Horsham District Council

Mr Edward Nugent
Garden Sage
Garden Sage
Birchfield Nursery
Kidders Lane
Henfield
West Sussex
BN5 9AB

Birchfield Nursery, Kidders Lane, Henfield, West Sussex
Temporary permission to retain pop-up coffee shop, ancillary to the wider horticultural use (Retrospective)

Your application DC/24/1411 has now been determined and I enclose the decision notice. The decision notice contains important information. Please take a moment to read it as further action may be required.

Conditions
Before you start work, information must be submitted for any conditions that require discharge before development can begin. The decision notice will set out what information need to be sent.

Biodiversity Net Gain Condition
Please note the requirement within the Environment Act 2021 for development to deliver a minimum of 10% net gain in biodiversity may be applicable to your development. In the event your development is required to achieve a minimum 10% net gain in biodiversity then a Biodiversity Net Gain Condition (separate to the main list of conditions) will appear on your decision notice requiring the submission of a Biodiversity Gain Plan for approval prior to development commencing.

Failure to discharge conditions before commencing development could result in the development being unlawful or enforcement action being taken. You can notify us of your intention to initiate development by completing a pre-commencement notification which will help us to monitor your development. There is no fee to use this service. To do this, or for further information about discharging planning conditions, visit us online at horsham.gov.uk/planning/discharging-a-planning-condition

Community Infrastructure Levy (CIL)
If this development is CIL liable, the requirements of CIL must be met before you start work. Failure to do so could result in additional financial penalties. For further information relating to CIL visit horsham.gov.uk/planning/planning-policy/community-infrastructure-levy/cil-charges-and-how-to-pay

If you have any questions about the decision notice, you can call us and speak to a member of the team on 01403 215187 between 9AM - 5PM, Monday to Friday.

If you are acting as the planning agent for this application, please ensure that the applicant is given a copy of the decision notice and this letter.

Yours Sincerely,
Development Management

Horsham District Council

Mr Edward Nugent
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Application Number: DC/24/1411

TOWN AND COUNTRY PLANNING ACT, 1990 (as amended)
TOWN AND COUNTRY PLANNING (Development Management Procedure) (England) Order 2015

On behalf of: Mr Edward Nugent

In pursuance of their powers under the above-mentioned Act and Order, the Council hereby notify you that they PERMIT the following development, that is to say:

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

Birchfield Nursery, Kidders Lane, Henfield, West Sussex

to be carried out in accordance with Application No. DC/24/1411 submitted to the Council on 13/09/2024 and subject to compliance with the plans/documents and conditions specified hereunder.

Emma Parkes
Head of Development and Building Control

Date: 19/12/2024

1 **Plans Condition**: The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule below.

SCHEDULE OF PLANS/DOCUMENTS

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

Reason: For the avoidance of doubt and in the interest of proper planning.

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).

6 **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.

Note to Applicant:
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.

ADDITIONAL INFORMATION

Planning Permission – Important Provisos
If planning permission has been granted, please note that your Notice of Decision refers only to consideration of your proposal under the Town and Country Planning Acts. It is not a building regulations approval and does not mean that you can disregard other Acts of Regulations or avoid any other legal obligations. Some of these obligations, of particular relevance to your proposal are referred to elsewhere in this note. Before you proceed with your proposal you should ensure that a Building Control application is not required or has been submitted. The Building Control Department can be contacted on 01403 215151.

If this permission relates to new dwellings, commercial premises or other buildings which will require a new postal address you should contact the Council's Street Naming & Numbering Department as soon as possible or before work commences on site. Further details are available on the Street Naming page on the Council's website or alternatively e-mail streetnaming@horsham.gov.uk or telephone 01403 215139.

It is the responsibility of the developer to provide bins for the development. If you are a developer and need to purchase bins, please email hop.oast.admin@horsham.gov.uk.

It must be stressed that the information included on this Notice of Decision may not include all your legal obligations, and it does not grant you rights to carry out works on or over lands, or to access land that is not within your control or ownership.

Amendments
Should alterations or amendments be required to the approved plans, it will be necessary to apply either under Section 96A of the Town and Country Planning Act 1990 for non-material alterations, or under Section 73 of the Act for minor material alterations. An application must be made using the standard application form and you should consult with us, to establish the correct type of application to be made.

Monitoring
Horsham District Council monitors the implementation of planning permissions. Please be aware that monitoring officers may visit the application site at various stages of the development to ensure compliance with the approved plans and conditions.

Right of Appeals
If you are aggrieved by the decision to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

You must appeal within 12 weeks of the date of the decision notice for a householder application or 'minor commercial' (shop front) development, and within 6 months for other types of planning applications. There are different timescale – usually 28 days – if an enforcement notice is/has been served for the same (or very similar) land and development. Please note, only the applicant possesses the right of appeal.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are at https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries.