

**MID SUSSEX DISTRICT COUNCIL**

**DISTRICT WIDE PLANNING COMMITTEE**

**12 JUL 2018**

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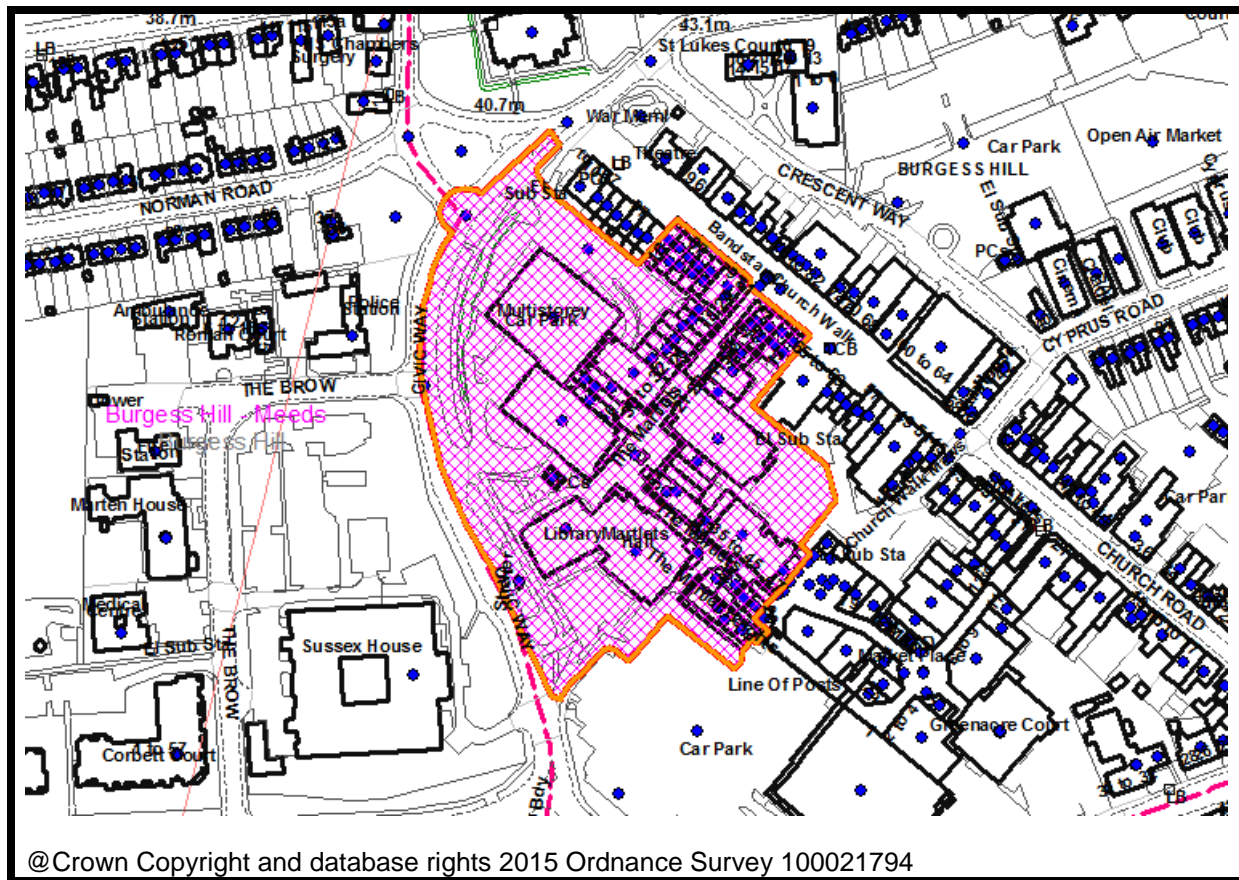
# MID SUSSEX DISTRICT COUNCIL

DISTRICT WIDE PLANNING COMMITTEE

12 JUL 2018

PART I - RECOMMENDED FOR APPROVAL

## 1. DM/18/1580



**THE MARTLETS BURGESS HILL WEST SUSSEX  
APPLICATION TO VARY CONDITION 33 OF PLANNING REF: DM/15/3858 AS  
AMENDED BY APPLICATION REF: DM/16/3314 TO ALLOW AMENDMENTS TO THE  
APPROVED PLANS.  
NEW RIVER RETAIL**

