

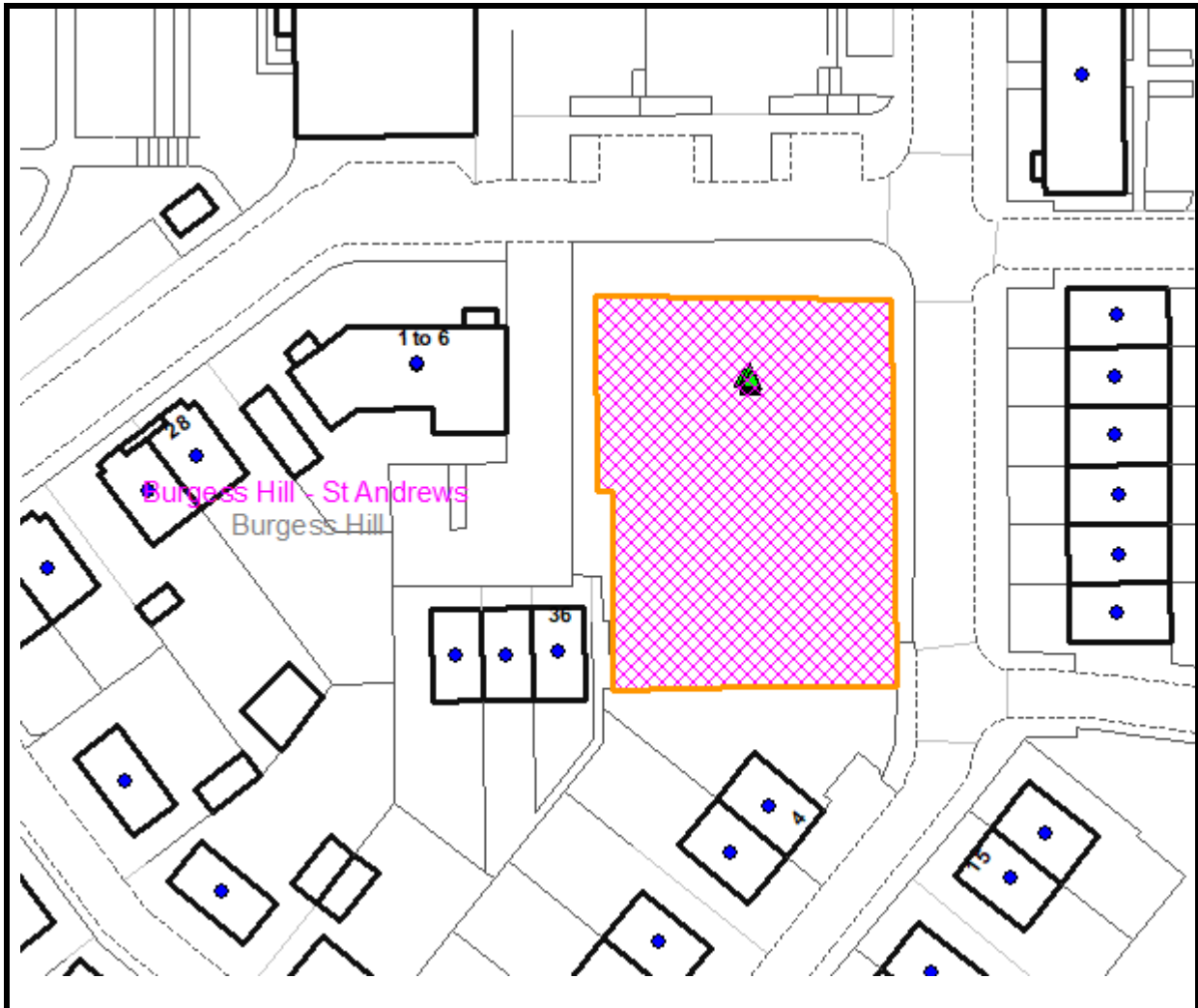
# Planning Committee



Recommended for Permission

2nd November 2023

DM/23/0941



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<b>Site:</b>	Phase 2E ,Keymer Tile Works Kilnwood Avenue Burgess Hill West Sussex
<b>Proposal:</b>	Proposed erection of a block of 15 apartments with associated access, car parking, refuse and cycle storage in place of the health centre approved under planning permissions 09/03697/OUT and DM/16/2718. (Amended plan received 25th August 2023 showing elevational/design changes and updated drainage information).
<b>Applicant:</b>	Kember Loudon Williams
<b>Category:</b>	Smallscale Major Dwellings

<b>Target Date:</b>	17th November 2023
<b>Parish:</b>	Burgess Hill
<b>Ward Members:</b>	Cllr Christine Cherry / Cllr Matthew Cornish /
<b>Case Officer:</b>	Stephen Ashdown

**Link to Planning Documents:**

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RSMXLXKT0GL00>

**1.0 Purpose of Report**

- 1.1 To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

**2.0 Executive Summary**

- 2.1 This application seeks planning permission for the erection of an apartment block containing 15 apartments with associated access, car parking, refuse and cycle storage in place of the health centre approved as part of the wider Kings Weald development, on the former Keymer Brick and Tile site in Burgess Hill.
- 2.2 By means of background, as part of the outline planning permission, granted in April 2010, for the wider Kings Weald development, provision was secured within the associated s106 Legal Agreement (*The Agreement*) for the applicants to make available within the 'local centre' a site sufficient and suitable for the construction of a 'Health Centre'. The exact location and boundaries of which would be determined through a subsequent Reserved Matters application. There was requirement for the applicants to either construct the 'Health Centre' or provide the land at nil cost to any interested party.
- 2.3 *The Agreement* defined the 'Health Centre' as having a floor area of 900 sqm, over two floors. The relevant clause of *The Agreement* required the submission and approval of a marketing strategy and set out the relevant active measures/timescales for the applicants to try and secure disposal of the site. The time period was five years.
- 2.4 In the event that the applicant is unable to dispose of the site for its intended 'Health Centre' use, providing that the Council are satisfied that the relevant terms of the clause has been met, *The Agreement* allows for the use of the site for any purpose, subject to necessary consents being secured.
- 2.5 The 'Health Centre' building was approved in the January 2017 as part of the Reserved Matters permission for phase 2 of the wider development, and it makes provision for 900 sqm of health use over two floors, with five apartments provided over. The approved building is three storeys high and makes provision for 14 parking

spaces to the rear to serve the health use and the five apartments. This permission remains extant and can be implemented at any time.

- 2.6 Having regard to the requirements of *The Agreement*, your officers are content that the applicant has taken reasonable steps to market the Health Centre and used all reasonable endeavours to secure the disposal of the site. It is important to note that there was no requirement for the applicant to build the facility at nil cost to the GPs, nor have they offered this. The applicant's offer was to build and rent on a commercial basis or sell the free hold on a commercial basis.
- 2.7 While it is disappointing that the disposal of the site could not be secured to enable a Health Centre to come forward in this location, NHS Sussex are looking for opportunities to meet the increasing demand for Primary Care in Burgess Hill. They are working with Homes England, at the Brookleigh development, who are offering, as a gift, the provision of built healthcare building.
- 2.8 The planning application before members needs to be determined on its own merits, and planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.9 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 Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.
- 2.10 The Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.
- 2.11 National planning policy states that planning should be genuinely plan-led. 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-titled one.
- 2.12 Weighing in favour of the scheme is that the development will provide a net gain of ten additional units (five have extant consent) in a sustainable location at a time where there is a general need for Local Authorities to significantly boost the supply of housing, and this should be given positive weight.
- 2.13 It is considered that the proposed building is of an appropriate design and scale that complements the existing character and appearance of the Kings Weald development and will provide the necessary enclosure of 'The Square' to realise the original design concept for this part of the wider development.
- 2.14 The proposal would not give rise to any unacceptable highway safety or wider network issues and the level of car parking proposed is in-line with the WSCC guidance. The Local Highway Authority have not raised an objection to the scheme. While the proposal would result in some additional impacts on the adjacent residential amenities, in terms of increase overlooking/loss of privacy as a result of additional opening and balconies when compared to the extant permission, it is not considered that overall likely impact would be significant, that would justify refusal of the application.

- 2.15 The proposals provides for a satisfactory mix of units that will meet the general housing needs within the District and a financial contribution towards off-site affordable housing provision will be secured through a s106 Legal Agreement. This Agreement will also secure other financial contributions, in accordance with the Council's adopted SPD, to mitigate the developments impact on the general infrastructure of the area.
- 2.16 It is considered that the site can be satisfactorily drained. Furthermore, the proposal is considered acceptable in relation to trees, dwelling space standards, accessibility and sustainable construction. The proposal will have a neutral impact on the Ashdown Forest SPA/SAC.
- 2.15 If permitted the Local Planning Authority would receive a New Homes Bonus for the units proposed. The proposal would also result in economic benefits, in terms of additional employment during construction and would result in additional local spending.
- 2.16 Weighing against the proposal is the fact that the level of proposed car parking does not comply with the requirements of policy S4 of the Burgess Hill Neighbourhood Plan. However, it does comply with WSCC guidance, and it is not considered that the level of car parking would result in a highway safety hazard or other harm which would justify a refusal of planning permission.
- 2.17 Having regard to all the identified issues, while there are some areas of unresolved conflict with specific policies, it is considered that the proposal complies with the Development Plan when read as whole, which is the proper basis for decision making, and that there are no other material planning considerations that indicate an alternative conclusion should be reached.
- 2.18 It is therefore recommended that planning permission be granted for this development subject to the conditions set out in Appendix A and to the completion of a satisfactory s106 Legal Agreement.

