



## **MID SUSSEX DISTRICT COUNCIL**

### **Application for Planning Permission**

**1x 3-bedroom Family Dwelling House**

**Nailards House, Cross Colewood Lane, Bolney, Haywards Heath RH17 5RX**

**(Central Grid Reference TQ254238 E:525430 N:123804)**

# Planning, Design and Access Statement

Nailards House, Cross Colewood Lane, Bolney, Haywards Heath, RH17 5RX



**Project:** Nailards House, Cross Colewood Lane, Bolney, Haywards Heath, RH17 5RX

**Client:** DUKE HARVEY

**Job Number:** SEPC 200524

**File Origin:** MID SUSSEX

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## 1.0 Introduction

### 1.1 Scope

1.1.1 This statement has been prepared by Stage Planning Conditions (UK) Ltd on behalf of Duke Harvey (hereafter referred to as 'the Applicant') and concerns proposals for unrestricted use of a dwellinghouse. This statement serves to support a full planning application for a single unrestricted family residence (Use Class C3) in place of a holiday let (Use Class C3).

1.1.2 This statement provides a description of the site of the dwellinghouse. In turn, it discusses the proposal and the design approach to the proposed scheme before providing an overview of relevant planning policy supporting the application, together with relevant authority. Finally, the statement sets out the planning case in support of the proposal.

1.1.3 This statement should be read in conjunction with the submitted plans, drawings, and reports, including:

- Decision Notice DM/21/4091
- Transport Advisory Note May 2024
- Appeal Decision 3298314 Benjamin Webb BA(Hons) MA, MA MSc PGDip(UD) MRTPI IHBC 14.9.22
- Appeal Decision 3315904 J White BA (Hons) MA MRTPI 4.9.23

### Site Context

### 1.2 Site Location

1.2.1 The site is previously developed land located at Central Grid Reference TQ254238 E:525430 N:123804 on the southern side of Cross Colewood Lane, Bolney, Haywards Heath RH17 5RX ('the Site'). The Site is within a cluster of dwellings in the locality and some 750m from the village of Bolney and key local services. A dwelling house exists on the site. Prior to this the site was occupied by substantial buildings accommodating an indoor swimming pool and an indoor squash court.

### 1.3 Site Description

1.3.1 The Site slopes gently away from the highway in a southerly direction, sitting below road level and behind a mature hedge line screening views into the Site. The Site is bounded to the

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north by Cross Colwood Lane, to the south by woodland and to the east and west by neighbouring residences.

1.3.2 The Site does not fall to be considered within a Conservation Area, the Green Belt or an Area of Outstanding Natural Beauty ('AONB') and is identified within Flood Zone 1 (lowest likelihood of flooding).

## 2.0 Planning History

### 2.1 The Application Site

2.1.1 A review of Mid Sussex District Council's website revealed the following relevant planning history regarding the Site.

Application Reference	Description	Decision
DM/23/2052	Discharge of Planning Condition 6 to App Ref: DM/21/4091	Approved 5.10.23
DM/21/4091	Proposed holiday let to replace approved application for two holiday lets	Approved 19.01.22
DM/20/4075	Discharge of planning conditions 3, 5 and 6 relating to planning application DM/19/4236	Approved 4.03.21
DM/19/4236	Demolition of existing squash court and swimming pool. Erection of two holiday lets and garaging with home office above.	Approved 23.12.19

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12/00700/FUL	Demolition of existing squash court (approved for holiday let 10/00139/COU) and existing covered swimming pool and erection of two holiday lets and garaging on the same footprint.	Approved 30.04.12
10/00139/COU	Change of use of existing squash court to holiday accommodation	Approved. 25.03.10
04/01005/FUL	Revisions to the alterations of the squash court swimming pool approved under Condition 7 of BK.01.1856.FUL and BK.01.01857.FUL.	Approved 22.06.04

*Table 1: Relevant Planning History in connection with the Site.*

## 2.2 Background

2.2.1 The application site formerly comprised buildings, particularly a squash court and a swimming pool, on the grounds of a property now renamed Tyler House.

2.2.2 In October 2019, under App Ref: DM/19/4236, the landowner applied for planning permission to demolish the then-existing squash court and swimming pool buildings and replace them with two holiday lets, together with garaging and an office above.

