



TO: Planning Committee South

BY: Head of Development and Building Control

DATE: 22nd June 2021

DEVELOPMENT: 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

SITE: Birchfield Nursery Birchfield Nursery Kidders Lane Henfield West Sussex BN5 9AB

WARD: Henfield

APPLICATION: DC/20/1906

APPLICANT: **Name:** Mr Robert Dunckley **Address:** Birchfield Nursery Birchfield Nursery Kidders Lane Henfield West Sussex BN5 9AB

REASON FOR INCLUSION ON THE AGENDA: More than eight persons in different households have made written representations raising material planning considerations that are inconsistent with the recommendation of the Head of Development.

RECOMMENDATION: To approve planning permission subject to appropriate conditions

1. THE PURPOSE OF THIS REPORT

To consider the planning application.

DESCRIPTION OF THE APPLICATION

1.1 The application seeks part retrospective, part full planning permission for a change of use of the site to a mixed use, comprising Use Classes B8 (storage), E (commercial, business and service), and as a base for a landscape and garden design company. The application form clarifies that proposed uses would include light industrial use within the former B1 use class.

1.2 Accordingly, the following is sought under the current planning application:

Retrospective permission:

- Use of the site for B8 (storage and distribution) uses, both inside and in the designated open areas
- Retaining the landscape business of 'Jack Dunckley Designs' and an area of associated open storage

Full Permission:

- New vegetated landscape bund within the northern and eastern boundaries of the site – height 2m - 2.5m
- The creation of a new community open area with woodland pathway, seating areas, wildlife pond, post and rail fencing to eastern side – to be accessed from the application site
- Formalisation of ‘access routes’ within the site
- Creation of two dedicated hard-standing areas, with the southern area to be limited to a height of no more than 3.5m and the eastern area to be limited to a height of no more than 3m
- Class E use of the structures and buildings
- The planting / landscaping of existing bunds within the site
- Completion of the new eastern access off the A281
- New gates clear of the highway to the eastern vehicular entrance

- 1.3 The proposal seeks to make effective use of the existing buildings and hard-standings within the site, which were formerly in use as part of a horticultural nursery, with the lawful use of the site being agricultural / horticultural. The applicant submits that seeking alternative and viable uses on this existing site would enable a sustainable approach in order to maintain a local economic function, contribute to local employment, meet the needs of small workshops and storage facilities, and include increased landscaping to provide boundary screening and offset much of the visual consequence of the proposed uses within the site.
- 1.4 The submitted application seeks to address an active Enforcement Notice, which requires the removal of the unauthorised storage uses at the site (EN/18/0135) following an Enforcement Appeal in which the notice was upheld and varied. The Enforcement Notice is in abeyance until the formal determination of this planning application.
- 1.5 It is recognised that at the current time, there are a number of unauthorised indoor and outdoor uses in operation at the site, used by various individuals and businesses, including the storage of vehicles, food / catering vans and motorhomes. In addition, the landscape and garden design business ‘Jack Dunckley’ retains a base on site, and utilises some of the polytunnels and open storage areas, as well as a number of the existing structures.
- 1.6 Following the Enforcement Appeal Decision against the unauthorised uses in 2018/19, the proposal seeks formal approval to use the site as a viable and flexible commercial use, allowing the new Class E uses and B8 / storage use. For clarification, the new Class E uses comprise shops, restaurants, financial and professional services, indoor sport, recreation and fitness, health and medical services, crèche, nurseries or day centres (for visiting members of the public), offices, research and development and any industrial process that can take place in a residential area without detriment to amenity.
- 1.7 The site already has infrastructure to support the proposed change of uses, as there are existing areas of hard-standing across the site, an access off the A281 and a variety of buildings and structures that can be subdivided according to need. The areas of hard-standing have been deemed lawful by the Appeal Inspector in dealing with EN/18/0135. Furthermore, there are existing staff welfare facilities at the site and broadband connection. No further buildings, or alterations to the buildings, are being proposed as part of the current application.
- 1.8 With regard to the vehicular access, which was permitted under DC/17/1067, although not implemented in full accordance with the permission, the proposal also seeks to address this element by way of modified entrance landscaping, surfacing and gate position.

DESCRIPTION OF THE SITE

- 1.9 The overall application site comprises some 2.3ha of land within a rural area, known as Jack Dunckleys or Birchfield Nursery. It lies some 540m north of the Henfield Built Up Area Boundary (as the crow flies). The site itself is not subject to any designations such as Tree Preservation Orders (TPO), heritage status or flood-zones, but there are two TPOs on trees either side of the Kidders Lane / A281 junction, outside of the site boundary. Public Right of Way (PROW) No.2531 lies about 270m north of the site, and PROW No.2390 lies around 288m east of the site.
- 1.10 Vehicular access has been established directly off the A281, approved under application DC/17/1067. Planning permission was granted subject to approval of ground levels (Cond 4), approval of visibility splays (Cond 5), details of and reinstatement of the existing access off Kidders Lane (Cond 6) and details of new access gate, associated fencing and landscape details (Cond 7). Conditions 4 and 5 were approved under DISC/18/0207, but application DISC/18/0371 in respect of conditions 6 and 7 was refused and subsequently dismissed at appeal.
- 1.11 Although the access has been formed, it has not been completed or surfaced. The A281, which is a busy local distributor road, runs directly along the site's eastern boundary, where an intervening ditch, verge and a row of Oak trees run along its length. The northern side of the site also benefits from a deep grassed verge, a ditch and spaced Oak trees between the site and Kidders Lane. The former vehicular access to the site off Kidders Lane has now been closed by way of fencing and an abandoned vehicle on the verge-side. The verge here falls outside of the applicant's ownership.
- 1.12 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. Furthermore, there are a number of bunds within the site, notably around the southern part of the site, extending along the southern boundary, and part of the eastern and western boundaries. There is also a bund within the site defining the area between the southern undeveloped part of the site and the northern area which has been subject to structures and hard-standings.
- 1.13 Historically, the site has been used as a horticultural plant nursery, selling initially as wholesale and more recently as retail. Planning applications in 1984, 1992, 1993, 1996 and 2006 have sought new polytunnels and propagation sheds, with permissions restricting their use to agricultural use only, as defined by Section 336(1) of the TCPA 1990. Aerial photos reveal that a number of polytunnels have been removed from the site along the eastern side between 2012 and 2018, indicating a previously greater coverage of the site with structures extending to within 13m of the A281 roadside.
- 1.14 The more recent planning history at the site includes a lapsed permission for a new octagonal 'feature' building comprising staff facilities, landscape / design offices, café, retail shop and increased parking areas, approved in January 2012 (DC/11/1250). In 2014, permission was refused for a smaller building (DC/14/2007). The scheme included a new vehicular access directly off the A281, parking and delivery areas, and expanded retail and garden centre. The subsequent appeal was dismissed, with the Inspector considering that the resulting building would appear 'starkly and strangely alien in form and scale with little or no sympathy for its setting', and concluding that the development would lead to 'aesthetic detriment to the appeal site and the wider rural locality'. There were no objections to the principle of the new vehicular access.

