) can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.

Provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider whether the scale or nature of

the change warrants consultation, in which case the authority can choose how to inform interested parties.

Paragraph: 013 Reference ID: 17a-013-20230726

Revision date: 26 07 2023

Are there any restrictions on what section 73 can be used for?

Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to change the description of the development.

Paragraph: 014 Reference ID: 17a-014-20140306

Revision date: 06 03 2014

What is the effect of a grant of permission under section 73?

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the [guidance for use of planning conditions](#).

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Paragraph: 015 Reference ID: 17a-015-20140306

Revision date: 06 03 2014

Do the Environmental Impact Assessment Regulations apply?

A section 73 application is considered to be a new application for planning permission under the 2017 Environmental Impact Assessment (EIA) Regulations. Where the development is of a type listed under Schedule 2 to the 2017 EIA Regulations, and satisfies the criteria or thresholds set, a local planning authority must carry out a new screening exercise and issue a screening opinion as to whether EIA is necessary. Where the development is of a type listed under Schedule 1 of the 2017 EIA regulations an EIA will always need to be carried out.

Where an EIA was carried out on the original application, the planning authority will need to consider if further information needs to be added to the original Environmental Statement to satisfy the requirements of the Regulations. Whether changes to the original Environmental Statement are required or not, an Environmental Statement must be submitted with a section 73 application for an [EIA development](#). Further information about the process of applying for development without compliance with original conditions can be found at [Annex A: summary comparison table](#).

Paragraph: 016 Reference ID: 17a-016-20140306

Revision date: 06 03 2014

Paragraph removed

Paragraph: 017 Reference ID: 17a-017-20230726

Revision date: 26 07 2023

Can section 73 be used if there is no relevant condition in the permission listing approved plans?

Section 73 cannot be used if there is no relevant condition in the permission listing the originally approved plans.

It is possible to seek the addition of a condition listing plans using an application under [section 96A of the Town and Country Planning Act 1990](#). This would then enable the use of a section 73 application to make minor material amendments.

Paragraph: 018 Reference ID: 17a-018-20230726

Revision date: 26 07 2023

- **Use of Planning Conditions**

What are the main legal powers relating to use of conditions?

The main powers are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by sections 77, 79, 177, and Schedule 6 of the Act. In some areas there may also be powers under local Acts which complement or vary the powers in the 1990 Act.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

A pre-commencement condition must not be imposed on the grant of permission (other than a grant of outline planning permission within the meaning of Section 92 of the 1990 Act) without the written agreement of the applicant except in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

Paragraph: 002 Reference ID: 21a-002-20190723

Revision date: 23 07 2019

What options are available to an applicant who does not wish to comply with a condition?

Following the decision of a local planning authority to grant planning permission subject to conditions, an applicant may consider taking the following actions if they do not wish to be subject to a condition.

These options remain available where the applicant has agreed a pre-commencement condition, or the pre-commencement condition has been imposed

where the applicant has not responded within the time limit set out in a notice served under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018:

- Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.*
- Appeal to the Secretary of State against the decision of the local planning authority to grant planning permission subject to conditions. An appeal must be received within 12 weeks of the date on the decision notice for householder planning applications or 6 months for other planning decision types. A Planning Inspector on behalf of the Secretary of State will re-determine the whole application (not only the decision to impose the conditions) – so there is a risk that the Inspector could refuse planning permission and therefore reverse the decision of the local planning authority. Further guidance on appeals.*

Development that is taken forward in breach of conditions may be subject to local authority enforcement action. It is also possible to apply for retrospective planning permission under section 73A of the Town and Country Planning Act 1990. Further guidance on enforcement (including section 73A).

Paragraph: 031 Reference ID: 21a-031-20180615

Revision date: 15 06 2018

How are conditions treated under section 73?

The original planning permission will continue to exist whatever the outcome of the application under section 73. The conditions imposed on the original permission still

have effect unless they have been discharged. In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

Any pre-commencement conditions may not be imposed without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of section 92 of the 1990 Act or in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018). Further guidance on section 73.