2.2.3 Planning permission was granted 23/12/19 subject to pre-commencement conditions 3, 5, 6 and occupancy condition 9.

2.2.4 Conditions 3, 5 and 6 were discharged 4.3.21 (App Ref: DM/20/4075).

2.2.5 The squash court and swimming pool were demolished in the summer of 2021.

2.2.6 A further application was submitted 25.11.21 (App Ref: DM/21/4091) seeking planning permission for one holiday let in place of the former two holiday lets approved under DM/19/4236.

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2.2.7 App Ref: DM/21/4091 was approved subject to Pre-Commencement Condition 6 and occupancy Condition 8.

2.2.8 Condition 8 states:

*"The occupation off the building shall at all times comply with the following:*

*The accommodation within the building shall be occupied for holiday purposes only.*

*B) The building shall not be occupied as a person's sole or main place of residence.*

*C) An up to date register shall be maintained of the names of all guests using the holiday let, including names, homes addresses, dates and durations of each stay and the register shall be made available at all reasonable times to the Local Planning Authority.*

*Reason: To ensure the approved holiday accommodation is not used as a permanent residential unit and to comply with Policy DP19 of the Mid Sussex District Plan".*

2.2.9 No condition was imposed to deprive the applicant of the benefit of the Town and Country Planning (Use Classes) Order 1987.

2.2.10 The pre-commencement condition imposed on DM/21/4091 was discharged on 5.10.23 (App Ref: DM/23/2052) and the dwelling house was erected.

2.2.11 A number of significant changes have occurred since the approvals of App Ref: DM/19/4236 and DM/21/4091. Amongst these the first impacts of Covid19 lock-downs, furlough and uncertainty, were followed by a focus and indeed an expectation upon home working. High fuel and commuter costs have driven and hardened this emphasis and expectation.

2.2.12 In tandem with this, yet greater emphasis has been on housing shortages and affordability driven by the short-let market.

2.2.13 Finally and most recently in a Ministerial Statement<sup>1</sup> the previous government announced the creation of a new planning use class for short term lets. The objective was to protect communities and keep housing stock available, thus addressing often large concentrations of short term letting uses negatively impacting on the sustainability of communities. The proposed new 'short term lets' controls have not yet been advanced by the current

<sup>1</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-02-19/hcws264>

government which is considering these and other ways to control the holiday let market.

2.2.14 As proposed, the new planning class will apply to properties that are not someone's sole or main home. It will: *"implement associated permitted development rights allowing for a property to be changed from a standard residential dwelling to this new use class and vice versa". Local authorities will be able to remove these rights and require full planning permission, as they can with any permitted development right.*

*Separately, where people want to let out their main home for short periods of time, it will provide flexibility and certainty to homeowners that they can do so without the need to apply for planning permission".*

## 3.0 The Proposed Development

### 3.1 Development Description

3.1.1 The proposal is one for an unrestricted single-family residence (Use Class C3) in place of a holiday let (Use Class C3). The principle of residential development in the location has been established by the approval under DM/21/4091 (and before that by approval under DM/19/4236). The change implies no change to the location, size or scale of the building approved under App Ref: DM/21/4091, all of which have previously been deemed acceptable.

### 3.2 Reasons for Application

3.2.1 In this case the Site is a brownfield site located within a cluster of dwellinghouses some 750m from the village of Bolney and all key services. It is not 'isolated' for purposes of paragraph 84 of the Framework.

3.2.2 The development approved under App Refs: DM/21/4091 and before that DM/19/4236 is Use Class C3, as is the proposed use, albeit that the former occupation is limited by condition.

3.2.3 The proposal implies no changes to the size or scale of the C3 unit, both of which were deemed appropriate upon application.

3.2.4 In the subject circumstances, the change to use as an (unrestricted) dwellinghouse will not be 'material' for purposes of *Moore v SSCLG [2012] EWCA Civ 1202*; the dwelling when

occupied as a home by a family v persons holidaying would still be occupation by a single household.

- 3.2.5 The change to use as a dwellinghouse (absent the restriction to holiday let) will, as a matter of course, accommodate 'home working' (recognised in the Bolney Neighbourhood Plan in 2016 and significantly more prevalent now), so that the same 'employment' will support the rural economy in terms of both employment and productivity *and* in terms of trade and 'spend' in the locale by residents, much as it would from visitors.
- 3.2.6 The sustainability of the site (when viewed in terms of traffic movements) will be no greater as a residence than as a holiday let.<sup>2</sup>
- 3.2.7 The new Use Class announced in the Ministerial Statement 19.2.24 under the former government and anticipated to be introduced by the current government, will enable changes between C3 short-term lets and C3 dwelling houses and vice versa, so the constraint in issue (Condition 8 to DM/214091 restriction to Holiday let) is otiose.

