

MID SUSSEX DISTRICT COUNCIL

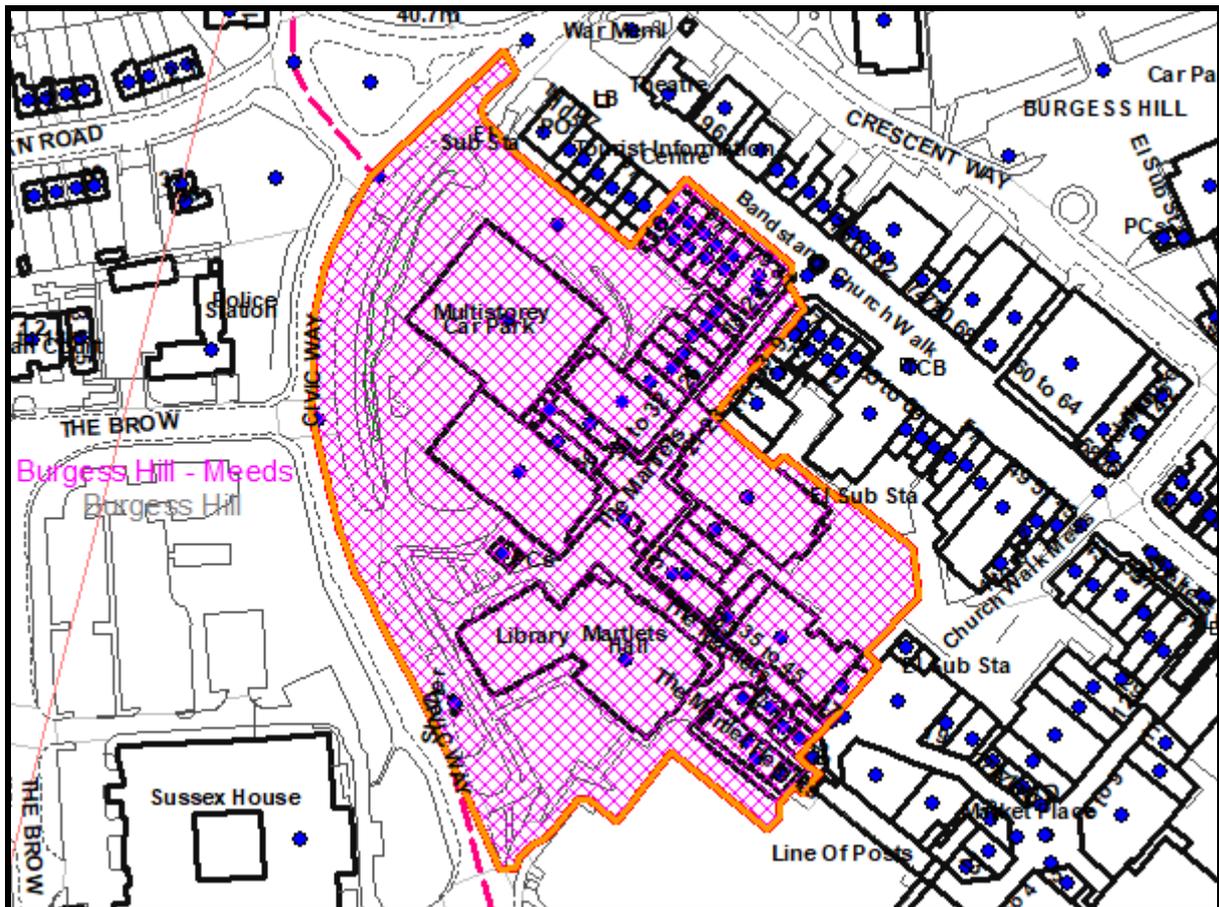
District Wide Committee

3 SEP 2020

RECOMMENDED FOR PERMISSION

Burgess Hill

DM/19/3331



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**THE MARTLETS SHOPPING CENTRE BURGESS HILL WEST SUSSEX RH15 9NN**

**DEMOLITION OF MULTI-STOREY CAR PARK, PUBLIC LIBRARY AND OFFICES. THE CONVERSION OF EXISTING BUILDINGS AND ERECTION OF NEW BUILDINGS TO PROVIDE, ADDITIONAL RETAIL FLOOR SPACE (CLASSES A1 AND A3), RESIDENTIAL UNITS (CLASS C3) WITH UNDERCROFT CAR PARKING, A MULTI-SCREEN CINEMA (CLASS D2), BOWLING ALLEY (CLASS D2), GYMNASIUM (CLASS D2), A HOTEL (CLASS C1), THE RECONFIGURATION AND EXPANSION OF EXISTING PUBLIC CAR PARK, AMENDMENTS TO THE SITE ACCESS, PUBLIC**