POLICY: Brownfield Land / Built Up Areas / Classified Roads - 20m buffer / Planning Agreement / Planning Obligation / Radon Gas Safeguarding Zone / Sewer Line (Southern Water) / SWT Bat Survey / SWT Bat Survey / Highways Agreement (WSCC) / Highways Agreement (WSCC) /

ODPM CODE: Largescale Major Other

13 WEEK DATE: 17th July 2018

WARD MEMBERS: Cllr Richard Cherry / Cllr Anne Jones /

CASE OFFICER: Stephen Ashdown

## **EXECUTIVE SUMMARY**

### **PURPOSE OF REPORT**

To consider the recommendation of the Divisional Leader for Planning and Economy on the application for planning permission as detailed above.

### **EXECUTIVE SUMMARY**

This application has been submitted under Section 73 of the Town and Country Planning Act and seeks to vary condition 33 of planning permission DM/16/3314, which lists the approved plans associated with the scheme.

Planning permission for a comprehensive development comprising retail floor space, residential units, a cinema, public library, a hotel and reconfigured car park was issued on the 14th March 2016 under reference DM/15/3858. A subsequent application under Section 96A of the Town and Country Planning Act (DM/16/3314 refers) added a further condition to that permission to list the approved drawings as listed as an informative on the original decision notice issued by the Council.

This application seeks to allow substitute drawings to be considered that provide for amendments to the form and appearance of certain elements of the approved development only.

While the approval of this application would result in the issuing of a new planning permission, the terms of the existing permission would still apply, other than where amended through the variation of the condition as proposed.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

It is considered the proposed amendments to the scheme as set out on the submitted drawings demonstrates a high quality design and the overall impact on the character and appearance of the area will remain as consented. Furthermore, the proposals will protect the setting of nearby listed building and will not have a significant impact on residential amenities.

While parking provision across the site is slightly higher than previously consented, the residential provision has been reduced and as such it does conflict with the requirements of policy S4 of the Neighbourhood Plan in respect of this matter. Having regard for the position established by the extant consent it is considered, notwithstanding this minor conflict, that the proposal can be considered to comply with the Development Plan when taken as a whole.

On the basis of the above, the application complies with policies DP21, DP26 and DP34 of the District Plan and policies TC2, TC3, TC4, TC6 and G6 of the Burgess Hill Neighbourhood Plan and can be supported.

### **RECOMMENDATION**

It is recommended that permission be granted subject to the conditions listed at Appendix A.

### **SUMMARY OF REPRESENTATIONS**

1 letter of objection received raising concern that the proposal will affect their property and allocated parking space.

### **SUMMARY OF CONSULTEEES**

#### **MSDC Urban Designer**

No objection.

#### **MSDC Environmental Protection**

No objection subject to details being submitted under condition 19 of DM/15/3858.

### **BURGESS HILL TOWN COUNCIL**

The application was noted. Request planning officer to look at it.

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### **INTRODUCTION**

This application has been submitted under Section 73 of the Town and Country Planning Act and seeks to vary condition 33 of planning permission DM/16/3314, which lists the approved plans associated with the scheme.

Planning permission for a comprehensive development comprising retail floor space, residential units, a cinema, public library, a hotel and reconfigured car park was issued on the 14th March 2016 under reference DM/15/3858. A subsequent application under Section 96A of the Town and Country Planning Act (DM/16/3314 refers) added a further condition to that permission to list the approved drawings as listed as an informative on the original decision notice issued by the Council.

This application seeks to allow substitute drawings to be considered that provide for amendments to the form and appearance of certain elements of the approved development only.

While the approval of this application would result in the issuing of a new planning permission, the terms of the existing permission would still apply, other than where amended through the variation of the condition as proposed.

## **RELEVANT PLANNING HISTORY**

DM/15/3858 - Demolition of multi-storey car park, public library, community building and offices. Provision of additional retail floor space (Class A1-A5), residential units (Class C3), a multi-screen cinema (Class D2), public library (Class D1), a hotel (Class C1), the reconfiguration and expansion of existing car park, amendments to the site access, public realm improvements including landscaping and other associated works. Approved 14th March 2016.

DM/16/3314 - Non-material amendment to planning application DM/15/3858 to request that 'plans referred to in consideration of this application' are included as a condition. Approved 7th September 2018.

