Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DC/24/1411
Birchfield Nursery , Kidders Lane, Henfield, West Sussex, BN5 9AB

DESCRIPTION:
Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective)

RELEVANT PLANNING HISTORY:

DC/19/2454	This lawful development application seeks formal confirmation the Deemed Discharge Notice submitted and registered in respect of DISC/18/0371 was lawfully constructed, registered as such by the Council and duly came into effect in accordance with the law such that the details submitted pursuant to conditions 6 and 7 of DC/17/1067 were, in law, deemed approved 12 March 2019. (Certificate of Lawful Development - Proposed)	Application Refused on 03.02.2020
DC/20/1906	Change in use of the premises to mixed-use purposes for Use Classes B8, E and as a base for a garden design and landscaping business.	Application Refused on 24.06.2021
DC/22/1667	*Removal and demolition of the existing structures and equipment and the erection of an indoor plant sales and display areas, landscaped gardens, horticultural vintage working areas and crafts, sand school, stables, display gardens, cafe, restaurant, sales and meeting rooms, indoor soft play, outside crafts and events space, and other uses, security measures and facilities ancillary to the existing nursery and horticultural use.*	*Application returned*
DC/23/1536	Application to confirm the continuous use of building for Class E use as a Coffee shop for a period in excess of ten years (Lawful Development Certificate Existing)	Application Refused on 10.10.2023
DC/23/1563	Retention of existing hardstanding for the storage of outside plants and erection of a storage building for agricultural use (landscape supply).	Application Refused on 16.04.2024
DC/24/1447	Retention and use of hardstanding (Retrospective).	Under consideration
DC/24/1448	Creation of onsite storage including barn and polytunnel.	Under consideration
DC/24/0290	Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective)	Application Refused on 23.04.2024

SITE AND SURROUNDS
The application site relates to a small parcel of land within the wider 'Birchfield Nursery' land holding, which comprises an overall 2.3ha of land within a rural area, and known also as Jack Dunckleys. The application relates to an area of land adjacent to Garden Sage, which is just under 200sq.m. The wider site lies some 540m north of the Henfield Built Up Area Boundary (as the crow flies), and is subject to a

complex planning history, having been predominantly a wholesale horticultural nursery for some 30+ years before changing hands in 2010.

A range of buildings and structures occupy the northern area of the site, from glasshouses and polytunnels, to timber buildings and portacabins. Around these structures are areas of hard-standing, gravel and compacted ground, most of which were formerly part of the nursery plant sales and growing areas. A retail garden nursery, Garden Sage, is currently trading out of a number of polytunnels and occupies some of the intervening area within the centre of the site, whilst a landscaping business, Jack Dunckleys, also retains a base on the site, using a number of the structures and areas within the northern area of the site for storage purposes. There are other storage uses on site, with visible uses including the storage of leisure vehicles / mobile homes, and Mayblossom Café which started operating from a new marquee on the site in March 2023, according to its social media feed. Officers noted at the time of the site visit late in 2023 that Garden Sage has increased its sales area within the site thus having established a greater presence on the site compared to a previous site visit in 2021 in relation to DC/20/1906. Some of the previous structures present on the site, such as some polytunnels found along the western boundary, have lost their covering and are currently dilapidated and appear to be unused.

There are other business uses at the site which appear to be listed on Google, although officers have not been able to corroborate these as part of the current application:

- London Road Storage (Internal and external storage space advertised)
- KM Floral Design (florist) – opening times listed as 09:30 – 17:00 (Mon – Fri) and 09:00 – 14:00 (Sat)
- Country Machinery Ltd (facebook post 21st September) – garden machinery repair and services
- Falcon Events – event management company
- Family Emporium (sweet shop)

Vehicular access has recently been established directly off the A281, approved under application DC/17/1067. The site is bounded by Kidders Lane to the north and the A281 along the eastern side, grassed verges, earth bunds and Oak trees. A smaller bund divides this northern part of the site where the area of historic use and buildings are located, from the southern area which has historically remained open and undeveloped.

Background:
DC/11/1250 - Proposed new building incorporating shop, coffee shop, kitchen, store, office and WC's (Permitted Jan 2012) Although now lapsed, having not been implemented, it is noted that the site plan only encompassed the northern area of the site, leaving the southern area open, as per its historic agricultural functions. Furthermore, the site plan was to include an octagonal 'feature' sales building comprising staff facilities, landscape / design offices, café, retail shop and increased parking areas, with glasshouses and polytunnels, typical for such a retail garden centre, all laid out in an organised manner within the previously used part of the site. The site was considered to be 'well-screened' on account of the boundary trees and hedging present at the boundary at the time.

