

MID SUSSEX DISTRICT COUNCIL

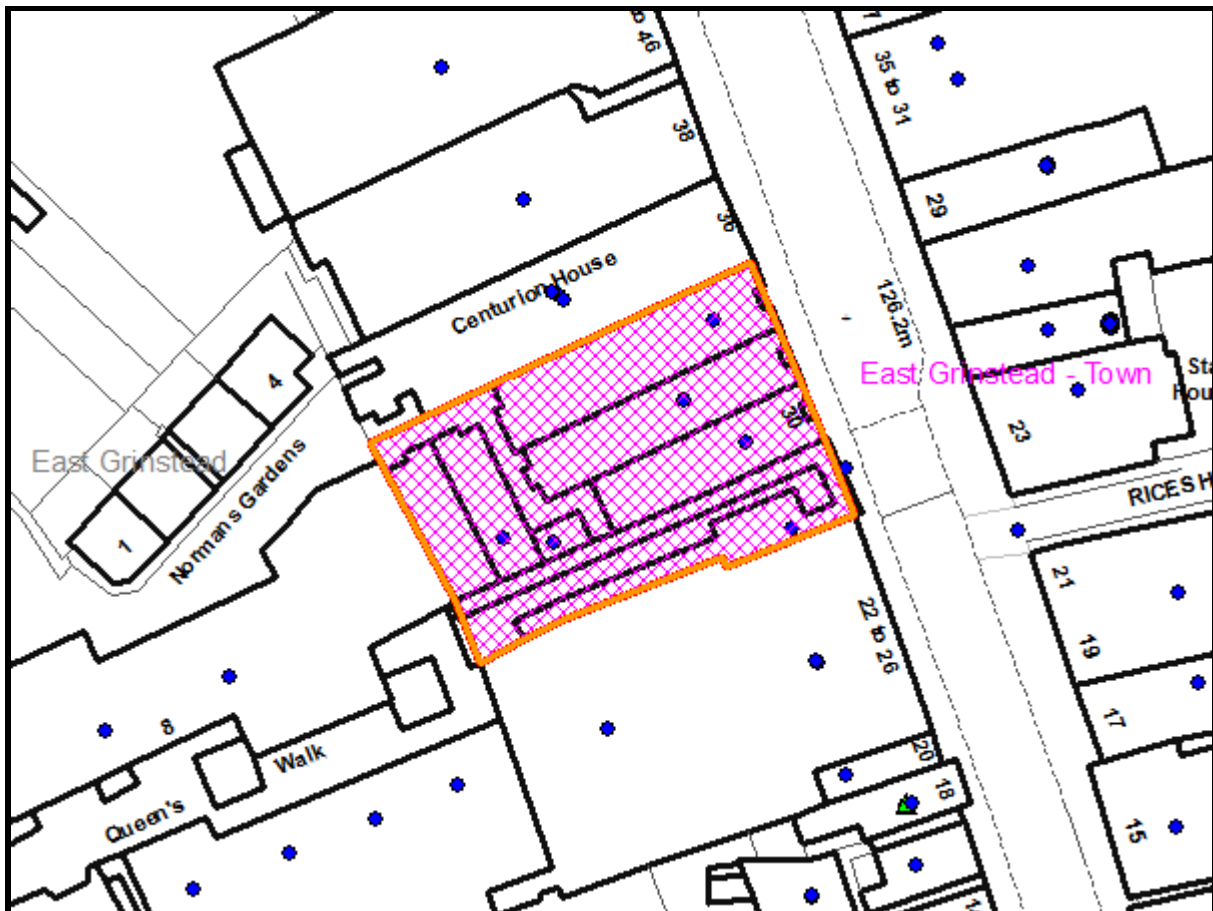
Planning Committee A

6 DEC 2018

RECOMMENDED FOR PERMISSION

East Grinstead

DM/18/2311



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**30-34 LONDON ROAD EAST GRINSTEAD WEST SUSSEX RH19 1AG  
RECONFIGURATION AND PART CHANGE OF USE OF THE GROUND FLOOR TO  
PROVIDE A NEW RESIDENTIAL ENTRANCE AND REFUSE STORE ASSOCIATED  
WITH THE CHANGE OF USE OF THE FIRST FLOOR (CLASS A1 SHOPS) AND  
FOUR STOREY EXTENSION TO ACCOMMODATE 17 APARTMENTS (CLASS C3  
RESIDENTIAL), CYCLE STORAGE AND ASSOCIATED PLANT AND AMENITY  
SPACE. REMOVAL OF ARCHWAY TO QUEENS WALK AND SHOPFRONT  
ALTERATIONS TO EXISTING RETAIL UNITS. (AMENDED PLANS RECEIVED  
SHOWING REDUCTION IN UNITS FROM 18 TO 17 AND DESIGN CHANGES)  
SHEET ANCHOR EVOLVE LTD.**

POLICY: Ashdown Forest SPA/SAC / Brownfield Land / Built Up Areas / Classified Roads - 20m buffer / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Sewer Line (Southern Water) / SWT Bat Survey / Highways Agreement (WSSCC) /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 27th December 2018

WARD MEMBERS: Cllr Peter Wyan / Cllr Norman Mockford /

CASE OFFICER: Stuart Malcolm

### **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**

The application seeks full planning permission for an extension of 30-34 London Road, East Grinstead to accommodate 17 new residential units above the retained and reconfigured retail space at ground floor level.

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations 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.

The NPPF states that planning should be genuinely plan-led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. The development will also provide some economic benefit through the New Homes Bonus, construction jobs, an increased population likely to spend in the community and by forming part of the wider regeneration of East Grinstead town centre

The proposal will result in a neutral impact in respect of a number of issues such as design and visual amenity, highway safety, residential and future amenity, heritage assets, drainage and the Ashdown Forest impact.

Weighing against the proposal is the fact that the scheme does not provide policy

compliant parking but this is compensated for to some degree due to the sustainable location of the site meaning future occupiers would not need to be reliant on the private car to meet their daily needs.

There is also a minor loss of commercial floorspace but this is very minor (17m<sup>2</sup>) and is practically inevitable as a result of creating a residential access onto Queens Walk so does not weigh heavily against the scheme.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP2, DP4, DP6, DP21, DP26, DP27, DP30, DP31, DP34, DP35, DP39 and DP41 Policies EG3, EG4, EG5, EG6B, EG7, EG11, EG16 and SS2 of the Neighbourhood Plan as well as the broader requirements of the NPPF and the Listed Building and Conservation Area (LBCA) Act 1990.

Officers therefore consider that in the context of the adopted District Plan and Neighbourhood Plan, together with other material planning considerations including the NPPF, planning permission should be granted.

## **RECOMMENDATIONS**

**Recommendation A** It is recommended that permission be granted, subject to the completion of a section 106 legal agreement to secure the necessary financial contributions towards SAMM mitigation and to the conditions listed at Appendix A.

**Recommendation B** It is recommended that if the applicants have not completed a satisfactory signed planning obligation securing the necessary SAMM mitigation payments by the 6th March 2019, then it is recommended that permission be refused, at the discretion of the Divisional Leader for Planning and Economy, for the following reason:

'In the absence of a signed legal agreement the application fails to deliver the necessary Ashdown Forest mitigation and as such conflicts with Policy DP17 of the Mid Sussex District Plan and Policy EG16 of the Neighbourhood Plan.'

## **SUMMARY OF REPRESENTATIONS**

1 objection from an East Grinstead resident: Height is oppressive, Arch should remain, Construction disruption issues such as noise and traffic problems like with first part of development

East Grinstead Society: We have no overall objection to the redevelopment of this site but we are concerned about the lack of parking, the removal of the archway without adequate replacement of a similar feature and the general improvement of the Queens Walk street scene

## **SUMMARY OF CONSULTATIONS**

### **MSDC Urban Designer:**

No objections subject to conditions

### **MSDC Conservation:**

Will not have a significantly different or greater impact than the development which is currently under construction

### **MSDC Housing:**

Not viable to provide any affordable housing whether onsite or by way of a commuted sum. The position will however be reviewed at a later date in the project when more accurate information about costs and values will be able to be provided.