- 1.15 Officer visits in March 2016 and August 2017 in relation to applications DC/16/0288 and DC/17/1067, reveal changes to the boundary of the site, noting that vegetation had been stripped back, and bunds formed. It is also evident that the horticultural / nursery use of the site diminished to a point in 2018 at which point the Council considers this element ceased trading. Meanwhile, the garden and landscape design business, 'Jack Dunckley Designs', has continued to maintain a presence at the site to date.
- 1.16 As of May 2021, an officer site visit reveals that there is one Portaloo on the site, and there is a kitchen area with access to fresh water, all located in the northern area of the site. The site visit also confirmed the following current users / occupiers of the site and structures:
- Pub storage (tables and chairs and fittings currently not needed owing to Covid-19 regs)
 - UTN Training (training centre for lifting platforms)
 - Jack Dunckley landscape design, storage of hard and soft landscape materials, construction and painting of landscape features such as fence panels and pergolas, storage of tools and equipment, outdoor storage of soil processing machinery and secure storage containers
 - Scaffolders
 - Skate ramp / skate school
 - Storage of mobile catering vans and stages
 - Storage of Christmas lights used in village and town centres in the District
 - Storage of Rotary Club / Round Table Christmas Santa Sleigh
 - Woodworkers and a furniture restorer
 - Greenhouse used for plant cultivation
 - Horticultural plant nursery open to retail trade
 - Enclosure around outside storage area and parked new motorhomes – not for sale from the premises, but stored ready for dispatch
 - Southern area remains open but includes piles of sorted hardcore / rubble
- 1.17 It was evident from the site visit, that the vegetation that has been allowed to grow up and over the bunds to the eastern and southern parts of the site provides an effective screen, so that the southern part of the site is largely screened from the public highway and views.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

RELEVANT PLANNING POLICIES

The following Policies are considered to be relevant to the assessment of this application:

National Planning Policy Framework

Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 7 - Strategic Policy: Economic Growth

Policy 9 – Employment Development

Policy 10 – Rural Economic Development

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 35 - Strategic Policy: Climate Change
- Policy 36 - Strategic Policy: Appropriate Energy Use
- Policy 37 - Sustainable Construction
- Policy 40 - Sustainable Transport
- Policy 41 - Parking

Horsham District Planning Framework (2015) – Update on Status

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 (the HDPF), however at this stage the emerging policies carry only limited weight in decision making. As the HDPF is now over 5 years old, the relevant policies for the determination of this application must be considered as to whether they are 'out of date' (NPPF paragraph 11d). In this case, the relevant policies as set out above are considered to remain in accordance with national policy set out in the NPPF.

RELEVANT NEIGHBOURHOOD PLAN

- 2.2 The Henfield Neighbourhood Plan went to Referendum on 6th May 2021. It now forms part of the development plan and carries full weight in the decision making process.

- Policy 3 – Employment Sites and Village Centre
- Policy 3.1 – Employment Development Site Allocation
- 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

- 2.3 Henfield Parish Design Statement (2008)

PLANNING HISTORY AND RELEVANT APPLICATIONS

EN/18/0135	Without planning permission a material change of use of the Land and structures thereon from a plant nursery to include the storage of domestic and commercial vehicles and other items not functionally related to the lawful use of the Land and an extension to the existing hard surfacing across the land beyond that reasonably required for its use as a plant nursery	Notice Served on 18 th April 2019 <i>Enforcement upheld with amendments – Deemed planning consent dismissed on 15th Feb 2020</i>
DC/19/2454	LDC seeking formal confirmation that the Deemed Discharge Notice submitted and registered in respect of DISC/18/0371 was 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 on 12 March 2019	Certificate of lawfulness refused on 03.02.2020
DISC/18/0371	Approval of details reserved by conditions 6 and 7 on DC/17/1067	Application Refused on 12.03.2019 – <i>Appeal Dismissed</i>
DISC/18/0207	Approval of details reserved by conditions 4 and 5 on	Application Approved on 23.08.2018

DC/17/1067	Proposed Creation of new access and vehicle crossover (VCO)	Application Permitted on 29.08.2017
DC/16/0288	Erection of 2m high fence (Certificate of Lawful Development – Proposed)	Application Refused on 11.04.2016
DC/14/2007	Works to existing nursery operation including erection of new multi-purpose main building including retail, office, exhibition spaces and ancillary facilities, and site storage shed. Formation of new vehicular access to the A281 together with the provision of new security fencing	Application Refused on 22.01.2015 – <i>Appeal Dismissed</i>
DC/11/1250	Proposed new building incorporating shop, coffee shop, kitchen, store, office and WC's	Application Permitted on 20.01.2012 - lapsed

3. OUTCOME OF CONSULTATIONS

- 3.1 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

INTERNAL CONSULTATIONS

HDC Arboricultural Officer: (*summary*)

No Objection – The two offsite protected trees to the north east of the site seem to be unaffected by the proposed development. The remaining trees at the site are free from any planning constraints such as being protected by a TPO or being situated within a Conservation Area, and the site plan shows all the large Oaks at the site will be retained.

- The condition of the majority of the trees in this area is rather poor with a number of trees in decline and a high percentage of standing dead wood and die back in their crowns
- Although part of the bund in the area to the west of the NE boundary will encroach within the root protection area (RPA) of T1, tree roots in this area would have already adapted to this unfavourable rooting medium given the presence of hard-standing / compacted gravel / aggregates
- Proposed bund at the entrance to the site is situated behind the existing bund which is located within close proximity of T8 and T9, both trees are showing signs of decline with larger sections of standing dead wood throughout their crowns – new bund in this area is not considered to affect these trees
- Two new sections of bund will be constructed in the south-east part of the site. The area is currently overgrown with brambles and small shrubby self-seeded trees, and several semi-mature to mature Oak trees. As with the trees in the northern part of the site the overall condition of the trees in this area is rather poor, there is a dead tree in the centre of the area and one that is moribund to the west of the dead tree. The other trees in this area are all showing signs of stress such as tip die back and dead wood in their crowns.
- There is a small Field Maple and Ash that would need to be removed to allow for the construction of the bund in the SE corner of the site –these trees don't have any special or particular merit and given the level of proposed new planting in this area I feel that the removal of the trees would be compensated for by the new planting.

HDC Environmental Health Officer: : (*summary*)

No Objection - We understand that the premises has been used for unregulated mixed use purposes for a number of years and, during this time, the Environmental Health and Licencing Team have not received any formal complaints in relation to noise disturbance from the premises. Our concern however is that should the premises obtain permission for change of use to Class B8 and Class E then as these use classes cover a very wide range of activities/uses there is the potential for a more intrusive/noisy use to be implemented at some stage during the lifetime of the development.