## 4.0 Planning Policy Context

### 4.1 Legislation and Planning Policy

- 4.1.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that all planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Material planning considerations include national planning policy, Ministerial Statements and can include former decisions by the LPA/Secretary of State and fall-back positions.

### 4.2 Development Plan

- 4.2.1 In this case, the Development Plan consists of saved Policies of the Mid Sussex Local Plan (2004), the Mid Sussex District Plan (March 2018) and the Bolney Neighbourhood Plan (September 2016). Material considerations include the National Planning Policy Framework ('NPPF') and can include local decisions, economic considerations, and fall-back positions.

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<sup>2</sup> See e.g. appeal decisions 3298314 and 3315904

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4.2.2 The National Planning Policy Framework (adopted December 2024) outlines the Government's requirements for the planning system and establishes how these will be addressed to include the presumption of sustainable development.

## 4.3 Relevant Policy

4.3.1 The policies most relevant in the determination of this application are Policies DP12, DP14 and DP15 of the saved Local Plan.

4.3.2 The most relevant sections within the Framework are those identifying the need for homes, including Rural Housing and those advancing the case for effective use of land.

### **DP12: Protection and Enhancement of Countryside**

4.3.3 Policy DP12 provides that:

*"The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:*

*it is necessary for the purposes of agriculture; or*

*it is supported by a specific policy reference either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan".*

### Relevance

4.3.4 In this case, the dwelling exists. The countryside will not be impacted as the dwelling exists and the applicant refers to the matter of *Moore v SSCLG [2012] EWCA Civ 1202*.

### **DP14: Sustainable rural development and the rural economy**

4.3.5 Policy DP 14 states:

*"Strategic Objectives: 7) To promote a place which is attractive to a full range of businesses, and where local enterprise thrives; 8) To provide opportunities for people to live and work within their communities, reducing the need for commuting; 10) To support a strong and*

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*diverse rural economy in the villages and the countryside; and 11) To support and enhance the attractiveness of Mid Sussex as a visitor destination.*

*Evidence Base: A Landscape Character Assessment for Mid Sussex; Town and Parish Council submissions.*

*Provided it is not in conflict with Policy DP12: Protection and Enhancement of Countryside and DP13: Preventing Coalescence:*

*new small-scale economic development, including tourism-related development, within the countryside (defined as the area outside of built up area boundaries as per the Policies Map) will be permitted provided:*

- *it supports sustainable growth and the vitality of the rural economy; and*
- *where possible, utilises previously developed sites.*
- *diversification of activities on existing farm units will be permitted provided:*
- *they are of a scale which is consistent to the location of the farm holding; and*
- *they would not prejudice the agricultural use of a unit".*

## Relevance

4.3.6 In this case, the proposed change of use will satisfy the strategic objectives 8 and 10 under Policy DP14. Whilst the proposal is not for economic development, under Strategic Objective 8 the proposal will nevertheless provide opportunities for people to live and work within their communities reducing the need for commuting - and under Strategic Objective 10 the dwellinghouse will support the rural economy in the year-round use and spend in and at a range of venues. Finally, as previously identified, the proposal utilises previously developed land all in accordance with Policy DP14.

## **DP15: New Homes in the Countryside/Replacement Dwellings in the Countryside**

4.3.7 DP 15 states:

*"Strategic Objectives: 3) To protect valued landscapes for their visual, historical and biodiversity qualities; and 13) To provide the amount and type of housing that meets the needs of all sectors of the community.*

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*Evidence Base: A Landscape Character Assessment for Mid Sussex; Town and Parish Council submissions.*

4.3.8 *Provided that they would not be in conflict with Policy DP12: Protection and Enhancement of the Countryside, new homes in the countryside will be permitted where special justification exists.*

*Replacement dwellings in the countryside will be permitted where:*

- *The residential use has not been abandoned;*
- *Highway, access and parking requirements can be met; and*
- *The replacement dwelling maintains or where possible enhances the quality of the natural and/or built landscape particularly in the High Weald Area of Outstanding Natural Beauty, especially if a significant change in scale from the existing dwelling is proposed.”*

## Relevance

In this case, the landscape character will be unaffected by the proposed development and the proposal will go to deliver housing to meet need in the community and utilising an existing dwelling house, satisfying the requirements of Strategic Objective 10.

