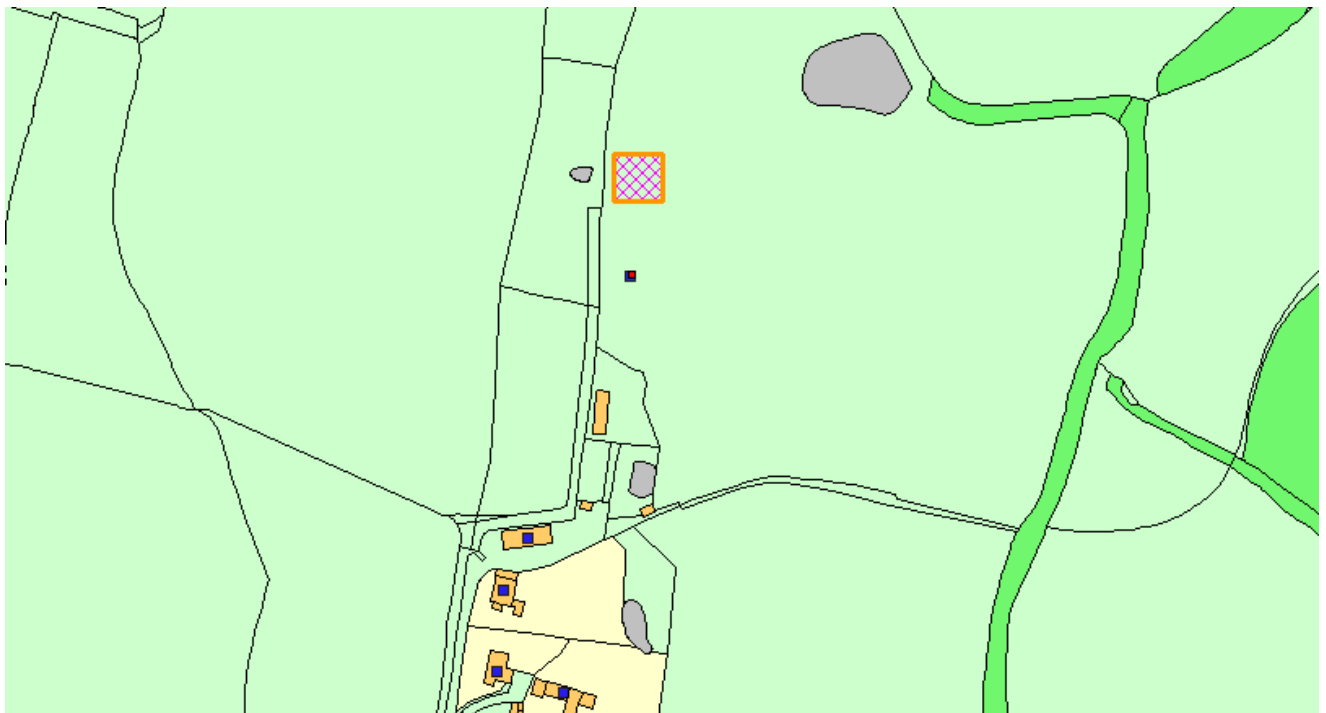


Report to: Planning Applications Committee
Date: 12 July 2023
Application No: LW/23/0140
Location: Bramble Lodge, Nursery Lane, Wivelsfield Green
Proposal: Section 73a retrospective application for single storey moveable and temporary dwelling for accommodation whilst works are carried out to adjacent properties and buildings.
Applicant: Mr Malins
Ward: Wivelsfield
Recommendation: Approve temporary permission subject to conditions.
Contact Officer: **Name:** James Smith
E-mail: james.smith@lewes-eastbourne.gov.uk

Site Location Plan:



1.	Executive Summary
1.1	The application has been brought to committee as the ward councillor at the time the scheme was submitted requested it be called in and the request was made on sound planning based grounds.
1.2	The building subject of the application is in-situ and the application seeks permission to retain this building for a temporary period, whilst works are carried out on the adjacent land to provide a new dwelling.
1.3	Whilst a permanent dwelling in this position would not be supported due to conflict with rural protection policies, it is considered reasonable to allow for a strictly controlled time limited permission in order for temporary accommodation to be provided for the future occupants of the dwelling permitted on the neighbouring site under LW/21/0507. Conditions will be used to ensure the building is removed and the land restored to its former condition upon completion of the new permanent dwelling.
2.	Relevant Planning Policies
2.1	<u>National Planning Policy Framework</u> 2– Achieving sustainable development; 5 - Delivering a sufficient supply of homes 4 – Decision-making; 8 – Promoting healthy and safe communities; 9 – Promoting sustainable transport 11 – Making effective use of land 12 - Achieving well-designed places; 14 – Meeting the challenge of climate change, flooding, and coastal change; 15 – Conserving and enhancing the natural environment
2.2	<u>Lewes Local Plan Part 1 (LLP1)</u> CP10 – Natural Environment CP11 – Built and Historic Environment & Design CP12 – Flood Risk, Coastal Erosion and Drainage CP13 – Sustainable Travel CP14 – Renewable and Low Carbon Energy
2.3	<u>Lewes Local Plan Part 2 (LLP2)</u>

	DM20-Pollution Management DM23-Noise DM24-Protecting Biodiversity and Geodiversity DM25-Design
2.5	<u>Wivelsfield Neighbourhood Plan (WNP)</u> 1 – A Spatial Plan for the Parish 5 – Design 6 – Green Infrastructure and Biodiversity

3.	Site Description
3.1	<p>The application site is located outside of the settlement boundary, the nearest settlement being Wivelsfield Green, the edge of which is approx. 520 metres to the south west of the site. The site lies at the end of a rural lane, which also forms the route of a public bridleway. The lane terminates approx. 190 metres to the south of the site, at which point it continues as a track. At this point, the bridleway also splits into public footpaths heading north, east, and west. The site can be clearly viewed from the footpath heading east and can be seen through trees and hedgerow from the footpath which heads north.</p>
3.2	<p>The site is occupied by a timber clad flat roof structure which is the subject of this application for temporary permission. The structure is positioned on a concrete base and has access to utilities. An informal garden area has been formed to the north.</p>
3.3	<p>The structure is at the northern end of a row of buildings comprising a storage building for which there is extant permission for conversion to residential use under LW/21/0507 and a recently erected timber clad barn structure approved under LW/20/0267. This line of buildings is positioned on the western edge of a hedgerow enclosed field, the southern boundary of which is flanked by the eastward heading public footpath referred to in para. 3.1.</p>
3.4	<p>Other than its rural setting and the proximity to public footpaths, there are no specific planning designations or constraints attached to the site or the immediate surrounding area.</p>

4.	Development
4.1	The application seeks retrospective temporary permission for the structure occupying to allow it to be used to accommodate the future occupants of the dwelling approved under LW/21/0507. The proposal does not include any further modifications or additions to the building.

5.	Relevant Planning History:
5.1	LW/21/0507 - conversion of existing workshop / builders' yard to form a 3 bed dwelling– Approved Conditionally 23 rd September 2022

6.	Consultations:
6.1	<p><u>Wivelsfield Parish Council:</u></p> <p>At its meeting on 3rd April, Wivelsfield Parish Council resolved to object to the above retrospective application for a single storey moveable and temporary dwelling for accommodation whilst works are carried out to adjacent properties and buildings.</p> <p>It is the Council's understanding that this application is very belated, since residents report that people having been living in the temporary dwelling for around two years already. The work to 'adjacent properties' described as the reason for the application includes the building of a house on the former 'builders' yard' site, which the Parish Council also objects to on the basis that the builders' yard never had planning permission. The rural aspect of this area is being spoiled by these incursions into the countryside setting and the amenity of the public footpath has also been marred.</p> <p>OFFICER COMMENT: There is extant permission for the builders' yard storage building to be converted to residential use granted under LW/21/0507.</p>

7.	Other Representations:
7.1	<p>One letter of objection has been received. Relevant planning content provided is summarised below: -</p> <ul style="list-style-type: none"> • The planning notice was torn down; • The structure is not moveable; • There is no justification for the accommodation. <p>OFFICER COMMENT: A new notice was issued and displayed following receipt of the complaint regarding the original one being removed. The building has no foundations, and a condition will be used to require its removal as soon as the dwelling approved under LW/21/0507 is complete</p>

	or within 3 years, whichever is sooner. The justification for the temporary use will be assessed in the main body of this report.
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8.	Appraisal:
8.1	<p><u>Key Considerations:</u></p> <p>Sec 38 (6) of the Planning Compulsory Purchase Act 2004 requires that regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.</p> <p>The NPPF also advises that there is a presumption in favour of sustainable development.</p> <p>The main considerations relate to</p> <ul style="list-style-type: none"> • The principle of the development; • The visual impact of the proposed works within the wider rural setting; • The justification of a temporary use; • The feasibility of restoring the land to its previous, undeveloped condition upon cessation of the use; • The overall merits of the scheme in terms of the balance of economic, environmental, and social objectives that comprise sustainable development.
8.2	<p><u>Principle of Development</u></p> <p>The site is positioned outside of the settlement boundary. Although the building is in-situ it does not currently benefit from planning permission and is therefore an unlawful structure. It can therefore not be regarded as an established rural building and the residential use of the site is not regularised.</p> <p>Residential development outside of the settlement boundary is strongly resisted in the local plan and the establishment of a permanent dwelling on the supplication site would not comply with any of the rural exception policies set out in LLP2. Although the Council is currently unable to demonstrate a five-year supply of housing land, and as a result the ‘tilted balance’ approach is applied in determination of applications for new housing. Even with the tilted balance adopted, the benefits of a single isolated dwelling outside of the settlement boundary would not outweigh the harm it would have upon the surrounding environment.</p> <p>Whilst the above would be applicable for any application for permanent use, it is considered that the principle of the provision of temporary accommodation can be accepted, on the understanding that is directly</p>

	<p>linked to approved operations being carried out on neighbouring land. It is noted that there are provisions for temporary structures associated with the carrying out of approved development set out in Schedule 2, Part 4, Class A of the Permitted Development Order although this does not extend to residential uses.</p> <p>Given there is an extant approval for the provision of a new dwelling on the neighbouring land it is considered there is justification for temporary accommodation being in place on neighbouring land. This justification would, however, fall away upon completion of the approved permission. As such, it is considered that the principle of a temporary permission with strictly regulated time conditions and provisions for the removal of the building and restoration of the land following the expiry of the temporary permission is acceptable in this instance.</p>
8.3	<p><u>Visual Impact and Design</u></p> <p>The building is a timber clad structure that is positioned on a concrete base. It is highly visible from the public footpath to the south. The building has been positioned to the north of existing structures, both of which have planning permission. Further expansion of permanent buildings northwards introduces a cluttered appearance, and this sense of clutter is exacerbated by the temporary appearance of the building itself, which is essentially a sizeable flat roofed hut. It is likely that a sustained presence of the building on the site would cause harm to the wider character of the rural environment, particularly as the fabric of the building would be likely to deteriorate over time.</p> <p>However, it is considered, on balance, that with the justification of the need for the building to accommodate future occupants of the dwelling being provided on the neighbouring site and with the ability for conditions to be used to ensure the removal of the building after a period of 3 years, or the completion of the approved dwelling whichever is the sooner, would allow for the needs of the future occupants to be served whilst also protect the character and quality of the surrounding rural environment in the medium to long term.</p> <p>It is considered that the building could easily be removed from its concrete base and the land restored to its former condition. A condition will be used to ensure that such works are carried out promptly, that the building and associate structures and materials are removed from site and that details of landscaping associated with site restoration are provided and adhered to.</p> <p>It is therefore considered that, whilst a permanent dwelling on the site would have an unacceptable impact upon the character of the surrounding area, there is suitable mitigation available to address the temporary harm caused by the temporary structure.</p>
8.4	<p><u>Impact upon residential amenity:</u></p>