## **SITE AND SURROUNDINGS**

The site consists of approximately 2.46 ha of land in the middle of Burgess Hill town centre and consists of a number of buildings and structures incorporating existing A1 retail and other A2-A5 uses, community uses (Martlets Hall), office space and car parking, including a multi storey car park.

The site is bounded by Church Walk to the north and Civic Way to the south and east. Adjoining the site to the east is the Market Place Shopping Centre, a covered shopping centre containing amongst other occupiers, Waitrose. To the south of the application site is largest of the town centre car parks.

The Martlets is an open air shopping centre comprising relatively small single storey units fronting the open air pedestrian arcades (albeit that there are canopies that provide some cover) with a mix of commercial, leisure and residential units above. At its southern end is the Martlets Hall, a two storey building, incorporating the town library as well as community meeting spaces and a main hall with a stage that can be used for live performances.

The largest building on the application site is Martlets Height, an 8 storey office building that is now only partially occupied, the remainder of the site is of a much lower scale, although the multi-storey car park is equivalent to 4 storeys (including a lower ground floor). Due to the fall in levels across the site the apparent scale of the existing built form is masked to a degree, although it is more noticeable when viewed from Civic Way.

There are existing residential units above the retail units in Church Walk immediately to the north of the site, as well as two at ground floor level to the rear of the 105/107 Church Walk.

## **APPLICATION DETAILS**

The applicant is seeking to amend certain elements of the approved drawings to allow for amendments to the form and appearance of certain elements of the development. In general terms the proposed amendments consist of the following;

- Re-façade of unit 2
- Removal of one pilaster from unit 19
- Louvres to the head of shopfronts
- Profile of cinema roof amended
- Louvres to head of windows
- Reduction in the amount of glazing at penthouse level
- Metal balustrades introduced in lieu of glass balustrades
- Glazed balconies to roof above 1st floor
- Render introduced in lieu of brick cladding to rear elevation
- Hotel plant area introduced at level 1
- Introduction of roof top smoke extract plant
- Mezzanine level tenant plant deck
- Amendments to unit mix
- Revisions to car parking layout and number of parking spaces
- South-west corner balcony extent amended
- Louvres to library for ventilation
- Core A entrance lobby enlargement
- Basement car park configuration

## **LIST OF POLICIES**

### **District Plan**

DP2 - Town Centre Development  
DP26 - Character and Design  
DP34 - Listed Buildings and Other Heritage Assets

### **Burgess Hill Neighbourhood Plan**

The Neighbourhood Plan is made and forms part of the Development Plan for the District and can be given full weight. The following policies are relevant;

TC2 - The Leisure and Entertainment Quarter  
TC3 - The Brow Quarter  
TC4 - The Retail Quarter

TC6 - Urban Realm and Access in the Town Centre  
S4 - Parking Standards for New Development  
G6 - Footpath and Cycle Links

## **National Policy and Legislation**

*National Planning Policy Framework (NPPF) (March 2012)*

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing.'

With specific reference to decision-taking the document provides the following advice:

Para 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

## **ASSESSMENT**

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

*"In dealing with such an application the authority shall have regard to:*

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:



*"If regard is to be had to the development plan for the purposes 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."*

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan and the Burgess Hill Neighbourhood Plan.

Planning permission has been granted for the redevelopment of this site for flats and as such, the principle of the development is established. This application is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. The Act states that *"On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and -*

*(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*

*(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."*

It is therefore considered that the only issues to consider in this case are as follows;

- Design and Impact on Character and Appearance of Area
- Parking Provision
- Impact on Residential Amenities
- Impact on Setting of Listed Building
- Ashdown Forest
- Planning Balance and Conclusion.

The principles and matters approved under the existing permission that are not altered by this current submission remain acceptable and it is not within the scope of this application to re-visit them.

### **Design and Impact on Character and Appearance of Area**

Policy DP26 of the District Plan deals with design matters and states the following;

*'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and distinctive*

*character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- protects open spaces, trees and gardens that contribute to the character of the area;*
- protects valued townscapes and the separate identity and character of towns and villages;*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.*
- creates a pedestrian friendly layout that is safe, well connected, legible and accessible;*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- positively addresses sustainability considerations in the layout and the building design;*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300 plus unit) scheme will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development.'*

DP2 of the District Plan deals with town centres and supports mixed used redevelopment providing it is appropriate in scale and function to its location, including the character and amenities of the surrounding area.