**REALM IMPROVEMENTS INCLUDING LANDSCAPING, AND OTHER ASSOCIATED WORKS (REVISION OF DM/15/3858 AND DM/18/1580). (AMENDED PLANS RECEIVED 19TH JUNE INCLUDING ONE ADDITIONAL RESIDENTIAL UNITS, DESIGN AMENDS AND ADDITIONAL TRANSPORT INFORMATION)  
NEWRIVER RETAIL (GP3) LTD**

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

ODPM CODE: Largescale Major Other

13 WEEK DATE: 15th May 2020

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Stephen Ashdown

**PURPOSE OF REPORT**

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

**EXECUTIVE SUMMARY**

Planning permission is sought for the redevelopment of the Martlets Shopping Centre in the centre of Burgess Hill to provide additional retail floorspace, a cinema, a bowling alley, a gymnasium, a hotel and 172 residential units, along with the reconfiguration of a public carpark and public realm improvements.

The proposals represent an alternative to the scheme consented under application DM/15/3858, which was subsequently amended under s73A of the Town and Country Planning Act under reference DM/18/1580. The permission has been implemented and is therefore extant.

In response to changes in the retail sector this alternative scheme proposes a greater range of uses, including an increase in leisure uses, to expand the town centre offer. The proposed development, with its mix of uses and built form, seek to provide a comprehensive scheme to revitalise and regenerate the town centre socially, economically and environmentally.

It should be noted that the while the Council has an interest as a land owner, this report represents your officers' views in relation to the Council's role as the Local Planning Authority. It is important to highlight that these are two wholly separate

functions.

In making an assessment as to whether the proposal complies with the development plan, 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.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the Development Plan comprises the District Plan (DP) and the Burgess Hill Neighbourhood Plan (NP).

The principle of development has been established by virtue of the consent for a similar type of development under DM/15/3858, which has been implemented and is extant. Furthermore, the redevelopment of the town centre is supported by policy DP2 of the DP and policies TC2, TC3 and TC4 of the NP.

The proposal would result in the delivery of 172 residential units within a highly accessible and sustainable location, that would boost the Council's housing supply. Furthermore, the applicants have set out that the scheme would generate approximately 644 new jobs and creating additional worker expenditure in local economy. Other economic benefits including additional council tax and business rates revenue would also be generated by the scheme. These matters should be given significant weight.

It is considered that the scheme proposed is of a scale and form appropriate to its town centre location and while it is appreciated that there will be differing views regarding the overall design approach and the taller (11-storey) residential element, it is considered that the proposal would make a positive contribution to the overall character and appearance of the town and help contribute towards the visions set out in the Development Plan and Neighbourhood Plan for its regeneration and renewal. While issues relating to the effect of wind conditions in and around the development have been identified, they remain largely as previously considered under the extant scheme, and the impact can be mitigated through a condition and in overall conclusion on this matter it is considered that the proposal complies with policy DP26 of the DP.

In highway terms, the access arrangements are similar to those previously consented and the Local Highway Authority are satisfied that the development will provide satisfactory access and the proposed trip generation will not have a severe impact on the local highway network. The proposal contains measures to improve accessibility for both pedestrians and cyclists and no safety concerns have been identified by the Local Highway Authority. The proposed measures will be secured either by condition or through the s106 Legal Agreement and the application complies with policy DP21 of the DP and policies TC6 and G6 of the NP in respect of these matters.

It has been demonstrated through an independently reviewed viability assessment that the scheme is unable to support any affordable housing or infrastructure contributions and remain deliverable. In accordance with the Council's adopted

Supplementary Planning Documents, a review clause will be secured through a s106 Legal Agreement to enable a review of the scheme's value at a specific point in the development (this will be identified within the s106 Agreement). The application complies with policy DP31 of the DP in this regard.

While the proposals would result in the loss of some existing trees on the site, the supporting landscape masterplan shows significant new planting along Civic Way for the length of the application boundary, in addition to new tree planting within the extended surface car park and public realm between proposed blocks A and B. The final details of the planting scheme will be secured via a condition and such planting would be a positive addition to the town centre. The application complies with policies DP26 and DP37 of the DP and policy TC6 of the NP.