	Although there are dwellings nearby, the separation distances between the proposed dwelling and neighbouring properties is considered to prevent any potential for loss of residential amenities as a result of overlooking, overbearing or overshadowing impact,
8.5	<p><u>Living Conditions for Future Occupants</u></p> <p>The temporary building is provided with utilities, has vehicular access, is of an appropriate size and is provided with a degree of natural surveillance from surrounding dwellings and the public footpath. It is therefore considered that a suitable environment is provided for temporary residential occupation.</p> <p>A condition can be used to ensure the building is only occupied by named individuals to ensure it will remain associated with future occupants of the neighbouring development and would not be used as a holiday let or as non-associated accommodation.</p>
8.6	<p><u>Human Rights Implications:</u></p> <p>The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been considered fully in balancing the planning issues; and furthermore, the proposals will not result in any breach of the Equalities Act 2010.</p>
8.7	<p><u>Conclusion.</u></p> <p>It is considered that although as permanent dwelling in this location would be contrary to the development plan, a temporary permission with conditions to remove the building and restore the land on cessation of use is acceptable.</p>

9.	Recommendations
9.1	It is recommended that the application is approved subject to appropriate conditions that are listed below.

10.	Conditions
10.1	<p>TEMPORARY PERMISSION:</p> <p>The temporary accommodation hereby permitted along with all associated infrastructure shall be removed and the land restored to its former condition on or before 3 years from the date of this permission, or within 2</p>

	<p>months of the first occupation of the dwelling approved under LW/21/0507, whichever is earlier, in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: In order to control the use of the accommodation as a means to prevent the establishment of unfettered and unwarranted residential accommodation outside of the planning boundary in accordance with policy LLP2 policies DM1 and DM3 and WNP policy 1.</p>
10.2	<p>NAMED OCCUPANTS</p> <p>The permission for temporary accommodation shall ensure only for Mr Malines and the temporary accommodation hereby permitted shall only be occupied by Mr Malines and his dependants or occupants, whose names shall be provided to the Council within 1 month of the date of this permission, and by no other persons at any time, unless otherwise approved by the Council.</p> <p>Reason: In order to control the use of the accommodation as a means to prevent the establishment of unfettered and unwarranted residential accommodation outside of the planning boundary in accordance with LLP2 policies DM1 and DM3 and WNP policy 1.</p>
10.3	<p>EXTERNAL LIGHTING</p> <p>No external lighting shall be installed to the building unless otherwise agreed in writing by the Local Planning Authority. This exclusion shall not prohibit the installation of internal lighting or of sensor-controlled outdoor lighting of 1,000 lumens or less, which shall be designed and shielded to minimise upwards light spillage.</p> <p>Reason: In order to protect the nighttime tranquillity of the surrounding environment in accordance with LLP1 policy CP10, LLP2 policy DM20, para. 185 of the NPPF and WNP policy 5.</p>
10.4	<p>LAND RESTORATION</p> <p>Within 6 months of the date of this permission, details of how the structure would be removed from site and all landscaping works associated with land restoration shall be submitted to and approved by the Local Planning Authority and the restoration of land required by condition 1 shall be carried out in adherence with these details upon expiry of the temporary permission.</p> <p>Reason: In order to protect the character of the rural environment in accordance with LLP1 policy CP10, LLP2 policy DM25 and para. 174 of the NPPF.</p>

11.	Plans:		
11.1	This decision relates solely to the following plans: -		
	<u>Plan Type</u>	<u>Date Received</u>	<u>Reference:</u>
	Location Plan	07/3/23	22/134/LOC
	Existing Block Plan	07/3/23	22/134/BLK
	Plans and Elevations of Existing Cabin	07/3/23	22/134/SK01
12.	Appendices		
12.1	None.		
13.	Background Papers		
13.1	None.		