In terms of the proposed amendments to the appearance of the scheme, a significant proportion of these, as listed above, are relatively minor external changes to the finishing of the scheme. It is not considered that they will negatively impact on the quality or appearance of the scheme as approved.

One of the more significant changes centres on the profiling of the cinema roof which as a result of the proposals would increase in bulk. The changes are required following a technical review of the scheme post consent having regard for the operational requirements of the occupant in relation to the plant and equipment needed to service the facility. The proposed change will only be readily visible in long distance views and bearing in mind that the overall size of the building has already been deemed acceptable, it is not felt that the proposed altered roof profile would materially impact, in a negative fashion, on the buildings effect on the character and appearance of the area.

The submitted drawings also identify the provision of a louvered plant enclosure on the roof of Block A, which houses the residential element of the scheme. The enclosure will again result in the overall bulk of the building increasing slightly, as well as a perceived overall increase in its height. While your Urban Designer has not raised an objection to the application, he has questioned whether there is an alternative way to deal with this and at the time of the writing the report a response is awaited from the applicants. While members will be updated on this matter at the committee your officers are content that the changes when considered as a whole are acceptable and the overall quality of the scheme as permitted will not be diminished by the proposed changes.

It is considered the scheme, as shown on the amended drawings, demonstrates a high quality design and the overall impact on the character and appearance of the area will remain as consented. It is considered that the application complies with policies DP2 and DP26 of the Mid Sussex District Plan.

### **Parking Provision**

This issue was particularly sensitive at the original application stage and provision was split across the site with 120 spaces provided under Block A to serve the 142no. residential apartments and 174 surface spaces for public use. Taking into account the car park spaces that would not be re-provided there was an overall loss of public spaces, although in conclusion of this matter it was considered that there was sufficient space across the town centre to cater for the demand generated by the development.

The submitted plans show that due to a reconfiguration of the proposed surface car park, there will be an overall increase of 14 spaces in this area, however, due to the provision of an enlarged entrance lobby the basement car park has been reconfigured that has resulted in 10 spaces being lost. This element of the scheme will now provide for a total of 110 spaces for private use.

Policy DP21 of the District Plan deals with transport matters and states with regard to parking that proposals will need take account of whether;

*'The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant neighbourhood Plan where applicable;'*

Policy S4 of the Neighbourhood Plan makes reference to Burgess Hill parking standards and states that all housing developments must comply with these new standards.

The submitted plans show a slightly increased parking provision across the site, although it is recognised that the private residential provision is 10 spaces less the consented scheme. In approving the consented scheme, it was recognised that the private provision did not comply with the requirements within the Neighbourhood Plan, where officers calculated policy S4 required the provision of 154 spaces. In contrast to this, the Local

Highway Authority agreed as part of the consideration of the consented scheme that that a car ownership level of 0.75 could be applied and using this as a basis the proposed level of parking proposed would meet the demand the anticipated demand of the development.

It is accepted that the proposal continues to be contrary to Neighbourhood Plan policy S4, due to the level of residential parking provision, however the extant planning permission is a material consideration that should be given very significant weight in the determination of this application. Notwithstanding the issue with policy S4 of the Neighbourhood Plan, it is considered that the application complies with policy DP21 of the District Plan.

### **Residential Amenity**

Policy DP26 of the District Plan, as quoted earlier in the report, requires developments to demonstrate that it does not cause significant harm to amenities of existing nearby residents (or future occupiers), taking into account matters such as impact on light, privacy and outlook. The main bulk of the proposed development remains as consented and as such the previous assessment made on this matter is still relevant and the previous report to members stated;

*"In conclusion on all the above matters, the proposal will have an impact on the amenities of existing residential amenities however, in the main it is not considered that these impacts would constitute significant harm. The main exception to this is the potential impact on the two ground floor properties to the rear of 105/107 Church Walk where significant harm in respect of loss of sunlight/daylight and increased sense of enclosure is likely to occur. Furthermore, a proportion of the proposed new units will have daylight/sunlight levels below the BRE Guidelines creating unsatisfactory living environments for future occupiers. In respect of these specific points then the proposal does not comply with the relevant development plan policy, or the NPPF. However, regard should be given to the fact that this is a town centre location where compromises to the overall living environment are often needed and it is for the decision maker to place appropriate weight to this issue in overall planning balancing exercise that is required."*

In terms of the proposed changes shown on the submitted drawings, there is little that will have a direct impact on residential amenity. The main physical additions relate to louvered plant enclosures to the roof of Block A, however, these are in the main set back from the edge and given the overall height of the building it is not considered that these will have any material impact on existing amenities.

