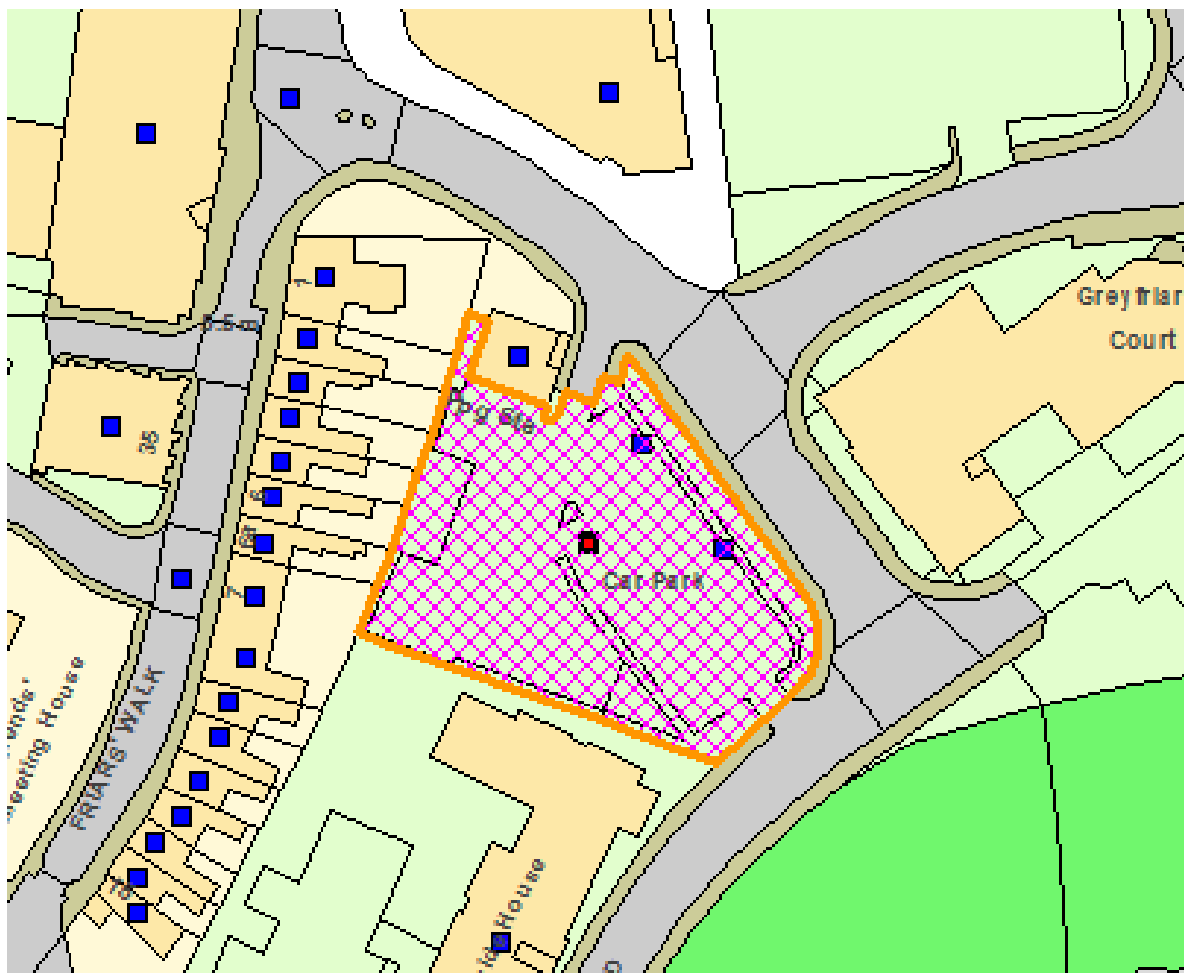


Report to: Planning Applications Committee
Date: 7th December 2022
Application No: SDNP/22/03583/FUL
Location: The Forecourt, Court Road Car Park, Court Road, Lewes
Proposal: Use of land for vehicle rental, erection of temporary office and ancillary facilities.
Applicant: Mr R Emery
Ward: Lewes Bridge Ward
Recommendation: Grant Temporary Permission subject to conditions.
Contact Officer: **Name:** Claire Tester
E-mail: Claire.Tester@lewes-eastbourne.gov.uk

IMPORTANT NOTE: This scheme is CIL Liable.