Paragraph: 040 Reference ID: 21a-040-20190723

Revision date: 23 07 2019

(iii) Mid Sussex District Plan 2014-2031 (March 2018)

- 5.4 The Mid Sussex District Council adopted its District Plan on 28th March 2018. According to the District Council's Policy Map, the site is located within the countryside and within the High Weald Area of Outstanding Natural Beauty (AONB). The site also lies within National Character Area **122: High Weald** and centrally within the West Sussex Landscape Character Area **HW3: Ouse Valley**, with the southern parts of the Borde Hill Estate lying within **HW4: High Weald Fringes**. The following policies are considered relevant:

- **Policy DP12** – Protection and Enhancement of Countryside;
- **Policy DP16** – High Weald Area of Outstanding Natural Beauty;
- **Policy DP19** – Sustainable Tourism;
- **Policy DP21** – Transport;
- **Policy DP26** – Character and Design;

- **Policy DP29** – Noise, Air and Light Pollution;
- **Policy DP34** – Listed Buildings and other Heritage Assets;
- **Policy DP36** – Historic Parks and Gardens;
- **Policy DP37** – Trees, Woodland and Hedgerows;
- **Policy DP38** – Biodiversity;
- **Policy DP39** – Sustainable Design and Construction; and
- **Policy DP41** – Flood Risk and Drainage.

(iv) Ansty, Staplefield & Brook Street Neighbourhood Plan 2015-2031

5.5 The Neighbourhood Plan was formally ‘made’ in February 2017. Its policies are of a relatively general nature and it does not appear to have any policies that would be directly relevant to this proposal for tourism accommodation. The only policy of relevance is:

- **Policy AS3** – High Weald Area of Outstanding Natural Beauty.

(iv) Other Planning Guidance

5.6 The following documents are also of relevance:-

- High Weald AONB Management Plan 2019-2024;
- High Weald AONB – Guidance on the selection and use of colour in development;
- Eco-camping in the High Weald AONB: A review of the potential environmental impacts and recommendations for future development.

5.7 We are aware that the District Council has adopted the '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 the Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications.

(v) Emerging Policy

5.8 We are aware that Mid Sussex District Council are preparing a new District Plan 2021-2039, which will replace the current adopted District Plan. This plan was formally submitted to the Planning Inspectorate on Monday 8th July 2024, and the Plan is now at the examination stage. The following policies are considered of relevance:-

- **Policy DPS1** – Climate Change;
- **Policy DPS2** – Sustainable Design and Construction;
- **Policy DPS4** – Flood Risk and Drainage;
- **Policy DPN1** – Biodiversity, Geodiversity and Nature Recovery;
- **Policy DPN2** – Biodiversity Net Gain;
- **Policy DPN4** – Trees, Woodland and Hedgerows;
- **Policy DPN5** – Historic Parks and Gardens;
- **Policy DPN7** – Noise Impacts;
- **Policy DPN8** – Light Impacts and Dark Skies;
- **Policy DPD1** – Protection and Enhancement of the Countryside;
- **Policy DPC4** – High Weald Area of Outstanding Natural;
- **Policy DPB1** – Character and Design;
- **Policy DPB2** – Listed Buildings and Other Heritage Assets;
- **Policy DPT4** – Parking and Electric Vehicle Charging Infrastructure;
- **Policy DPE1** – Sustainable Economic Development;
- **Policy DPE8** – Sustainable Rural Development and Rural Economy;
- **Policy DPE9** – Sustainable Tourism and Visitor Economy;
- **Policy DPH12** – Accessibility.

6.0 PLANNING ASSESSMENT

- 6.1 Section 73 of the Town & Country Planning Act 1990 allows applications to be made for permission to develop without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original conditions should continue.
- 6.2 Section 73 cannot be applied if the period in the previous condition limiting the duration within which the development could begin has now expired without the development having begun.
- 6.3 In this case, the original planning permission (**DM/23/3218**) was approved by the Council via decision notice dated 15th May 2024.
- 6.4 The following material changes to the planning permission are included within this S73 application submission:
- Units 1, 2 and 3 have been changed to cabins of a ‘shepherd huts’ style appearance. Similar to the original permission, these units would be fixed to the ground using ground screws;
 - Unit 1 has been moved 10.7m to the north and its access path adjusted accordingly; and
 - The turning area to the south of unit 1 and to the east of unit 2 has also been extended 8.8m to the north to allow for the required distance between a fire truck and unit 1 in its amended position.
- 6.5 Accompanying this S73 application are revised drawings that relate to these changes.

Character & Visual Amenities

- 6.6 The approved development sought permission for five proposed cabins to be split across two areas, with one cabin occupying the existing meadow to the southwest of the site, and four occupying the felled woodland in the northwest part of the site. This remains unchanged as part of the amendments; however unit 1 has been moved 10.7m to the north and its access path adjusted, as shown on the approved and proposed site plans below (refer to Fig 3 and Fig 4). The reasoning behind this alteration is to create a bit more space between units as the new cabins are slightly wider than the original designs, and also to positionally align to the pond.