DC/14/2007 - Various works to existing nursery operation including erection of new multipurpose main building featuring retail, office, exhibition and ancillary accommodation and site storage shed. Formation of new vehicular access to the A281 together with car parking and service road and the provision of new boundary security fencing (Refused Jan 2015 – Appeal Dismissed Sept 2015)
Permission for a scheme with a smaller building, including a new vehicular access directly off the A281, parking and delivery areas, was refused on grounds of harmful prominent appearance being at odds with the rural character of the locality and the site. The submitted site plan retained the development within the northern part of the site, leaving the southern area open and undeveloped. The subsequent Appeal was dismissed with the Inspector finding the 10m tall pyramidal building was not innovative, nor displayed any traditional rural 'pedigree' and could not be comparable to agricultural buildings found nearby. The building was deemed to be 'starkly and strangely alien' in form and scale with little sympathy for its setting'. The relocation of the entrance to the A281 was also considered to increase the scope for viewing the building.

DC/17/1067 - Proposed creation of new access and vehicle crossover (permitted Aug 2017)
A new vehicular access to serve the site was permitted off the A281, on the provision that the existing access points to Kidders Lane would be removed and re-grassed, and subject to approval of the pre-commencement conditions to secure road surface details and levels, visibility splays and details of the new access gates and landscaping. In considering the proposed re-location of the access, it was noted that under DC/14/2007, the relocation of the car parking away from the residential boundary with Birchfield House was considered to lead to amenity improvements, whilst the access did not raise any highways-based objections. In this instance, the access off the A281 was to serve the retained site layout, and was to be mitigated by way of a fully landscaped entrance.

Although conditions relating to the road surface levels and visibility splays were submitted and approved (DISC/18/0207), conditions in relation to the landscape, gate details and reinstatement of the existing accesses were refused (DISC/18/0371). Despite the ongoing unresolved issues over the latter two issues, the new access has been formed, and most recently, surfaced. A Lawful Development application was submitted, and refused, to confirm a DDN in respect of conditions under DISC/18/0371 was registered and duly came into effect, thus effectively approving matters in relation to landscape and reinstatement of the grassed verge at Kidders Lane.

EN/18/0135 – Enforcement Notice issued in relation to a material change of use of the land and structures from a plant nursery to include storage of domestic and commercial vehicles and other items not functionally related to the lawful use for the land, and extension of the existing hard surface across the land beyond that reasonably required for its use as a plant nursery (Served April 2019)
Although relating to the northern part of the site, it is notable, that in determining the Enforcement Appeal on Ground (a) (EN/18/0135), the Inspector had regard to the planning merits of the use of the site for the open storage of commercial vehicles, and use of the structures for other storage purposes. Specifically in relation to the open storage of vehicles within the site (northern part), the Inspector concluded that the impact on the open and rural character by way of the taller vehicles, would lead to a harmful effect on the character and appearance of the surrounding area. The Enforcement Notice appeal was dismissed, and the Notice upheld with corrections, requiring compliance with the notice within a 6 month period, and planning permission refused on the deemed application.

DC/20/1906 - Change in use of the premises to mixed-use purposes for Use Classes B8, E and as a base for a garden design and landscaping business (Refused Oct 2020)
Although refused on grounds of inappropriate location and harm to the rural character, landscape and appearance of the surrounding area, the committee report acknowledged that the proposal sought to specify open storage areas within the site, limit the heights of items being stored within the site, noting also that the east / A281 boundary would be reinforced by way of additional planting and bunds, and a re-aligned entrance to offer visual screening of the interior of the site. A landscaped area of community 'woodland walk' was also offered within the site. This application sought to introduce open storage use within the southern area of the site, to be mitigated with additional planting to a bund that would define the northern and southern areas of the site. The application also sought to formalise the presence of the landscape business 'Jack Dunkley Designs' within specified areas and buildings on the site, and regularise the use of other existing buildings and structures for open Class E use, contributing a local economic benefit to the local community.

A subsequent appeal was dismissed in Feb 2022, with the Inspector acknowledging that specified landscaping features may reduce the visibility of inappropriate uses within the site these would still be evident when passing the site and particularly to users of the proposed community 'woodland walk'. Further economic benefits were also noted, although the specifics regarding any detailed comparison between the former plant nursery and the appeal scheme were not provided for assessment. Overall, the appeal scheme was considered to represent inappropriate use within the countryside, representing a clear conflict with HDPF policies 2, 10, 15 and 26.