### **3.0 Recommendation**

#### Recommendation A

- 3.1 It is recommended that planning permission be approved subject to the suggested conditions in Appendix A.

#### Recommendation B

- 3.2 Recommend that if the applicants have not entered into a satisfactory s106 Legal Agreement to secure the affordable housing and infrastructure payments by the 2<sup>nd</sup> February 2024, then the application should be refused at the discretion of Assistance Director Planning and Sustainable Economy for the following reason;

*'The proposal fails to provide the required infrastructure contributions and the required affordable housing Contribution to mitigate the impacts of the development. The proposal therefore conflicts with policies DP20, and DP31 of the Mid Sussex District Plan 2014 – 2031.*

#### **4.0 Summary of Representations**

4.1 A 141 representations of objection have been received raising the following issues;

- Loss of health facility.
- Insufficient / lack of parking.
- Lack of infrastructure to support additional residents of additional units.
- The land should be used for additional parking or other community use.
- Proposed building is too high.
- Highway safety issues.
- Local highway network will not be able to cope with additional traffic.
- Building will result in loss of light to existing residents.
- Residents were promised a health facility.
- Proposed building is overbearing.
- Negative impact on the character and appearance of the area.
- Don't believe sufficient effort has been to secure a GP practice use.
- Negative impact on local residents during any building works.
- Proposed number of flats is too high.
- Loss of privacy.
- Loss of view.

#### **5.0 Summary of Consultees**

##### **MSDC Drainage Officer**

No objection

##### **MSDC Housing Officer**

No objection. Affordable housing contribution needs to be secured within a S106 Agreement.

##### **MSDC Community Facilities Project Officer**

No objection subject to financial contributions

##### **MSDC Environmental Protection Officer**

No objection subject to condition

##### **MSDC Contaminated Land Officer**

No objection subject to condition

##### **WSCC Highways**

No objection subject to conditions

##### **WSCC Local Lead Flood Authority**

No objection

## **Southern Water**

No objection

### **6.0 Burgess Hill Town Council Comments**

Recommend Refusal.

The Committee stated the site was designated for a health facility and that the application contravened;

Burgess Hill Neighbourhood Plan Core Object 3 - Ensure that all sections of the community in Burgess Hill have appropriate access to community/medical services including retail, formal and informal recreational space and leisure facilities

Burgess Hill Neighbourhood Plan Policy S3 Protect and Enhance Existing Community and Medical/Health Facilities - The existing community facilities within Burgess Hill are important resources for the local community and should be retained. Support will be given to allocating new facilities or Burgess Hill Made Neighbourhood Plan 2016 50 improving existing ones.

DP7: General Principles for Strategic Development at Burgess Hill - Provide new and improved community, retail, cultural, educational, health, recreation, play 39 and other facilities to create services and places that help to form strong local communities and encourage healthy lifestyles;

DP20: Securing Infrastructure

DP21: Transport - The scheme provides adequate car parking for the proposed development

DG30: Design for everyone and look to the future

DG35: Promote a mix of uses within larger schemes to provide services to meet local needs, conveniently located where they are most accessible

DG46: Provide attractive and usable external amenity space for all homes - All dwellings should normally have access to usable private outdoor amenity space that is appropriate to the location and the type and size of accommodation

MSDC Affordable housing requirements - There should be provision of a minimum of 30% on-site affordable housing for all residential developments providing 11 dwellings or more, or a maximum combined gross floorspace (measured as gross internal floorspace) of more than 1,000m<sup>2</sup>.

West Sussex County Council: Guidance on Parking at New Developments

September 2020 - The expected parking demand table recommends 1.5 cars per 2 bed household.

The Committee requested that if the application was approved that a Section 106 Contribution towards Community Buildings and/or Community Infrastructure, with monies to go towards the Burgess Hill Community Buildings Fund be made.

## **7.0 Introduction**

- 7.1 This application seeks planning permission for the erection of an apartment block containing 15 apartments with associated access, car parking, refuse and cycle storage in place of the health centre approved as part of the wider Kings Weald development, on the former Keymer Brick and Tile site in Burgess Hill.

## **8.0 Relevant Planning History**

- 8.1 Outline planning permission for “*The remodelling and stabilisation of the site to support the development of land to provide a sustainable new community comprising 475 dwellings with associated infrastructure, including new vehicular access onto Kings Way, Wyvern Way and Curf Way, and community leisure facilities*”, was granted on the 30<sup>th</sup> April 2010, under application reference 09/03697/OUT.
- 8.2 As part of the outline planning permission, provision was secured within the associated s106 Legal Agreement (*The Agreement*) for the applicants to make available within the ‘local centre’ a site sufficient and suitable for the construction of a ‘Health Centre’, the exact location and boundaries of which would be determined through a subsequent Reserved Matters application.
- 8.3 *The Agreement* defined the ‘Health Centre’ as having a floor area of 900 sqm, over two floors. The relevant clause of *The Agreement* required the submission and approval of a marketing strategy and set out the relevant active measures/timescales for the applicants to try and secure disposal of the site.
- 8.4 In the event that the applicant is unable to dispose of the site for its intended ‘Health Centre’ use, providing the Council are satisfied that the relevant terms of the clause has been met, *The Agreement* allows for the use of the site for any purpose, subject to necessary consents being secured.
- 8.5 A Reserved Matters application for phase two of the development, which included the ‘Local Centre’ was approved under application reference DM/16/2718 on the 27<sup>th</sup> January 2017. The description of the application included “*the erection of 170 new dwellings and apartments with associated infrastructure including a community building, health centre, retail space and a community park with formal and informal sports areas for Phase 2 of Keymer Tile Works site*”.
- 8.6 The ‘Health Centre’ building approved as part of the Reserved Matters permission made provision for a site large enough to deliver a 900 sqm of health use over two

floors, with five apartments provided over. The approved building is three storeys high and makes provision for 14 parking spaces to the rear to serve the health use and the five apartments. This permission remains extant and can be implemented at any time.

## **9.0 Site and Surroundings**

- 9.1 The application site is located within the local centre of the Kings Weald development, on the southern side of the central square. The site is currently vacant, having previously been used as a contractors compound during the construction of the wider site. The site slopes down from north to south
- 9.2 The central square is a hard surfaced area which has parking to three sides. At its western end lies the community building that serves the wider development and surrounding area.
- 9.3 To the north of the square is a mixed-use building containing the co-op on the ground floor, with residential apartments above. To the east of the square is the apartment building known as Priory Court. Both of these buildings are three storeys in height.
- 9.4 To east of the application site are properties in Kilnwood Avenue, of which the first six properties are three storey town houses.
- 9.5 Adjoining the site's southern boundary is no.4 Kilnwood Avenue, a two-storey property, with no's. 32, 34 and 36 Kilnwood Avenue located to the southwest of the site. To the west of the site is Saxon Lodge, a three-storey apartment building.
- 9.6 Immediately adjacent to the site at its northern end, communal parking spaces have been recently constructed in accordance with the details approved as part of the wider layout of area under the Reserved Matters consent.

## **10.0 Application Details**

- 10.1 The proposal seeks consent for the erection of a three-storey building containing 15 apartments, five on each floor. It will consist of 1 x 1 bed unit and 14 x 2 bed units.
- 10.2 Its proposed that the building will be served by a parking area to the rear, which will contain 15 spaces, one for each apartment. Each parking space will have its own EV charging point. A bin and cycle store is also proposed on the southern side of the parking area. Access to the car park will be taken from Kilnwood Avenue.
- 10.3 The proposed building will be made up of three gabled fronted sections, with gabled window features to each flank elevation. The front and rear elevations are punctuated by the use of balconies to some of the apartments. It has a similar contemporary design approach to the existing buildings within the square and it is proposed to use a similar red brick, with a slate grey roof tile finish.



10.4 The submitted details show the provision of Photovoltaic (PV) panels to the east and west facing roof slopes.

## **11.0 Legal Framework and List of Policies**

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

11.2 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.'*

11.3 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.'*

11.4 The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

11.5 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.

11.6 Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Burgess Hill Neighbourhood Plan.

11.7 National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

## **11.8 Mid Sussex District Plan**

District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP6 – Settlement Hierarchy  
DP20 – Securing Infrastructure  
DP21 - Transport  
DP26 - Character and Design  
DP28 – Accessibility  
DP30 – Housing Mix  
DP31 – Affordable Housing  
DP39 – Sustainable Design and Construction  
DP41 – Flood Risk and Drainage  
DP42 – Water Infrastructure and the Water Environment

#### 11.9 Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

#### 11.10 Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made on the 28<sup>th</sup> January 2016.

Relevant policies;

S4 – Parking standards for new development.