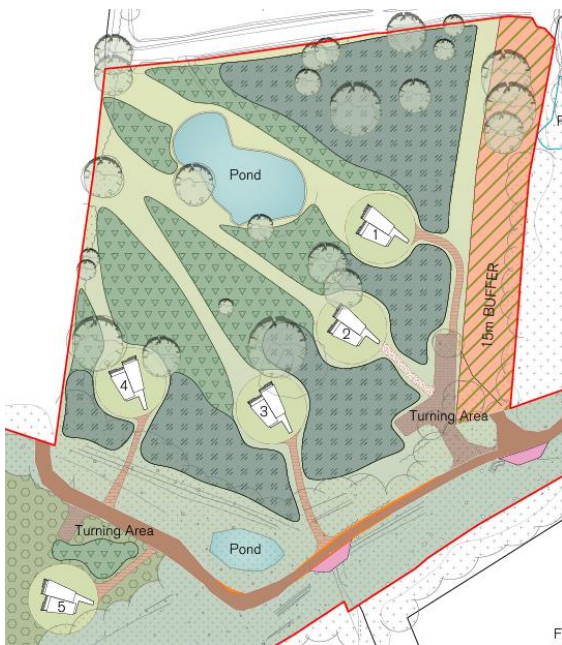


Fig 3 Extract from Approved Site plan

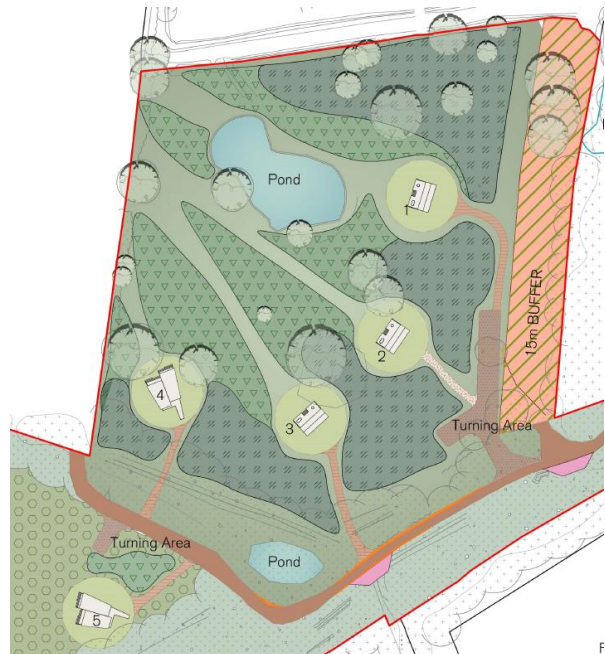


Fig 4. Extract from Proposed Site Plan

- 6.7 The changes are considered minor in nature and would not alter the essence of the original development. The proposal still seeks to site 5 No. holiday lodges within the Borde Hill estate, which would create a new business within a rural area, therefore supporting the rural economy. The proposal would remain in accordance with **policies DP12, DP16 and DP19** of the Mid Sussex District Plan, and the relevant provision of the NPPF is acceptable in principle.

- 6.8 At the time of the application being considered, the Conservation Officer noted that *“the II* listed park and garden is centred on the formal gardens around Borde Hill House, a late 19th- mid 20th century plantsman and collector's garden laid out by Colonel Stephenson Clarke. Around this is an extensive parkland area of mid 19th century origins, which consists of wooded parkland, merging to the north and east with the adjacent undulating wooded farmland”*. With regard to Listed Buildings and their setting, they went on to conclude that *“given the distance between the site and house, and the lack of intervisibility, it is not considered that the proposal will have a material impact on the setting of this listed building, and as such I will not consider it further here”*.
- 6.9 Due to the minor changes proposed, it is considered that the same view can be taken regarding the impact of the development proposals on the setting of nearby listed buildings. The minor changes would not have a material impact on the setting of the listed building.
- 6.10 The Conservation Officer also noted that *“the proposed lodges are located a short distance to the west of the boundary of the northern part of the registered parkland. However, due to the intervening topography and planting it is in my opinion unlikely that there will be any marked visual impact in terms of views looking from the parkland...”* Due to the minor change in location of unit 1 and its access path being adjusted accordingly, it is considered that this view will remain unaltered and the proposed lodges would remain well screened by topography and planting.
- 6.11 In addition, each of the cabins were previously identical in design, comprising single storey timber clad structures on stilts; measuring 4.2m in height (when measured from ground level). The cabins were proposed to be accessed via both stepped and ramped access to the rear, with steps also leading down from the decking at the front of the cabin. They had an approved footprint of 41.6m² gross external area (excluding timber ramps and decking).

6.12 Units 1, 2 and 3 have been updated to single storey cabins (which have an appearance similar to Shepherd's huts) as part of this S73 application, as shown at **Figs 5 – 8**. The decision to alter the units to huts is purely economical, the rising costs of materials and the complexity of the original design mean that our Clients have had to seek a more cost effective option.