Since the determination of the appeal, a number of unauthorised uses have ceased on this site, including the use of the site for HGV training and a crane and lifting equipment training centre (UTN). Investigations have also been made regarding the deposit of rubble and hard-core to form an area of hard-standing in the southern part of the site which have been subject to application **DC/23/1563**

(refused April 2024). The same planning application also sought permission for a new storage building in association with the landscape business operating form the site. Aerial mapping reveals that an area of some 825 sq.m of hard-standing has been laid in this southern portion of the site.

DC/22/1667- Removal and demolition of existing structures and equipment including storage sheds, polytunnels, scaffolding, camper vans and non-nursery plant equipment and storage; to be replaced with purpose-built indoor plant sales and display rooms, landscaped gardens, horticultural vintage workshops and crafts, sand school, stables and equestrian shop, display gardens, cafe, restaurant, sales and meeting rooms, indoor soft play, outside crafts and events space, and other uses and facilities ancillary to the existing nursery and horticultural use (Application withdrawn in April 2023 prior to formal validation)

DC/24/0290 - Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective) (Refused April 2024)
Officers recognised that in many instances, the presence of a small café offered a viable ancillary element to garden plant nurseries, although an independent business that operated in a manner that was separate to Garden Sage, such as trading beyond the opening hours of the garden nursery, would conflict with the criteria of HDPF policy 26. Whilst officers were satisfied that the ancillary operations could be suitably controlled by way of planning conditions, it was the lack of information included within the application to demonstrate a water neutral position that provided the refusal reason.

Applications **DC/24/1447** and **DC/24/1448** are currently pending consideration in relation to other areas of the site, concerning proposed storage uses associated to the landscape business and a shed in association with the garden nursery operating form the site (Garden Sage).

A Prior Notification to confirm a flexible use of an existing portacabin on the north part of the site under Class R, currently being used as a sweet shop (**DC/24/1575**), has been objected to by the Council, dated 21st November 2024.

An application to formally discharge planning conditions 6 and 7 of permission DC/17/1067 has recently been formally approved, relating to the vehicular access off Brighton Road (A281) and boundary landscape, fence and gate details (**DISC/24/0270**).

DETAILED DESCRIPTION
The current planning application relates to the pop-up café (Mayblossom Café) which is located adjacent to the Garden Sage retail plant nursery, operating ancillary to Garden Sage.

The proposal comprises a marquee (some 8m x 7m) with timber café 'pod' from which the food and drinks are served (some 2.5m x 2.5m), along with outside eating area demarcated by planters and potted plants which are for sale in the Garden Sage nursery (some 7m x 13m). The outside area can accommodate some 5 wooden tables and benches (accommodating some 20 patrons), while the inside of the marquee is stated as accommodating some 8 tables / 32 patrons.

The application does not refer to a time period sought under the 'temporary' permission, but instead refers to the 'temporary' nature of the marque and the hut.

The applicant is happy to provide fixed WC's in the event that these are required, linked to an on-site sewerage treatment plant

A Water Neutrality Statement has been provided.

RELEVANT PLANNING POLICIES
The National Planning Policy Framework (NPPF)

Horsham District Planning Framework (2015):
Policy 1 - Strategic Policy: Sustainable Development
Policy 2 - Strategic Policy: Strategic Development
Policy 7 - Strategic Policy: Economic Growth

Policy 9 - Employment Development
Policy 10 - Rural Economic Development
Policy 11 - Tourism and Cultural Facilities
Policy 24 - Strategic Policy: Environmental Protection
Policy 25 - Strategic Policy: The Natural Environment and Landscape Character
Policy 26 - Strategic Policy: Countryside Protection
Policy 31 - Green Infrastructure and Biodiversity
Policy 32 - Strategic Policy: The Quality of New Development
Policy 33 - Development Principles
Policy 36 - Strategic Policy: Appropriate Energy Use
Policy 37 - Sustainable Construction
Policy 38 - Strategic Policy: Flooding
Policy 40 - Sustainable Transport
Policy 41 - Parking
Policy 42 - Strategic Policy: Inclusive Communities
Policy 43 - Community Facilities, Leisure and Recreation

Paragraph 33 of the NPPF requires that all development plans complete their reviews no later than 5 years from their adoption. Horsham District Council is currently in the process of reviewing its development plan however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the most important policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). This includes, for applications involving the provision of housing, whether the Council can demonstrate a five year supply of deliverable housing sites (NPPF footnote 8).