#### 11.11 Mid Sussex District Plan 2021-2039 Consultation Draft

The District Council is now in the process of reviewing and updating the District Plan. The new District Plan 2021 - 2039 will replace the current adopted District Plan. The draft District Plan 2021-2039 was published for public consultation on 7th November and the Regulation 18 Consultation period runs to 19th December 2022. No weight can currently be given to the plan due to the very early stage that it is at in the consultation process.

#### 11.12 Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

11.13 National Planning Policy Framework (NPPF) (July 2021)

11.14 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 objectives to sustainable development, such that the planning system needs to perform an economic objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently.

11.15 Paragraph 12 of the NPPF states;

*'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.'*

11.16 Paragraph 38 of the NPPF states;

*'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'*

11.17 With specific reference to decision-taking paragraph 47 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

11.18 National Planning Policy Guidance

11.19 National Design Guide

11.20 Ministerial Statement and Design Guide

11.21 On 1 October 2019 the Secretary of State for the Ministry of Housing, Communities and Local Government made a statement relating to design. The thrust of the statement was that the Government was seeking to improve the quality of design and drive up the quality of new homes. The Government also published a National Design Guide, which is a material planning consideration.

11.22 The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social,

economic and environmental change will influence the planning, design and construction of new homes and places.

## 12.0 Background Information

12.1 As set out in the '*Planning History*' section of the above, the current use of the site is restricted by *The Agreement*, which essentially requires the owners to provide a suitable site for the construction of a 900 sqm (over two floors) Health Centre. Alternative uses are dependant upon the owners complying active measures / timescales set out in the relevant clause to try and secure disposal of the site.

12.2 The relevant clause within *The Agreement* can be summarised as follows;

- The owners shall incorporate within the local centre a site sufficient and suitable for the construction of a Health Centre, the exact location will be determined through a Reserved Matters Submission.
- Following the approval of the Reserved Matters approval the owner will take reasonable steps to market the site for at least 24 months (of which there must be a continuous period of 6 months prior to the occupation of the 250<sup>th</sup> unit) in accordance with a marketing strategy (to be agreed with the Council).
- The owners shall use all reasonable endeavours to secure disposal of the site for the purposes of a Health Centre.
- Providing the owners have complied with the market strategy and provided evidence to satisfaction of the Council, if no agreement for the disposal of the site has been reached within 5 years of the 6-month period referred above, then the owner's obligation will then cease and alternative uses can be pursued, subject to all necessary consents being obtained.

12.3 Within the applicants supporting planning statement, they have set out in paragraphs 6.2 – 6.32 the detailed history of the works they have undertaken to reach an agreement for the disposal of the site for a Health Centre. This can be found in full on the planning file but can be summarised as follows;

- During the course of the Reserved Matters application (Marsh 2016) the applicant started initial discussions with the Council, Mid Sussex CCG (CCG) and Silverdale Practice (a local GP surgery).
- The CCG confirmed in October 2017 that Silverdale Practice were most suitable to occupy the facility, and terms and purchase structure was shared with the GPs.
- December 2017 elevation drawings shared with the GPs and there was a commitment to make a case for funding to the CCG.
- During early 2018 there was engagement between the applicants and consultants working on behalf of the GPs. July 2018 CCG confirmed that they were still supportive of the scheme.

- Meeting held in September 2018 between applicants, the CCG and GPs to outline the process for securing funding.
- February/March 2019 applicant and GPs held discussion regarding the layout/design of the Health Centre.
- Following changes to the CCG, in May 2019 the GPs confirmed that they hope to meet them (CCG) to progress the project.
- In November 2019 the applicant's and GP's, following various amendments to the plans, agreed an action plan.
- In December 2019, following further changes at the CCG, the CCG were asked is any community or hospital services needed estate space in Burgess Hill.
- In January 2020 it was confirmed to the applicants that the CCG could not approve funding or commit to Health Centre until December 2020.
- The applicants partnered with Assura, who are specialists in the construction/delivery of this type of health provision and a final proposal was presented to the GPs in November 2021. The proposal with Assura was not right for the GPs, due to the way the proposal was structure, given that the GPs would ultimately be responsible for the lease.
- Between July 2022 and October 2022, dialogue between the applicants and the GPs continued, however no further response was received after October 2022.

12.4 As per the requirement of *The Agreement*, a marketing strategy was approved with the Council. The strategy, which is included within the applicant's submissions, included the financial proposal being offered which stated;

*'Croudace will be prepared to enter into a contract based on a long lease (125 years) or an operating lease or the purchase of the freehold for the whole 3 storey block (including 5 residential flats with long leases), whichever is the most advantageous to the incoming occupiers' financial situation.'*

As part of the document, the following 'strategy' was set out;

*'Croudace will contact suitable occupiers of the Health Centre directly including the Clinical Commissioning Group (CCG) and local health care practitioners.'*

12.5 It is important to note that there was no requirement for the applicant to build the facility at nil cost to the GPs, nor have they offered this. The applicant's offer was to build and rent on a commercial basis or sell the free hold on a commercial basis.

12.6 It is clear that the applicants have sought to engage with the CCG and potential suitable occupiers (as identified by the CCG) over a significant period of time (initial discussion started in the 2016). This has resulted in a significant amount of work being undertaking, including detailed design discussions, and had significant resource implications for all parties that have been involved.

12.7 Having regard to the requirements of *The Agreement*, your officers are content that the applicant has taken reasonable steps to market the Health Centre and used all reasonable endeavours to secure the disposal of the site. It is extremely disappointing that the disposal of the site could not be secured to enable the Health

Centre to come forward, however, officers are satisfied that the applicant has complied with the requirements of the relevant clause of *The Agreement* and as such they are free to explore alternative uses.

- 12.8 It is considered important to draw members attention to fact the NHS Sussex is actively exploring opportunities and its strategic plan is to seek solutions to increase demands, which are viable with developer contributed sites. Within Burgess Hill, Homes England, at the Brookleigh development, are offering, as a gift, the provision of built healthcare building. This follows the requirements of the NHS strategic plan and will help meet the increasing demand for Primary Care in Burgess Hill.
- 12.9 While the existence of *The Agreement* and your officers view on the owners compliance with its contents is relevant background to this proposal, this application needs to be determined in accordance with policies within the Development Plan, and having regard to any other material considerations. This set out in the Assessment section below.

### **13.0 Assessment**

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

- Principle of Development
- Design and impact on Character and Appearance of Area
- Highways and Parking
- Impact on Residential Amenities
- Housing Mix
- Standard of Accommodation
- Accessibility
- Drainage and Water Infrastructure
- Ashdown Forest
- Sustainability
- Infrastructure
- Other Matters

#### **Principle of Development**

- 13.1 The site is located within the built up are of Burgess Hill, as defined within the District Plan, where policy DP6 states, inter alia;

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

- 13.3 Having regard to the above to the above policy, then the principle of development of current empty site for residential purposes is acceptable.

- 13.4 The comments of the Town Council are noted however, it needs to be clarified that the application site has not been designated for a health care use in any Development Plan policy. Furthermore, policy S3 of the Neighbourhood Plan is not engaged, as no health care facility is being lost as a result of this application. The relevant background to this matter has been set out in detail in the proceeding section of this report, and while planning permission exists for a mixed-use building on the site, the applicant has not been able to dispose of the site, either through lease or freehold sale, and they are free to explore alternative proposals for the site.
- 13.5 The principle of residential development on the site is acceptable and consideration needs to be given to the details of the scheme and its compliance with other Development Plan policies.

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

- 13.6 Policy DP26 of MSDP deals with 'Character and Design' and states;

*'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:*

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with building frontages facing streets and public open spaces;*
- *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;*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*

- *incorporates well integrated parking that does not dominate the street environment;*
- *positively addresses sustainability considerations in the layout and the building design.'*

13.7 The Council's Design Guide is of relevance, and the following principles have, in particular, been considered in assessing the proposal;

- DG14: Street enclosure
- DG19: Off street car parking
- DG37: Sustainable buildings
- DG39: Scale and height
- DG40: Active frontages

13.8 Section 12 of the NPPF is entitled 'Achieving well-designed places' and the relevant paragraphs of relevance are;

*'126. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*

*130. 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.'*

- 13.9 The proposed building is of a form and scale that is characteristic of the existing development that surrounds 'The Square' as constructed. The three storey building compliments the existing built form and will provide the appropriate level of street enclosure for 'The Square', as originally conceived in the consented reserved matters approval for the wider development. The proposal is of similar size, scale and form as the mixed-use building on the site for which an extant permission exists.
- 13.10 The appearance of the building has been improved during the course of the development, with the flank and rear elevations given more articulation and punctuation, with balconies added to rear and clad gable features added to the flanks. Given the location of the building, it is important all elevations are treated as primary ones, as all sides are seen from various public vantage points.
- 13.11 While it is accepted that there is limited availability for planting at the front of the building, this is also the case for the extant consent and it is not considered that this diminishes the overall quality of the scheme as proposed, or will have a detrimental impact on the overall character and appearance of the area.
- 13.12 The proposed parking is discreetly located to the rear of the building, where a screen wall and refuse/cycle storage building will help mitigate the prominence of the parked cars from Kilnwood Avenue.
- 13.13 Overall, it is considered that the proposed building is of an appropriate design and scale that complements the existing character and appearance of the Kings Weald development and will provide the necessary enclosure of 'The Square' to realise the original design concept for this part of the site. It is considered that the building is of high quality design and that it complies with policy DP26 of the District Plan, the Mid Sussex Design Guide and the general principles of the NPPF.

