DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
DISC/24/0270
Birchfield Nursery , Kidders Lane, Henfield, West Sussex, BN5 9AB

DESCRIPTION:
Application for Approval of Details Reserved by Conditions 6 (in relation to the closure of the Kidders Lane access only) & 7 to approved application DC/17/1067

RELEVANT PLANNING HISTORY:

DC/17/1067	Proposed creation of new access and vehicle crossover (VCO)	Application Permitted on 29.08.2017
DISC/18/0207	Approval of details reserved by conditions 4 and 5 to approved application DC/17/1067	Application Permitted on 23.08.2018
DISC/18/0371	Approval of details reserved by conditions 6 and 7 on DC/17/1067	Application Refused on 12.03.2019
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

PLANNING ASSESSMENT
Planning Application DC/17/1067 was granted consent on 29/08/2017. This permission was for the following:

Proposed creation of new access and vehicle crossover (VCO)

Consent is sought to discharge the details reserved by conditions 6 and 7.

Officers note that application DISC/18/0371 was previously submitted in November 2018 seeking to discharge planning conditions 6 and 7 of permission DC/17/1067, but refused in March 2019 on account of the details being proposed to address both conditions:

Refusal Reason 1 - Condition 6:
No information has been submitted in respect of the removal of the access onto Kidders Lane. Whilst the submitted supporting letter, and subsequent correspondence from the agent, refers to land ownership issues, West Sussex County Council as the Local Highway Authority have advised that the significant majority of the access remains within the adopted public highway and therefore, irrespective of ownership, the applicant could still undertake works within the highway verge to remove the now redundant access.

The proposed two metre high close boarded fence to be constructed to permanently close the existing access off Kidders Lane is considered to be inappropriate in this rural location and would cause visual harm to the open character of the locality.

Refusal Reason 2 - Condition 7:
The proposed metal gates, pillars and close boarded fencing to the site access, along with the proposed re-grading of the access off the A281, would, as a result of the design and height of the gates/fencing and the formal nature of the works to the site access, cause visual harm to the rural and open character of the locality.

The planting of a hedgerow along the boundary with the A281 comprising of laurel, is uncharacteristic of this rural area and the boundary should be planted with native species.

The refusal was subsequently appealed and dismissed in a decision dated 1st August 2019, with the Inspector finding the following:

11. Located within an area of rural character, the appeal site comprises a prominent corner plot located at the junction between Kidders Lane and the A281. As detailed above, the decision to grant permission for a new access of the A281 was subject to the closure of the access off Kidders Lane and subsequent reinstatement of a verge, as required by the Local Highway Authority.

12. I observed that the access off Kidders Lane had been blocked by a van parked across it. The proposed plans show that a 2-metre high close-boarded fence would be installed to physically close this access. Whether or not such fencing could be constructed using permitted development rights is not a matter for me to determine in the context of this appeal. I am required to determine whether the submitted details would be acceptable.

13. The claim is that land ownership issues currently prevent the details required by condition 6 from being implemented. However, a plan, dated 11 May 2018, shows the extent of the adopted public highway. Based on the evidence before me, the adverse possession claim to the Land Registry by a third party only relates to part of the land affected by the condition in question. It would not, therefore, prevent the appellant from submitting details to enable the reinstatement of the verge within the area of land identified as public highway, as required by condition 6. Concerns have been raised regarding the processes followed by Land Registry, but this is not a matter for me to consider.

14. The submitted details as required by condition 7 show that substantial metal gates, supported by large pillars, would be installed to the new access onto the A281. The gates would be set back from the road frontage, which is considered acceptable by the Local Highway Authority, and there is no reason for me to take a different view in that regard.

15. Nevertheless, by reason of their height and appearance, the gates and supporting pillars would be highly visible within the public realm and unduly stand out as alien features within an area which is clearly defined by its rural and open character. The proposed gates, combined with the installation of closed-boarded fencing and the planting of a laurel hedge alongside the boundary shared with the A281, would lead to an urbanisation of the site. Once established, the laurel hedge would have an artificially imposed appearance, which would harmfully contrast with the character of the rural surroundings.

16. The submitted plans show existing bunding which, according to the Council, does not benefit from planning permission, and no substantive evidence appears to have been submitted to demonstrate otherwise. Given its extent and scale, the existing bunding, which it is also proposed to extend, may need to be assessed as part of a separate planning application, rather than as part of an application for approval of details reserved by condition.