Given the above we remain concerned about the granting of Class B8 and E uses in the location, however should the LPA be minded to grant this application we would recommend suitable conditions

OUTSIDE AGENCIES

WSCC Highways: (*summary*)

No Objection – Historic use of the site as a garden nursery is noted, and previous planning consultations noted in respect of the access off the A281. The site benefits from direct access onto the A281 via a priority access. This was approved as part of DC/17/1067. Given the nature of the uses proposed, the access in terms of form and geometry is considered acceptable. Whilst the access has been formed and is in use, the surfacing is not to a specification that would be acceptable to WSCC. A bound surfacing would be required to ensure that material from the site is not dragged onto the highway. Further to this, visibility splays of 4.5 by 160 metres were required at the access. These were demonstrated through the approved planning consent, but it's unclear if these were ever implemented.

- Subject to the following conditions, no highway objection would be raised.

PUBLIC CONSULTATIONS

3.2 To date, letters of representation have been received from a total of 83 different households / addresses.

65 of these **object** to the proposal on the following grounds:

- Disruption of the landscape buffer between Henfield and Shermanbury
- Likely incremental further development / residential
- Current use as a plant nursery is compatible with the rural area – proposed commercial use would be a significant change
- Aesthetic appeal of the site has been eroded
- Site appears to be evolving into a brownfield site – degraded site visually
- Loss of trees / vegetation to the boundary – what trees remain are being buried by the increasing bunds – thus leading to their decline
- Loss of tree belt around boundary, bluebell woodland – current climate emergency
- Habitat loss / wildlife
- Nursery business ceased to trade in 2018
- Commercial / industrial site inappropriate for green / rural area
- Development not desired by local community
- Dangerous junction has been created with new access
- Site not included in Henfield NP – emerging status should be endorsed
- Site should remain agricultural
- Noise events over and above expectations of a nursery site (jet washers, carpentry tools, plant machinery and equipment, music playing, cars left running, and reversing beepers)
- Rat problem
- Incorrect employment information provided
- Continual breaches of planning control, with ongoing unauthorised uses

- Access onto A281 not constructed properly, planning conditions =never complied with

18 of these express **support** for the following reasons, although only 4 of these are from the addresses within the District:

- Conversion of existing redundant farm yards and buildings into usable spaces is common
- Enhancement of area by way of screening / wildlife habitat recovery
- Improved access
- Small storage spaces are in need, e.g. storing horse boxes
- Cost effective storage site – much needed by small traders which in turn supports ongoing business viability
- Site is very tired-looking
- Bring in jobs
- Positive gentrification of area

3.3 Henfield Parish Council **objects** to the proposal on the following grounds:

- Over-Industrialisation of an agricultural site
- Located outside the BUAB and not designated as an industrial site in Local Plan or neighbourhood Plan
- Contrary to HDPF policies 10, 25 and 26
- Enforcement Notice should be complied with

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

6. PLANNING ASSESSMENTS

Enforcement Background

6.1 Following investigations into the uses being carried on at the site during 2018 and early 2019, the Council issued an Enforcement Notice in April 2019 (EN/18/0135). This required the cessation of the use of land and structures for uses not ancillary to a plant nursery, for the removal of all forms of hardstanding, and the subsequent reinstatement of these areas to topsoil or similar growing medium. A Planning Contravention Notice (PCN) served in July 2019, confirmed non-agricultural / non-horticultural uses being carried out within the site, including the valeting of cars, storage of cars, caravans and motorhomes, storage associated with catering vans, house clearance and events management.

6.2 The Enforcement Notice required the cessation of storage uses on hard-standing or within structures not related to a plant nursery and to remove from the site items being stored that are not functionally related to a plant nursery, along with the removal of hard-standing and the reinstatement of land to a growing medium [summarised].

- 6.3 A subsequent Enforcement Appeal was lodged, which also included ground (a) – requiring the Inspector to consider the planning merits of the case:
- *Whether the site is an appropriate location for use of land and structures for the storage of domestic and commercial vehicles and other items*
 - *The effect of the change of use of land to include the storage of domestic and commercial vehicles and other items on the character and appearance of the surrounding area.*
- 6.4 The Enforcement Notice was upheld with revisions, and planning permission under section 177(5) of the 1990 Act was refused, dated 30th January 2020. The Notice was revised removing the need to remove the areas of hard-standing and return these to a suitable growing medium, as it was considered, on the balance of probabilities, that these were lawful given the time of their existence on the site.
- 6.5 The Enforcement Notice required compliance within 6 calendar months following determination. However, the Council agreed to extend the compliance period until the 15th November 2020 given the ongoing situation with Covid-19. The current planning application was submitted in October 2020, and therefore the Enforcement Notice is being held in abeyance pending the outcome of the application.

Principle of the Development

- 6.6 The Planning Inspector acknowledged that the site is located in a rural area, where development can be supported if it contributes to the local rural economy. At the time of the Enforcement Appeal, the Inspector concluded that there was limited evidence presented with the appeal to demonstrate the contribution which the storage uses made towards local employment, or in support of local services. Furthermore, the appeal case had not demonstrated a local need for storage space for vehicles and other items. No comparisons had been provided to demonstrate employment levels between the unauthorised (appeal) uses and the former nursery use, and so it was not clear to the Inspector to what extent local businesses may be impacted if the uses ceased. The Inspector reasoned that the low-key storage use was likely to generate a lower staff requirement than a more labour-intensive horticultural plant nursery.
- 6.7 The Enforcement Appeal concluded that the site was not an appropriate location for use of land and structures for storage of domestic and commercial vehicles and other items. Given the lack of substantive evidence during the appeal to demonstrate that the use of the site resulted in a positive contribution to the local economy, the Inspector considered that this outweighed any benefit and policy support arising from the re-use of the existing polytunnels.
- 6.8 The site lies in a rural area, which remains protected from inappropriate development under HDPF policies 2 and 26. Furthermore, HDPF policy 26 requires development in rural areas to be essential to the countryside location, and meet one of the following criteria:
- 1) Support agricultural or forestry needs
 - 2) Enable mineral extraction or waste disposal
 - 3) Provide for quiet informal recreational use
 - 4) Enable sustainable development of rural areas

In this instance, the proposal could be considered to enable the sustainable development of rural areas (criteria 4) as much of the site has previously been in active use, with the last authorised use being agricultural / horticultural in nature. In addition, any acceptable development must be of an appropriate scale to its rural location, and must not lead,

individually or cumulatively, to a significant increase in overall levels of activity in the countryside, as well as protecting and/or conserving, and / or enhancing the key features and characteristics of the landscape character in which the site lies.