### **Highways and Parking**

- 13.14 Policy DP21 of 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, decision 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 sustainable 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.*

*Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*

*Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'*

13.15 Policy S4 of the BHNP deals with parking standards for new developments and states, inter alia;

*'New housing developments that include the provision of garage space must be of the minimum size for cars - 7.0m x 3.0m (internal dimension) for this to be counted as a parking space. All new housing developments must comply with the new parking standards for Burgess Hill contained in Appendix D. If a garage is proposed then the drive way must be of sufficient length to allow a second car to park clear of the pavement whilst providing space for the garage door to open.'*

Appendix D of the BHNP sets out the residential parking standards for small scale and large scale development.

13.16 With regard to the NPPF section 9 deals with 'promoting sustainable transport' and paragraphs 110 – 113 directly relate to the 'consideration of development proposals', and they are set out below;

*'110. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users;*
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and*
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

*111. 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.*

*112. Within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

113. *All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.'*

#### Highway Network / Safety Impact

- 13.17 The proposal involves the creation of new vehicular access to Kilwood Avenue, a residential street within the Kings Weald development, to serve the parking area to the rear of the building. This is in a similar position to that approved as part of the extant mixed-use scheme for the site.
- 13.18 The application has been considered by the Local Highways Authority (full comments can be found in appendix B) who have noted that no traffic flow information has been submitted to support the application. They further recognise that the application site is located within a wider development that was consented for 475 dwellings. On the proposal they state;

*'No traffic flow information has been provided with the current application. However, from experience of other similar proposals, the LHA recognise that apartments generate comparable movements with other residential developments. As such, there is no expectation for this proposal to give rise to any increase or material change in the character of traffic in the vicinity of the site over and above what has already been commented on.'*

In light of the above, the LHA are satisfied that the proposals would not warrant an objection on highway safety grounds.

- 13.19 In considering any impact on the highway network and highway safety, it is material to take into account the extant permission on the site and the context of the wider Kings Weald development. The proposed development represents a net increase of 10 units over the 475 dwellings approved as part of the wider development, with these additional units replacing a health centre use, which in itself would have generated a number of traffic movements during the course of the day.
- 13.20 Having regard to the above, the comments of the LHA and the fact that there is no other evidence to support an alternative position, your officers are content that the proposed development would not give rise to any highway network or safety issues that would warrant refusal of this application. The proposal in this regard, complies with policy DP21 of the District Plan.

#### Parking

- 13.21 The WSCC guidance on parking for new developments provides the basis for assessing whether the level of parking proposed to serve the needs of the development is appropriate, taking into account the accessibility of the development, the type, mix and use of the proposal and the availability and opportunities for public

transport. The consideration of these matters does allow for the expected parking demand to be varied by 10% above or below the expected level.

- 13.22 The guidance also covers matters such as Electric Vehicle (EV) charging points and cycle parking provision.
- 13.23 As noted above, policy S4 of the BHNP sets out parking standards for residential developments within the Neighbourhood Plan Area.
- 13.24 The scheme includes car parking to the rear of the building for 15 vehicles, which equates to one per dwelling. In addition, provision for the parking of 26 cycles is also provided within a covered and secure store. Having regard to the WSCC guidance on parking, then the predicted parking demand for a development of this nature, in this location, would be 16.5 spaces. The guidance does make provision for the expected parking demand to be varied by 10% above or below the expected level. Taking this into account, the proposed level of parking is within 10% of the expected parking demand as set out in the WSCC guidance.
- 13.25 Under policy S4 of the BHNP, the expected parking provision is calculated at 20 spaces, and as such the proposal does not comply with this level of expected provision.
- 13.26 While the non-compliance with policy S4 is noted, as are the comments contained within the representation relating to parking matters, the LHA have not raised an objection to the level of parking proposed. Non-allocated communal parking is available within the vicinity of the site, and while it is appreciated that this may already be oversubscribed, there is no evidence to suggest that any overspill parking, should it occur, would result in any highway safety issue that would warrant refusal of the application.
- 13.27 Having regard to all the above, while the application does not comply with policy S4 of the BHNP, it does comply with policy DP21 and the general requirements of the NPPF and given that the LHA have not raised any objection to the application, your officers are content that the proposal is acceptable with regard to highway and parking matters.

### **Impact on Residential Amenities**

- 13.28 Policy DP26 of the MSDP states, inter alia, in relation to residential amenity;

*'..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 on the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see policy DP29)'*

- 13.29 There is existing built form to three sides with properties in Kilnwood Avenue. Having regard to the extant permission and the similarities with the proposed size, scale and

location of the building, the general relationship with adjacent properties, in terms of the loss of light, enclosure and outlook was previously considered acceptable. While these adjacent dwellings are completed and occupied, this does not provide sufficient grounds to take a different view on these matters now.

- 13.30 While the extant permitted building does have windows in all elevations, the proposal does change the number, type and size of these openings (in addition to the differing use on the lower two floors) and as such, it is considered appropriate to reappraise these relationships to ensure compliance with policy DP26 in respect of privacy and overlooking.
- 13.31 No's 1 – 11 (odd numbers) Kilnwood Avenue are located to the east of the application and are three storey town houses, which have front facing bedroom windows at first and second floors, in addition to small bathroom windows. The eastern flank elevation of the proposed building will have principal windows serving lounges and bedrooms on all three floors and while the number of windows in this elevation has increased, the relationship between properties is not uncommon in urban areas, such as this, and it is not considered that likely significant harm will be caused to the residential amenities of the occupiers of these properties by means of overlooking/loss of privacy.
- 13.32 No's 4 and 6 Kilnwood Avenue are semi-detached properties located to the south of the application site. No.4 immediately adjoins the application site and has a relatively large plot with both a rear and side garden. The proposed building has an increased number and size of openings within its rear elevation to that of the extant permission, in addition it includes 5 small balconies.
- 13.33 The rear elevation of the proposed building is approximately 25m from the northern corner of no.4 (property set at an angle with principal windows in the rear elevation). Given the distance is in excess of 21m (accepted window to window distance) and orientation of the properties, it is not considered there will be any significant degree of direct window to window overlooking. The proposed building will be approximately 18m from the boundary with no.4, given its height and the change in levels (no.4 is a lower level), there will be a degree of overlooking of this property's rear garden. This was always going to be the case, even with the extant permission, and while the inclusion of the balconies, in particular, will increase the sense of overlooking, it is considered that any harm would not be significant, particularly given the context of the wider development.
- 13.34 No's 32 – 36 (odd numbers) are located to the south west of the proposed building, with no.36 located adjacent to the site. These properties have a front facing bedroom window, in addition to a small bathroom window, at first floor level. They are set approximately 10m from the rear of the proposed building. Given the relative short distance and the oblique nature of the relationship, it is not considered that the introduction of the rear balconies will increase the potential for overlooking/loss of privacy to any significant degree.

- 13.35 Saxon Lodge, is a three storey apartment building located to the west of the application. It has a series of small secondary windows serving the living space of the associated apartment, on all three levels, in the flank elevation of the facing the application site. The western flank elevation of the proposed building will have principal windows serving lounges and bedrooms on all three floors and while the number of windows in this elevation has increased, the relationship between properties is not uncommon in urban areas, such as this, and it is not considered that likely significant harm will be caused to the residential amenities of the occupiers of these properties by means of overlooking/loss of privacy.
- 13.36 It is accepted the proposal will have an impact on the residential amenities of the adjacent occupiers, particular with inclusion of the rear facing balconies. However, it is material to note the extant permission on the site also has an impact and while the proposal contained within this application may result in some additional harm, it is not considered that the likely harm will be significant, which is the test set out in policy DP26 of the District Plan.
- 13.37 Having regard to the above, officers are content the application complies with policy DP26 of the District Plan.