The Council is currently unable to demonstrate a five year supply of deliverable housing sites, with the supply currently calculated as being 2.9 years. The presumption in favour of development within Paragraph 11d) of the NPPF therefore applies in the consideration of all applications for housing development within the District (unless footnote 7 or Paragraph 14 applies to relevant applications), with Policies 2, 4, 15 and 26 now carrying only moderate weight in decision making.

All other policies within the HDPF as itemised above have been assessed against the NPPF and are considered to be consistent such that they continue to attract significant weight in decision making.

Supplementary Planning Guidance:
Community Infrastructure Levy (CIL) Charging Schedule (2017)

Neighbourhood Plan:
Henfield Neighbourhood Plan (2021)
Policy 1 – A Spatial Plan for the Parish
Policy 3.2 – Development of new and Existing Employment Uses
Policy 4 – Transport, Access and Car Parking
Policy 10 – Green Infrastructure and Biodiversity
Policy 12 – Design Standards for New Development

Parish Design Statement:
Henfield Parish Design Statement – Dec 2008

Planning Advice Notes:
Facilitating Appropriate Development
Biodiversity and Green Infrastructure

REPRESENTATIONS AND CONSULTATIONS RESPONSES
Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at www.horsham.gov.uk

Consultations:

INTERNAL CONSULTATIONS

HDC Environmental Health: No Objection

- It is not clear if rainwater harvesting is intended to be used for the café. Only potable water is to be used in the café, and for human consumption.
- Portacabin WCs must be retained for the entirety of the temporary café use.

OUTSIDE AGENCIES

WSCC Highways: Comment

- From observation of data supplied to WSCC from Sussex Police, it appears that there has been a single collision at the point of access, this was however attributed to a driver error and not to any pre-existing concern with the operation of the access.
- The café use has been in place for approx. 3 years with no known highways safety or capacity concerns. Trips to the café are likely to be made up mostly of combined trips with the use of the nursery. On this basis, the temporary retention of this café would not be considered to give rise to a material change in the nature and capacity of movements to the site. The existing parking provision is to be retained and has functioned for some time with no known safety or capacity issues.
- The Local Highways Authority has been made aware of a larger long term proposal at the site, however The LHA are required to consider the merits of the application submitted. Comments made in this report relate to the development proposed, as set out above. Any further applications on the site would be considered on their own merits at the time of submission.
- The Local Highway Authority does not consider that the 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 115), and that there are no transport grounds to resist the proposal.

Natural England: No Objection

Parish Comments: Objection

No indication of how Water Neutrality would be achieved

Representations:

To date, 6 letters of representation have been received, of which 3 are from outside of the district boundary.

All of the representations express support for the proposal:

- Generally visit once / twice a week – good offer of food and drinks at reasonable prices
- Support for local business – helps with footfall for other shops in Henfield
- Wood structure in keeping with surrounding garden centre
- No overlooking / disturbance to residences
- Surrounding trees shield the building from mot angles of view outside the grounds – don't restrict view of he approaching drive and entrance to the grounds
- No overshadowing of other buildings
- Ample seating inside and outside
- Large parking area - accessible to those with mobility issues

HUMAN RIGHTS AND EQUALITY:

The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the same Act, which sets out their rights in respect to private and family life and for the home. Officers consider that the proposal would not be contrary to the provisions of the above Articles.

The application has also been considered in accordance with Horsham District Council's public sector equality duty, which seeks to prevent unlawful discrimination, to promote equality of opportunity and to foster good relations between people in a diverse community, in accordance with Section 149 of the

Equality Act 2010. In this case, the proposal is not anticipated to have any potential impact from an equality perspective.

PLANNING ASSESSMENT

Background:

Whilst there is a complex and lengthy planning history associated with the wider Birchfield Nursery site, there is only a limited planning history associated with the occupation of part of the site by Garden Sage and Mayblossom Café, concerning a recently refused application for the pop-up café (DC/24/0290), on grounds of a lack of a water neutral position being able to be demonstrated. Indeed, in terms of the site's authorised use, this remains to be considered as an agricultural / horticultural use, as there have been no consents or CLEUDS granted in respect of other uses.

Officers note that the former horticultural use of the site fell within the agricultural / horticultural land use classification on account of plants being propagated and grown on within the nursery, before being sold at wholesale or retail. Officers are not offering any planning judgements on the wider uses present at the site, and are only considering the merits of the proposed temporary cafe that seeks to operate adjacent to Garden Sage.