- 6.9 Policy 7 of the Horsham District Planning Framework (HDPF) allows sustainable employment development by way of redevelopment, regeneration, intensification and smart growth of existing employment sites, and the provision of small start-up and move-on businesses.
- 6.10 Policy 10 of the HDPF supports sustainable rural economic development and enterprise within the District which maintain the quality and character of the area, whilst sustaining its varied and productive social and economic activity, and contributing to the wider rural economy. There is a presumption appropriate rural development be contained within suitably located existing buildings first and foremost before new buildings are considered. Car parking requirements should also be accommodated satisfactorily within the immediate surrounds of the buildings.
- 6.11 Paragraph 83 of the NPPF set out that planning policies and decisions should;
- enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings, and
 - the development and diversification of agricultural and other land-based rural businesses.
- 6.12 Para 84 of the NPPF also recognises that in some instances, sites beyond the BUAB may need to be found to meet local business and community needs in rural areas, further acknowledging that these may be situated in unsustainable locations where there are limited or no public transport links. However, consideration needs to be given to the sensitivities of rural areas, and to ensure that any development does not have an unacceptable impact on local roads.
- 6.13 Since the application was submitted, the Henfield Neighbourhood Plan has successfully passed through Referendum, and so is considered to carry full weight in the decision making process. The Henfield NP includes a policy relating to new and existing employment uses (Policy 3.2). Support is available for new employment uses or intensification of existing employment uses, outside of the BUAB, provided they are contained within the curtilage of an existing employment site, the traffic generated by the proposal would have acceptable access to the A281, the proposal provides acceptable parking standards and the overall design, materials and massing and site position can minimise the resulting visual impact on the street-scene and local amenity and provision and maintenance of effective screening by trees or woodland planting along the site boundaries.
- 6.14 This site, although not a strict Class B employment site for the purposes of Policy 3.2 or Policies 9 and 10 of the HDPF, nevertheless provided some employment in its former use as a horticultural nursery, part of which continues on the site, albeit now more considered as a retail garden centre use owing to the majority of stock being brought onto the site.
- 6.15 The current planning application differs from the Appeal case that was previously considered as it now proposes a mix of commercial / business uses and commercial / storage uses across the site, including the retention of the landscape design business that currently operates out of the site.
- 6.16 It is clear that the current application seeks a different use of the site, and one that does not include car sales or valeting. Areas are demarcated for the outside storage uses, and height limits are proposed in these areas. In addition, the application proposes complementary

measures in support of the application, such as landscaping and a modification to the entrance.

- 6.17 It is evident, from the site visits and details submitted as part of the current application, that the uses on the site have changed since the application was first lodged in October 2020, with a number of then uses and occupants having now been replaced by different occupants / uses. The submitted documents in relation to the current planning application reveals the desire to provide a flexible series of spaces that can quickly adapt to the needs and demands, allowing diversification of the existing site. It is understood that the flexibility of the site has recently enabled various local businesses to respond quickly to the limitations placed on businesses, during the ongoing Covid-19 situation, by way of providing storage space for furniture and other items for local pubs and restaurants, as well as storage space for many grounded catering and events vehicles. Furthermore, as from April 2021, part of the site is now occupied by a retail plant nursery 'Garden Sage' who have re-located into the district from their previous site a few miles to the east, and who currently occupy two polytunnels and an area of land around, in line with the lawful use of the site.
- 6.18 The application proposes to continue offering employment opportunities at the site, with the focus being on SMEs (Small and Medium-sized Enterprises), which would accord with the provisions of HDPF policy 7, and HNP policy 3.2. Furthermore, there is a recognised local need for opportunities for SMEs to be accommodated across the district.
- 6.19 According to the site visit undertaken in May 2021, there are currently around 10 employees working across the site during the day within the various businesses. The submitted application forms states that the site could generate employment potential for some 50 staff, although, with the anticipated storage use, these staff are likely to be based elsewhere and would travel to the site as and when needed. This figure is considered to represent an approximate guide based on the Employment Densities Guide 2010, which calculates a B8 storage use would typically host 1 FTE (Full-Time Equivalent Employee) per 70sq.m, and 1 FTE per 47sq.m of B1 / Light Industry.
- 6.20 In principle alone, the proposed commercial re-use of the site would accord with local and national planning policies in providing a flexible series of spaces that can accommodate a range of business, commercial and employment needs. Furthermore, the proposal seeks to re-purpose existing structures within an established site. The need for this type of informal and flexible accommodation is considered to have been demonstrated by way of the site having been in some form of use, albeit unlawful, over the preceding years.
- 6.21 The current site is not developed in full, particularly as the southern part of the site remains open and free from any structures and polytunnels, and appears to have historically been an open part of the site. The NPPF defines previously developed land (PDL) as that which was occupied by a permanent structure and any associated fixed surface infrastructure. However, PDL excludes land where the remains of a permanent structure have blended into the landscape, and land that was / is occupied by agricultural or forestry buildings. Referring back to Section 336(1) of the TCPA 1990, agriculture includes horticulture, market gardens and nursery grounds. The majority of the site is therefore not considered previously developed land under this definition.

Design and Appearance:

- 6.22 In considering the Enforcement Appeal, the Inspector noted that the A281 is a busy local distributor road running through the district, but that the wider area was of an open rural character, where fields were delineated by inconspicuous fences and mature trees. Development is generally sporadic in nature and close to the road, and generally associated with the prevailing agricultural use of the area. The site levels were acknowledged, with the site sitting above the road level, and a gap along the eastern side boundary resulting from the new vehicular access off the A281. This gap, the Inspector concluded, was sufficient to allow views into the site, and that any parked vehicle in the open would be visible from beyond the site boundaries. The Inspector considered that some parking of vehicles would have been expected as part of a nursery use, but that large numbers of vehicles, including caravans and camper vans would 'result in the site appearing as an alien feature in the wider rural landscape'.
- 6.23 In referring to the items stored within the polytunnels, the Inspector concluded that the polytunnels themselves were original features on the site and 'compatible with the agricultural buildings which characterise the area', and that they 'did not alter the character and appearance of the site and its surroundings'.
- 6.24 The enforcement appeal contained a lack of clarity regarding the final appearance of the remaining part of the boundary, and with regard to the landscape proposals, according to the Inspector. Despite this lack of clarity regarding the potential boundary to the site, the Inspector was not convinced that taller vehicles, campers and caravans would be fully screened, and therefore, that the outdoor storage uses on the site would continue to remain visible when the access was in use. Given that there were no landscape proposals submitted as part of the Enforcement Appeal, the Inspector had no evidence to demonstrate that a landscape proposal 'would overcome the harmful visual impact associated with the use'.
- 6.25 The Inspector noted that the nursery business would have included outside storage space, but this was considered to be consistent with the rural landscape. A height limiting condition was not considered to satisfactorily overcome the harmful visual impact that was considered to occur as a result of the unauthorised outside storage uses.
- 6.26 HDPF policy 25 requires development to protect, conserve and enhance the landscape and townscape characters across the District, taking account of settlement characteristics and settlement separation. Policy 32 of the HDPF requires new development to 'Complement locally distinctive characters and heritage of the district' and 'Contribute a sense of place both in the buildings and spaces themselves and in the way they integrate with their surroundings'. Policy 33 requires developments to relate sympathetically with the built surroundings.
- 6.27 Furthermore, HDPF policy 10 considers that appropriate economic countryside development should result in substantial environmental improvement and should reduce the impact on the countryside.
- 6.28 Reference has previously been had to Policy 3.2 of the Henfield NP which supports new employment uses or extensions of and intensifications of existing employment uses that aren't within the designated sites. The proviso is that these can be accommodated within the curtilage of an existing employment site, and the 'design, materials, colour, massing and position within the site and landscape scheme is able to minimise any visual impact on the street scene, local amenity and on any adjoining countryside, by the provision and maintenance of effective screening by trees and woodland planting along the boundaries and is in accordance with the Henfield Parish Design Statement'.