### **Housing Mix**

13.38 Policy DP30 of the MSDP deals with housing mix and states, inter alia;

*'To Support sustainable communities, housing development will;*

- *Provide a mix of dwelling types and sizes from new development (including affordable housing) that reflects current and future housing need;..'*

13.39 Policy DP31 deals specifically with affordable housing, and states;

*'The Council will seek:*

1. *the provision of a minimum of 30% on-site affordable housing for all residential developments providing 11 dwellings or more, or a maximum combined gross floorspace<sup>14</sup> of more than 1,000m<sup>2</sup>;*
2. *for residential developments in the High Weald Area of Outstanding Natural Beauty providing 6 – 10 dwellings, a commuted payment towards off-site provision, equivalent to providing 30% on-site affordable housing;*
3. *on sites where the most recent use has been affordable housing, as a minimum, the same number of affordable homes should be re-provided, in accordance with current mix and tenure requirements;*
4. *a mix of tenure of affordable housing, normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix; and*
5. *free serviced land for the affordable housing.*

*All affordable housing should be integrated with market housing and meet national technical standards for housing including "optional requirements" set out in this*

*District Plan (Policies DP27: Dwelling Space Standards; DP28: Accessibility and DP42: Water Infrastructure and the Water Environment); or any other such standard which supersedes these.*

*Proposals that do not meet these requirements will be refused unless significant clear evidence demonstrates to the Council's satisfaction that the site cannot support the required affordable housing from a viability and deliverability perspective. Viability should be set out in an independent viability assessment on terms agreed by the relevant parties, including the Council, and funded by the developer. This will involve an open book approach. The Council's approach to financial viability, alongside details on tenure mix and the provision of affordable housing will be set out in a Supplementary Planning Document.*

*The policy will be monitored and kept under review having regard to the Council's Housing Strategy and any changes to evidence of housing needs.'*

- 13.40 The 'Affordable Housing' SPD is also a material consideration and identifies the Council's technical requirements in relation to affordable housing, and supplements the policies set above.
- 13.41 The proposed mix of units consists of 1 x 1 bed unit and 14 x 2 bed units, and it is considered that this will help meet the current and future needs of the district as evidenced within the latest Strategic Housing Market Assessment (2021). In this regard, the application complies with policy DP30 of the District Plan.
- 13.42 The proposed development does generate a need for affordable housing based upon the 10-unit uplift in comparison to 475 units approved as part of the wider Kings Weald development (which included 5 units on this site). Given the nature of the scheme, your Housing Officer is content to accept a commuted sum in-leu of on-site provision in this instance, which has been calculated at £103,500. A breakdown of this calculation can be found in the Housing Officer comments in Appendix B. This contribution will be secured within the s106 Legal Agreement that will accompany any permission granted on the site. In light of this, officers are content that the application complies with policy DP31 of the District Plan.

### **Standard of Accommodation**

- 13.43 Policy DP27 of the MSDP deals with dwelling spaces standards, and states;

*'Minimum nationally described space standards for internal floor space and storage space will be applied to all new residential development. These standards are applicable to:*

- *Open market dwellings and affordable housing;*
- *The full range of dwelling types; and*
- *Dwellings created through subdivision or conversion.*



*All dwellings will be required to meet these standards, other than in exceptional circumstances, where clear evidence will need to be provided to show that the internal form or special features prevent some of the requirements being met.'*

- 13.44 The Department for Communities and Local Government published the '*Technical housing standards – nationally described space standards*' in March 2015.
- 13.45 The submitted details demonstrate that the proposed units meet the required space standards based upon their size and intended occupancy levels and as such they will provide for an acceptable quality of accommodation for future occupiers.
- 13.46 The application complies with policy DP27 of the Mid Sussex District Plan.

### **Accessibility**

- 13.47 Policy DP28 of the MSDP states, inter alia:

*'All development will be required to meet and maintain high standards of accessibility so that all users can use them safely and easily.*

*This will apply to all development, including changes of use, refurbishments and extensions, open spaces, the public realm and transport infrastructure, and will be demonstrated by the applicant.*

*With regard to listed buildings, meeting standards of accessibility should ensure that the impact on the integrity of the building is minimised.'*

- 13.48 In relation to accessible and adaptable dwellings, the policy goes on to state:

*'Developments of 5 or more dwellings will be expected to make provision for 20% of dwellings to meet Category 2 - accessible and adaptable dwellings under Building Regulations - Approved Document M Requirement M4(2), with the following exceptions:*

- 1) *Where new dwellings are created by a change of use;*
- 2) *Where the scheme is for flatted residential buildings of fewer than 10 dwellings;*
- 3) *Where specific factors such as site topography make such standards unachievable by practicable and/ or viable means;*
- 4) *Where a scheme is being proposed which is specifically intended for the needs of particular.'*

- 13.49 The applicants have confirmed that the five ground floor units will be M4(2) compliant that represents approximately 33% of the development, which is in excess of the policy requirements. These units will be secured via a suitably worded condition.
- 13.50 Given the above, it is clear that suitable provision is being made within the site for accessible and adaptable units in compliance with policy DP28 of the MSDP.

## **Drainage and Water Infrastructure**

13.51 Policy DP41 of MSDP deals with flood risk and drainage, and states;

*'Proposals for development will need to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. The District Council's Strategic Flood Risk Assessment (SFRA) should be used to identify areas at present and future flood risk from a range of sources including fluvial (rivers and streams), surface water (pluvial), groundwater, infrastructure and reservoirs.*

*Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates.*

*Sustainable Drainage Systems (SuDS) should be implemented in all new developments of 10 dwellings or more, or equivalent non-residential or mixed development<sup>22</sup> unless demonstrated to be inappropriate, to avoid any increase in flood risk and protect surface and ground water quality. Arrangements for the long term maintenance and management of SuDS should also be identified.*

*For the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through SuDS following the remediation of any previously contaminated land.*

*SuDS should be sensitively designed and located to promote improved biodiversity, an enhanced landscape and good quality spaces that improve public amenities in the area, where possible.*

*The preferred hierarchy of managing surface water drainage from any development is:*

- 1. Infiltration Measures*
- 2. Attenuation and discharge to watercourses; and if these cannot be met,*
- 3. Discharge to surface water only sewers.*

*Land that is considered to be required for current and future flood management will be safeguarded from development and proposals will have regard to relevant flood risk plans and strategies.'*

13.52 Policy DP42 deals with water infrastructure and the water environment, and states;

*New development proposals must be in accordance with the objectives of the Water Framework Directive, and accord with the findings of the Gatwick Sub Region Water Cycle Study with respect to water quality, water supply and wastewater treatment and consequently the optional requirement under Building Regulations – Part G applies to all new residential development in the district. Development must meet the following water consumption standards:*

- Residential units should meet a water consumption standard of 110 litres per person per day (including external water use);*
- Non-residential buildings should meet the equivalent of a 'Good' standard, as a minimum, with regard to the BREEAM water consumption targets for the development type.*

*Development proposals which increase the demand for off-site service infrastructure will be permitted where the applicant can demonstrate;*

- *that sufficient capacity already exists off-site for foul and surface water provision. Where capacity off-site is not available, plans must set out how appropriate infrastructure improvements approved by the statutory undertaker will be completed ahead of the development's occupation; and*
- *that there is adequate water supply to serve the development*

*Planning conditions will be used to secure necessary infrastructure provision.*

*Development should connect to a public sewage treatment works. If this is not feasible, proposals should be supported by sufficient information to understand the potential implications for the water environment.'*

- 13.53 Under the extant permission, drainage details for the site were approved as part of the condition discharge process for Phase 2 of the development and having reviewed the application, your Drainage Officer is content, and no objection has been raised to the application. A condition is suggested that requires the 'as built' drainage [plans and updated maintenance and management plan is submitted for our records.
- 13.54 The applicant has confirmed that the water mains and connection points have already been installed based upon the approved mixed use building, which would have a higher water usage demand than the proposed residential use proposed. As such, they consider that there is sufficient capacity to serve the proposed development.
- 13.55 In light of the above, it is considered that the application complies with policies DP41 and DP42 of the District Plan.

### **Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)**

- 13.56 Under the Conservation of Habitats and Species Regulations 2017 (as amended) (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 (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).
- 13.57 The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.
- 13.58 A Habitats Regulations Assessment has been undertaken for the proposed development.

### Recreational disturbance

- 13.59 Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.
- 13.60 In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.
- 13.61 The proposed development is outside the 7km zone of influence and as such, *mitigation is not required.*

### Atmospheric pollution

- 13.62 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.
- 13.63 The proposed development was modelled in the Mid Sussex Transport Study as 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. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

### Conclusion of the Habitats Regulations Assessment

- 13.64 The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.
- 13.65 No mitigation is required in relation to the Ashdown Forest SPA or SAC.
- 13.66 A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

### **Sustainability**

- 13.67 Policy DP39 of the MSDP is titled 'Sustainable Design and Construction, and states;

*'All development proposals must seek to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate the following measures:*

- *Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation;*

- *Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible;*
- *Use renewable sources of energy;*
- *Maximise efficient use of resources, including minimising waste and maximising recycling/ re-use of materials through both construction and occupation;*
- *Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment;*
- *Demonstrate how the risks associated with future climate change have been planned for as part of the layout of the scheme and design of its buildings to ensure its longer term resilience.'*

13.68 The submitted details show the following sustainable measures are being pursued by the development;

- Fabric first approach to the design and construction of the building, particular in respect of passive solar design and heat loss.
- Mechanical Ventilation with Heat Recovery will be used in every apartment.
- All apartment swill be fitted with energy and water efficient appliances, with water target use of 105lpppd.
- PV panels to be used to enable the building to meet current Building Regulations
- EV charging points for each parking space provided.