Principle of Development:

Policy 10 (Rural Economic Development) of the HDPF states that sustainable rural economic development and enterprise within the district will be encouraged in order to generate local employment opportunities and economic, social and environmental benefits for local communities. In the countryside, development which maintains the quality and character of the area, whilst sustaining its varied and productive social and economic activity will be supported in principle. Any development should be appropriate to the countryside location and must:

> *Contribute to the diverse and sustainable farming enterprises within the district or, in the case of other countryside-based enterprises and activities, contribute to the wider rural economy and/or promote recreation in, and the enjoyment of, the countryside; and either:*
>
> *a. Be contained wherever possible within suitably located buildings which are appropriate for conversion or, in the case of an established rural industrial estate, within the existing boundaries of the estate; or*
>
> *b. Result in substantial environmental improvement and reduce the impact on the countryside particularly if there are exceptional cases where new or replacement buildings are involved. New buildings or development in the rural area will be acceptable provided that it supports sustainable economic growth towards balanced living and working communities and criteria a) has been considered first*.

In addition, a proposal must demonstrate that car parking requirements can be accommodated satisfactorily within the immediate surrounds of the buildings, or an alternative, logical solution is proposed.

Policy 26 (Countryside Protection) of the HDPF states that outside built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. Any proposal must be essential to its countryside location, and in addition meet one of the following criteria:

1. Support the needs of agriculture or forestry;
2. Enable the extraction of minerals or the disposal of waste;
3. Provide for quiet informal recreational use; or
4. Enable the sustainable development of rural areas.

In addition, proposals must be of a scale appropriate to its countryside character and location. Development will be considered acceptable where it does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area.

The site is located outside of the built-up area boundary and is therefore considered to be located within a countryside location. The proposed cafe would not introduce the creation of any new

permanent structures on site as the marquee is of a temporary nature, and the outside seating area is demarcated with pot plants which are for sale in the garden centre. However, as other polytunnels (also temporary structures) on this same site are noted to have been in place for a number of years, it is therefore entirely plausible for temporary structures to take on an element of permanence. Furthermore, the nature of use of the marquee set within the wider red line boundary comprising the entire 'Birchfield' site, would represent the introduction of an E class use (E[b]) within an agricultural / horticultural site. At this stage, it is noted that no formal permissions exist for formal non-agricultural uses to take place within this site.

In terms of the proposed activity, it is noted that the café is intended to operate in an ancillary manner to the retail plant nursery (Garden Sage), which occupies a central location within the wider 'Birchfield Nursery' site. The Garden Sage website advertises its opening hours as 7-days a week (Mon – Sat 08:30 – 17:00 hours, and Sun 10:00 – 16:00 hours).

In respect of the proposed Mayblossom café, officers note that there are 5 tables shown within the external seating area (20 patrons), and 8 tables within the marquee (32 patrons). The supporting statement refers to access to 2 x portable WCs.

The overall seating capacity is therefore around 32-52 patrons, depending on weather. Officers therefore do not consider that the overall level of activity in the countryside would increase to a degree that would conflict with Policy 26, taking account of the retail plant nursery operating from the site, alongside other uses at the site, and given the minimal footprint occupied by the proposed café (being less than 200sq.m). Officers consider that the proposed cafe could represent the sustainable development of the rural area if operated in an ancillary capacity to a 'host' use, which in this instance, would be Garden Sage.

The submitted application form and Water Neutrality Statement indicates that the café use currently offers employment for 2 full-time members of staff and 1 part-time members of staff. Although officers acknowledge the benefits of increased employment opportunities, as set out in HDPF Policy 10, this would represent a limited economic benefit in terms of employment.

Whilst officers fully acknowledge that the site did once secure consent for a redevelopment of the site to provide for a new large sales and educational building, including a customer café, this was never implemented following the decision in 2012. Furthermore, officers consider that the horticultural use of the site diminished over the course of some 10 years, and has only recently been reinvigorated following occupation of Garden Sage within the central area of the wider site.

The proposed café use would offer an ancillary benefit to the existing retail plant nursery currently operating out of the site, but officers note that the proposal would enable an unfettered Class E use to become established within the site, thus undermining the original agricultural / horticultural use of the site, unless planning conditions are imposed, or a 'personal' permission is applied to ensure the café remains ancillary to the garden nursery (Garden Sage).

Officers conclude that the proposal could contribute to the wider rural economy and/or promote recreation in, and the enjoyment of, the countryside, as per the requirements of Policy 10, subject to the application of suitable planning conditions, albeit at a limited scale. As required by Policy 10(1)(b), the proposed use would not be contained within an existing building, but would be located within a site where temporary structures have in the past been in place, as can be evidenced by historic site photos and aerial photos. Furthermore, the nature of the marquee and attached 'hut' would be of a temporary nature, and easily removable.