6.13 These three cabins will be identical in design. They would each measure 3.77m in height (when measured from ground level), representing a 0.43m reduction in height. The main hut would have a footprint of 24.27m², with an additional area of stilted terrace to the front. The proposed cabins (units 1, 2 and 3) show a clear reduction in overall scale and height, when compared with the units previously approved, whilst still providing an appearance that is appropriate to this rural location.

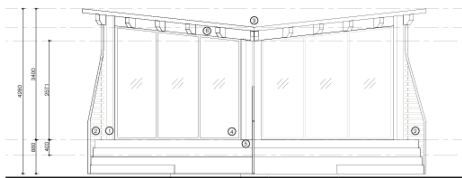


Fig 5. Approved Front Elevation



Fig 6. Approved Side Elevation

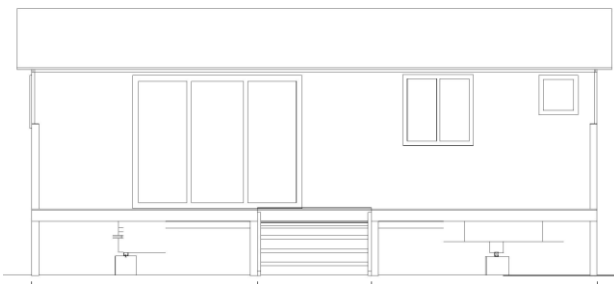


Fig 7. Proposed Front Elevation

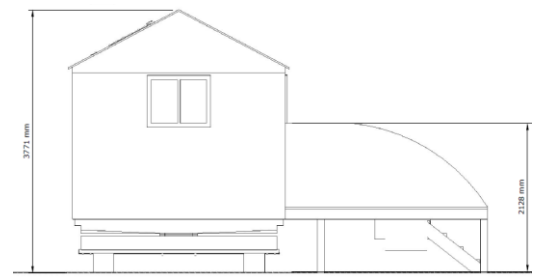


Fig 8. Proposed Side Elevation

6.14 At the time of the application being considered, the Council concluded that *“the proposal is acceptable in terms of its principle, design, size and scale which is in*

proportion and appropriate to the rural character of the site and the landscape of the AONB, would not cause harm to the amenities of neighbouring properties, and is acceptable in terms of the impact on the highway and parking provision, sustainability, drainage, biodiversity and trees". The proposed alternative design for the cabins at Units 1-3 would be of a high quality traditional design, which would sympathetically relate to the surrounding area. The huts would be fixed to the site using ground screws and would comprise natural materials, which will ensure that the cabins blend into their rural setting. An illustration of the proposed cabins is shown below at **fig 9**.



Fig 9. Coloured image of proposed Cabins (units 1-3)

- 6.15 It is important to note that Cabins 4 and 5 remain unchanged as part of this application, and these will be constructed as per the details approved under application DM/23/3218.

- 6.16 Finally, the turning area to the south of unit 1 and to the east of unit 2 has also been extended 8.8m to the north to allow for the required distance between a fire truck and unit 1 in its amended position. This is a minor alteration, which will have little (if any) impact on the development and is purely required from a highway safety perspective.

Residential Amenity

- 6.17 The Planning Application site adjoins Borde Hill Lane to the East and is surrounded by open countryside and woodland to all other sides. The main body of the Site is well enclosed and set a considerable distance from any public highway. There are no residential properties within close proximity of the main part of the site.
- 6.18 As such, the proposed minor changes would not cause any material harm to the residential amenities of any dwelling. Given the lack of identified demonstrable harm to residential amenities, it must be concluded that the proposal would be in accordance with **Policy DP26** of the District Plan

7. CONCLUSIONS

- 7.1 In submitting this application, regard has been given to the relevant Local and Neighbourhood Plans, in addition to the guidance contained in the NPPF and NPPG.
- 7.2 Paragraph 57 of the revised NPPF states that “*planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*”. It is considered that the proposed revision to condition numbered 2 of planning permission **DM/23/3218** is entirely compliant with the NPPF’s guidance in this respect.
- 7.3 The proposed alterations to the approved plans constitute ‘minor material amendments’ in the context of the development as a whole. **Importantly the quantum of development remains unchanged, and the application description also is unaltered by these revisions.** The scale and/or nature of the proposed amendments result in a development which is not substantially different from the one which has been approved. The application therefore accords with the guidance set out in the NPPG. As the proposal meets all the necessary policy requirements, and will cause no harm to any matter of identified acknowledged importance. In our opinion the overwhelming weight of evidence supports the granting of permission.

January 2025