### **MSDC Leisure:**

See infrastructure requirements

### **MSDC Environmental Protection:**

No objections subject to conditions

### **MSDC Waste:**

Relocate bin store or submit management plan to ensure bins are brought to highway on collection days

### **WSCC Highways:**

No objections subject to conditions

### **WSCC Infrastructure:**

See infrastructure requirements

### **Disability Access - East Grinstead:**

Access considerations for Queens Walk

## **SUMMARY OF TOWN COUNCIL COMMENTS**

Recommend refusal - overdevelopment of the site, lack of car parking, arch should be retained or replaced and the cladding or render materials must be in keeping.

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## **Introduction**

Application DM/18/2311 seeks full planning consent for the reconfiguration and part change of use of the ground floor to provide a new residential entrance and refuse store associated with the change of use of the first floor (Class A1 Shops) and four storey extension to accommodate 17 apartments (Class C3 residential), cycle storage and associated plant and amenity space. The proposal also includes the removal of the archway to Queens Walk and shopfront alterations to existing retail units. Since it was first submitted the application has been amended so that the total number of units has reduced from 18 to 17.

## **Relevant Planning History**

There is not considered to be any relevant planning history on the application site itself. However, Members will be aware of the following history on the adjacent site:

DM/15/5067 - Demolition of the existing retail premises on the on the northern side of Queens Walk along with 1-4 Normans Gardens and 26-38a Queens Road for mixed use development comprising new retail (1,624sqm) and 129 residential apartments along with necessary supporting infrastructure to include: waste and refuse facilities, plant and ventilation, servicing, car parking and cycle storage. (Amended plans received) Approved (District Committee) 22.05.2017

DM/17/3645 - Variation of conditions 24 (Energy Strategy) and 28 (Approved Plans) relating to planning application DM/15/5067 including: revisions to internal layout, mix and circulation; alterations to external appearance and proposed materials; additional on site car parking; and, alternative energy strategy. Approved (District Committee) 28.03.2018

It is this latter consent that is currently being implemented on site.

## **Site and Surroundings**

The site occupies a location in the town centre of East Grinstead fronting onto London Rad to the east and Queens Walk to the south.

The development site of the original Martells building (see history above) is immediately to the west with work on this development progressing.

To the north are the rears of the other commercial properties that front London Road. There are other commercial properties on the southern side of Queens Walk.

In terms of planning policy, the site is located within the built up area of East Grinstead. Additionally, the site is deemed to affect the setting of both the nearby conservation area and nearby listed buildings although heritage assets are not found on the site itself.

At Neighbourhood Plan level, the site forms part of the wider allocation of EG6B and SS2 that encourages the principle of mixed use redevelopment.

## **Application Details**

The proposal seeks consent to construct a 17 new residential units above the retained and reconfigured retail space at ground floor level.

The proposal will see the existing commercial properties that face onto London Road retained in their current form including the ancillary space above. Towards the rear a new commercial unit measuring 122 m<sup>2</sup> will be reconfigured next to which will be the new residential entrance. Above this area at first floor level there will be two flats and the bike store serving the development.

The second and third floors are both set back from the London Road frontage by approximately 8 metres with each floor containing five flats.

The fourth floor includes a further step back from the London Road side and this contains three flats. Above this, the fifth floor contains two units and is stepped back from the Queens Walk frontage to replicate the adjacent development under construction.

The overall mix of the 17 residential units is 10 x 2 bed and 7 x 1 bed with each property having their own balcony. A new residential bin store, within the building, is proposed to be located next to the residential entrance. No parking spaces are to be provided within the application site.

## **List of Policies**

### **District Plan**

DP1 - Sustainable Economic Development  
DP2 - Town Centre Development  
DP4 - Housing  
DP6 - Settlement hierarchy  
DP20 - Securing Infrastructure  
DP21 - Transport  
DP24 - Leisure and Cultural Facilities and Activities  
DP26 - Character and Design  
DP27 - Dwelling Space Standards  
DP30 - Housing Mix  
DP31 - Affordable Housing  
DP34 - Listed Buildings  
DP35 - Conservation Areas  
DP39 - Sustainable Design and Construction  
DP41 - Flood Risk and Drainage  
DP42 - Water Infrastructure

### **Neighbourhood Plan**

The East Grinstead Neighbourhood Plan has been made so forms part of the development plan and has full weight. The most relevant policies are:

EG3 - Promoting Good Design  
EG4 - Heritage Assets  
EG5 - Housing Proposals  
EG6B - Housing Sites - Allocated  
EG7 - Housing Mix and Density  
EG11 - Mitigating Highway Impacts  
EG12 - Car Parking  
EG16 - Ashdown Forest Protection  
SS2 - Queens Walk

## **National Policy and Other Legislation**

### **National Planning Policy Framework (NPPF - 2018)**

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives economic, social and environmental. This means ensuring sufficient land of the right types is available in the right places and at the right time to support growth; supporting strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided; fostering a well-designed and safe built environment; and contributing to protecting and enhancing the natural, built and historic environment; and using natural resources prudently. An overall objective of national policy is "*significantly boosting the supply of homes*".

Paragraphs 10 and 11 apply a presumption in favour of sustainable development. Paragraph 11 states:

*"For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

However, paragraph 12 makes clear that:

*"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take*

*decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*

## **National Planning Policy Guidance**

### **Technical Housing Standards**

### **Listed Building and Conservation Area (LBCA) Act 1990**

#### **Assessment**

It is considered that the main issues needing consideration in the determination of this application are as follows;

- The principle of development;
- Design and visual amenity
- Impact on neighbouring properties
- Future residential amenity
- Highways, access and parking
- Heritage assets
- Retail Impact
- Infrastructure and affordable housing
- Ashdown Forest;
- Other planning issues;
- Planning balance and conclusion

#### **Principle**

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 in this part of Mid Sussex consists of the adopted District Plan, the made East Grinstead Neighbourhood Plan and the Small Scale Housing Allocations Document (2008).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land.

As the proposed development is within the built up area of East Grinstead, the principle of additional windfall housing development is acceptable under Policy DP6 of the District Plan which states:

*"Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement."*

Policy DP2 of the District Plan refers specifically to the regeneration of the District's town centres and states that:

*"To support the regeneration and renewal and environmental enhancement of the town centres as defined on the Policies Map - development, including mixed use and tourism related development, will be permitted providing it:*

- is appropriate in scale and function to its location including the character and amenities of the surrounding area;*
- has regard to the relevant Town Centre Masterplans and is in accordance with the relevant Neighbourhood Plan."*

The East Grinstead Neighbourhood Plan also contains relevant policies in respect of the principle. Policy EG6B identifies housing sites which could be brought forward and the application site forms part of site number 12:

*"Queens Walk between Queensway and London Road. This site is subject to pre-application discussion and the owners have confirmed their intention to deliver a mixed-use scheme. The site could achieve up to 120 dwellings subject to design and mix use considerations."*

Policy SS2 goes into more detail about this particular site allocation and provides a site specific policy stating:

*"Planning permission will be granted for the comprehensive redevelopment of Queens Walk for a mix of uses comprising retail, restaurant/café uses at ground floor, office and/or residential uses at upper floor level. Proposals should:*

- 1) Be of a design and use materials which enhance the pedestrian environment;*
- 2) Include details of how the proposals physically integrate and link with the rest of the Town Centre to encourage pedestrian movement;*

- 3) *Meet its demand for car parking, having regard to the Town Centre character of the site and opportunities to promote more sustainable modes of travel;*
- 4) *explain that where comprehensive development is not possible, the designs do not prejudice the development potential of any remaining land.*

*Within this area some ground floor leisure uses in lieu of retail will be supported where it can be demonstrated that this will enhance the viability and vitality of East Grinstead Town Centre and reinforce it as the principal retailing and leisure location."*

Para 85 of the NPPF encourages development in town centres:

*"Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation."*

The NPPF also has a clear focus on making effective use of land and states at para 117 that *"planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions."* Para. 122 requires that development that makes effective use of land should be supported and para. 123 states that developments should make the optimal use of the sites potential.