17. Having regard to the submitted details, it is considered that the effect on highway safety would be acceptable, and find no conflict with Policy 40 of the Horsham District Planning Framework - 2015 (HDPF). However, the proposed conditions details would not comply with the requirements set by conditions 6 and 7 of planning permission Ref DC/17/1067, and would unacceptably cause visual harm

to the rural character and appearance of the area. The details submitted would be insufficient to discharge the disputed conditions, and result in development that would be at odds with the aims of Policy 33 of the HDPF, which notably requires development proposals to be sympathetic to the landscape character of the surroundings.

The currently submitted details seek to address the previously refused details, and to enable the outstanding conditions 6 and 7 to be formally discharged.

Two letters of representation are noted on file, objecting to the details on the basis that the requirements of the conditions have not yet been implemented, and that furthermore, the submitted red line exceeds the applicant's 'true' land boundary by more than 2m in places.

Condition 6:
Pre-Occupation Condition: Upon completion of construction of the vehicular access onto the A281 Brighton Road as shown on drawing number 140742-TK02, the existing vehicular accesses onto Kidders Lane shall be physically closed and reinstated to verge in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).

By way of background, it is noted that the vehicular access as approved under DC/17/1067 has been formed off the A281 and has subsequently been in use as the only vehicular access to and from the site, known as Birchfield Nursery, with the previous access off Kidders Lane having been blocked off. Over the preceding 5 years, the applicant has been involved in a legal course of action to resolve adverse possession over the grassed verge to the north, which would enable compliance with condition 6 to be achieved, as noted by the appeal inspector as part of DISC/18/0371.

As this matter appears to be ongoing, the current proposal seeks to discharge this planning condition by providing details of the fencing and planting within the applicant's land ownership.

The submitted details show the previously used vehicular access off Kidders Lane as being 'physically closed' by way of a fence and landscape bund, thus ensuring no vehicular access is capable of being achieved between the site and Kidders Lane.

Officers therefore consider that the details address the requirements of the condition insofar as the stopping up of the former vehicular access from the site onto Kidders Lane, by way of physical barriers such as a 1.2m high earth bund, planting and a mesh fence. The works to re-instated the grass verge remain outstanding owing to the land ownership dispute.

Condition 7:
Pre-Occupation Condition: Prior to the first use of any part of the development hereby permitted, full details of the new access gate and any associated fencing and landscaping works, including to the stopped up access on Kidders Lane, shall be submitted to and approved, in writing, by the Local Planning Authority. The approved landscape scheme shall be fully implemented in accordance with the approved details.

Reason: To ensure a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

The submitted details include the provision of a 1.2m high bund, reinforced by a native hedgerow and a 2m high anti-climb mesh fence on the inner edge of the bund, within the applicant's confirmed land. The proposed new security gates to the vehicular access onto Brighton Road would be 2m high at the posts and around 1.8m high to the gate panels, with an overall width of some 5.5m. The gate would be set back from the highway edge by around 15m. The new fenceline (mesh fence) would then continue

alongside the Brighton Road boundary on the inner edge of the existing hedging that has formed over the last decade.

These proposed gates are lower than those previously refused under DISC/18/0371, which were 2.4m at the pillars and 2.2m at the gates. Furthermore, the gates now proposed include vertical posts in place of the previously proposed solid panels, thus allowing for some visual permeability that is considered to reflect the rural location of the site.

The use of a 1.2m high landscape earth bund and native hedging would present a softer site boundary than the details presented previously under DISC/18/0371, with the bund height reflecting that of the boundary vegetation prior to 2010. Furthermore, the use of the green mesh fence would also allow a softer boundary treatment to the site, whilst allowing the site to be secured, with the placement of the fence in the inner side of the bund, ensuring a softer, vegetated transition when viewed from the public realm. The use of a native hedgerow is also considered to be more appropriate to the rural location than the previously refused use of a single species hedgerow using Laurel.

Overall, the submitted details now present a visual cohesion to the site, allowing for the required security, whilst respecting its rural location, and the origins of this horticultural site.

The requirements of the condition have therefore been satisfied.

Recommendation: Application Permitted

NOTE TO APPLICANT
The applicant is advised that the requirements of Condition 6 have been satisfied insofar as the blocking up of the former access from Kidders Lane by way of the boundary treatment within the applicant's red line ownership as declared within the submitted documents accompanying the current application. These details do not include the reinstatement of the grass verge.

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: DISC/24/0270
(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
Plans	Proposed Block Plan		29.10.2024
Plans	Proposed Block Plan (no Veg)		29.10.2024
Supporting Docs	Example of Security Fencing		29.10.2024
Plans	Fencing Design		29.10.2024
Plans	Front Gate Design		29.10.2024

DELEGATED

Case Officer sign/initial Nicola Pettifer Date: 03/12/2024

Authorising Officer sign/initial Adrian Smith Date: 04/12/2024