Site Location Plan



1.	Executive Summary
1.1	The application site is allocated in the Lewes Neighbourhood Plan for housing and the planning permission for 9 dwellings granted under SDNP/16/01618/FUL was legally commenced and therefore remains extant. However, the permission has not been built out and during 2021 a vehicle hire business began to operate from the land. An application to permanently retain this business was refused under SDNP/21/04794/FUL.
1.2	Since the previous refusal the technical objections to the use (highways, drainage, and lighting) have been addressed. The remaining issues are the principle of development, considering the allocation of the site for housing, and the impact of the proposal on the character of the area and the significance of the adjacent Lewes Conservation Area.
1.3	<p>The permanent grant of planning permission for the proposed use would not be acceptable as it would prejudice the delivery of the allocated housing site. However, the temporary use of the site would not prevent this allocation from being implemented in the medium term. This would allow the economic activity on the site to continue whilst the viability issues for the housing allocation are worked through with the site owner.</p> <p>Similarly, the impact of this proposal on the townscape character of this part of Lewes would not be considered acceptable for a permanent development since it does not meet the high landscape-led design standards for the National Park. Nonetheless, this impact must be considered in the light of the fallback positions of either being left vacant or reverting to its original use as a car park. Even if it is still considered to cause harm to the Conservation Area, this harm is less than substantial and must be balanced against the public benefits of the development, giving great weight to the heritage asset's conservation.</p> <p>Local Plan policy SD34 supports develop that fosters the economic and social wellbeing of local communities, which reflects the duty of National Parks and national policy in the NPPF. The national economic situation has deteriorated since the last decision on this site and it considered that keeping the site in economic use that supports 10 jobs in the local area should carry significant weight.</p>
1.4	Overall, it is considered that the temporary use of this site for vehicle hire as set out in the application details is acceptable and should be granted subject to conditions restricting hours of use and lighting.

2.	Relevant Planning Policies
2.1	<p><u>National Planning Policy Framework</u></p> <p>5. Delivering a sufficient supply of homes 6. Building a strong, competitive economy 12. Achieving well-designed places 15. Conserving and enhancing the natural environment 16. Historic Environment</p>
2.2	<p><u>South Downs Local Plan 2019</u></p> <p>Policy SD1 Sustainable Development Core Policy SD2: Ecosystem Services Core Policy SD4: Landscape Strategic Policy SD5: Design Strategic Policy SD7: Relative Tranquillity Strategic Policy SD8: Dark Night Skies Strategic Policy SD12: Historic Environment Development Management Policy SD15: Conservation Areas Strategic Policy SD19: Transport and Accessibility Strategic Policy SD25: Development Strategy Strategic Policy SD26: Supply of Homes Strategic Policy SD34: Sustaining the Local Economy Strategic Policy SD49: Flood Risk Management</p>
2.3	<p><u>Lewes Neighbourhood Plan:</u></p> <p>Policy HC3 A Heritage Protection of Landscape and Townscape Policy PL1 B 36 Land at Magistrates Court Car Park, Court Road</p>

3.	Site Description
3.1	<p>The application site comprises what was formerly the private car park associated with the Magistrates Court. The site is flat, with an area of 0.15 hectares, located on the bend of Court Road, opposite Greyfriars Court; a 3-storey apartment complex. The existing vehicular access is located on the north-eastern boundary. There is another 3-storey apartment complex (Leighside House) immediately to the southwest and a terrace of 2-storey Grade II Listed houses located beyond the western boundary. To the north is the Premier Inn.</p>
3.2	<p>The site is located on the edge of the Lewes Town Centre and the Lewes Conservation Area boundary which both runs along the north and west of</p>

	the site, however the site is not part of the Conservation Area. The site is within Flood Zone 2. There is a Southern Water pumping station adjacent to the north-western corner of the site.
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4.	Proposed Development
4.1	This is a retrospective application for the temporary use of land for vehicle rental, together with temporary office and ancillary facilities to support the business, for a period of three years. The site is leased by Orange Vehicle Rental (OVR) which wishes to stay on the site for a temporary period whilst they grow their operation and search for a larger site. On cessation of the use, the site would revert to its approved state – which is that of a housing site with extant planning permission.