It is therefore considered that the principle of a residential development above the retained commercial space is acceptable.

## **Design and Visual Amenity**

One of the key issues is the design and the subsequent visual impact on the character of the area. The newly published NPPF makes reference to the importance of good design at para 127:

*"Planning policies and decisions should ensure that developments:*

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

Such requirements are similar to those found at district level within DP26 which states that:

*"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 (see Policy DP29);*
- 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+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development."*

To inform the assessment of the application the Council's Urban Designer has been consulted on the merits of the scheme and his comments are set out in full within Appendix B.

The urban designer has stated that the scheme has two particular challenges; firstly, it has had to be designed around the retained London Road shopping parade and secondly, its position at the junction of Queens Walk and London Road present a challenge in marrying the scale of the substantial 6 storey development currently under construction, with the modest-scaled London Road building frontages.

The Urban Designer states that the relationship with the under construction Queens Walk development will become more apparent with the proposed removal of the arched entrance screen but is supportive of this because it will open-up the previously too hidden-away Queens Walk and bring more daylight/sunlight to the street level at the eastern end. Planning officers agree with this analysis and consider that the existing arch has no architectural or historical merit (it was built in the 1990's) meaning it is not worthy of retention.

Objections were originally raised by the Urban Designer over an inconsistent and fragmented design approach. The applicant has however made changes to directly address these concerns.

The Urban Designer has stated that the amended plans have resulted in a number of improvements to the scheme:

*"In particular, the greater set-back on London Road reduces the scheme's prominence and provides a clearer division between the pastiche language of the existing London Road frontage and the more contemporary style of the new build element.*

*The revised elevations also benefit from better organised frontages:*

- Reducing the number of steps in the roofline and screening the first floor void (above the London Road shops) visible on the Queens Walk elevation has allowed a more cohesive frontage which now benefits from consistent vertical articulation and provides for an appropriate level of subdivision that succeeds in breaking-up the mass and resolving the contrasting scales of Queens Walk and London Road.*
- The above improvements have been helped by a reduction in the amount of balconies and balustrading that benefit from being better integrated within the façade. The loss of the 4th floor balustrading and 3rd floor projecting balconies has also helped reduce the building mass visible along London Road.*
- A reduction in the amount of brick-facing on the Queens Walk frontage has lightened the façade and the grey metal panel replacement helps define the vertical articulation better."*

The Urban Designer concludes his comments by confirming that he withdraws his original objection as the scheme has been sufficiently improved to sit comfortably within its context. A condition is however recommended that requires the submission of detailed 1:20 section and elevation drawings showing specific elements as set out in the design condition in Appendix A. A condition is also to be used to secure details of the incorporation of sustainable measures so as to not compromise the visual appearance of the building and surrounding area.

Overall on the issue of visual amenity, planning officers are content that the design of the new building and subsequent impact on the character of the area is acceptable and complies with the requirements at neighbourhood and district plan level as well as the NPPF.

### **Impact on neighbouring properties**

One of the key issues to assess under this application is the potential impact on neighbouring residential amenity.

District Plan Policy DP26 is applicable and this states, in part where relevant, that:

*"All applicants will be required to demonstrate that development ... 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 (see Policy DP27)."*

Criteria (b) of EG3 sets out one of the requirements for all development to meet: *"the layout of the proposed development respects the topography and character of the site, protects important landscape features and does not harm adjoining amenity."*

In residential amenity terms, the test of development here is whether or not it causes 'significant harm' to neighbouring amenity as per DP26. It is acknowledged that criteria b of EG3 states that development proposals should not 'harm' adjoining amenity. However, 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. The 'significant harm' test of the District Plan adopted in March 2018 is therefore the correct test to apply in this case.

In this case no neighbouring residential properties will be significantly affected, either existing units on London Road or in the new development to west - which is proposed to be just a blank facing façade on the east elevation. It is highlighted that no objections have been received by any neighbouring residents (although one letter was received from an East Grinstead resident who does not live next to the site).

The applicant has produced a 'Daylight and Sunlight Assessment'. This report concludes that the proposal would have an imperceptible impact on residential properties along London Road or at the approved scheme to the west. Planning officers concur with such conclusions with it also being considered that the new building will not be overbearing to any neighbouring residents.

It is not considered that the proposal would prejudice any future development on the southern side of Queens Walk, an area that is also within the Neighbourhood Plan allocation. The reason for this is that various options will be open to any potential developer to ensure that a scheme proposes a good standard of accommodation for existing and future neighbours.

It is acknowledged that a construction of this size will inevitably cause some degree of disruption during building works. However, the short term impacts during a construction period would not constitute a reasonable objection on amenity grounds.

The Council's Environmental Protection Officer has requested conditions limiting construction hours, delivery times and a construction noise management plan. These conditions accord with the national guidance on the use of conditions and are set out in Appendix A accordingly. Requested conditions relating to dust control and burning are however covered by environmental protection legislation so an informative will be used to relay these requirements to the applicant. The requested condition about noise from plant and machinery could be covered by the detail submitted under the construction noise management plan condition.

It should also be highlighted that the highways Construction Management Plan condition will also seek to limit the impacts on residents by minimising construction traffic disruption.

In light of the above points there will be no significant harm to neighbouring residential amenity meaning the proposal accords with Policy DP26 of the District Plan.

### **Future residential amenity**

In this case each of the 17 units accords with the national space standards and each of the units has their own private balcony.

The Daylight and Sunlight Assessment report concludes that 93.5 % of rooms will achieve the average daylight factor values recommended in BRE 209 (Site Layout Planning for Daylight and Sunlight) and those that fail only do so as a consequence of the balcony positions.

Environmental Protection Officers have requested a condition to ensure that noise levels for future occupiers are acceptable. The consultation response states that:

*"Environmental Health uses a number of professional standards (World Health Organisation Guidelines on Community Noise and BS8233) to assess whether internal noise levels within a property will be acceptable.*

*An acoustic survey is therefore required in order to identify background levels, and make recommendations on what protection is needed in order for the above internal standards to be achieved."*

Planning officers consider however that building regulations would adequately ensure that sound insulation measures are carried out in order to protect future amenity. In such circumstances a planning condition would not be necessary.

Taking the above points into consideration it is concluded that the proposal will create a good standard of accommodation for future residents.

### **Highways, Access and Parking**

Policy DP21 in the District Plan states

*"Development will be required to support the objectives of the West Sussex Transport Plan 2011 - 2026, which are:*

- *A high quality transport network that promotes a competitive and prosperous economy;*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- *Access to services, employment and housing; and*
- *A transport network that feels, and is, safer and healthier to use.*

To meet these objectives, decisions on development proposals will take account of whether:

- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;*
- *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;*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;*
- *The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians; and*
- *The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.*

These requirements are consistent with the provisions of the July 2018 NPPF which states the following at para 109:

*"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

Policy EG7 of the East Grinstead Neighbourhood Plan refers to the need to meet WSCC parking standards.

The main issue in this respect centres on the fact that there is no vehicular access into the site and no car parking is proposed.