The proposed cafe would support only limited local employment opportunities, the current occupiers of the site are a local business (based in Henfield), and therefore supported in accordance with Policy 10 of the HDPF.

Amenity Impacts:
Policy 33(2) of the Horsham District Planning Framework states that permission will be granted for development that does not cause unacceptable harm to the amenity of the occupiers/users of nearby properties and land.

Nearby residential properties are noted some 90m to the north-west (Birchfield House), 230m to the south (The Coach House, Hill House and Lidde Hill Lodge, and some 260 to the west (Kidders Cottages).

In terms of how the rest of the wider site operates, there are no current planning restriction imposed on the site in terms of days and hours of operations, as there has been no formal planning consent for any of the current operations taking place at the site. The application form states that the café would operate Mon-Sat 09:00 – 17:30 and Sundays 09:00 – 16:30 – which is stated to be aligned with the opening hours of Garden Sage, although officers note that Sunday trading hours vary from the posted Garden Sage opening hours.

In terms of potential adverse neighbour amenity impacts, the proposed café use is not likely to generate a level of additional disturbance by way of the associated vehicular movements accessing and exiting the wider site or in terms of noise from conversations/activity due to its limited size and association with the adjacent Garden Sage occupier.

The proposed use would therefore not result in unacceptable harm to neighbouring amenity, in accordance with Policy 33(2) of the HDPF.

Highways Impacts:
Policy 40 of the HDPF supports proposals which provide safe and suitable access for all vehicles, pedestrians, cyclists, horse riders, public transport and the delivery of goods, whilst Policy 41 requires adequate parking facilities within developments. Chapter 9 of the National Planning Policy Framework sets out that 'development should only be refused on transport grounds if there would be an unacceptable impact on highway safety grounds, or the residual cumulative impacts on the road network would be severe'.

Officers recognise that the recently constructed access directly off the A281 leads to an area of gravel along the eastern side of the sider site, which is used for parking in association with Garden Sage nursery and other uses of the site. There appears to be more than sufficient space within the wider application landholding, for parking to take place associated with the proposed café use, without leading to any parking on the public highway.

Following assessment of the proposal by the Local Highways Authority, the proposed pop up café is not considered to lead to any material intensification of the public highway network, over and above the existing level of traffic to the wider Birchfied Nursery site and the wider uses operating form the site. The Highways Authority are have previously noted that the internal layout of the wider site can accommodate informal parking spaces and allow turning within the site. Comments returned in relation to the current application notes that the parking and access to the site have been operating without issues for a number of years since the access off the A281 has been formed.

Therefore, the proposal would satisfy the requirements of HDPF policies 40 and 41, and para 115 of the NPPF, as there would be no unacceptable impact on highway safety, and no severe residual cumulative impact on the public road network.

Water Neutrality:
The application site falls within the Sussex North Water Supply Zone where mains-water is supplied by way of groundwater abstraction within the Arun Valley. The Local Planning Authority received a ‘Position Statement’ from Natural England in September 2021, advising that the effects of existing groundwater abstraction cannot be objectively demonstrated to be compatible with the conservation objectives of a number of habitat sites. The habitat sites named within the Natural England position statement include the Arun Valley SAC, SPA and Ramsar sites.

Within its Position Statement of September 2021, Natural England advise that decisions on planning applications should await the development of a water-neutrality strategy on a strategic basis. In the current absence of a strategic solution to achieving water-neutrality, Natural England advise that individual plans and projects, where it is critical that these proceed, must demonstrate net-neutrality in

respect of the use of mains-water such as to avoid contribution to the known adverse effect upon the integrity of Arun Valley habitat sites by reason of water-use.

Officers note that the proposed pop-up café serves hot and cold drinks, prepared on site, along with a number of food and snack items. There would be a requirement therefore for hot and cold running water to provide for hand-washing, food prep and cleaning.

Existing water consumption (site-wide)
A Water Neutrality Statement has been submitted in support of the current application, which officers have reviewed in detail. Metered water bills have been used for the entire 'Jack Dunckley' site dating between 1st May 2020 to 15th May 2024 (a period of 1461 days), arriving at an average daily (site-wide) water use of **2,100 l/d**. Given the high water demand presented by the current hand watering practices for the plant stock at the nursery, and the other low-water using uses at the site, the WNS advances a figure of some 80% of this overall daily water use being attributed to the plant watering (1,680 l/d) at the nursery use.