Having regard to context of the existing permission, it is not considered that the amendments sort by this application will have any significant harm on residential amenity and therefore the application complies with policy DP26 of the District Plan.

## **Impact on Setting of Listed Building**

St John's Church is located approximately 115m to the northeast of the proposed development and is a Grade II\* listed building. The wall to the west and south of the churchyard is Grade II listed in its own right. The church occupies a prominent position on slightly elevated ground at the southern end of Church Walk and is an integral feature within this part of the town centre and the wall to the churchyard is an integral part of this.

The setting of the church is defined by the townscape and its prominence in it. As noted by Historic England, over time Victorian terraced housing grew up around the church as the town of Burgess Hill evolved. St John's remains a focal point in town despite the later 20th development of the Martlets Shopping Centre, as the scale and massing of these buildings do not compromise, to any great degree, an understanding or appreciation of its prominence in the townscape. The proposal will affect the church's setting.

It is considered that the proposal has the potential to impact upon the setting of this building.

Policy DP34 of the District Plan deals with listed buildings and developments are required to protect them and their settings. Furthermore there is a statutory requirement to have special regard to the desirability of preserving the listed building, its setting and any features of special interest (s66, Planning (Listed Buildings and Conservation Areas) Act 1990) which must be taken into account when making any decision. In addition, in enacting section 66(1) of the Listed Buildings Act, the desirability of preserving the settings of listed buildings should be given 'considerable importance and weight' when the decision taker carries out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable.

It is not considered that the proposed amendments proposed as part of this application materially alter the impact of the development on the setting of the listed building as established through the extant consent. Therefore, having regard to this it is considered that the application will preserve the setting of the listed building thus complying with policy DP34 of the District Plan.

## **Ashdown Forest**

Under the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to satisfy itself that any plans or projects that they regulate (including plan making and determining planning applications) is not likely to have a significant effect on a European site of nature conservation importance. For most developments in Mid Sussex, the European sites of focus are the Ashdown Forest Special Protection Area (SPA) and Ashdown Forest Special Area of Conservation (SAC). Planning permission cannot be granted by the District Council where the likelihood of significant effects exists. The main issues are recreational disturbance on the SPA and atmospheric pollution on the SAC, particularly arising from traffic emissions.

This application has been screened for its potential effects on the SPA and SAC. This exercise has indicated that there is no likelihood of significant effects. A screening assessment sets out the basis for this conclusion and is available to view on the planning file.

## **PLANNING BALANCE AND CONCLUSION**

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the development plan and then to take account of other material planning considerations including the NPPF.

It is considered the proposed amendments to the scheme as set out on the submitted drawings demonstrates a high quality design and the overall impact on the character and appearance of the area will remain as consented. Furthermore, the proposals will protect the setting of nearby listed building and will not have a significant impact on residential amenities.

While parking provision across the site is slightly higher than previously consented, the residential provision has been reduced and as such it does conflict with the requirements of policy S4 of the Neighbourhood Plan in respect of this matter. Having regard for the position established by the extant consent it is considered, notwithstanding this minor conflict, that the proposal can be considered to comply with the Development Plan when taken as a whole.

On the basis of the above, the application complies with policies DP21, DP26 and DP34 of the District Plan and policies TC2, TC3, TC4, TC6 and G6 of the Burgess Hill Neighbourhood Plan and can be supported.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. The development hereby permitted shall be begun before the 14th March 2019.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990.
2. No development shall take place in phase 2, including any works of demolition, until construction Management Plan(s) have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- a) the anticipated number, frequency and types of vehicles used during construction,
- b) the method of access and routing of vehicles during construction,
- c) the parking of vehicles by site operatives and visitors,
- d) the loading and unloading of plant, materials and waste,
- e) the storage of plant and materials used in construction of the development,
- f) the erection and maintenance of security hoarding,
- g) the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- h) measures to control the emission of dust and dirt during demolition and construction, lighting for construction and security,
- i) details of public engagement both prior to and during construction works.
- j) Any temporary measures required in association with the continued operation of the library and the retained town centre uses.