5.	Relevant Planning History:
5.1	SDNP/16/01618/FUL Erection of 9 Residential Dwellings with adjoining outdoor space, car parking and associated works: Approved (various amendments and discharge of conditions also approved). SDNP/19/05748/LDP Lawful Development Certificate for Proposed Development - To determine whether the continuation of works approved under planning permission SDNP/16/01618/FUL for 9 residential dwellings with associated works is lawful: Approved
5.2	SDNP/21/04794/FUL Proposed office and ancillary facilities to support business on site: Application refused for the following reasons: 1. The proposal, by reason of its design, nature and location, would be harmful to and have an unacceptable impact on the landscape character and result in less than substantial harm to and failing to preserve or enhance the Lewes conservation area. The proposal falls within a site (PL1 B 36) allocated for housing in the Lewes Neighbourhood Plan and this proposal does not provide housing to accord with the policy or the housing supply requirements in SD26 of the SDLP. The proposal is therefore contrary to policies SD4, SD5, SD6, SD15 and SD26 of the South Downs Local Plan 2014 - 2033, PL1 B 36 of the Lewes Neighbourhood Plan, the NPPF and the first purpose of the National Park. 2. The proposal does not supply sufficient information to satisfy the LPA that the proposal is acceptable in terms of off-street parking and would therefore give rise to increased hazards to highway users, this is not in accordance with Paragraph 111 of the NPPF and policy SD19 of the South Downs Local Plan. 3. The number of external lights on the site is excessive, and not all measures to mitigate upward light spill has been taken. Therefore, the proposal causes detrimental harm to the dark skies, and not in accordance with SD8 of the South Downs Local Plan 2014 -2033. 4. The proposal has potential to impact on amenities to the neighbouring residential areas, the development would create unacceptable noise and

	<p>disturbance beyond what would be acceptable. Therefore, the proposal is not deemed to accord with SD5(k) of the South Downs Local Plan.</p> <p>5. Insufficient information has been supplied to show how the sites increased impermeable surfaces will impact upon surface water and how it will be managed through drainage measures and therefore the proposal fails to adequately demonstrate a scheme of flood risk management contrary to policy SD49 of the South Downs Local Plan 2014 – 2033.</p>
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6.	Consultations:
6.1	<p>Lewes Town Council noted that with extreme regret work had already started on site without planning approval and strongly object because it is preventing the use of the site for housing and the site was designated as housing in the Lewes Neighbourhood Plan (Policy PL1B, site 36). Objective 5.11 states increased density will be included where appropriate, locating housing near services, making this site highly suitable for meeting the objective (page 29).</p> <p>Concern was raised about the increase of traffic, noise, and highway safety, particularly considering the proximity of sheltered housing accommodation.</p> <p>Members considered it an ill-thought-out application and concur with the objection from East Sussex County Council. SD19 of the Local Plan seeks to minimise the traffic impacts of new developments and this proposal will increase its substantially.</p> <p>Page 86 of the Lewes Neighbourhood Plan states the site should maximise the opportunity to improve the frontage to Court Road and provide a positive interface with woodland to south east of the site and the current proposal dismisses the Neighbourhood Plan. It also states provision should be made for easy access by bicycle and the Committee noted there was no cycle storage included in the proposals. It was unclear as to whether this use was temporary. Therefore, Members strongly object to these proposals.</p>
6.2	<p>East Sussex County Council Highways initially objected on the grounds of insufficient information on LGV car parking and swept path drawings to satisfy them that the proposed development would not have a severe impact on the local highway network. Subsequently commented: “since the site has been in operation for a number of years and there have been no issues, and the proposed development is temporary proposal with a residential development to be constructed in due course, I would wish to withdraw my objection to this application”.</p>
6.3	<p>The Local Lead Flood Authority initially objected on the grounds of insufficient information on drainage. On receipt of further information, they have now confirmed that “the LLFA has no further comments on the above application. The letter provided in response to our objection satisfies our previously raised concerns”.</p>

7.	Other Representations:
7.1	No other representations have been received.

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 site is located within the South Downs National Park and therefore determine by the SDNPA who further to the presumption in favour of sustainable development and sec 38 (4) of the statutory purposes and duty of the National Park are:</p> <ul style="list-style-type: none"> • Purpose 1: To conserve and enhance the natural beauty, wildlife, and cultural heritage of the area. • Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. • Duty: To seek to foster the social and economic wellbeing of the local communities within the National Park in pursuit of our purposes.
8.2	<p>The main considerations for this application are whether:</p> <ul style="list-style-type: none"> • The development would prejudice the delivery of the housing site allocated under PL1 B36 of the Lewes Neighbourhood Plan and the housing supply requirements in SD26 of the South Downs Local Plan • The design, nature and location, would be harmful to and have an unacceptable impact on the landscape character and or fail to preserve or enhance the Lewes Conservation Area contrary to