- 6.29 The current planning application proposes three distinct areas for open storage within the site, which is very different to the Enforcement Appeal against the unauthorised uses at the site, whereby a much larger area was subject to outdoor storage uses, with no limiting controls. Furthermore, the current application is accompanied by a landscape plan and a modified entrance into the site. The addition of earth bunds around the site boundary is submitted as a way of being able to define the site boundary and provide a sense of screening, enable planting to occur and to provide some security to the site. The earth bunds are proposed to sweep around the site entrance off the A281, channelling the access northward and thus providing screening of the site from the public realm.
- 6.30 With regard to the proposed outside storage areas, the current application seeks to limit the areas used for open storage, as well as imposing a height limit within two areas, and limiting the third to items associated with the landscape business.
- 6.31 It is considered, as previously noted by the Appeal Inspector, that the use of the existing structures on the site for alternative uses would retain the overall visual character of the site, particularly as no additional development is being proposed. The existing polytunnels can be re-covered with new sheeting, retaining the existing structural framework and maintaining the existing site's character, if they become worn or damaged.
- 6.32 The most recent site visit (May 2021) revealed that the existing bunds that have been formed south of the access appear to be around 2m in height with vegetation growth over the bund increasing the apparent height. Visually, the height of the bunds, and the vegetation that has been allowed to grow up around the Heras fencing and bunds, has the effect of screening the southern part of the site from views available from the public realm along the highway corridor. It was evident, that only the very tops of the mobile catering vans that were parked immediately alongside the bund within the site were visible from the public highway and outside the site. Furthermore, the site visit also revealed that some 16 motorhomes were parked within a fenced central area. The height of these vans is around 2.8m (just under the proposed height limit of 3m). Although these vans are currently parked further off the site's eastern boundary (by some 30m) than the proposed plans set out (some 16m), the existing height of the bund has the effect of providing a robust level of screening of the site's southern area.
- 6.33 This distance is further than the previous polytunnels which occupied the eastern area of land immediately alongside the site's roadside boundary.
- 6.34 Furthermore, a proposed landscape scheme includes the provision of new and existing bunds, and a re-aligned entrance into the site, details which could be secured by condition. As evident from the site visit, the existing bunds to the southern part of the site serve to provide a good level of screening of the site's interior. These are considered to form a robust element of screening for the site, which, along with appropriate landscaping, would provide an appropriate and soft site boundary that is commensurate with the rural context. Even if the central storage area were to be extended as shown on the proposed plans, there would be limited visual impact from the outside of the site.
- 6.35 There is concern that the proposed development includes a new area of open storage space on the southern part of the site, an area of land that has not been previously developed, and which has remained largely open, save for a number of rubble and hardcore piles. Although some form of hard-standing, or planings, would be required in order to provide a suitable level storage area, the required 'development' would be at ground level, thus having a very limited impact on the openness and character of the rural area. Furthermore, in the absence

of physical structures and enclosures, this area would remain free of development, and would remain 'open'. However, it is recognised that it would be the bulk of the stored items, or vehicles, that could impact on the openness of the rural landscape setting, albeit potentially of a transient and impermanent nature. In order to address this visual harm, the applicant proposes to limit the height of stored items within this southern area to a maximum of 3.5m, which is comparable to the height of structures within the site.

- 6.36 As a result of the height limit, which would be reflected by way of a planning condition, the boundary bunds and landscape that would be used to screen the site from outside viewed, would adequately mitigate the potential harm on the wider rural character, so that there is no overtly detrimental harm arising from the proposed use.
- 6.37 It is therefore recommended that the proposed development be subject to a number of planning conditions, and subject to the submitted site plan, neither of which previously formed part of appeal case considered by the Planning Inspector. Such conditions are considered to be reasonable, necessary and relevant to the proposed development, and to ensure that the quality of development is enhanced and in accordance with local and national planning policies.

Impact on Landscape and Biodiversity

- 6.38 Although the site includes a number of large and mature trees, notably Oak trees around the eastern and northern boundary, there are no statutory designations applied to those trees which would protect them in law, such as Tree Preservation Orders (TPO).
- 6.39 The 2003 Landscape Character Assessment locates the application site within the J3 character area (Cowfold and Shermanbury Farmlands), defined as having a mostly small-scale intricate landscape, with views contained by scattered woodland, hedgerows and shaws. This Assessment, which pre-dates the applicant's ownership of the site, considered that the overall landscape character is in decline in this area, owing to large-scale farm buildings, suburbanisation along main roads and telecoms development, although landscape improvements can address harm.
- 6.40 The available site photographs show that the application site was formerly enclosed by robust boundary vegetation, including hedgerows and mature Oak trees, particularly to the street-facing eastern and northern sides. This boundary vegetation was formerly responsible for ensuring that the site was relatively inconspicuous in its rural location, despite the proximity between the polytunnels along the eastern side of the site and the A281. However, it is also noted that this boundary treatment was not subject to any statutory protection.
- 6.41 The loss of the boundary trees and vegetation over the preceding years is noted to form a consistent concern that has been raised within the public representations received in response to this application. However, it is noted that the trees are not subject to TPOs and therefore do not carry any statutory level of protection.
- 6.42 Whilst the previous boundary clearance works, carried out between 2014 – 2016, and tree pruning and fellings are regrettable, they cannot be rectified by way of the current planning application, nor should they contribute towards the considerations of the current application, which is accompanied by a landscape proposal. Furthermore, there are no planning constraints relating to the time of year when pruning is carried out on trees within private ownership, free from TPOs and Conservation Area restrictions. Tree works and fellings, carried out on privately owned trees is therefore not subject to Council monitoring.