Proposed water consumption (cafe)
The pop-up café (for which permission is currently being sought) has been operating form the site since March 2023, which has enabled a detailed customer base to be established, derived from the Point of Sale (POS) invoice system. Along with the 3 staff per day serving the café, the WNS has calculated an average of 23 customers per day, which results in the following water use calculations:

- 42.04 l/p = staff (x 3 = 126.12 l/d)
- 28.16 l/d – customer (x 23 = 647.68 l/d)

Therefore, the average daily water demand arising from the café use at the site has been calculated as **773.80 l/d.**

Proposed on-sit mitigation package
The proposal seeks to install a drip irrigation system to the plant nursery, which would create less wastage over and above the existing system of hand watering and flood watering of the plant stock.

The proposed drip watering system is envisaged to create a water saving at the site of some **504.1 l/p.**

In addition, the nursery is seeking to reinstate the site's ability to collect surface water run-off and storage within water tanks. As part of the current off-setting proposal, 3 x 30,000 litre new storage tanks are to be installed in replacement of the existing tanks, totalling a storage capacity for the nursery site of 90,000 litres.

The site's surface area has been calculated in the WNS at 2.3ha, thus capable of achieving a potential run-off of 42,647 l/d (based on average rainfall of 752mm). The WNS uses the BS8515 calculation and the UK SuDS run-off method to arrive at a consistent **426.47 l/d** which can be collected from the site and stored for re-use.

As this water is for the irrigation of plants, it would not need to be treated to a potable standard.

The overall mitigations have therefore been calculated as having a potential to reduce / offset the existing water use of the nursery business by **930.57 l/d** which is around 156.77 l/d greater than the calculated water demand created by the café (calculated at **773.80 l/d**)

As the site proposes replacement of the 3 x 30,000 litre tanks, the overall site can offset the residual amount of additional water demand created by way of the café, with a generous headroom.

Having been presented with a robust set of calculations which arrive at a reasonable water demand for the cafe, officers conclude that sufficient information has been provided to demonstrate that the development is capable of becoming water neutral based on the implementation of the proposed efficiency and rainwater collection measures to serve the wider garden centre/ nursery business. It is therefore possible to conclude that the proposed development would not result in a likely adverse impact on the Arun Valley protected sites.

Sufficient information has been provided to demonstrate with a sufficient degree of certainty that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites by way of increased water abstraction, contrary to Policy 31 of the Horsham District Planning Framework (2015), Paragraphs 192 and 193 of the National Planning Policy Framework (2024), thus the Local Planning Authority is able to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority Habitats & Species).

Biodiversity Net Gain (BNG):
Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This requires that development must achieve at least 10% BNG on all habitats within the development site.

In this instance, as the proposal concerns the retrospective siting and use of land and structures as set out, the application does not trigger the requirement to demonstrate BNG.

Conclusions:
The proposal seeks to utilise a small portion of land area within the wider Birchfield Nursery site, alongside the retail plant nursery (Garden Sage), to accommodate a temporary pop-up café (Mayblossom café). There is no further indication on the temporary nature of this proposal, and whether the permission is sought for a limited period of time, and what that period may be, or whether the 'temporary' element applies to the demountable nature of the marquee and café 'pod'.

The application is submitted by the owners of the Garden Sage nursery business, and therefore suggests that the café would operate in an ancillary / supporting manner to the plant nursery, rather than as an independent destination point. This ancillary nature is also emphasised by the siting of the café and its outside seating area, which is immediately adjacent to the Garden Sage entrance and surrounded by plant stock, thus appearing to operate as part of the nursery business.

Officers consider that an independent café operating from this agricultural / horticultural site would be in conflict with the criteria of HDPF policy 26, as the café, in its own right, does not fit the stated provisions. However, if it is maintained in a way that operates, as suggested in the application documents, in an ancillary and supportive manner to Garden Sage, and with a customer base linked to Garden Sage then the impacts would be minimal. Absent of this link, the increased traffic movements and activity in the countryside would be contrary to Policy 26.

For the café to operate in a supporting and secondary role to Garden Sage, opening hours would need to be mirrored, and the operation of the café would need to be linked to Garden Sage's existence within the site, thus ensuring that if Garden Sage ceases to trade or operate from this site, the café could not continue to operate independently from the site.

Furthermore, to ensure the viability and impact of the café could be tested, officers would suggest that any grant of approval be of a temporary nature, such as a temporary duration, particularly as the café has already been in place since March 2023 and operational without the benefit of planning consent. Whilst officers recognise that temporary permissions might otherwise extend to a 3-year period, it is clear from social media marketing that the café has been operational at the site since March 2023, and would have had more than 3 years to establish itself from the time any permission is granted under the current application, thus allowing for the Local Planning Authority to test the use and monitor the impacts.