West Sussex County Council has been consulted on the merits of the application and their comments are set out in full within Appendix B.

Regarding car parking, WSCC has stated that:

*"A nil car parking provision is proposed for the new flats. Under the WSCC Car Parking Standards using the nearest ward areas and car ownership data, 18 car parking spaces may be provided for the proposal. Using local census data from the area 44% of flats do not own a vehicle. This would equate to eight flats being car free with ten flats owning one or more vehicles.*

*There are controlled parking zones in the area where residents can apply for parking permits. Public car parks and extensive road protection markings in this town centre location discourage parking in illegal locations which would be detrimental to highway safety.*

*The site is in a highly accessible location with regular bus and rail services within walking distance. The environment is inviting for walking with wide street lit footways and regular pedestrian crossing facilities. The LHA consider that the location gives residents a realistic choice for utilising sustainable modes of transport and that a reliance on the private car is not wholly anticipated.*

*Secure and covered bicycle storage for 18 cycles will be provided in a communal area. This is in line with WSCC guidance and will promote sustainable transport in this town centre location."*

There is therefore no highway objection to the zero parking provision in this case.

Neither are any objections raised by planning officers in respect of the proposed parking arrangements. There is no vehicular access at present into the application site and to create one would severely compromise the ability of a redevelopment to fit in with the character of the area. The site is in a central part of the town centre where future occupiers will have easy access to range of shops, services and public transport links to meet their daily needs without the need to use the private car.

It is considered therefore that a development of this scale in such a central, sustainable location, where there are no highway safety objections, is appropriate to be zero parking.

In summary the highways authority does not consider that the proposed development would have a 'severe' impact on the operation of the Highway network. Conditions will however be required to secure a detailed Construction Management Plan and cycle parking as set out in Appendix A.

Taking into account the above points it can be reasonably concluded that there are no sustainable reasons to refuse the scheme on highways, parking or access grounds as the proposal complies with Policy DP21 of the District Plan and the NPPF.

## **Heritage Assets**

As indicated in an earlier section, the proposal affects the setting of nearby listed buildings and the setting of the conservation area.



The listed buildings that are affected include the Grade II listed West Street Baptist Chapel, Grade II\* listed Old Stone House, Clarendon House and 2B Judges Terrace, and Grade II listed 1 and 2a Judges Terrace, and the Grade II listed Constitutional Buildings on the High Street, as well as a run of other listed buildings to this western end of the High Street. It is also within the broader setting of Grade II\* listed St Swithun's Church, which is a prominent local landmark due to its height.

The boundary of the East Grinstead Conservation area is located approximately 60 metres to the south at the nearest point.

The LPA is under a duty by virtue of s.66 of the Listed Building and Conservation Area (LBCA) Act 1990 (General duty as respects listed buildings in exercise of planning functions): *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".*

The LPA is also under a duty by virtue of s.72 of the Listed Building and Conservation Area (LBCA) Act 1990 (General duty as respects conservation areas in exercise of planning functions): *"In the exercise, with respect to any buildings or other land in a conservation area ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".*

Case law has stated that *"As the Court of Appeal has made absolutely clear in its recent decision in **Barnwell**, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in **Barnwell** it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."*

The Courts further stated on this point *"This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in **Barnwell**, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering."*

Policy DP34 (listed buildings) of the District Plan states:

*"Development will be required to protect listed buildings and their settings. This will be achieved by ensuring that:*

- *A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- *Alterations or extensions to a listed building respect its historic form, scale, setting, significance and fabric. Proposals for the conversion or change of use of a listed building retain its significance and character whilst ensuring that the building remains in a viable use;*
- *Traditional building materials and construction techniques are normally used. The installation of uPVC windows and doors will not be acceptable;*
- *Satellite antennae, solar panels or other renewable energy installations are not sited in a prominent location, and where possible within the curtilage rather than on the building itself;*
- *Special regard is given to protecting the setting of a listed building;*
- *Where the historic fabric of a building may be affected by alterations or other proposals, the applicant is expected to fund the recording or exploratory opening up of historic fabric."*

Regarding the impact of development on conservation areas, Policy DP35 of the District Plan is relevant:

*"Development will also protect the setting of the conservation area and in particular views into and out of the area."*

At Neighbourhood Plan level Policy EG4 states that:

*"Applications affecting designated and non-designated heritage assets must be supported by an appropriately detailed assessment of their heritage significance and the impact of the proposals on that significance."*

The NPPF (para 193) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

When assessing the impact of this development on the nearby heritage assets the views of the Council's Conservation Officer have been sought:

*"Given the existing permission for the redevelopment of the site to the rear, this current proposal would, while having some impact on the setting of the Conservation Area and the listed buildings at the western end of the High Street, not have a significantly different or greater impact than the development which is currently under construction. The current proposal will therefore not, in my opinion, materially alter the impact of the redevelopment as a whole, which has been previously considered in the context of the permitted scheme."*

Planning officers have no reason to dispute the conclusions of the Conservation Officer and agree that the building will have no more impact on the nearby heritage assets than the existing building under construction (DM/17/3645) would have. In the context of this adjacent building, it is reasonable to conclude that the proposal before Members will have a neutral impact on the setting of both the conservation area and the listed buildings. The heritage assets will therefore be approved in accordance with local policies, national policies and legislation.

### **Retail Impact**

In this case the applicant has confirmed in the Planning Statement that the ground floor uses remain unchanged as a result of the proposal. This is particularly the case with the three units which face onto London Road with the plans showing these are largely unaffected by the proposals. There are two commercial properties facing Queens Walk with the reconfiguration affecting both of them. The smallest unit (in use as a greengrocer) measures approximately 15 m<sup>2</sup> with the adjacent 'Card Factory' measuring approximately 124 m<sup>2</sup>. The location of the residential access and bin store will result in a single reconfigured retail unit measuring 122m<sup>2</sup> meaning there will be a minor loss of retail floorspace (17 m<sup>2</sup>). Given the need for a residential access point and an accessible bin store on the Queens Walk side of the building, the loss of a minor element of retail space is practically inevitable. The development will also form part of the regeneration of the town centre so will help provide an enhanced area compared to the existing. No objections are therefore raised to this minor loss of retail space that will not undermine the retail function of the area ensuring the proposal complies with Policies DP1 and DP2.

### **Infrastructure and Affordable Housing**

Contributions and affordable housing are required in accordance with the Council's adopted Supplementary Planning Document "Development and Infrastructure" and are requested in accordance with Policies DP20 and DP31 of the District Plan, the NPPF and the Council's 'Development Infrastructure and Contributions' SPD. The contributions would also accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

However, in this case the applicant has submitted a Financial Viability Assessment which is available to view in full on the planning file. This report concludes that it would not be financially viable to provide onsite affordable housing or make the required planning obligation financial contributions.

These submissions by the applicant were subject to review by the District Valuer, an independent expert body on such matters, who subsequently agreed with the applicant's position that the scheme could not viably deliver affordable housing or the required infrastructure payments. The District Valuer report is also available to view in full on the planning file.

The NPPF at para 57 states that: *"The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force."*

Given the up to date nature of the Development Plan policies, supplemented by the SPD's, and the comments of the District Valuer planning officers consider that there are no reasonable grounds to not accept the findings of the viability assessment. In this case therefore the planning application cannot secure any affordable housing or infrastructure contributions.

Members will no doubt recall that no affordable housing could be secured on the adjoining development (DM/17/3645). As with that case however it is also proposed here to secure a viability review to be triggered at an advanced stage of the development to ensure that viability is accurately assessed and up to date.