13.69 Having regard to the above, officers are satisfied that the applicant has considered the sustainability of the proposal, and that the application complies with policy DP39 in this respect.

### **Infrastructure**

13.70 Policy DP20 of the MSDP seeks to ensure that development is accompanied by the necessary infrastructure. Policy DP20 sets out that infrastructure will be secured through the use of planning obligations. The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:

- a) A Development Infrastructure and Contributions SPD which sets out the overall framework for planning obligations
- b) An Affordable Housing SPD
- c) A Development Viability SPD

13.71 The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 55 and 57 which state:

*'55 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning*

*obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

and:

*'57 Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.'*

13.72 These tests reflect the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

12.73 Having regard to the above policies, the impacts of the proposed development and consultation responses received, the following matters are proposed to be secured via a s106 Legal Agreement

#### West Sussex County Council Provisions

Primary Education; A financial contribution of £12,309. The contributions generated by this proposal shall be spent on additional facilities at Manor Field Primary School.

Secondary Education; A financial contribution of £13,248. The contributions generated by this proposal shall be spent on additional facilities at Burgess Hill Academy.

Sixth Education; A financial contribution of £3,103. The contributions generated by this proposal shall be spent on additional facilities at St Paul's Catholic College Sixth Form.

Libraries; A financial contribution of £3,327. The contributions generated by this proposal shall be spent on providing additional facilities at Burgess Hill Library.

Total Access Demand; A financial contribution of £22,352. The contributions generated by this proposal shall be spent on the Burgess Hill Place and Connectivity programme.

#### Mid Sussex District Council

Affordable Housing; A financial contribution of £103,500. The contributions generated by this proposal shall be spend on affordable housing in Mid Sussex.

Childrens Playing Space; A financial contribution of £25,181. The contributions generated by this proposal shall be spent on improvements to the area at Longhurst and or King Weald.

Formal Sport; A financial contribution of £8,873. The contributions generated by this proposal shall be spent to facilities at St Johns Park and or The Triangle leisure centre.

Community Buildings; A financial contribution of £5,495. The contributions generated by this proposal shall be spent improvements to the Kings Weal community building and or St Andrews Church community halls.

Local Community Infrastructure; To be confirmed.

- 13.74 The concerns raised in the third party representations about the effects of the development on local infrastructure are acknowledged. It is accepted that the additional population from this development will impose additional burdens on existing infrastructure and the monies identified above will help mitigate these impacts. As Members will know developers, are not required to address any existing deficiencies in infrastructure; it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.
- 13.75 Subject to the signing of a satisfactory s106 Legal Agreement, the proposal accords with policies DP20 and DP31 of the District Plan, the relevant SPDs, Regulation 122 and guidance in the NPPF.

### **Other Matters**

- 13.76 In respect of land contamination, details have previously been agreed as part of the condition discharge process for the wider development. The only matter that remains outstanding is verification that the approved scheme for remediation has been implemented/completed. This information can be secured via condition.
- 13.77 The comments of the WSCC Fire and Rescue have been noted. It will be for the applicant to demonstrate through the Building Regulations process that all the relevant fire safety requirements have been met.

### **14.0 Planning Balance and Conclusion**

- 14.1 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 Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.
- 14.2 Courts have confirmed that the Development Plan must be considered as a whole, not simply in relation to any one individual policy. It is therefore not the case that a proposal must accord with each and every policy within the Development Plan.
- 14.3 National planning policy states that planning should be genuinely plan-led. 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-titled one.

- 14.4 Weighing in favour of the scheme is that the development will provide a net gain of ten additional units (five have extant consent) in a sustainable location at a time where there is a general need for Local Authorities to significantly boost the supply of housing, and this should be given positive weight.
- 14.5 It is considered that the proposed building is of an appropriate design and scale that complements the existing character and appearance of the Kings Weald development and will provide the necessary enclosure of 'The Square' to realise the original design concept for this part of the wider development.
- 14.6 The proposal would not give rise to any unacceptable highway safety or wider network issues and the level of car parking proposed is in-line with the WSCC guidance. The Local Highway Authority have not raised an objection to the scheme.
- 14.7 While the proposal would result in some additional impacts on the adjacent residential amenities, in terms of increase overlooking/loss of privacy as a result of additional opening and balconies when compared to the extant permission, it is not considered that overall likely impact would be significant, that would justify refusal of the application.
- 14.8 The proposals provides for a satisfactory mix of units that will meet the general housing needs within the District and a financial contribution towards off-site affordable housing provision will be secured through a s106 Legal Agreement. This Agreement will also secure other financial contributions, in accordance with the Council's adopted SPD, to mitigate the developments impact on the general infrastructure of the area.
- 14.9 It is considered that the site can be satisfactorily drained. Furthermore, the proposal is considered acceptable in relation to trees, dwelling space standards, accessibility and sustainable construction. The proposal will have a neutral impact on the Ashdown Forest SPA/SAC.
- 14.10 If permitted the Local Planning Authority would receive a New Homes Bonus for the units proposed. The proposal would also result in economic benefits, in terms of additional employment during construction and would result in additional local spending.
- 14.10 Weighing against the proposal is the fact that the level of proposed car parking does not comply with the requirements of policy S4 of the Burgess Hill Neighbourhood Plan. However, it does comply with WSCC guidance and it is not considered that the level of car parking would result in a highway safety hazard or other harm which would justify a refusal of planning permission.
- 14.11 Having regard to all the identified issues, while there are some areas of unresolved conflict with specific policies, it is considered that the proposal complies with the Development Plan when read as whole, which is the proper basis for decision making, and that there are no other material planning considerations that indicate an alternative conclusion should be reached.
- 14.12 It is therefore recommended that planning permission be granted for this development subject to the conditions set out in Appendix A and to the completion of a satisfactory s106 Legal Agreement.



## APPENDIX A – RECOMMENDED CONDITIONS

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.

2. No development shall take place, including any works of site clearance, 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 and should include, and not be restricted to, the following matters;

- (a) the anticipated number, frequency and types of vehicles used during construction,
- (b) the method of access and routing of vehicles during construction,
- (c) the parking of vehicles by site operatives and visitors,
- (d) the loading and unloading of plant, materials and waste,
- (e) the storage of plant and materials used in construction of the development,
- (f) details of both construction working hours and construction delivery times
- (g) the erection and maintenance of security hoarding,
- (h) 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),
- (i) measures to control the emission of dust and dirt during demolition and construction, lighting for construction and security,
- (j) measures to control noise or vibration affecting nearby residents, any artificial illumination
- (l) details of public engagement both prior to and during construction works.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policies DP21, DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

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

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy DP26 of the Mid Sussex District Plan 2014-2031.

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

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy DP26 of the Mid Sussex District Plan 2014-2031.

5. No development above slab level shall take place until full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a detailed planting and maintenance plan. These works shall be carried out as approved. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policies DP26 and DP37 of the Mid Sussex District Plan and Policies EG3 of the East Grinstead Neighbourhood Plan.

6. No development above slab level shall take place until details of the proposed PV panels have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that this is a sustainable development and to achieve a well designed building and to comply with policies DP26 and DP39 in the Mid Sussex District Plan 2014-2031

7. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved under DM/16/1041 has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report, and thereafter maintained.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. The proposed 5 ground floor flats have been identified as being M4(2) (Adaptable and Accessible) compliant and shall be fully implemented prior to completion of the development and thereafter be so maintained and retained. No dwelling shall be occupied until a verification report confirming compliance with category M4(2) has been submitted to and agreed with the Local Planning Authority.

Reason: To ensure that the development provides a range of house types to meet accessibility and adaptability needs to comply with Policy DP28 of the Mid Sussex District Plan

9. 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 to be 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 and to accord with Policy DP21 of the Mid Sussex District Plan.

10. No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the Development and to accord with Policy DP21 of the Mid Sussex District Plan.

11. The development hereby permitted shall be occupied until the refuse/recycling storage facilities have been provided in accordance with the approved plans and thereafter retained.

Reason: In the interests of the amenities of the area, to comply with Policy DP26 of the Mid Sussex District Plan and Policies EG3 of the East Grinstead Neighbourhood Plan.

12. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the Local Planning Authority.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. The foul water and surface drainage proposals for the development shall be provided in accordance with the Keymer Phase 2E Foul and Surface Water Assessment report 9DES/139/402/A May 2023) and prior to the first occupation of the building hereby approved, 'as-build' drainage plans, and an updated maintenance and management plans, shall be submitted to the Council.

Reason: To ensure that the scheme is adequately drained and to accord with Policy DP41 of the Mid Sussex District Plan 2014-2031.

14. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled DES/139/100.

Reason: In the interests of road safety and to comply with policy DP21 of the Mid Sussex District Plan 2014-2031

15. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

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

## INFORMATIVES

1. 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	DES/139/100	1	05.04.2023
Site Plan	DES/139/101	2	25.08.2023
Other	DES/139/102	2	25.08.2023
Other	DES/139/103	2	25.08.2023
Other	DES/139/104	2	25.08.2023
Other	DES/139/105	1	05.04.2023
Proposed Floor Plans	DES/139/200	2	25.08.2023
Proposed Floor Plans	DES/139/201	2	25.08.2023
Proposed Elevations	DES/139/202	2	25.08.2023
Proposed Floor and Elevations Plan	DES/139/203	1	05.04.2023

## APPENDIX B – CONSULTATIONS

### MSDC Drainage Officer

I can confirm that the clarifications address our previous queries in relation to this development. We recommend that foul and surface water drainage be provided as per Keymer Phase 2E Foul and Surface Water Assessment report (DES/139/402/A, May 2023).

We would recommend that a pre-occupation condition is placed on any approval which requires as build drainage plans and an updated maintenance and management plan to be submitted to the LPA for our records.

### MSDC Housing Officer

I can confirm that as usual the AH Contribution (commuted sum of £103,500) will need to be paid prior to the Commencement of Development and index linked and included in the s106 agreement.

I would be prepared to accept a commuted of £103,500 in lieu of on-site affordable housing units ,calculated in accordance with the West Sussex Commuted Sum Review letter dated 11<sup>th</sup> March 2011 as follows: 3 x 2B flats @ £34,500 per flat (Band B) = £103,500.

### **MSDC Community Facilities Project Officer**

The following leisure contributions are required to enhance capacity and provision to increased demand for facilities in accordance with the District Plan policy and SPD which require contributions for developments of over units.

#### Childrens Playing Space

Longhurst and / or Kings Weald, both managed by the Council, are the nearest locally equipped play areas to the development site. These facilities face increased demand from the additional residential development and a contribution of £14,256 is required to make improvements to play equipment (£7,748) and kickabout provision (£6,508). These facilities are within distance thresholds for children's play outline in the Development and Infrastructure SPD.

#### Formal Sport

In the case of this development, a financial contribution of £8,873 is required toward formal sport facilities in St Johns Park and / or The Triangle Leisure Centre.

#### 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 £5,495 is required to make improvements to the Kings Weald community building and / or St Andrews Church community halls.

In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the number of unit proposed and average occupancy (as laid out in the Council's Development and Infrastructure SPD) and therefore is commensurate in scale to the development. The Council maintains that the contributions sought as set out are in full accordance with the requirements set out in Circular 05/2005 and in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### **MSDC Environmental Protection Officer**

The site appears to be low risk with regard to noise and the air quality impacts are likely to be relatively low.

Air Quality – The cycle storage and EV charging provision are in line with the Sussex AQ Guidance – no condition is required.

Noise – No specific condition is required for the operational phase. A condition for the construction phase is recommended.

Accordingly I recommend the following conditions should the proposed development be granted permission:

Conditions:

- Construction and Deliveries (during the construction phase): Unless otherwise agreed in writing with the LPA, no construction plant or machinery shall be used and no commercial goods or commercial waste shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours of 08:00 - 18:00 Hours Monday – Friday, 09:00 - 13:00 Hours Saturday, and no work permitted on Sundays or Bank/Public Holidays.

### **MSDC Contaminated Land Officer**

I would recommend the following conditions be attached to the application:

2. The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the Local Planning Authority a verification plan by a competent person showing that the remediation scheme required and approved under DM/16/1041 has been implemented fully and in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action shall be identified within the report, and thereafter maintained.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

3. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the LPA), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the LPA. The remediation measures shall be carried out as approved and in accordance with the approved programme. If no unexpected contamination is encountered during development works, on completion of works and prior to occupation a letter confirming this should be submitted to the LPA. If unexpected contamination is encountered during development works, on completion of works and prior to occupation, the agreed information, results of investigation and details of any remediation undertaken will be produced to the satisfaction of and approved in writing by the Local Planning Authority.

Reason: To ensure that the risks from land contamination to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

## **WSCC Highways**

### Background

WSCC in its role of Local Highway Authority (LHA) has been consulted on the proposals for highway safety, capacity and access. The proposed units will comprise 14 x 2 bed apartments and 1 x 1 bed apartment making up the 15 apartments. In terms of planning history outline planning permission was granted on 30 April 2010 for a new community comprising 475 dwellings. The site is currently being built out now for the dwellings.

### Comments

A new vehicular access will be created into the site from Kilnwood Avenue, to the east of the proposed vehicle parking area.

The access will be sited centrally to the parking area. A revised parking layout has been proposed to accommodate the proposals. The layout ensures that there is sufficient manoeuvring zones for parking spaces and provides a better access for emergency vehicles. The layout provides 15 No. car parking spaces including 26 spaces for cycles.

No traffic flow information has been provided with the current application. However from experience of other similar proposals, the LHA recognise that apartments generate comparable movements with other residential developments. As such, there is no expectation for this proposal to give rise to any increase or material change in the character of traffic in the vicinity of the site over and above what has already been commented on.

### Conclusion

Having assessed the information submitted the LHA would be satisfied the proposals would not warrant an objection on highway safety grounds. The proposals are considered to be in line with National Planning Policy Framework (NPPF) paragraphs 108 and 109. Any approval of planning consent would be subject to the following conditions:

*Access (Access to be provided prior to first occupation)*

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the details shown on the drawing titled DES/139/100.

Reason: In the interests of road safety.

### *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 Planning s106

### Summary of Contributions

<b>Education</b>			
School Planning Area	Burgess Hill		
Population Adjustment	27.9		
	Primary	Secondary	6th Form
Child Product	0.1330	0.1330	0.0718
Total Places Required	0.9310	0.6650	0.1436
<b>Library</b>			
Locality	Burgess Hill		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£5,045		
Contribution towards East Grinstead/Haywards Heath	£0		
Population Adjustment	27.9		
Sqm per population	30/35		
<b>Waste</b>			
Adjusted Net. Households	10		
<b>Fire</b>			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
<b>TAD- Transport</b>			
Net Population Increase	27.9		
Net Parking Spaces	15		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

### Summary of Contributions

S106 type	Monies Due
<b>Education - Primary</b>	£12,309
<b>Education - Secondary</b>	£13,248
<b>Education - 6<sup>th</sup> Form</b>	£3,105
<b>Libraries</b>	£3,315
<b>Waste</b>	No contribution
<b>Fire &amp; Rescue</b>	No contribution
<b>No. of Hydrants</b>	secured under Condition
<b>TAD</b>	£22,352
<b>Total Contribution</b>	<b>£54,329</b>



*Note: The above summary does not include the installation costs of fire hydrants. Where these are required on developments, (quantity as identified above) as required under the Fire Services Act 2004 they will be installed as a planning condition and at direct cost to the developer. Hydrants should be attached to a mains capable of delivering sufficient flow and pressure for fire fighting as required in the National Guidance Document on the Provision of Water for Fire Fighting 3<sup>rd</sup> Edition ( Appendix 5)*

The above contributions are required pursuant to s106 of the Town and Country planning Act 1990 to mitigate the impacts of the subject proposal with the provision of additional County Council service infrastructure, highways and public transport that would arise in relation to the proposed development.

Planning obligations requiring the above money is understood to accord with the Secretary of State's policy tests outlined by the *National Planning Policy Framework, 2019*.

The CIL Regulations 2010 (as amended by the CIL amendment Regulations 2019) came into force on 1<sup>st</sup> September 2019 and clarify that an authority collecting contributions through the use of S106 agreements may now lawfully charge a fee for monitoring the planning obligations they contain. From 1<sup>st</sup> April 2023 West Sussex County Council will increase the S106 monitoring fee to £240 per trigger, per year of monitoring. Financial triggers are monitored for an average of three years and will therefore produce a fee of £720 per trigger, with non-financial triggers taking around six years to fulfil and therefore costing £1440.

The proposal falls within the Mid Sussex District and the contributions comply with the provisions of Mid Sussex District Local Development Framework Supplementary Planning Document- Development Infrastructure and Contributions July 2018.

All TAD contributions have been calculated in accordance with the stipulated local threshold and the methodology adopted as Supplementary Planning Guidance (SPG) in November 2003.

The calculations have been derived on the basis of an increase in 15 net dwellings, and an additional 15 car parking spaces.

Please see below for a Breakdown and explanation of the WSCC Contribution Calculators. Also see the attached spreadsheet for the breakdown of the calculation figures. For further explanation please see the West Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

## 5. Deed of Planning Obligations

- a) As a deed of planning obligations would be required to ensure payment of the necessary financial contribution, the County Council would require the proposed development to reimburse its reasonable legal fees incurred in the preparation of the deed.