Phase 1 shall only be implemented in accordance with the details contained within the Environmental Construction Management Plan rev C, prepared by Thomas Roy Limited and dated 6th June 2018.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policy DP26 of the Mid Sussex District Plan.

3. No development shall commence on phase 2 until such time as a parking management plan has been submitted to and approved in writing by the Local Planning Authority. This plan shall consider all measures, impacts and mitigation/management required to facilitate this development during the construction phase, and once approved the development shall thereafter proceed in accordance with the plan.

Reason: To ensure vitality and viability of town centre is maintained by ensuring that visitors have sufficient access to parking spaces and to accord with Policy DP21 of the Mid Sussex District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

4. No development, in respect of phase 2, shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include details of any existing trees on the land, and details of those to be retained, together with measures for their protection in the course of development. The submitted details shall include a strategy for the planting of the proposed line of plane trees along the Civic Way frontage and how they will be coordinated with the underground services. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan.

5. No development, in each respective phase, shall be carried out unless and until samples of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority.

The development in respect of phase 1 shall only be implemented in accordance with the details approved under condition discharge application DM/17/3568.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan.

6. No development hereby permitted in respect of phase 2 shall proceed until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all approved drainage works have been carried out in accordance with such details.

The development in respect of phase 1 shall only be implemented in accordance with the details approved under condition discharge application DM/17/2726.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan.

7. No development hereby permitted in respect of phase 2 shall proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

The development in respect of phase 1 shall only be implemented in accordance with the details approved under condition discharge application DM/17/2726.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policy DP41 of the Mid Sussex District Plan.



8. Prior to the commencement of the respective phase of development the detailed 1:20 scale drawing vignettes of the full height elevation and section (including the plinth) of the following shall be submitted to and approved in writing with the Local Planning Authority;

- The cinema building
- The 5 storey residential building
- The hotel building
- The Civic Way elevation
- The Argos store
- The Pergola type structure used in the pedestrian link across the car park.

The scheme shall only be implemented in accordance with the approved details.

The development in respect of phase 1 shall only be implemented in accordance with the details approved under condition discharge application DM/17/2726.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan.

9. Prior to the commencement of the respective phase of development , details of the treatment of the north and east elevations of the cinema, including the set-back top floor, details of any lighting of the structure and the junction with the Market Place Shopping Centre shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall only be implemented in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP26 of the Mid Sussex District Plan.

10. Prior to the commencement of the respective phase of development, details of the proposed balustrading and dividing privacy screens for the residential balconies shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall only be implemented in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan.

11. Prior to the commencement of development, details of the mitigation measures to address the issues raised within the Wind Microclimate Desktop Study Rev A by Hoare Lea, dated the 25th January 2016, shall be submitted to and approved in

writing with the Local Planning Authority. The submission will be supported by a timetable for implementation and the scheme shall only be implemented in accordance with the approved details.

Reason: To ensure that an acceptable public environment is created and to accord with Policy DP26 of the Mid Sussex District Plan.

12. The development hereby approved shall only be implemented in accordance with the details contained in the Geo Environmental Investigation Report by Rogers Geotechnical Services Ltd (ref: J3980.17.E), dated August 201.

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any construction of the development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 2, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 3 are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

13. No development shall take place in respect of phase 2 unless and until details of the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

The development in respect of phase 1 shall only be implemented in accordance with the details approved under condition discharge application DM/17/2726.

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy DP26 of the Mid Sussex District Plan.

14. The development hereby shall only be implemented in accordance the recommendations contained in the Temple Ecological Appraisal Report dated the 22nd September 2015, and details shall be submitted to and approved in writing with the Local Planning Authority, prior to the respective phase of development, demonstrating how they have been incorporated into the scheme.

Reason: To protect the ecological value of the site and to accord with Policy DP38 of the Mid Sussex District Plan.

15. No development shall commence until a scheme for protecting any residential units within the development from noise generated by traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be no greater than 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00).

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP29 of the Mid Sussex District Plan.

