

From: Kai Penny <kai@whaleback.co.uk>
Sent: 28 January 2026 17:08:15 UTC+00:00
To: "Gareth Giles" <gareth@whaleback.co.uk>; "Joanne Fisher" <Joanne.Fisher@midsussex.gov.uk>
Subject: Re: DM/25/3104 - Borde Hill Garden

Hi Joanne,

To add to my e-mail from last week, I wanted to highlight the improved public and community benefits with allowing longer opening times, as set out at page 22 of the Planning Statement. Events during darker hours would comprise standalone sessions (such as yoga or scouts gatherings), held outside of standard working and school hours. This would involve a lower number of comings and goings as a result, meaning the motion-sensored lighting would be triggered less frequently.

When are you aiming on providing your thoughts on the application? The applicants are under some time pressure to secure a permission by March, so that works at Sugworth can be started before the next funding deadline. Any feedback at this stage would therefore be greatly appreciated so that any additional input or clarification required from the applicants can be provided in good time.

Kind regards,

Kai Penny MRTPI
Senior Planner
kai@whaleback.co.uk
Direct: 01273 102245
Office: 01273 234354

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RTPI Planning Consultants

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From: Kai Penny <kai@whaleback.co.uk>

Sent: Wednesday, January 21, 2026 5:01 PM

To: Gareth Giles <gareth@whaleback.co.uk>; Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>

Subject: Re: DM/25/3104 - Borde Hill Garden

Hi Joanne,

Hope you are doing well.

I can see Emily's comments have been uploaded to the planning register this week and thought it would be prudent to contact you in the first instance to understand your position on the application.

Emily has suggested that the viewpoint photos appear to be taken during the summer months, but for clarification, these photos were taken in mid-November. They therefore provide an accurate representation of how the play area could be perceived when leaf cover is at its lowest and, as set out at pages 20-21 of the Planning Statement, the combination of tree cover, topography, separation distances from key viewpoints and the proposed tree belt would provide an effective screen - particularly when viewed from Borde Hill Place.

A similar viewpoint analysis was accepted by Emily when assessing the play area under the original application and, in this context, we hope the current assessment can be considered again. If considered necessary, we can overlay the play structures onto the photos so that the visual impact can be better understood.

On the impact of the extended opening hours, the opening hours and lighting condition attached to the original permission was only applied due to the potential impact on neighbours, rather than on the RPG itself. Nevertheless, the applicants can commit to motion-sensored external lighting to offset impacts and automated, light-sensored internal blinds to the ecolodge to mitigate against light spill during darker hours. Environmental Health have also commented on lighting at Sugworth, but the applicants have confirmed there will be no need for lighting here as visits will be during daylight hours. The applicants can certainly agree to reduced opening hours at Sugworth specifically to provide reassurance that there will be no need for lighting within this part of the application site.

The applicants are happy to defer to Emily on her materials schedule point.

Please feel free to call if it would be helpful to talk through this in more detail.

Kind regards,

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From: Gareth Giles <gareth@whaleback.co.uk>

Sent: Tuesday, December 23, 2025 1:37 PM

To: Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>; Kai Penny <kai@whaleback.co.uk>

Subject: RE: DM/25/3104 - Borde Hill Garden

Hi Joanne,

I've completed the NMA application form, dealing with the removal of the amended plan references from the description. The MSDC PDF version is a bit glitchy so my text is wonky, but hope that's OK! I've ticked "no amended plans to be submitted" for the purposes of the NMA form, as those amendments will be dealt with under the S73 that you have on hand already.

Please could you pass this along to your validation team and I can pay the fee over the phone if they give me a bell on 07736 298938.

Best wishes

Gareth

Gareth Giles FRTPI

Planning Director

gareth@whaleback.co.uk

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From: Gareth Giles

Sent: 22 December 2025 17:09

To: Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>; Kai Penny <kai@whaleback.co.uk>

Subject: RE: DM/25/3104 - Borde Hill Garden

Hi Joanne,

Nice to see you at the WIP event at Oaklands... sorry I couldn't remember which S73 amendments we were making!