	<p>policies SD4, SD5, SD12 and SD15 of the Local Plan and HC3A of the Neighbourhood Plan;</p> <ul style="list-style-type: none"> • The proposal is acceptable in terms of off-street parking and would therefore give rise to increased hazards to highway users in accordance with policy SD19 of the Local Plan. • The proposed lighting of the site would cause harm to the dark skies of the National Park contrary to policy SD8 of the Local Plan. • The proposal will impact on the amenities of the neighbours due to unacceptable noise and disturbance contrary to policy SD5(k) of the Local Plan; and • Sufficient information has been supplied to show how the development will impact upon surface water and flood risk management in compliance with policy SD49 of the Local Plan.
8.3	<p><u>Principle of Development</u></p> <p>The application site is situated within the settlement boundary of Lewes as defined by policy SD25 of the South Downs Local Plan (SDLP) and as such development is acceptable in principle subject to accordance with other relevant development plan policies.</p> <p>The site is allocated for residential development under Lewes Neighbourhood Plan policy PL1 B (36) and in 2016, planning permission was granted for nine dwellings under SDNP/16/01618/FUL. This permission is still extant as confirmed by a lawful development certificate granted under SDNP/19/05748/LDP. However, the agent states that the permission has not been built out due to viability issues.</p> <p>The permanent grant of planning permission for the proposed use would not be acceptable as it would prejudice the delivery of the allocated housing site. However, the temporary use of the site for an economic purpose whilst the viability issues for the preferred residential use are worked through would not prevent this allocation from being implemented in the medium term. The anticipated housing delivery from this site is relatively low and a delay in its supply will not have a significant impact on the Planning Authority's five-year housing land supply. In the event that planning permission is refused, and successful enforcement action taken to remove the use, there are two potential scenarios:</p> <ul style="list-style-type: none"> a) The site would simply sit vacant until the allocation is delivered; or b) The site would revert to its original use as a car park. <p>These scenarios would also have implications for the character of the area which should be weighed in the balance as realistic fallback situations.</p> <p>Local Plan policy SD34 supports development that fosters the economic and social wellbeing of local communities, which reflects the duty of National Parks and national policy in the NPPF. The national economic situation has deteriorated since the last decision on this site and it is considered that keeping the site in economic use that supports 10 jobs in the local area should carry significant weight.</p>
8.4	<p><u>Impact on Landscape Character and Lewes Conservation Area</u></p>

	<p>Policy SD4 and Policy SD5 supports development that integrates with, respects, and sympathetically complements the landscape character (including townscape). SD12 and SD15 require development to conserve and enhance the historic environment including conservation areas.</p> <p>The majority of the site is laid out as vehicle parking, with a 48 square metre dark grey container/cabin used as a site office located on the southern boundary. A metal railing fence bounds the site on its road frontages.</p> <p>The impact of the vehicle parking on the character of the area, including the adjacent Conservation Area, is not dissimilar to that of the previous car park. The dark colour of the office and the see-through nature of the railings help to mitigate the impact of the structures on the site.</p> <p>In the previous application the case officer considered that a very similar proposal would adversely affect the character and setting of the Conservation Area through the introduction of a building of form, design and alien materials that would erode the character of the area, and she judged that less than substantial harm would be caused to this heritage asset. In these circumstances it is necessary in accordance with paragraph 202 of the National Planning Policy Framework to balance this harm against the public benefits of the development.</p>
8.5	<p><u>Access and Parking</u></p> <p>The revised application includes detailed parking plans showing 19 car parking spaces, 8 Motor Home spaces, 4 electric vehicle spaces, 1 disabled space and 5 cycle storage spaces. These are for the vehicles that are hired out and staff. Customers arriving for collection of vehicles will either be on foot/public transport or will arrive by private motor car (in which case they can park their car in the space to be vacated by the relevant hire vehicle).</p> <p>Court Road at the point of access is subject to a 20mph speed limit at the point of access. Although the exit to the site is located on a bend, visibility round the bend is good, and there are no concerns regarding visibility at the site. Furthermore, there were no accidents reported linked to the access when the site was in operation as a car park between the years 2006 and 2013. The access arrangement for the site is therefore considered acceptable.</p> <p>ESCC Highways has confirmed that it has no objection to a temporary consent.</p>
8.6	<p><u>Dark Skies</u></p> <p>Policy SD8 of the South Downs Local Plan states that development proposals must demonstrate that all opportunities to reduce light pollution have been taken and must ensure that the measured and observed sky quality in the surrounding area is not affected. The whole of the South Downs National Park is designated as dark skies. No lighting is proposed on the submitted plans and a condition is recommended that would restrict any future lighting on site.</p>
8.7	<p><u>Neighbouring Amenities</u></p>