16. Prior to the commencement of development a plan setting out the design and servicing arrangements for both service yards shall be submitted to and approved in writing with the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure suitable arrangements are in place to protect adjacent residential amenity and highway safety and to accord with Policies DP21 and DP26 of the Mid Sussex District Plan.

### **Pre - Occupation conditions**

17. Prior to the first occupation of any premises with a use class including A3, A4 or A5, measures shall be implemented in accordance with an Odour Control Scheme submitted to, and approved in writing by, the Local Planning Authority, to prevent odour from cooking at the premises affecting neighbouring residential premises.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policy DP29 Mid Sussex District Plan.

18. Prior to the first occupation of any unit to operate within use class A4, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall assess the likely risks posed to residential amenity from the emission of noise from the intended use and shall include measures to protect residential amenity. The approved mitigation measures shall be implemented prior to the first use of the unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP29 Mid Sussex District Plan.

19. No fixed plant or machinery shall be operated until measures have been implemented in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, to prevent air-borne noise from the operation of such fixed plant & machinery from adversely affecting neighbouring residential properties. The applicant shall submit evidence, in writing, and agreed by the Local Planning Authority to demonstrate that the noise from all such plant & machinery will obtain a daytime (07:00 hours to 23:00 hours) LAeq,1hour no greater than 36dBA and a night time (23:00 to 07:00 hours) LAeq,15 minute of no greater than 31BA measured or calculated one metre from the façade of any residential dwelling.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP29 Mid Sussex District Plan.

20. In respect of units 4, 10 - 14, as shown on the approved drawing no's 10533/312 Rev B and 10533/320A, permitted first occupation shall fall within Use Classes Order A2, A3, A4 or A5 and written confirmation of the use shall be submitted to the Council in writing prior to the commencement of that use. Once commenced and subject to the provisions within the Use Classes Order, no further changes shall be permitted unless first agreed in writing with the Local Planning Authority.

Reason: To ensure the vitality and viability of the town centre is protected and to accord with Policy DP2 of the Mid Sussex District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

21. Subject to the provisions with the Use Class Order, units 1-3, 5-8 and 15-21, as shown on approved drawing no's 10533/312 Rev B 10533/320A, shall only be used for the purposes falling within Use Class Order A1, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure the vitality and viability of the town centre is protected and to accord with Policy DP2 of the Mid Sussex District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

22. Prior to first occupation of the residential development hereby approved vehicular access to Civic Way shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008A. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. That part of the access junction outside of the public highway shall then be permanently maintained to a specification to be agreed with the Local Planning Authority.

Reason: To ensure the safety of road users and to accord with Policy DP21 Mid Sussex District Plan.

23. Prior to first occupation of the retail and or any other development hereby approved the proposed modified vehicular access to Civic Way from the retail car park shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008 A. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. That part of the junction outside of the public highway shall then be permanently maintained to a specification to be agreed with the Local Planning Authority, including the maintenance of visibility zones.

Reason: To ensure the safety of road users and to accord with Policy DP21 of the Mid Sussex District Plan.

24. Prior to first occupation of any development hereby approved, the proposed modifications to Civic Way, shown generally on drawing 14901 008 A shall be designed and constructed. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction.

Reason: To ensure the safety of road users and to accord with Policy DP21 of the Mid Sussex District Plan.

25. The approved scheme to improve pedestrian facilities, as shown on drawing 14901 008A, shall be implemented by the developer within six months of first occupation of the retail element of the development.

Reason: To improve pedestrian accessibility to the town centre and to accord with Policy DP21 of the Mid Sussex District Plan and Policy TC6 of the Burgess Hill Neighbourhood Plan.

26. The approved scheme for bus waiting facilities, as shown on drawing 14901 008A, shall be implemented by the developer within six months of first occupation of the retail element of the development.

Reason: To ensure adequate provision for alternative modes of transport centre and to accord with Policy DP21 of the Mid Sussex District Plan and Policy TC6 of the Burgess Hill Neighbourhood Plan

27. No residential unit hereby approved shall be occupied until such time as the parking spaces for car and bicycles, for that aspect of the development, have been provided in accordance with the details shown on the approved drawings, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure adequate provision is made for parking clear of the highway and to accord with Policy DP21 of the Mid Sussex District Plan.