The Council's Housing team has confirmed this approach in their consultation response:

*"The applicant is proposing a development of 17 apartments which gives rise to an onsite affordable housing requirement of 30% (DP31). The applicant has however stated that it is not viable to provide any affordable housing contribution on this scheme. An independent valuer was instructed to assess the viability of the development and establish whether any affordable housing provision was in fact possible. They subsequently concluded that it is not viable to provide any affordable housing wither onsite or by way of a commuted sum. The position will however be reviewed at a later date in the project when more accurate information about costs and values will be able to be provided. Potential affordable units will be identified in an 'Additional Affordable Housing Schedule' appended to the Planning Obligation and this schedule will comprise a plan identifying the potential housing units together with a table stating flat number, unit types and sizes. If it remains unviable to provide onsite affordable housing at the review stage then the Council will also consider whether it is viable to provide a commuted sum."*

### **Ashdown Forest**

The Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) is a European Site of Nature Conservation Importance, which lies adjacent to the north-east boundary of Mid Sussex and within the District of Wealden. The area is protected by the European Habitats Directive and by Government Planning Policy.

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 ensure that any plans or projects that they regulate will have no adverse effect on the integrity of Ashdown Forest. Regulation 61 of the Habitats Regulations requires the Council to assess the possible effects of plans or projects, i.e. planning applications, on Ashdown Forest.

If the proposed development will not have a likely significant effect on the Forest, either alone or in combination with other proposed developments in the area, the Council may proceed to determine the application. However, if a significant effect is likely, either alone or in combination with other plans and projects, an appropriate assessment must be undertaken to establish whether the proposed development will have an adverse effect on the integrity of the European site. If the appropriate

assessment concludes that there will not be an adverse effect on the integrity of the European site, the Council may proceed to determine the application.

There may be likely significant effects on the Ashdown Forest SPA as a result of increased recreational activity arising from new residential development and related population growth that is likely to disturb the protected bird species. Within 7km of the Ashdown Forest SPA, residential development leading to a net increase in dwellings will need to contribute to an appropriate level of mitigation. There are two parts to the mitigation. By providing an alternative option, Suitable Alternative Natural Greenspace (SANG) is the name given to greenspace that is of a quality and type suitable to be used as mitigation. A SANG site could either be provided on the development site itself or through a financial contribution towards a strategic SANG. The East Court and Ashplatts Wood SANG Strategy has been agreed by the District Council.

The second part of the mitigation is to provide a financial contribution towards Strategic Access Management and Monitoring (SAMM) measures. The Council has produced an interim SAMM Strategy that sets out measures to protect the Ashdown Forest SPA from new recreational pressures through managing access (visitor) behaviour and monitoring both birds and visitors. The projects that form the mitigation measures have been discussed and agreed in collaboration with the Conservators of Ashdown Forest and Natural England. The interim SAMM Strategy will be superseded by a Joint SAMM Strategy which is currently being prepared with the other affected local authorities.

This proposed development site lies within 7km of the Ashdown Forest SPA and as such, mitigation is required. In this case, the SAMM Strategy would require a contribution of £31,288 and if the approved scheme provides for a strategic SANG contribution, this would be £18,952.

Notwithstanding the applicant's conclusion on viability (which suggested SAMM and SANG could not be paid) the applicant has agreed that they would be prepared to make the necessary financial contribution towards the SAMM Strategy and (if the approved scheme provides for a strategic SANG contribution), the SANG Strategy. The reason for this is that planning consent would not be forthcoming without securing such mitigation to comply with the regulations. Any contributions received will be ring-fenced for expenditure in accordance with the relevant SAMM and SANG Strategies.

The financial contribution to SAMM is to be secured through a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 ("Planning Obligation") whilst the mitigation in relation to SANG would be secured through a planning condition and informative ("SANG Condition"). The District Council has two different mechanisms to secure the mitigation because of the effect of the Community Infrastructure Regulations 2010 ("the CIL Regulations"), in particular Regulation 123. SAMM is not considered to constitute "infrastructure" for the purposes of Regulation 123 and accordingly, the pooling restrictions do not apply. Therefore, a Planning Obligation can still be used to secure the SAMM contribution. SANG, however, may be considered to constitute "infrastructure" for the purposes of Regulation 123 which would mean that the pooling restrictions would apply. This

means that Planning Obligations can no longer be used to secure SANG contributions and so development would not provide for the necessary measures to mitigate the potential impact on the Ashdown Forest SPA, and could not be granted planning permission. To avoid delaying the delivery of development, an alternative approach has been adopted by the District Council and is being used to secure SANG mitigation, in the form of the SANG Condition. The proposed SANG Condition provides for a scheme for mitigation of the effects on the SPA to be submitted which can include provision for a bespoke SANG or the payment of a financial sum towards a SANG managed by the District Council. Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (Paragraph 55 of the National Planning Policy Framework). All planning conditions must meet these '6 tests' which are applicable to the imposition of conditions as set out in National Planning Policy Guidance (NPPG). In the circumstances of this particular case it is considered that these tests are met by the proposed SANG Condition. Furthermore, the mitigation is required in order to ensure compliance under the Habitats Regulations.

The NPPG (Paragraph 005 Reference ID 21a-005-20140306) allows for the use of a negatively worded condition to: "prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure)". It is considered, therefore, in the circumstances of this case and in the light of the guidance on the use of planning conditions set out in the NPPG, that the use of a negatively worded condition is an appropriate approach to securing the necessary mitigation in relation to SANG in order to mitigate any likely significant effect on the Ashdown Forest SPA required by the Habitats Regulations and enable the local planning authority to grant permission for relevant development.

The NPPG (Paragraph 010 Reference ID 21a-010-20140306) addresses the use of a condition requiring an applicant to enter into a planning obligation or an agreement under other powers. The guidance states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In relation to this part of the NPPG, the District Council would make the following points:

1. The NPPG is guidance not law.
2. The District Council does not consider Paragraph 10 of the NPPG applies to the proposed SANG Condition. The guidance does not apply to all negatively worded conditions, rather it applies to "a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence" (emphasis added). The District Council's proposed condition does not require an agreement to be entered into before certain development can commence. Nor does the SANG Condition limit the development that can take place until a planning obligation or other agreement has been entered into. The

District Council's proposed condition gives developers the choice to either provide their own SANG site or to enter into an agreement for a contribution towards the strategic SANG. Accordingly, the guidance in the NPPG does not apply in this case as there is a choice as to how to comply with the condition.

3. Alternatively, even if Paragraph 10 of the NPPG were considered to apply, the District Council considers the circumstances are sufficiently "exceptional" to warrant the imposition of the SANG Condition. The effect of Regulation 123 prevents the funding of SANG being secured via a Planning Obligation and in the absence of the SANG condition, the only alternative would be to refuse development within the 7km zone of influence.
4. Underlying the guidance in Paragraph 10 of the NPPG is the requirement for certainty and transparency. The District Council considers the SANG Condition provides certainty and transparency to developers as either a SANG site or a contribution towards the strategic SANG is required to make the development lawful. In the case of a contribution, the published SANG Strategy clearly identifies the financial contribution required.

Natural England has also confirmed it is content with the SANG Condition approach to secure mitigation in terms of SANG.

Subject to a Planning Obligation securing the SAMM contribution being completed and subject to the imposition of an appropriate planning condition in relation to SANG being secured, it is considered that the mitigation of the recreational impact to the Ashdown Forest can be secured. The proposal therefore accords with Policy DP17 of the District Plan and EG16 of the Neighbourhood Plan.

### **Ashdown Forest - Atmospheric pollution**

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as a committed development (as this includes both allocations and sites that contribute to windfall development), such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

It is considered that the proposal would not result in any significant amount of vehicular movements across the Ashdown Forest and the proposed development has in any case been incorporated into the overall results of Mid Sussex Transport work. It is therefore logical and reasonable to conclude that there is not considered

to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

### **Other Planning Issues**

All the other issues raised during the consultation period have been taken into account and these other issues are either considered not to warrant a refusal of permission, are items that could be dealt with effectively by planning conditions or other legislation or are not even material planning considerations.