- 6.43 It is noted that all remaining Oak trees to the boundary of the application site are being shown for retention, but it is acknowledged by the Council's Arboricultural Officer, that most of these are in poor condition. The concern that the proposed new earth bund might lead to a decline in the health of the boundary trees has been assessed by the Council's Arboricultural Officer, with the existing condition of the trees noted during a site visit. Accordingly, given their existing condition, with a number of the trees showing signs of established decline or stress, the presence of the proposed new bund would not adversely affect these trees to any greater extent. Indeed, during the site visit in May 2021, at a time when most trees are either in full leaf or in the advanced stages of coming into leaf, a number of clearly dead trees were noted, and a few others were noted to be suffering a lack of vigour. However, this issue also appeared to be affecting trees beyond the site's boundary. It is also noted, that much of the area immediately to the inner side of the boundary trees which lies along the north-east of the site, has been hard-standing in varying extent and form for some 20 years, as aerial photos show, indicating likely ground compaction in these areas.
- 6.44 The proposed new planting includes landscaping to the new and existing bunds, which would provide these raised areas with a more integrated 'natural' appearance. Additional landscaped areas around the entrance to the site, a new woodland walk and wildlife reserve in the south-eastern corner, complete with pond, and new trees, form part of the proposal. These are considered to compensate for the removal of any existing vegetation, enhancing the natural and local environment, and creating suitable opportunities for landscape and biodiversity enhancements in the future.
- 6.45 HDPF policy 31 supports development which contributes towards the enhancement of biodiversity and nature conservation on development sites, and where loss of existing green infrastructure is adequately mitigated and / or compensated for. The current proposal is considered to provide for a robust landscape scheme that would also create a new dedicated wildlife habitat area. As well as increasing the natural capital of the site, the proposal would serve to mitigate a visually degraded site, in accordance with para 170 of the NPPF. Final planting details and details of the wildlife area should be subject to appropriate planning conditions in the event that permission is granted. It is also suggested, owing to the ongoing occupation and use of the site, that the approved landscape details be implemented within a specified timeframe.
- 6.46 It is noted that there remains concern regarding the site's visual prominence, which has been exacerbated following the removal of the boundary vegetation and the felling of a number of trees. It is also noted that there are concerns regarding the effective implementation of landscape conditions at the site. In response to this, and given that part of the proposal seeks retrospective / regularisation for storage use particularly with regard to the outside storage uses, a number of conditions require submission of details within a specified time-scale, and would require planting within a specified period following approval, or within the first planting season.
- 6.47 An effective landscape condition would be able to monitor the proposed planting details insofar as being able to establish whether the planting has a mix of deciduous and evergreen species, some quick growing species as well as some more slow growing species, including native and species-rich planting mixtures, appropriate to the site, and could be suitably enforced by way of a Breach of Condition Notice should the need arise.

Impact on Neighbouring Amenity

- 6.48 Policy 33 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.
- 6.49 It is noted that the established horticultural use includes buildings and structures (polytunnels and greenhouses) along the common boundary with Birchfield House to the west of the site with this boundary delineated in parts by fencing and vegetation / trees.
- 6.50 The submitted planning statement sets out that it was originally envisaged to locate the B1 (business) uses alongside the common boundary with Birchfield House, but with the recent re-classification of the use classes to a wider Class E, the application proposes a potential wider use of these buildings. For reference, the former B1 (business) uses were considered to be 'capable of being carried out in a residential area without detriment to its amenity', and included B1(a) Offices, B1(b) Research and Development, and B1(c) Industrial Processes.
- 6.51 Whilst it is acknowledged that a change to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations came into force on 1st September 2020, affecting the classifications of a number of former use classes, the order allows for 'use, or part use, for all or any of the following purposes...'. The Regulations further allow for the Class E uses to be split into composite parts, of which E(g) covers (i) offices carrying out administrative or operational functions, (ii) research and development of products or processes, or (iii) any industrial process, capable of being carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, comparable to the former B1 use class group.
- 6.52 In this instance, it is considered wholly appropriate to narrow down the potential end uses that can be carried out within the site in proximity to the residential boundary, so as to protect the residential amenities of the occupants to that property.
- 6.53 It is considered that planning conditions covering the nature of uses occurring on the site close to the residential boundary with Birchfield House, along with potential hours of business use, site access, and new external lighting and floodlighting, would be appropriate given the proximity and translucent nature of a number of the specified buildings within the site.
- 6.54 The proposed B8 / storage uses, which are noted to include open air storage, are generally considered as having the potential to lead to some element of harm to neighbouring residential properties, by way of the nature of use, which could lead to vehicular movements and noise. Therefore, ensuring there is some physical separation between the residential property at Birchfield House and any onsite B8 / storage uses would alleviate any direct and adverse level of harm that could occur by way of undue noise and disturbance. In this instance, the intervening structures, albeit of a light-weight construction, and distances involved, would offer mitigation against direct and adverse harm to the residential amenities of the occupants of Birchfield House, and their private amenity space. Furthermore, hours of use conditions to limit the times at which these areas can be accessed would also assist in reducing potential amenity harm.
- 6.55 The area dedicated to the landscape design business (shaded blue on the proposed plan) would not be too dissimilar to the former open storage area of the nursery business. It is suggested that planning conditions are imposed to cover the formalised use of this area, including external flood-lighting and hours of use.

- 6.56 One use noted during a site visit, concerned a training centre in the northern section of the site. It is considered that this use would fall outside of those uses sought by way of the application, and so would not be permitted to operate from the site in the event of approval being granted. Similarly, the display and sale of motor vehicles would not fall under the proposed uses sought under this application.
- 6.57 In conclusion, the proposed uses set out as part of the current application, and subject to appropriate planning conditions, are considered to be consistent with HDPF policy 33 in seeking to ensure that neighbouring amenities are not unduly harmed.

Highways Impacts

- 6.58 In considering the current proposal, it is noted that the new priority access directly off the A281, was approved under application DC/17/1067, with the pre-commencement conditions 4 and 5 having been approved. The design of the access and associated visibility splays demonstrated adequate access and turning of a HGV into the site. Conditions 6 and 7 applied once the new vehicular access was completed and prior to first use, respectively.
- 6.59 The access off the A281 has been formed as approved under DC/17/1067, but has not been surfaced to a specification that would be acceptable to the Local Highways Authority, requiring a bound surface. Therefore, this should be secured through an appropriate condition as part of the current application, which involves a proposed modification to the vehicular route within the site.
- 6.60 The historic use of the site as a horticultural plant nursery would have generated regular HGV deliveries, along with smaller vehicular movements associated with its operations. The retail element of the former nursery business also attracted members of the public to the site, and parking, both within the site and within the verge immediately adjacent to Kidders Lane. As a result of the new vehicular access formed under DC/17/1067, all traffic now accesses the site directly off the A281.
- 6.61 Although only an approximate figure of 50 FT staff is provided within the application form in support of the proposed flexible use of the site, it is clear that the site provides for sufficient parking to accommodate the likely demand. The site visit carried out in May 2021 revealed sufficient capacity within the site.
- 6.62 The proposal therefore accords with Policy 40 and 41 of the HDPF and paragraph 109 of the National Planning Policy Framework, subject to the attached conditions.