28. Prior to first occupation of the development hereby approved, the applicant shall:

a) Submit for the written approval of the Local Planning Authority Travel Plans for each major use class or group of use classes of the development in accordance with the aims and objectives of the National Planning Policy Framework and in general accordance with West Sussex County Council guidance on travel plans.

b) The applicant shall then implement the approved travel plans within six months of the first occupation of the development. For each subsequent occupation of the development the applicant shall maintain and develop the travel plans to the satisfaction of the Local Planning Authority.

Reason: To ensure the adequate account is made of sustainable transport measures and to accord with Policy DP21 of the Pre-Submission District Plan.

### **On-going conditions**

29. No commercial goods or commercial waste shall be loaded or unloaded onto or from a delivery or collection vehicle and no such vehicles shall arrive or depart within the application site except between the hours of 7:00 - 20:00 hours Monday to Saturday and 8:00 - 18:00 hours Sundays and Bank Holidays.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP29 of Mid Sussex District Plan.

30. In respect of an A3, A4 or A5 use, no glass disposal or "bottling out" shall be carried out outside of the following hours: Monday to Friday 0800 to 2000; Saturday, Sunday and Bank Holidays 0900 to 1800.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP29 of the Mid Sussex District Plan.

31. In respect of an A3, A4 or A5 use, the premises shall be limited to the following hours of use:

Monday to Thursday: 0730 - 23.30 hrs  
Friday and Saturday: 0730 - 0000 hrs  
Sunday & Public/Bank holidays: 0800 - 23.30 hrs.

Reason: To safeguard the amenities of nearby residents and to accord with Policies DP26 and DP29 of the Mid Sussex District Plan.

32. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the respective phase of development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become 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: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan.

33. 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 Applications".

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan	300	A	28.09.2015
Site Plan	310	F	16.04.2018
Proposed Floor Plans	311	D	16.04.2018
Proposed Floor Plans	312	D	16.04.2018
Proposed Floor Plans	313	C	16.04.2018
Proposed Floor Plans	314	C	16.04.2018
Proposed Floor Plans	315	C	16.04.2018
Proposed Floor Plans	316	C	16.04.2018
Proposed Floor Plans	317	C	16.04.2018
Proposed Floor Plans	318	C	16.04.2018
Proposed Roof Plan	319	C	16.04.2018
Proposed Floor Plans	320	B	16.04.2018
Proposed Floor Plans	321	B	16.04.2018
Proposed Floor Plans	322	B	16.04.2018
Proposed Floor Plans	323	B	16.04.2018
Proposed Floor Plans	324	A	16.04.2018
Proposed Floor Plans	325	A	16.04.2018
Landscaping	330	E	16.04.2018
Proposed Elevations	350	C	16.04.2018
Proposed Elevations	351	C	16.04.2018
Proposed Elevations	352	C	16.04.2018
Proposed Elevations	353	C	16.04.2018

Proposed Elevations	354	B	16.04.2018
Proposed Elevations	355	B	16.04.2018
Proposed Elevations	356	B	16.04.2018
Existing Block Plan	301	0	28.09.2015
Existing Floor Plans	305	0	28.09.2015
Existing Floor Plans	306	0	28.09.2015
Proposed Floor Plans	308	0	28.09.2015
Existing Elevations	340	0	28.09.2015
Existing Elevations	341	0	28.09.2015
Existing Elevations	342	0	28.09.2015
Existing Elevations	343	0	28.09.2015
Existing Elevations	344	0	28.09.2015
Landscaping Details	MP01	c	28.09.2015
Tree Survey	MARTRPA-SEP T14		28.09.2015
Tree Survey	MARTSH-SEPT 14		28.09.2015
Tree Survey	MARTTRP-SEP T15		28.09.2015
Tree Survey	MARTTR-SEPT 14		28.09.2015
Highways Plans		A	24.02.2016

## **APPENDIX B – CONSULTATIONS**

### **Burgess Hill Town Council**

The application was noted. Request planning officer to look at it.

### **MSDC Urban Designer**

The only issue I have is in respect of the louvered plant enclosures on block A. They impact upon the elegance of the facades and significantly extend the height. In particular they come too close to the front edge (elevation 1) of the south west corner and above the taller block. Health and safety can surely be addressed some other way such as the wearing of harnesses.

### **MSDC Environmental Protection**

I can confirm that I have no objection, subject to details being submitted under condition 19 of DM/15/3858.