The Council's Waste officer has commented that the bin store should be located closer to the highway or a waste collection management plan be secured. The applicant has confirmed the latter solution as preferable due to the existence of the existing commercial premises rendering the relocation impractical. The additional bins requested by the waste officer have been incorporated into the store as shown in the latest plans. Planning officers consider therefore that waste facility provision and collection can be adequately controlled through the condition set out in Appendix A.

Drainage matters will also be covered by a condition.

The mix of dwellings (10 x 2 bed and 7 x 1 bed) is considered appropriate for a flatted scheme like this thereby complying with Policy DP30 and Policy EG7.

### **Planning Balance and Conclusion**

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations 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.

The NPPF states that planning should be genuinely plan-led. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

The proposal will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. The development will also provide some economic benefit through the New Homes Bonus, construction jobs, an increased population likely to spend in the community and by forming part of the wider regeneration of East Grinstead town centre

The proposal will result in a neutral impact in respect of a number of issues such as design and visual amenity, highway safety, residential and future amenity, heritage assets, drainage and the Ashdown Forest impact.



Weighing against the proposal is the fact that the scheme does not provide policy compliant parking but this is compensated for to some degree due to the sustainable location of the site meaning future occupiers would not need to be reliant on the private car to meet their daily needs.

There is also a minor loss of commercial floorspace but this is very minor (17m2) and is practically inevitable as a result of creating a residential access onto Queens Walk so does not weigh heavily against the scheme.

The proposal is therefore deemed to comply with the requirements of Policies DP1, DP2, DP4, DP6, DP21, DP26, DP27, DP30, DP31, DP34, DP35, DP39 and DP41 Policies EG3, EG4, EG5, EG6B, EG7, EG11, EG16 and SS2 of the Neighbourhood Plan as well as the broader requirements of the NPPF and the Listed Building and Conservation Area (LBCA) Act 1990.

Officers therefore consider that in the context of the adopted District Plan and Neighbourhood Plan, together with other material planning considerations including the NPPF, planning permission should be granted.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

### **Time Limit**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

### **Pre-commencement**

2. No development shall be carried out unless and until samples of materials and finishes to be used for the external facing materials of the proposed building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.

Reason: To achieve a building of visual quality and to accord with Policy DP26 of the District Plan and Policies EG3 and EG5 of the Neighbourhood Plan.

3. No development shall be carried out unless and until plans have been submitted to and approved in writing by the local planning authority of detailed 1:20 section and elevation drawings showing the following elements in context:

- The vertical metal fins at first floor level.
- Typical inset balcony, balustrading including the floorplate.
- Typical roof level balcony and balustrading.
- The entrance and bin store doors
- Typical window designs including the grey panels
- The chamfered 5th floor stairwell window
- The juxtaposition of the metal clad façade, the roofline and the balconies/balustrading serving unit 15 on the Queens Walk elevation (NB: The 1:200 scale elevation appears to indicate there is some definition at roof level

where the balconies punctuate the brick and metal clad facades, which is not shown on the fourth floor plan).

The development shall be carried out in accordance with these 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 District Plan and Policies EG3 and EG5 of the Neighbourhood Plan.

4. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. 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.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements and Policy DP41 of the District Plan 2014 - 2031.

5. No development shall take place, including any works of demolition, until a Construction Management Plan has 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;
  - the anticipated number, frequency and types of vehicles used during construction,
  - the method of access and routing of vehicles during construction,
  - the parking of vehicles by site operatives and visitors,
  - the loading and unloading of plant, materials and waste,
  - the storage of plant and materials used in construction of the development,
  - the erection and maintenance of security hoarding,
  - 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),
  - details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area and to accord with Policy DP21 of the Mid Sussex District Plan.

6. No development shall take place until a Construction Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall also consider vibration from construction work, including the compacting of ground. The approved Plan shall be adhered to throughout the construction period.

Reason: To safeguard the amenity of local residents and to accord with Policy DP26 of the District Plan.

7. No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.

Reason: To ensure that the development, either on its own or in combination with other plans or projects, does not have a likely significant effect on a European site within the Conservation of Habitats and Species Regulations 2010.

8. No development shall take place unless and until details, to include plans and elevations, of what sustainable measures are to be incorporated into the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details.

Reason: In the interests of sustainability and to comply with Policy DP39 of the District Plan.

### **Construction**

9. Construction work on the site, including the use of plant and machinery, necessary for implementation of this consent shall, unless otherwise agreed in writing, be limited to the following times:

- Monday - Friday: 08:00 - 18:00 Hours
- Saturday: 09:00 - 13:00 Hours
- Sundays and Bank/Public Holidays: No work permitted

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the Mid Sussex District Plan.

10. Deliveries or collection of plant, equipment or materials for use during the demolition/construction phase shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs  
Saturday: 09:00 - 13:00 hrs  
Sundays and Bank/Public Holidays: None permitted

Reason: To protect the amenity of local residents and to accord with Policy DP26 of the District Plan.

### **Pre-occupation**

11. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

12. No residential unit hereby approved shall be occupied unless and until a Waste Collection Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out and managed in accordance with the approved details.

Reason: To ensure adequate bin and recycling collection arrangements to safeguard the appearance of the area and to accord with Policy DP26 of the District Plan.

### **Post-occupation / management**

13. The new/reconfigured commercial premises hereby approved shall not be open for trade or business except between the hours of 08:00 to 23:00 on Mondays to Saturdays and 09:00 to 23:00 on Sundays.

Reason: To safeguard the amenities of nearby residents and to accord with Policy DP26 of the District Plan.

### **INFORMATIVES**

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. You are advised that this planning permission requires compliance with a planning condition(s) **before development commences**. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <https://www.gov.uk/guidance/use-of-planning-conditions#discharging-and-modifying-conditions> (Fee of £116 will be payable per request). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
3. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before

work starts on site. Details of fees and developers advice can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.

4. With regards to the Construction Noise Management Plan condition, you are advised that the noise rating level of any operational ventilation or air conditioning plant or machinery hereby permitted shall be at least 10dB below the existing background noise level at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014
5. Please note that the granting of this planning permission does not exempt the operator from liability for any statutory nuisance (eg noise or artificial light) caused as a result of the extension and/or use of the building.
6. The applicant is advised that to satisfy the SANG condition there are likely to be two options.

The first is to provide, lay out and ensure the maintenance of, in perpetuity, of a Suitable Alternative Natural Greenspace (SANG). Any potential sites for SANG will need to meet Natural England's guidelines for SANGs and the suitability of a potential site for SANG will be considered on a site specific basis. The achievement of a SANG is likely to be through the mechanism of a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 as amended.

The second is to enter a form of agreement with the Local Planning Authority pursuant to Section 1 of the Localism Act 2011 and such other enabling powers in relation to the payment of an appropriate financial sum towards the Council's existing SANG by way of mitigation. The appropriate sum will be calculated in accordance with the latest policy - currently the East Court and Ashplats Wood Suitable Alternative Natural Greenspace Strategy October 2014.

7. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

#### **Plans Referred to in Consideration of this Application**

The following plans and documents were considered when making the above decision:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan	001	P2	06.06.2018
Existing Floor Plans	002	P2	06.07.2018
Existing Floor Plans	003	P2	06.07.2018
Existing Elevations	020	P2	06.06.2018
Existing Elevations	021	P2	06.06.2018
Existing Elevations	022	P2	06.06.2018
Proposed Floor Plans	100	P7	14.11.2018

Proposed Floor Plans	101	P6	30.10.2018
Proposed Floor Plans	102	P6	30.10.2018
Proposed Floor Plans	103	P6	30.10.2018
Proposed Floor Plans	104	P6	30.10.2018
Proposed Floor Plans	105	P6	30.10.2018
Proposed Roof Plan	106	P6	30.10.2018
Proposed Elevations	200	P5	30.10.2018
Proposed Elevations	201	P6	01.11.2018
Proposed Elevations	202	P5	30.10.2018
Proposed Sections	300	P2	06.06.2018
Proposed Sections	301	P2	06.06.2018
Proposed Sections	302	P2	06.06.2018

## APPENDIX B – CONSULTATIONS

### Parish Consultation

As per East Grinstead Town Council Planning Committee meeting held on 16th July 2018:- Recommend refusal - overdevelopment of the site and lack of car parking. The Committee would require the arch to be retained or replaced with a new archway and the cladding or render materials must be reconsidered to being more in keeping.

### Parish Consultation

As per East Grinstead Town Council Planning Committee meeting held on 19th November 2018: Recommend refusal: The Committee felt that there was little change to the last application and decision on 16th July 2018. The reduction in flats is welcomed, however, the arch is integral to aesthetic of this site, the committee wish to see a new arch or feature to make this welcoming shopping area.

### MSDC Urban Designer

The scheme has two particular challenges. Firstly, it has had to be designed around the retained London Road shopping parade. Secondly, its position at the junction of Queens Walk and London Road present a challenge in marrying the scale of the substantial 6 storey development currently under construction on the site previously occupied by Martells Department Store, with the modest-scaled London Road building frontages. This relationship becomes more apparent with the proposed removal of the arched entrance screen; despite this, I am supportive of the latter because it will open-up the previously too hidden-away Queens Walk and bring more daylight/sunlight to the street level at the eastern end. The 6 (5+1 set-back floor) storey part of the proposal also has the benefit of screening the otherwise blank east flank of the development on the Martells site and will animate the return / east elevation.

The original application proposal suffered from a fragmented appearance that derived from evolving a scheme around the existing London Road frontage. This generated an inconsistent series of stepped roofs combined with a variety of untidy projections and recesses that lacked a cohesive form.

The revised scheme makes a number of improvements. In particular, the greater set-back on London Road reduces the scheme's prominence and provides a clearer division between the pastiche language of the existing London Road frontage and the more contemporary style of the new build element.

The revised elevations also benefit from better organised frontages:

- Reducing the number of steps in the roofline and screening the first floor void (above the London Road shops) visible on the Queens Walk elevation has allowed a more cohesive frontage which now benefits from consistent vertical articulation and provides for an appropriate level of subdivision that succeeds in breaking-up the mass and resolving the contrasting scales of Queens Walk and London Road.
- The above improvements have been helped by a reduction in the amount of balconies and balustrading that benefit from being better integrated within the façade. The loss of the 4th floor balustrading and 3rd floor projecting balconies has also helped reduce the building mass visible along London Road.
- A reduction in the amount of brick-facing on the Queens Walk frontage has lightened the façade and the grey metal panel replacement helps define the vertical articulation better.

Internally the main communal corridors are as before and designed as external walkways that are likely to impact adversely on the thermal performance of the building and create a less comfortable environment for residents than an internalised arrangement. The living rooms and balconies serving units 3 and 8 have a poor/constrained outlook facing the rear elevation of units 7 and 12 respectively.

In conclusion, I withdraw my previous objection as I believe the scheme has been sufficiently improved to sit comfortably within its context. The small scale drawings nevertheless lack detail, and I would therefore recommend a condition that requires the submission of detailed 1:20 section and elevation drawings showing the following elements in context:

- The vertical metal fins at first floor level.
- Typical inset balcony, balustrading including the floorplate.
- Typical roof level balcony and balustrading.
- The entrance and bin store doors
- Typical window designs including the grey panels
- The chamfered 5th floor stairwell window
- The juxtaposition of the metal clad façade, the roofline and the balconies/balustrading serving unit 15 on the Queens Walk elevation (NB: The 1:200 scale elevation appears to indicate there is some definition at roof level where the balconies punctuate the brick and metal clad facades, which is not shown on the fourth floor plan).

The applicant's Energy and Sustainability Statement appears to promote roof-top solar/photovoltaic panels. As these are likely to be unfortunately prominent and clutter the roof, I would like a condition that prohibits this and other roof top structures, other than the balustrading and lift-housing (already shown on the drawings).

I would also recommend a condition requiring the facing materials to be subject to further approval.

### **MSDC Conservation**

As discussed, brief comments on the above application, which could be considered as 'Phase 2' of the redevelopment of the Martells site. Given the existing permission for the redevelopment of the site to the rear, this current proposal would, while having some impact on the setting of the Conservation Area and the listed buildings at the western end of the High Street, not have a significantly different or greater impact than the development which is currently under construction. The current proposal will therefore not, in my opinion, materially alter the impact of the redevelopment as a whole, which has been previously considered in the context of the permitted scheme.

## **MSDC Housing**

The applicant is proposing a development of 18 apartments which gives rise to an onsite affordable housing requirement of 30% (DP31). The applicant has however stated that it is not viable to provide any affordable housing contribution on this scheme. An independent valuer was instructed to assess the viability of the development and establish whether any affordable housing provision was in fact possible. They subsequently concluded that it is not viable to provide any affordable housing wither onsite or by way of a commuted sum. The position will however be reviewed at a later date in the project when more accurate information about costs and values will be able to be provided. Potential affordable units will be identified in an 'Additional Affordable Housing Schedule' appended to the Planning Obligation and this schedule will comprise a plan identifying the potential housing units together with a table stating flat number, unit types and sizes. If it remains unviable to provide onsite affordable housing at the review stage then the Council will also consider whether it is viable to provide a commuted sum.

## **MSDC Leisure**

### **CHILDRENS PLAYING SPACE**

Orchard Way, owned and managed by the Council, is the nearest locally equipped play area approximately 270m from the development site. This facility will face increased demand from the new development and a contribution of £16,606 is required to make improvements to play equipment (£9,025) and kickabout provision (£7,581). These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

### **FORMAL SPORT**

In the case of this development, a financial contribution of £15,286 is required toward pitch drainage at Mount Noddy (EG/100).

### **COMMUNITY BUILDINGS**

The provision of community facilities is an essential part of the infrastructure required to service new developments to ensure that sustainable communities are created. In the case of this development, a financial contribution of £8,767 is required to make improvements to the Jubilee Community Centre.

## **MSDC Environmental Protection**

The application seeks permission for a part change of use the development of 18 residential units. The site is on London Road, a busy retail orientated high street with surrounding night time economy.

Environmental Health uses a number of professional standards (World Health Organisation Guidelines on Community Noise and BS8233) to assess whether internal noise levels within a property will be acceptable.

An acoustic survey is therefore required in order to identify background levels, and make recommendations on what protection is needed in order for the above internal standards to be achieved.

Recommendation: Approve with Conditions

Soundproofing: No development shall take place until a scheme for protecting the residential units from noise generated by road 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 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB LAmax when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate cooling of the occupants with the windows closed. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period.

Construction hours: Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:

Monday - Friday: 08:00 - 18:00 Hours  
Saturday: 09:00 - 13:00 Hours  
Sundays and Bank/Public Holidays: No work permitted

Reason: To protect the amenity of local residents.

Deliveries: Deliveries or collection of plant, equipment or materials for use during the demolition/construction phase shall be limited to the following times:

Monday to Friday: 08:00 - 18:00 hrs  
Saturday: 09:00 - 13:00 hrs  
Sundays and Bank/Public Holidays: None permitted

Reason: To protect the amenity of local residents

No burning of materials: No burning of demolition/construction waste materials shall take place on site.

Reason: To protect the amenity of local residents from smoke, ash, odour and fume.