Climate Change

- 6.63 Policies 35, 36 and 37 of the HDPF require that development mitigates to the impacts of climate change through measures including improved energy efficiency, reducing flood risk, reducing water consumption, improving biodiversity and promoting sustainable transport modes. These policies reflect the requirements of Chapter 14 of the NPPF that local plans and decisions mitigate the impact of development on climate change. Although no specific measures have been included in the proposal to address climate change impact, the re-use of the existing site and buildings would contribute towards the sustainable use of an existing site. Furthermore, there are increased opportunities presented in terms of the biodiversity enhancements and landscape improvements.

- 6.64 With the above in mind, the Local Planning Authority are satisfied that through the use of appropriately worded planning conditions the above measures could be implemented to reduce the development's impact on climate change. In this regard, the Local Planning Authority does not object to the proposal on these grounds.

Conclusion and Planning Balance

- 6.65 It is acknowledged that this site has seen long-established active use as a horticultural plant nursery, first selling wholesale, then opening up to include public retail. Whilst previously operating within the definitions of 'Agriculture' as defined by Section 336(1) of the TCPA 1990, the permission granted in 2012 under DC/11/1250, would have introduced more of a commercial 'garden centre' character to the site. Although this permission lapsed, the likely change in character and intensification of use was acknowledged, with the permitted scheme including a new central building to enable appropriate diversification of the horticultural nursery by providing space for an ancillary retail shop, café, staff and customer facilities, offices and community rooms, all relating to the primary plant nursery on the site.
- 6.66 It is acknowledged that the character of the site has changed over the past 8 years since the boundary vegetation and a number of polytunnels were removed in preparation for the development works granted under DC/11/1250. Since permission was granted, it is understood that the horticultural retailing business has changed, in part due to the low-cost imported plants being sourced overseas, which provide large-scale garden centres with a more competitive edge, which is said to have impacted on the viability of the nursery site.
- 6.67 The Enforcement Notice that currently stands on the site, requiring the unlawful uses to cease and for all unrelated items and uses to be removed from the site, presented an 'as existing' situation to the Inspector at the Appeal. The current planning application looks at a proposed re-use of the site and buildings, incorporating new and proposed landscape improvements, offering the ability to impose reasonable and necessary planning conditions to ensure the use remains appropriate in planning and context.
- 6.68 It is therefore clear that the current planning application is not seeking to regularise the existing / current uses in full, which is what the Inspector was asked to consider under Ground (a) of the Enforcement Appeal. Rather, it seeks a composite proposal, putting forward specific open storage areas within the site, subject to height limitations in response to the harm that was identified as part of the Enforcement Appeal decision. Furthermore, the landscaping proposals have been put forward also to mitigate against visual harm identified
- 6.69 It is also clear that the site presents an ongoing flexible and swiftly changing opportunity to provide small informal commercial and storage spaces, as needs change and arise, using existing structures and buildings and incidental spaces between. The ability of the site to accommodate a relocating nursery business from outside the district is one such recent change, occupying two polytunnels and adjacent areas of hardstanding for nursery stock since April 2021. The continuous occupation of the site, albeit largely unlawfully, since the horticultural nursery business ceased trading, indicates a need in the locality for these types of non-fixed and flexible spaces.
- 6.70 Furthermore, whilst the site lies in a highly conspicuous and rural location, it has direct vehicular access to the A281, a busy local distributor road, with an approved access that can accommodate large vehicles and HGVs.

- 6.71 Part of the conspicuousness of the site is down to the boundary treatment itself, with the former vegetated boundary having been removed and the site opened up to views from the A281 some 5-6 years previously. The removal of this boundary vegetation and trees has not contravened any planning legislation, but the visual sensitivities of the site have increased as a result.
- 6.72 The current planning proposal presents an opportunity to approve associated earth works to form new bunds, and for these to be subsequently planted up to form not only a more secure demarcation to the site, but also provide some screening of the buildings and proposed storage from receptors outside of the site. Further proposed works would re-position entrance gates within the site, flanked by vegetated bunds, thus removing the current open view that is available from the A281 by way of the open access.
- 6.73 It is therefore considered that the proposal includes satisfactory mitigating landscape works and improvements that would provide a robust and new boundary demarcation for the site, and one that would not be out of character with the rural landform in the area. The landscaping opportunities are considered to present a positive visual enhancement to the site and how this relates to the wider rural landscape context.
- 6.74 Turning to the proposal to formally introduce B8 / storage use onto the site, it is considered that the combination of landscaping, specified areas for the outside storage use and associated height limits, satisfactorily addresses and overcomes the concerns raised during the Enforcement Appeal, none of which were presented as part of the appeal case.
- 6.75 Further proposed use of the site seeks to formally introduce commercial uses onto the site, optimising the potential viable use of the existing structures across the site. Whilst the envisaged flexibility of the new Class E is recognised (introduced 1st September 2020), the sub-categorisation of uses set out within Class E, clearly indicates the acknowledgement that some measure of controls may be appropriate in some instances. Given the location of the site in a rural area some distance from settlements, taking account of the nearby residential receptors, and given the nature of the buildings themselves, it is considered that a number of the uses within the wider Class E would not be suitable for this site. Therefore, it is appropriate to impose some restrictions by way of a condition. In this regard, reference is made to the application form which states that the proposal sought to provide for B1 (business) uses and B8 (storage uses), but this was revised to open Class E use and B8 uses in light of the changes brought into force before the application was submitted.
- 6.76 It is therefore recommended that the applicant's original intentions to apply for B1 (business) and B8 (storage) uses be followed through to take account of the new Class E uses, with a narrowed use for Class E (g) and B8 (storage) restricted by way of conditions. The use of the site as a retail nursery would also fall under the new E class, specifically E(a) use, and so this use is also recommended to be captured within the conditions, thus reflecting the recent partial occupation of the site by Garden Sage. This would ensure that the future use of the site can be secured in an appropriate manner and in a way that does not prejudice the neighbouring amenities of adjacent properties, whilst being in line with local and national planning policies. Under Schedule 2, Part A of the 2020 Regulation, it is stated that Class E Commercial, Business and Service applies to 'use, or part use, for all or any of the following purposes', which provides the Local Planning Authority with the ability to narrow down the uses to specific sub-categories within the wider Class E, allowing the uses to remain distinctly separate and subject to individual classification and planning control.
- 6.77 Despite the nature of the polytunnels, they are capable of serving an ongoing useful purpose, which a number of businesses have been willing to take on at the site.

- 6.78 It is considered that the current and unlawful uses on the site present an element of visual harm to the surrounding rural / agricultural context, as well as being used in a manner that is clearly very different from the lawful use as a horticultural nursery. The current proposal would allow for alternative and appropriate uses of the site and existing buildings, which would be subject to planning conditions and controls, including the beneficial landscape enhancements to the site. Overall, the proposal is considered to positively address the current unauthorised uses at the site, which remains subject to an active Enforcement Notice.
- 6.79 Should the current site occupier / owner decide to vacate the site entirely, there would be no obligation to reinstate the boundary vegetation, complete the vehicular access, remove the existing buildings or reinstate the lawful agricultural use of the site. The site would likely remain visually intrusive in the wider rural area by way of non-action.
- 6.80 The proposal, subject to the conditions is therefore recommended for approval.

COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 6.81 Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.
- 6.82 **It is considered that this development does not constitutes CIL liable development.**
- 6.83 Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.
- 6.84 In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

7. RECOMMENDATIONS

- 7.1 To approve planning permission, subject to the below listed conditions.

Conditions:

- 1 Plans list
- 2 **Standard Time Condition:** The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
- 3 **Pre-Occupation Condition:** Within 3 months of the date of approval, the surfacing of the existing vehicular access onto the A281 shall be improved in accordance with plans and details, which shall include a detailed construction specification, submitted to and approved in writing by the Local Planning Authority. Once approved, the surfacing shall be carried out within 3 months of the date of approval of the details.

Reason: In the interests of road safety and in accordance with Policy 40 of the Horsham District Planning Framework (2015).
- 4 **Pre-Occupation Condition:** Within 3 months of the date of approval, details of the visibility splays of 4.5 by 160metres at the existing site access onto the A281 shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the visibility splays shall be carried out within 3 months of the date of approval of the details.

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

- 5 Pre-Occupation Condition:** Within 3 months of the date of approval, full details of all hard and soft landscaping works shall be submitted to and approved, in writing, by the Local Planning Authority. The details shall include plans and measures addressing the following:
- Details of all existing trees and planting to be retained
 - Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details
 - Proposed Ecological enhancement measures

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the date of approval of the details. Unless otherwise agreed as part of the approved landscaping, no trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped or lopped without the previous written consent of the Local Planning Authority until 5 years after completion of the development. Any proposed planting, which within a period of 5 years, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

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).

- 6 Pre-Occupation Condition:** Within 3 months of the date of approval, a landscape management and maintenance plan (including, but not limited to, long term design objectives, management responsibilities, public / community access arrangements, a description of landscape components, management prescriptions, maintenance schedules and accompanying plan delineating areas of responsibility and a timetable for implementation) for all communal landscape areas, including the wildlife reserve, shall be submitted to and approved in writing by the Local Planning Authority. The landscape areas shall thereafter be managed and maintained in accordance with the approved details.

Reason: To ensure a satisfactory development and in the interests of visual amenity and nature conservation in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 Pre-Occupation Condition:** Within 3 months of the date of approval, details of all engineering operations and boundary treatments, including fences, earth bunds and access gates, and removal of the temporary Heras fencing, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the engineering operations, removal of the temporary Heras fencing and boundary treatments shall be carried out within 3 months of the date of approval of the details. The boundary treatments shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of visual and residential amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 8 Pre-Occupation Condition:** Within 3 months of the date of approval, details for the provision for the storage of refuse and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. Once approved, these facilities shall be provided within 3 months of the date of approval of the details and thereafter be retained for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 9 Regulatory Condition:** No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.
- Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 10 Regulatory Condition:** No externally located plant or equipment shall be installed or operated without the prior written approval of the Local Planning Authority by way of formal application.
- Reason: To safeguard the amenities of the adjoining occupants at Birchfield House and in accordance with Policy 33 of the Horsham District Planning Framework (2015).
- 11 Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Regulation or Order), Buildings 1, 2, 4, 5, 7, 11 and 14 [on drawing 1843.2/02A] shall only be used for B1 / E(g) (Business) uses and for no other purposes whatsoever, (including those falling within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) 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, Use Classes Order 1987, or the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, are not considered appropriate in this case due to the rural location of the site and proximity to neighbouring properties, in accordance with Policies 10, 26 and 33 of the Horsham District Planning Framework (2015)
- 12 Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), Buildings 3, 6, 8, 9, 10, 12 and 13 [on drawing 1843.2/02A] shall only be used for B1 / E(g) (Business) uses, or as a retail garden nursery, and for no other purposes whatsoever, (including those falling within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020), or B8 (storage) uses and for no other purposes whatsoever, as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) 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, Use Classes Order 1987, or the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, are not considered appropriate in this case due to the rural location of the site, in accordance with Policies 10, 26 and 33 of the Horsham District Planning Framework (2015).
- 13 Regulatory Condition:** In accordance with the approved plan 1843.2/02 Rev A, B8 open storage use shall only occur within the designated areas marked on plan 1843.2/02A and shall be restricted to the following:
- The area of open storage adjacent to Buildings 3 and 4 shall only be used in association with the landscape design business operating from the site
 - The area of open storage to the east of Building 10 shall be limited to a storage height no higher than 3m above existing natural ground level
 - The area of open storage to the south of Building 10 shall be limited to a storage height no higher than 3.5m above existing natural ground level

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 14 Regulatory Condition:** The garden retail use operating from the site shall not be open for trade or business except between the hours of:
0800 to 2000 Mondays to Fridays and
0800 to 1800 Saturdays
1000 to 1600 Sundays and Bank Holidays

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

- 15 Regulatory Condition:** No E(g) or B8 use operating from the site shall be open for trade or business except between the hours of:
0800 to 2000 Mondays to Fridays and
0800 hours and 1800 hours on Mondays to Fridays inclusive
0800 hours and 1300 hours on Saturdays
And at no time on Sundays or Public Holidays.

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

- 16 Regulatory Condition:** No commercial deliveries or collections, including refuse collection, shall be made at the site other than between the hours of:
0800-1800 Mondays to Fridays inclusive
0800-1300 Saturdays
And at no time on Sundays or Public Holidays.

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

- 17 Regulatory Condition:** No produce, crates, packing materials or waste shall be stacked or stored on the site except within the buildings, without the prior approval in writing of the Local Planning Authority.

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

- 18 Regulatory Condition:** No steel stockholding or heavy plant hire shall take place on site

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

- 19 Regulatory Condition:** There shall be no burning of materials or waste on the site.

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

- 20 Regulatory Condition:** No soils shall be imported within the development site until the developer / applicant has submitted details of the chemical testing and assessment of the soils which demonstrates the suitability of the soils for the proposed use. The assessment shall be undertaken by a suitably qualified and competent person and full details shall be

submitted to and approved in writing by the local planning authority. Prior to the first occupation (or use) of any part of the development hereby permitted, a written verification report shall be submitted which demonstrates only soils suitable for the proposed use have been placed. The verification report shall be submitted and approved, in writing, by the Local Planning Authority.

Reason: As this matter is fundamental to ensure that no unacceptable risks are caused to humans, controlled waters or the wider environment during and following the development works and to ensure that any pollution is appropriately addressed in accordance with Policy 24 of the Horsham District Planning Framework (2015) and paragraphs 178 and 179 of the National Planning Policy Framework (2019).