Therefore, a reduced temporary duration would be advised, to enable the use and impact to be tested (expiring January 2027).

To achieve the above, and to ensure that the café use remains secondary to that of Garden Sage, which is itself operating within a wider land holding that currently benefits only from lawful agricultural / horticultural use, officers would suggest the need to include bespoke planning conditions in any grant of approval. To this effect, any grant of approval would need to include an opening hours condition, a

time limited consent condition and a condition which ties its use to that of Garden Sage currently operating at the site.

With the above in mind, and subject to the suggested bespoke conditions, officers consider that the proposal would accord with policies 10, 26, 33, 40 and 41 of the HDPF.

The current application has included a robust and credible water neutrality statement, setting out mitigation measures to achieve a water neutral position. The proposals has therefore now demonstrated appropriate levels of mitigation and/or offsetting measures to address the demand and meet water neutrality.

Sufficient information has been provided to undertake the Assessment and it is possible for Horsham District Council to conclude that, with mitigation, the project will not have an Adverse Effect on the Integrity of the Arun Valley SAC/ SPA /Ramsar site. The proposal is therefore recommended for Approval, subject to the following conditions.

Recommendation: Application Permitted

Conditions:

1 Plans list

2 **Regulatory condition**: The use of the site hereby permitted as a cafe (Use Class E(b)), including all associated structures comprising the mobile cafe unit, seating marquee and outdoor seating area, shall be limited to the land identified within the blue hatched area on the Site Location Plan (DWL 01 received on 13.09.2024) only, and the use of this land shall be discontinued, and removed, and the land shall be restored to its former condition on or before 01.01.2027 in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason: The proposed development is not considered satisfactory as a permanent measure in accordance with Policy 33 of the Horsham District Planning Framework (2015).

3 **Regulatory Condition**: The premises shall not be open for trade or business except between the hours of 08:30 - 17:00 Monday to Saturday and 10:00 -16:00 hours Sundays and Public/ Bank Holidays

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4 **Regulatory Condition**: The cafe hereby permitted shall be operated ancillary to the operation of the horticultural nursery business operating from the site (Garden Sage) only, and shall not operate as an independent cafe use at any time.

Reason: The establishment of an independent cafe use would introduce a non-agricultural use at the site contrary to the provisions of Policy 26 of the Horsham District Planning Framework (2015).

5 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020), or any order amending or revoking and/or re-enacting those Orders, the premises hereby permitted shall be used for Class E(b) café use only and for no other purposes whatsoever without express planning consent from the Local Planning Authority first being obtained.

Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case

due to the rural location of the site under Policy 26 of the Horsham District Planning Framework (2015).

5 **Post-Occupation Condition**: Within three months of the date of the permission hereby granted, evidence shall have been submitted for approval in writing by the Local Planning Authority that the approved water neutrality strategy (prepared by Atelier T&B Limited, received 13.09.2024) has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, evidence they meet the required water consumption flow rates, and evidence of the installation and connection of the rainwater harvesting system / drip feed watering system and appropriate storage tanks to provide a minimum 35 days storage capacity. The installed measures shall be retained and operated as such at all times thereafter.

Reason: To ensure the development is water neutral to avoid an adverse impact on the Arun Valley SACSPA and Ramsar sites in accordance with Policy 31 of the Horsham District Planning Framework (2015), Paragraph 192 and 193 of the National Planning Policy Framework (2024), and to enable the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), and s40 of the NERC Act 2006 (Priority habitats & species).

NOTE TO APPLICANT

Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

Biodiversity net gain does not apply to retrospective planning permissions made under section 73(A).

Based on the information submitted in the planning application documents, the Planning Authority considers that biodiversity net gain does not apply.

Statutory exemptions and transitional arrangements
There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at https://www.gov.uk/guidance/biodiversity-net-gain.

Irreplaceable habitat
If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

POSITIVE AND PROACTIVE STATEMENT

Statement pursuant to 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 assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

Plans list for: DC/24/1411

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

Plan Type	Description	Drawing Number	Received Date
Location plan		DWL 01	13.09.2024
Floor plan	Existing and Proposed roof	NONE	13.09.2024
Block plan	Existing and Proposed	NONE	13.09.2024
Elevation plan		NONE	13.09.2024

DELEGATED

Case Officer sign/initial Nicola Pettifer Date: 18.12.2024

Authorising Officer sign/initial Adrian Smith Date: 19/12/2024