## 4.4 **Bolney Neighbourhood Plan**

4.4.1 The Neighbourhood Plan accurately reflects upon the matter of home working (albeit before Covid19); in the early autumn of 2016:

### ***Bolney Neighbourhood Plan - Paragraph 1.17:***

4.4.2 *“1.17 The nature of the local economy is strongly influenced by being close to Crawley and London Gatwick Airport and within commuting distance of London and the south coast. The majority of the working population works in London or within the Gatwick/Brighton diamond. The rise of home based working is becoming an increasing trend with 9.8 % of Bolney’s working population working from home”.*

4.4.3 Under ‘Business Context’ the Neighbourhood Plan observes:

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*"4.88 Mid Sussex is a positive, economically vibrant area. The most recently available census in 2011 showed that only 1.1% of Bolney's working age adults were looking for work against an average of 3.8% in England.*

*4.89 There are typically fewer jobs in rural areas than urban, and those local jobs are often lower-paid than their urban counterparts. Many rural communities act as 'commuter villages', providing a higher quality of life for residents who commute to urban areas for work, although there can also be large numbers of people working from home.*

*4.90 Bolney is no exception with a high percentage of people working from home".*

## 4.4.4 Under Policy BOLB1 the Neighbourhood Plan observes:

*"4.94 Bolney has a small business and service base and it is important that this is protected. Away from the village there are limited employment opportunities in the surrounding rural area and the large proportion of employment opportunities are in Haywards Heath, Burgess Hill or beyond. Whilst there are a few opportunities to commute by non-car modes, inevitably the majority of people working away from Bolney will travel by car. The protection of local employment opportunities will not only provide greater prospects for local people to access jobs but will ensure that these are sustainable in terms of the patterns of commuting that they generate. Also they will continue to maintain many of the services of importance to the local community".*

## 4.4.5 Together these insights (in September 2016) demonstrate then the rise in home working. Since the pandemic, there has been an obvious uptick in people working from home so that for many, work and home are synonymous. Upon this basis there is little to distinguish the economic benefit to the rural economy of a holiday let (C3) to that of a dwelling house (C3) or to merit the sustainability of the former against the latter in terms of use of the private car/accessibility.

## 4.5 Appeal Decision 3298314

### 4.5.1 At appeal in September 2022 (3298314 - following a decision to refuse in January 2022) an Inspector considered a very similar proposal in very similar circumstances. The holiday let in question was located some 800m from the nearby village of Gittisham, Devon which village has limited services (a restaurant, village hall and church) and a bus service to the town of

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Honiton with stops to railway stations.

4.5.2 The Inspector considered the travel patterns and how they might differ between permanent and temporary occupants:

*"Within the above context, patterns of travel could undoubtedly differ between permanent and temporary occupants of the dwelling, as too in all cases between individuals depending on their specific circumstances. Variables might include differing potential needs to access places of work, education and healthcare, use of supermarkets and/or restaurants, and travel related to visiting attractions/leisure activities. Though I accept that some holiday makers might choose to spend most of their time at the site, others might equally use it as a base for wider exploration of the area. The extent of any difference in travel-related environmental impact between different occupants of whatever type could indeed be subject to many variables. These have not been quantified, and nor could this be undertaken easily. In the absence of such evidence, and given my findings above, I cannot conclude that any significant overall difference would arise between permanent and temporary occupants of the dwelling. No can I therefore conclude that the environmental qualities of the area would be unacceptably harmed as a result of travel related to unrestricted residential use of the site.*

*It remains the case that the proposal would conflict with the terms of Strategy 7 given the absence of any other LP policy which explicitly addresses, or thus explicitly permits development of the type proposed within the location in question. That being so, and having failed to identify any way in which the scheme would otherwise conflict with Strategy 7, I am satisfied that a grant of planning permission contrary to its terms would not result in any unacceptable harm.*

*Exercising my duty under S38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), I find that whilst the proposal would conflict with Strategy 7 of the LP, no unacceptable environmental harm would arise in relation to travel to access services and facilities. This allows me to conclude that unrestricted residential use of the dwelling would be appropriate within the location in question and thus that planning permission should be granted despite the identified conflict with the development plan".*

4.5.3 The appeal was allowed.

## 4.6 Appeal Decision 3315904

4.6.1 In a more recent appeal, September 2023 (3315904 – following a decision to refuse in January 2023) the Inspector considered the converse position - the materiality (per *Moore v SSLG [2012]*) of the proposed use of a family home for holiday lets.