- b) The deed would provide for payment of the financial contribution upon commencement of the development.
- c) In order to reflect the changing costs, the deed would include arrangements for review of the financial contributions at the date the payment is made if the relevant date falls after 31st March 2024. This may include revised occupancy rates if payment is made after new data is available from the 2021 Census.
- d) Review of the contributions towards school building costs should be by reference to the DfE adopted Primary/Secondary/Further Secondary school building costs applicable at the date of payment of the contribution and where this has not been published in the financial year in which the contribution has been made then the contribution should be index linked to the DfE cost multiplier and relevant increase in the RICS BCIS All-In TPI. This figure is subject to annual review.
- e) Review of the contribution towards the provision of additional library floorspace should be by reference to an appropriate index, preferably RICS BCIS All-In TPI. This figure is subject to annual review.

The contributions generated by this proposal shall be spent on additional facilities at Manor Field Primary School.

The contributions generated by this proposal shall be spent on additional facilities at Burgess Hill Academy.

The contributions generated by this proposal shall be spent on additional facilities at St Paul's Catholic College Sixth Form.

The contributions generated by this proposal shall be spent on providing additional facilities at Burgess Hill Library.

The contributions generated by this proposal shall be spent on the Burgess Hill Place and Connectivity programme.

Recent experience suggests that where a change in contributions required in relation to a development or the necessity for indexation of financial contributions from the proposed development towards the costs of providing service infrastructure such as libraries is not specifically set out within recommendations approved by committee, applicants are unlikely to agree to such provisions being included in the deed itself. Therefore, it is important that your report and recommendations should cover a possible change in requirements and include indexation arrangements whereby all financial contributions will be index linked from the date of this consultation response to the date the contributions become due.

Please ensure that applicants and their agents are advised that any alteration to the housing mix, size, nature or tenure, may generate a different population and thus require re-assessment of contributions. Such re-assessment should be sought as soon as the housing mix is known and not be left until signing of the section 106 Agreement is imminent.

Where the developer intends to keep some of the estate roads private we will require provisions in any s106 agreement to ensure that they are properly built, never offered for adoption and that a certificate from a suitably qualified professional is provided confirming their construction standard.

Where land is to be transferred to the County Council as part of the development (e.g. a school site) that we will require the developer to provide CAD drawings of the site to aid design/layout and to ensure that there is no accidental encroachment by either the developer or WSCC.

It should be noted that the figures quoted in this letter are based on current information and will be adhered to for 3 months. Thereafter, if they are not consolidated in a signed S106 agreement they will be subject to revision as necessary to reflect the latest information as to cost and need.

Please see below for a Breakdown of the Contribution Calculators for clarification of West Sussex County Council's methodology in calculating Contributions. For further explanation please see the Sussex County Council website (<http://www.westsussex.gov.uk/s106>).

Breakdown of Contribution Calculation Formulas:

#### 1. School Infrastructure Contributions

The financial contributions for school infrastructure are broken up into three categories (primary, secondary, sixth form). Depending on the existing local infrastructure only some or none of these categories of education will be required. Where the contributions are required the calculations are based on the additional amount of children and thus school places that the development would generate (shown as TPR- Total Places Required). The TPR is then multiplied by the Department for Children, Schools and Families school building costs per pupil place (cost multiplier).

School Contributions = TPR x cost multiplier

##### a) TPR- Total Places Required:

TPR is determined by the number of year groups in each school category multiplied by the child product.

TPR = (No of year groups) x (child product)

Year groups are as below:

- Primary school- 7 year groups (aged 4 to 11)
- Secondary School- 5 year groups (aged 11 to 16)
- Sixth Form School Places- 2 year groups (aged 16 to 18)

Child Product is the adjusted education population multiplied by average amount of children, taken to be 14 children per year of age per 1000 persons (average figure taken from 2001 Census).

Child Product = Adjusted Population x 14 / 1000

Note: The adjusted education population for the child product excludes population generated from 1 bed units, Sheltered and 55+ Age Restricted Housing. Affordable dwellings are given a 33% discount.

b) Cost multiplier- Education Services

The cost multiplier is a figure released by the Department for Education. It is a school building costs per pupil place as at 2023/2024, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

- Primary Schools- £20,567 per child
- Secondary Schools- £30,989 per child
- Sixth Form Schools- £33,608 per child

## 2. Library Infrastructure

There are two methodologies used for calculating library infrastructure Contributions. These have been locally tailored on the basis of required contributions and the nature of the library in the locality, as below:

Library infrastructure contributions are determined by the population adjustment resulting in a square metre demand for library services. The square metre demand is multiplied by a cost multiplier which determines the total contributions as below:

Contributions = SQ M Demand x Cost Multiplier

a) Square Metre Demand

The square metre demand for library floor space varies across the relevant districts and parishes on the basis of library infrastructure available and the settlement population in each particular locality. The local floorspace demand (LFD) figure varies between 30 and 35 square metres per 1000 people and is provided with each individual calculation.

Square Metre Demand = (Adjusted Population x LFD) / 1000

b) Cost Multiplier- Library Infrastructure

WSCC estimated cost of providing relatively small additions to the floorspace of existing library buildings is £6,027 per square metre. This figure was updated by Royal Institute of

Chartered Surveyors' Building Cost Information Service All-In Tender Price Index for the 2023/2024 period.

### 3. TAD- Total Access Demand

The methodology is based on total access to and from a development. An Infrastructure Contribution is required in respect of each occupant or employee provided with a parking space, as they would be more likely to use the road infrastructure. The Sustainable Transport Contribution is required in respect of each occupant or employee not provided with a parking space which would be likely to rely on sustainable transport.

TAD = Infrastructure contribution + Sustainable Transport contribution

#### a) Infrastructure Contribution

Contributions for Infrastructure are determined by the new increase in car parking spaces, multiplied by WSCC's estimated cost of providing transport infrastructure per vehicle Infrastructure cost multiplier. The Infrastructure cost multiplier as at 2023/2024 is £1,575 per parking space.

Infrastructure contributions = Car parking spaces x Cost multiplier

#### Sustainable Transport Contribution

This is derived from the new car parking increase subtracted from the projected increase in occupancy of the development. The sustainable transport contribution increases where the population is greater than the parking provided. The sustainable transport figure is then multiplied by the County Council's estimated costs of providing sustainable transport infrastructure cost multiplier (£786).

Sustainable transport contribution = (net car parking – occupancy) x 786

Note: occupancy is determined by projected rates per dwelling and projected people per commercial floorspace as determined by WSCC.

### **WSCC Local Lead Flood Authority**

Thank you for consulting West Sussex County Council as the Lead Local Flood Authority on the above Full Planning Application. This applications surface water drainage strategy and Flood Risk Assessment should be assessed against the requirements under NPPF, its accompanying PPG and Technical Standards.

Under local agreements, the statutory consultee role under surface water drainage is dealt with by Mid-Sussex Council's Flood Risk and Drainage Team.

Should you wish West Sussex County Council as Lead Local Flood Authority to comment further please do not hesitate to contact us.

## **WSSC Waste and Minerals Safeguarding**

The application site in question does not meet the criteria for consulting West Sussex County Council as set out in the Minerals and Waste Safeguarding Guidance therefore, the minerals and waste authority would offer a no comment to the proposed development. A summary of these thresholds is attached to this email and a short video (approx. 20 mins) explaining minerals and waste safeguarding and when the County Council should be consulted is available by clicking this link:

<http://www2.westsussex.gov.uk/ssr/mwsfgrdngprsnrn.ppsx>. To hear the audio, view the slides as a 'slide show'.

The decision maker should be satisfied that the proposals minimise waste generation, maximise opportunities for re-using and recycling waste, and where necessary include waste management facilities of an appropriate type and scale (Policy W23 of the West Sussex Waste Local Plan, 2014).

## **West Sussex Fire and Rescue**

Having viewed the plans for the planning application no. DM/23/0941 for the Proposed erection of a block of 15 apartments with associated access, car parking, refuse and cycle storage in place of the health centre approved under planning permissions 09/03697/OUT and DM/16/2718; evidence is required to show that all parts inside all apartments are within 45 metres of the location of a fire appliance in accordance with Approved Document B (AD-B) Volume 1 B5 section 13. This is to be measured along the hose lay route, not in a direct line or arc measurement. Any areas not within the 45 metre distance will need to be mitigated by the installation of sprinkler or water mist system complying with BS9251 or BS8458 standards.

## **Southern Water**

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.

To make an application visit Southern Water's Get Connected service: [developerservices.southernwater.co.uk](http://developerservices.southernwater.co.uk) and please read our New Connections Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](http://southernwater.co.uk/developing-building/connection-charging-arrangements).

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS). Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Design and Construction Guidance (Appendix C) and CIRIA guidance available here:

[water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The\\_SuDS\\_Manual\\_C753\\_Chapters.aspx](http://water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx)

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SuDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SuDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water. This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with the Design and Construction Guidance will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

For further advice, please contact Southern Water, Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX (Tel: 0330 303 0119).