Minimise dust emissions: Demolition/Construction work shall not commence until a scheme for the protection of the existing neighbouring properties from dust has been submitted to and approved by the local planning authority. The scheme as approved shall be operated at all times during the construction phases of the development.

Reason: To protect the amenity of local residents from dust emissions.

No development shall take place until a Construction Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall also consider vibration from construction work, including the compacting of ground. The approved Plan shall be adhered to throughout the construction period.

Reason: To safeguard the amenity of local residents

Plant & Machinery: The noise rating level of any operational ventilation or air conditioning plant or machinery hereby permitted shall be at least 10dB below the existing background noise level at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. The results of any assessment and details of any mitigation measures shall be submitted to the Local Planning Authority upon request.

Reason: To safeguard the amenities of the local residents.

Informative:

Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Please note that the granting of this planning permission does not exempt the operator from liability for any statutory nuisance (e.g. noise or artificial light) caused as a result of the extension and/or use of the building.

### **MSDC Waste**

I have now had chance to view the plans and Design/Assess statement for this development.

Firstly, the number of bins should just about provide capacity for all general waste and recycling. However, the provision works out at 5.2 x 1100 bins, so we would prefer there to be 6 x 1100 bins so there are 3 for general waste and 3 for recycling. If the bin store is under capacity it will lead to waste being placed on the floor that will not be collected by our contractors. If this is not possible then space should be provided for at least a 240 litre bins for additional recycling.

The location of the bin store is not ideal as it appears to be approx. 28 metres from London Road. We would need the collection vehicle to get within 10 metres of the bin store to avoid significant drag distances for the bins. Therefore, unless the collection vehicle reverses to the bin store down the pedestrianised shopping street we would not be able to service the bins. Reversing down the pedestrianised area looks like it will be possible once the archway is removed but would be limited to certain hours for H and S reasons and would depend on any street furniture or temporary stalls (such as market stalls) that may be present. So if a collection vehicle breaks down or is late starting for any reason, the collection in this location run the risk of being disrupted. The existing commercial bin store would not be serviced by the local authority and would not be restricted by our policy of not servicing bins before 7am.

I appreciate space is tight in this location but we would prefer the bin store to be closer to London Road so we do not have to reverse into an area designed for pedestrians. Another option would be for the property manager to be responsible for placing bins out on the day of collection in an agreed point close enough to London Road.

### **WSCC Highways - Final**

West Sussex County Council, in its capacity as the Local Highway Authority (LHA) have been re-consulted on proposals for change of use of upper floor shop space and four storey extension to provide residential apartments. The changes relate to a reduction in units from 18 to 17 and associated design changes.

In LHA comments dated 29th June 2018 no objections were raised to the scheme which is in a town centre location with nil car parking allocation. Sufficient bicycle storage has been indicated on the plans and the reduction in units would not alter LHA previous comments, to which the LPA should refer.

## **WSCC Highways - Original**

### Summary & Context

West Sussex County Council, as the Local Highway Authority (LHA), previously provided pre-application advice for a residential scheme at the site including construction of additional storeys over existing ground floor retail space. No capacity concerns were raised on the basis of a nil car parking provision, considering the town centre location of the site and proximity to services and sustainable modes of transport.

The application is supported by drawings, Design & Access Statement and a Transport Statement (TS). The LHA do not wish to raise transport grounds to resist the application subject to comments as follows.

### Capacity

Section 5 of the TS sets out the anticipated trip generation of the development. A multi-modal assessment has been carried out using similar parameters from TRICs (Trip Rate Information Computer Systems) database to estimate nine two-way person trips in the AM peak and fourteen in the PM peak. A modal-split has been applied to estimate that of these trips five movements in the AM and eight in the PM could be vehicular. Walking, bus, cycle and rail make up other transport modes in this town centre accessible location.

The assessment assumes no changes to trip generation associated with the existing retained retail use. The increase in trip generation, specifically to vehicular use is considered to be negligible (especially considering no off street parking is provided). The LHA do not consider the proposals will have a severe residual impact on the capacity of the nearby road network.

### Parking & Accessibility

A nil car parking provision is proposed for the new flats. Under the WSCC Car Parking Standards using the nearest ward areas and car ownership data, 18 car parking spaces may be provided for the proposal. Using local census data from the area 44% of flats do not own a vehicle. This would equate to eight flats being car free with ten flats owning one or more vehicles.

There are controlled parking zones in the area where residents can apply for parking permits. Public car parks and extensive road protection markings in this town centre location discourage parking in illegal locations which would be detrimental to highway safety.

The site is in a highly accessible location with regular bus and rail services within walking distance. The environment is inviting for walking with wide street lit footways and regular pedestrian crossing facilities. The LHA consider that the location gives residents a realistic choice for utilising sustainable modes of transport and that a reliance on the private car is not wholly anticipated.

Secure and covered bicycle storage for 18 cycles will be provided in a communal area. This is in line with WSCC guidance and will promote sustainable transport in this town centre location.

### Conclusion

The LHA does not consider that the proposal for 18 x flats would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal.

### Cycle parking

No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

### Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Management Plan has 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,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- 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),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area.

### **WSCC Infrastructure**

Primary £11,917 - The contributions generated by this proposal shall be spent supporting the National Curriculum at Estcots Primary School.

Secondary £12,825 - The contributions generated by this proposal shall be spent supporting the National Curriculum at Sackville School.

Sixth Form £3,004 - The contributions generated by this proposal shall be spent supporting the National Curriculum at Sackville School Sixth Form.

Libraries £4,622 - The contributions generated by this proposal shall be spent on flexible shelving to enable increased community use at East Grinstead Library.

TAD £20,168 - The contributions generated by this proposal shall be spent on traffic management and pedestrian/cycling/public realm improvements in Railway Approach.

(These contributions based on the 18 unit scheme)

### **Disability Access - East Grinstead**

We had already looked at the plans on the MSDC website and discussed them ourselves. We do not normally comment on residential developments but sometimes there are repercussions on other areas which need to be considered in relation to access.

In view of this our main concern would be the general pedestrian area corresponding to the existing Queen's Walk adjacent to the residential unit entry and service area. This would include consideration of how and when services such as deliveries and refuse collection operate, specifically the potential blockage or restriction of the pedestrian area. We would not expect to see bins or boxes left outside in the pedestrian areas unsupervised for any length of time. In addition to the effect of narrowing the walkway, there is always the potential problem of visually impaired people, who tend to walk close to the side of a walkway, having difficulty negotiating obstructions and unfamiliar objects. Although the walkway itself may be wide and such 'routine' objects such as bins would not cause a significant overall width restriction, their presence could be a problem and we would definitely follow up any reports as we do in the case of other pavement obstructions.

Regarding bicycle storage and access, we would anticipate some measures to ensure that users are aware of consideration needed to prevent accidents in the immediate area. The people we aim to represent with mobility problems including visual impairment can be vulnerable when they are unable to get out of the way of or see moving cyclists. Will cycling be specifically prohibited between the cycle storage entrance and the road?

We note that currently the market stalls in this area are variable in size and position and in a state of change particularly because of the vacant shop units. In the worst cases the restriction to the existing Queen's Walk can be significant with potential difficulty for wheelchair and mobility scooter users and their carers. When the development is completed we would expect that your organisation, or any other responsible for that area, have provisions in place to ensure that any temporary, or permanent, retail or service features be designed and controlled to take into consideration access issues, not only in relation to width of remaining pedestrian walkway but unhelpful obstructions and intrusions into the area.

For the record, we would not expect any issues to arise regarding unacceptable slopes, steps or other basic features in the pedestrian walkway. All new retail units should be fully accessible with respect to doorways and level thresholds. The retail unit occupiers should be contractually committed to providing internal access and usability.

We hope that these points are useful for initial consideration.

Please do not hesitate to contact us for clarification or any additional information.