4.6.2 The Inspector observed:

*"14. As such, the use of a family home for holiday lettings would not necessarily be a material change of use. Materiality in such cases, in accordance with *Moore v SSCLG [2012] EWCA Civ 1202*, would be a matter of fact and degree, with the answer depending on the characteristics of the use as holiday accommodation. In the event that the appeal were to be allowed, the dwelling when occupied by those holidaying would still form a single household in accordance with its meaning under s258 of the Housing Act 2004. No change of use is proposed. Moreover, were a material change of use from a dwellinghouse intended in the future, that would require planning permission regardless of the outcome of this appeal.*

4.6.3 *16. The Council has suggested that travel patterns would be more demanding for holiday use. However, the broad acceptability of both its location and any travel-related environmental impacts arising from a residential use of the site have already been established by virtue of the existing planning permission.*

4.6.4 *17. The removal of the disputed condition with the effect of permitting a holiday use, would have limited impact in terms of the length and frequency of private vehicle journeys. It would not alter the operative part of the planning permission. Permanent occupiers would still be likely to drive in order to access most shops and services and would also be likely to generate travel relating to regularly accessing places of work, education or visiting friends. Although future occupiers using the property for holiday purposes would be likely to generate different travel patterns (for example using the property as a base from which to explore), not a great deal of evidence has been put forward to show whether this would result in longer or more numerous journeys.*

4.6.5 *19. LP Policy DEV15 is supportive of tourist development. The Council advise that to justify the holiday use, the appellant would have to demonstrate a need. However, Policy DEV15 says camping, caravan, chalet or similar facilities that respond to an identified need will be supported provided, amongst other things, the proposal is compatible with the rural road*

*network. The policy does not preclude a holiday use of a dwellinghouse as such, and I have already found the proposal would be likely to generate a similar demand for travel. It would thus be compatible with the rural road network.*

4.6.6 20. *Even if the case were to be that the disputed condition would prevent holiday use of the dwellinghouse, there is no substantive evidence to demonstrate that the holiday use would likely generate more demand for travel than a private residential use. As such, given my findings above, I conclude that the site would provide a suitable location for a dwellinghouse, including holiday use, with particular regard to access to services and facilities. I am therefore satisfied that the disputed condition restricting the occupancy of the dwelling is not necessary or reasonable having regard to the location of the site relative to services and facilities".*

4.6.7 **The appeal was allowed.**

## 4.7 National Planning Policy Framework

**Relevant Paragraphs: 8**

4.7.1 The NPPF sets out the Government's planning policies. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

### Paragraph 73(d) (Identifying Land for Homes)

4.7.2 Observes that small and medium-sized sites can make an important contribution to meeting an area's housing requirement and are often built out relatively quickly. To promote the development of a good mix of sites, local planning authorities should support the development of windfall sites through their policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes.

4.7.3 Paragraph 83 (Rural Housing) observes that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

## 4.8 National Planning Policy Guidance – Use of Conditions

4.8.1 NPPF at paragraph 57 and NPPG make clear 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, the six tests discussed in NPPG Paragraph: 003 Reference ID: 21a-003-20190723 - Revision date: 23 07 2019. If the conditions were necessary or reasonable at the time of imposition, in light of changes announced in Ministerial Guidance, the condition in issue is no longer so.

# 5.0 Planning Case

## 5.1 Principle of Development

5.1.1 The Site in issue is previously developed land with the benefit of extant planning permission (DM/21/4091 for a single dwelling Use Class C3 subject to an occupancy condition (Condition 8) restricting the use to a holiday let, which condition is otiose given emerging changes in the Use Class Order/Permitted Development. The proposal under application is one for a single-family dwelling (Use Class C3) with no restriction on occupancy.

5.1.2 This Statement has demonstrated the circumstances in issue, the proposal's compliance with Development Plan Policies DP12, DP14, DP15 and DP19, observations made in the Neighbourhood Plan, the significant import of Ministerial Guidance and relevant policy under the Framework, also citing appeal decisions of relevance.

5.1.3 The proposal implies no changes to the location, scale or appearance of the C3 unit approved under DM/21/4091.

# 6.0 Conclusions

## 6.1 Summary

6.1.1 It is respectfully submitted that the proposal accords with the Development Plan, and having regard to the circumstances in this case, the application is suitable for approval in accordance with the provisions of S38(6) Planning and Compulsory Purchase Act 2004 (as amended).



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