	<p>The proposal has the potential to impact upon the amenities of the neighbouring properties. There are properties closely located to the west and south of the site. The office building is only single storey and would not result in any overbearing, overlooking or overshadowing impacts. The revised scheme ensures that larger vehicles are parked at the front of the site so that they do not impinge on views out of neighbouring properties. The general level of activity associated with the use is lower than the historic use of the site as a car park. Initial complaints were received when the use first started approximately 18 months ago, relating mainly to noise and vehicle operating times. However, these complaints ceased when the parking of motor homes was moved away from the adjacent dwellings and hours reduced to normal business hours. No objections from residents have been received in respect of this application.</p>
8.8	<p><u>Flooding</u></p> <p>Details of surface water drainage were submitted with the application and supplemented with further information at the request of the Local Lead Flood Authority, which has confirmed that it has no further comments on the application and that the details satisfy their previously raised concerns.</p>
8.9	<p><u>Planning Obligations:</u></p> <p>There are no S106 Planning obligations associated with this proposal.</p>
8.10	<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>
8.11	<p><u>Conclusion.</u></p> <p>Since the previous refusal the technical objections to the proposed use (highways, drainage, and lighting) have been addressed. The remaining issues are the principle of development, considering the allocation of the site for housing, and the impact of the proposal on the character of the area and the significance of the adjacent Lewes Conservation Area.</p> <p>The permanent grant of planning permission for the proposed use would not be acceptable as it would prejudice the delivery of the allocated housing site. However, the temporary use of the site would not prevent this allocation from being implemented in the medium term. This would allow the economic activity on the site to continue whilst the viability issues for the housing allocation are worked through with the site owner.</p> <p>Similarly, the impact of this proposal on the townscape character of this part of Lewes would not be considered acceptable for a permanent development since it does not meet the high landscape-led design standards for the National Park. Nonetheless, this impact must be considered in the light of the fallback positions of either being left vacant or reverting to its original use as a car park. Even if it is still considered to cause harm to the Conservation Area, this harm is less than substantial</p>

	<p>and must be balanced against the public benefits of the development, giving great weight to the heritage asset's conservation.</p> <p>Local Plan policy SD34 supports development that fosters the economic and social wellbeing of local communities, which reflects the duty of National Parks and national policy in the NPPF. The national economic situation has deteriorated since the last decision on this site and it is considered that keeping the site in economic use that supports 10 jobs in the local area should carry significant weight.</p> <p>Overall, it is considered that the temporary use of this site for vehicle hire as set out in the application details is acceptable and should be granted subject to conditions restricting hours of use and lighting.</p>
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9.	Recommendations
9.1	In view of the above the temporary use and development is considered to be acceptable and approval is recommended subject to conditions.

10.	Conditions:
10.1	<p>Temporary period</p> <p>The development hereby permitted is granted for a limited period only expiring on 31st December 2025. On or before this date, the development carried out in pursuance of this permission shall be demolished/removed from the site and the land restored in accordance with a scheme which has been submitted to and approved in writing by the LPA.</p> <p>Reason: The use hereby approved is not considered suitable as a permanent form of development and the site has been allocated for residential development under Lewes Neighbourhood Plan policy PL1 B (36).</p>
10.2	<p>Approved Plans</p> <p>The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p>

10.3	<p>Hours of use</p> <p>No movement of vehicles into, out of or around the site shall take place outside the following times: -</p> <p>a) 08:00 to 18:00; Mondays to Fridays, b) 08:00 to 16:00; Saturdays c) 09:30 to 16:00; Sundays, Bank or Public Holidays.</p> <p>Reason: In the interests of the amenities of neighbouring residents.</p>
10.4	<p>No external lighting</p> <p>No external lighting shall be installed on the building or within the site unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To enable the Local Planning Authority to control the development in detail in the interests of nighttime amenity, tranquillity and protect and conserve the International Dark night Skies.</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 & BLOCK PLAN	28.07.2022	D2213-100(~)
	SITE PLAN	28.07.2022	D2213-101(~)
	RECEPTION UNIT PLAN & ELEVATIONS	28.07.2022	D2213-200(~)

12.	Appendices
12.1	None.

13.	Background Papers
13.1	None.