No problem about the NMA, I'll try and do that tomorrow otherwise we'll do it first day back in Jan.

I hope you have a very good Christmas break.

Best wishes
Gareth

From: Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>

Sent: 22 December 2025 16:17

To: Kai Penny <kai@whaleback.co.uk>; Gareth Giles <gareth@whaleback.co.uk>

Subject: RE: DM/25/3104 - Borde Hill Garden

Hi Kai and Gareth,

I note Kai's comments of his email from Friday, however following case law we advise that nonmats are required for all S73 applications where the original application makes reference to amended plans in their descriptions. As previously advised the current S73 application would be inconsistent with the operative part of the original permission and result in an alteration to the plans referred to in the description.

My comments of the 19th December therefore stand and I would urge you to submit a S96A application for a non-material amendment to remove the wording in the application description of planning permission deleting details of the amended plans. Once this has been determined, the description on the current S73 application can be considered with reference to both the current permission and the S96A application and then be proceeded with.

The relevant forms can be found at the following link:

<https://www.midsussex.gov.uk/planning-building/apply-for-planning-permission/> (form 38).

I look forward to receiving this from you.

Kind regards

Joanne

Joanne Fisher BSc (Hons), MATP, MRTPI
Team Leader Applications
Planning Services

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joanne.fisher@midsussex.gov.uk

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From: Kai Penny <kai@whaleback.co.uk>

Sent: 19 December 2025 10:27

To: Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>; Gareth Giles <gareth@whaleback.co.uk>

Subject: Re: DM/25/3104 - Borde Hill Garden

Hi Joanne,

Thank you for the e-mail.

I had in fact considered this scenario before we submitted the s73 planning application, but concluded that the changes sought under this s73 planning application still fell within the scope 'AMENDED PLANS' part of the original description. For example, the new play area continues to be removed from Spring Copse as set out within the amended part of the original description.

I am not against submitting a NMA application to resolve this, but could you consider whether the s73 proposal still falls within the scope of the amended part of the original description? This could potentially avoid the need for an NMA application if you are in agreement.

Kind regards,

Kai Penny MRTPI

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From: Joanne Fisher <Joanne.Fisher@midsussex.gov.uk>

Sent: Friday, December 19, 2025 10:17 AM

To: Gareth Giles <gareth@whaleback.co.uk>; Kai Penny <kai@whaleback.co.uk>

Subject: DM/25/3104 - Borde Hill Garden

Dear Gareth and Kai,

I refer to the above application currently under consideration.

It has come to my attention that the description of the original planning permission under reference DM/24/0433 refers to amended plans:

'Visitor and community hub, outdoor learning and adventure playground, community growing area and historic botanical propagation polytunnels, new and improved access and connectivity infrastructure, wider landscaping and biodiversity enhancements and associated works. AMENDED PLANS received 28th May 2024 revising position of southern pay kiosk and bike parking, clarification on surface material, amendments to the eco lodge, removal of play equipment in Spring Copse, submission of Flood Risk Assessment and response and revisions to ecology / BNG. Additional information and amended plans received 18th and 30th July and 14th August in respect of a Water Vole Method Construction Statement, changes to the location of the southern pay kiosk to the south park and also a biodiversity enhancement layout plan and bat species response.'

Following case law in relation to S73 applications, I am unable to determine the current application as the original permission specifically relates to amended plans received on a specific date within the description of the planning permission. The current application would therefore be inconsistent with the operative part of the original permission and result in a fundamental alteration to the plans referred to in the description.

A way around this would be to submit a S96A application for a non-material amendment to

remove the wording in the application description of planning permission deleting details of the amended plans. Once this has been determined, the description on the current S73 application can be considered with reference to both the current permission and the S96A application and then be proceeded with.

The relevant forms can be found at the following link:

<https://www.midsussex.gov.uk/planning-building/apply-for-planning-permission/> (form 38).

I appreciate that this may be disappointing, but I trust it sets the current position.

I look forward to receiving this from you.

Kind regards

Joanne

Joanne Fisher BSc (Hons), MATP, MRTPI
Team Leader Applications
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