It is considered that through the use of conditions matters associated with ecology, drainage, accessibility, air quality and noise mitigation can be appropriately controlled and there would be no adverse impacts with respect to these matters.

The Habitats Regulations Assessment for this application concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.

It has been identified that the proposals would lead to less than substantial harm to the significance of St John's Church (Grade II\* listed building) and the setting of the St John's Conservation Area, as a heritage asset, which carries 'considerable importance and weight' in accordance with s.66(1) and s.72 of the Listed Building and Conservation Area (LBCA) Act 1990. The guidance in paragraph 196 of the NPPF is that the harm should be weighed against the proposal's public benefits. The development will deliver a comprehensive scheme to revitalise the town centre socially, economically and environmentally. The proposed commercial uses that form part of this application will provide a significant boost to both the daytime and night time economies of the town and the additional provision of 172 residential units will make a significant boost to the district housing supply. As such it is considered that these significant public benefits of the scheme outweigh the less than substantial harm to the setting of the identified heritage assets.

The harm should nonetheless be given considerable importance and weight in accordance with the relevant provisions of the 1990 Act. Historic England have been consulted on the proposals and have chosen not to comment. If they had an objection it would have been stated.

Against the proposal, while it has been demonstrated that there is sufficient spare capacity within the town centre car parks and on surrounding streets, the proposed level of parking associated with the residential element of the scheme does not comply with the standards set out in the Neighbourhood Plan. In addition, there is the potential for users of the link through the development to Church Walk and along the southern commercial frontage to be affected by wind funnelling impacts and while mitigation can be secured through conditions, there is still a likely impact that needs to be taken into account.

Given the nature of the proposed development there are only a limited number of potential south facing windows and while nearly all the rooms will achieve acceptable levels of daylight, a significant number of the main habitable rooms will not achieve desirable levels of sunlight, to the detriment of future residential.

Furthermore, the proposed development is likely to have a significant impact on the residential amenities of existing residents to the north, particularly 105 and 107 Church Walk, by means of loss of light and enclosure, This view is consistent with those expressed by officers in relation to the extant permission scheme. Nevertheless, these elements of the scheme do not comply with Policy DP26 of the DP

It is for the decision maker to consider the weight that should be attached to these issues, individually and collectively.

Having regard to all the identified issues, it is considered that the that the proposal complies with the development plan when read as whole, which is the proper basis for decision making. It is therefore recommended that planning permission be granted for this development subject to the conditions set out in appendix and the completion of the s106 Legal Agreement to secure the viability review clause and sustainable transport measures.

## **RECOMMENDATION**

### **Recommendation A**

It is recommended that permission be granted, subject to the completion of a section 106 planning agreement to secure the necessary viability review clause and sustainable transport measures and the conditions listed at Appendix A.

## **SUMMARY OF REPRESENTATIONS**

30 Letters of representation received making the following comments:

- Lack of parking for the proposed residential units
- General under provision of parking for all the intended uses
- Lack of parking will make properties difficult to sell
- Height of flat is out of keeping with the town
- Town infrastructure will not be able to cope with additional development
- Additional apartments will increase traffic and traffic pollution
- Not enough alternative means of transport within the town
- More public transport required
- Signs should be placed in a traditional horizontal left to right reading format to reduce any possible disadvantage to those with dyslexia or other reading issues.
- The tower is too tall and has no architectural merit
- Loss of parking for commercial use will worsen parking problem within the town
- Height of block will obscure the adjacent Grade II\* St Johns church
- Height of development will exacerbate wind and shadow

- Proposed cinema has too many screens
- A large hotel is not needed in the town centre
- Lack of parking for residents will put extra pressure on surrounding streets
- The proposals intensify the use of the site but reduces parking provision for town centre users and will limit entrance/access to existing Market Place car park due to congestion
- Issues and documentation around viability should be made public
- Developer should take a lower profit to enable the provision of affordable housing
- Trees T56 and T60 should be retained
- Proposed trees should not be placed in planters
- Additional trees should be planted within Church Walk
- No mature trees should be felled
- Some trees to be removed were planting in memory of former residents of the town
- The McDonalds roundabout needs to be resolved as there is always an issue and causes congestion.

4 of the letters received supported the development.

## **SUMMARY OF CONSULTEES (full comments can be found on the file)**

### **MSDC Urban Designer**

This application follows the 2016 approval (DM/15/3858) for the redevelopment of the Martlets Shopping Centre. While I was supportive in principle of the 2016 scheme because of its regeneration potential, it did not follow the 2007 Burgess Hill Masterplan vision that envisaged a more comprehensive urban design intervention; in particular, land ownership divisions have limited the scope and resulted in the surface car park remaining a dominant feature on the main southern approach and along Station Road. The current proposal shares this deficiency; furthermore, it has a less consistent scale and a less integrated mix of uses than the approved scheme. This is because more of the existing 2 storey structure is being retained along the central pedestrian link, while the residential component along Civic Way has been significantly enlarged including an eleven-storey tower.

However, as before the scheme benefits from a legible layout focussed on a new square and from outward-looking buildings (with residential apartments and hotel rooms as well as shops and cafes that face southwards towards Civic Way and Station Road) that helps announce the town centre and provide improved levels of natural surveillance and activity.

The Design Review Panel (DRP) are also supportive and commended the geometry of the tower and the high standard of the detailing of the residential element that was especially needed because of the size of the building. For this reason, they have recommended that 1:20 scale drawings are submitted to secure the quality of the scheme.

The applicant has now submitted further revised drawings that address concerns raised by both the DRP and I. This includes, improving the articulation and finish of

the cinema building and extending the upstand parapet on the hotel roofline that helps to integrate this element.

While the scheme still has deficiencies, these are outweighed by the overall design improvements in relation to the existing buildings/layout and its significant regeneration benefits. For these reasons, I raise no objections to this planning application subject to conditions.

### **MSDC Conservation Officer**

In making an assessment of impact of the proposal on the setting of the of the listed building (St Johns Church) I am mindful of the existing permission relating to the site, and also of the poor quality of the existing development on it.

Notwithstanding this, the scale of the development now proposed at block A1, including in particular the tower block at its south eastern end, is such that in my opinion there will be a negative impact on the setting of the listed building, including views of it along Civic Way. In particular the current and characteristic visual prominence of the Church will be diminished by the introduction of a building of greater height in close proximity to it.

The development site forms a key part of the setting of the Conservation Area and the southern approach to it along Civic Way. At present the development site is considered to detract from this setting. Although the proposal would represent, subject to detail, an improvement to the architectural quality of the buildings on the site, it is considered on balance to detract from the setting of the Conservation Area for reasons of its scale, in particular the that of the tower block forming part of A1. This element of the scheme would be considerably over scaled in relation to the predominant height of the buildings within the nearest part of the Conservation Area, being taller even than the Church spire. The tower would be unduly prominent both in the approach to the Conservation Area along Civic Way and in views into and out of this southern part of the Conservation Area.

In terms of the NPPF I would consider the harm caused to the setting of the Conservation Area to be less than substantial, such that the criteria set out in paragraph 196 would apply.

### **Mid Sussex Design Review Panel**

The panel support the scheme but would recommend that 1:20 scale drawings are submitted to secure the detailed finish that underscores the quality of the scheme.

### **MSDC Housing Officer**

The applicant is proposing a mixed scheme which includes 172 new and 16 existing open market residential units. A fully policy compliant scheme would provide 52 new affordable homes based on the 172 new units proposed. A viability appraisal was submitted with the application to demonstrate that the scheme was not capable of supporting any affordable housing. The resulting viability assessment agreed that, at the current time and on the basis of the information provided, the scheme could not

viably provide any contribution towards infrastructure costs or affordable housing. The position will need to be re-assessed at a later stage in the project, when more definite information about costs and values will be able to be provided. This requirement will be included in the section 106 agreement.

#### **MSDC Community Leisure Officer**

No objection subject to securing infrastructure contributions.

#### **MSDC Drainage Officer**

No objection subject to conditions.

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

There are no Environmental Protection issues that cannot be addressed by a suitable condition (note that further information has also been requested in order to clarify the potential effects upon the Stonepound Crossroads AQMA.)

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

No objection subject to condition.

#### **MSDC Ecology Consultant**

No objection.

#### **WSCC Highways**

Work has been carried out by the developer to ensure that the proposal fits in with sustainable transport aspirations and plans for Burgess Hill as a whole. The highway authority welcomes the proposed alterations to transport-related works. The developer should ensure that full liaison is carried out with all interested parties prior to and during their implementation.

No objection subject to conditions.

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

No objection.

#### **WSCC Infrastructure**

No objection subject to securing financial contributions to mitigate the impact of development on the local infrastructure.

#### **Historic England**

No comment.

### **South Down National Park Authority**

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

### **Southern Water**

No objection subject to condition.

### **Gatwick Airport**

No objections.

### **Sussex Police**

No objections.

### **Mid Sussex and Horsham CCG**

No objection. Seek a financial contribution towards health services to mitigate against the impact of the development.

### **BURGESS HILL TOWN COUNCIL**

The Committee wished to reiterate their previous comments from when this was previously considered on 30 September 2019, below, with the addition of the following:

The Committee understood that MSDC was seeking a section 106 contribution for children's play spaces in St John's Park, this was welcomed. There was £144,000 of section 106 funding marked towards formal sport, however as section 106 funding from the Northern Arc development would be funding this, the Committee wished this funding to go towards the Beehive Community Arts Venue. There was also a contribution of £83,000 marked to towards refurbishment of the RBL building, however as Burgess Hill Town Council would be redeveloping this site by knocking down the RBL building and building the Beehive Community Arts Venue in its place, this £83,000 contribution should instead go towards the cost of the Beehive.

The Committee wished to reiterate their comment that the design would include up to date, modern, appropriate public toilets.

Previous Comments from 30 September 2019 to be reiterated:

"OBSERVATIONS: The Committee wished to raise concerns over the height of the tower block. 11 storeys was out of keeping with the character of the town and the townscape. The application contradicted District Plan Policy DP26 and DP34 as it detracted from St John's Church. The Committee would wish the height to be reduced.

The Committee expressed concerns over the amount of parking and wished the applicant to follow the parking guidelines in the Neighbourhood Plan. It was noted that using public transport was not always viable, and that the residents of the flats would instead park in the surrounding residential roads if not enough parking was provided. The Committee were concerned that there would not be enough parking for the users and employees of the hotel and leisure facilities. They wished for the applicant to complete a Traffic Flow Assessment, and to model the car park usage and traffic flow. A member of the public noted that the cinemas in Crawley and Brighton had free parking.

The Committee trusted that concerns over potential wind disturbance had been considered.

The Committee expressed concerns over the potential insufficient daylight for the North facing flats.

The Committee wished that the design would include up to date, modern, appropriate public toilets.

The Committee hoped that the applicant would adhere to District Plan Policies DP21 and DP39. It was noted that there was a lack of encouragement for people not to travel by car - the design should be favourable to pedestrians and cyclists. Concerns were raised over the location of cycle racks. It was suggested that the designs could include charging points for electric vehicles.

The Committee wished to reiterate their previous statement: 'Burgess Hill Town Council will encourage Mid Sussex District Council to ensure that applicants comply with Policy DP39 of the District Plan and that this is reinforced in any subsequent supplementary design and access statement documents on sustainable development.'

The Committee expressed concerns over the lack of Section 106 contributions. There should be an agreement and a contribution towards the Beehive."

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## **INTRODUCTION**

Planning permission is sought for the redevelopment of the Martlets Shopping Centre in the centre of Burgess Hill to provide additional retail floorspace, a cinema, a bowling alley, a gymnasium, a hotel and 172 residential units, along with the reconfiguration of public carpark and public realm improvements.

The proposals represent an alternative to the scheme consented under application DM/15/3858, which was subsequently amended under s73A of the Town and Country Planning Act under reference DM/18/1580. The permission has been implemented and is therefore extant.

In response to changes in the retail sector bringing forward this alternative scheme, proposes a greater range of uses, including an increase in leisure uses, to expand the town centre offer. The proposed development, with its mix of uses and built form,

seek to provide a comprehensive scheme to revitalise and regenerate the town centre socially, economically and environmentally.

It should be noted that while the Council has an interest as a land owner, this report represents your officers' views in relation to the Council's role as the Local Planning Authority and it is important to highlight that these are two wholly separate functions.

## **RELEVANT PLANNING HISTORY**

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

DM/16/3314 - Non-material amendment to planning application DM/15/3858 to request that 'plans referred to in consideration of this application' are included as a condition. Approved 7th September 2016.

DM/18/1580 - Application to vary Condition 33 of planning ref: DM/15/3858 as amended by application ref: DM/16/3314 to allow amendments to the approved plans. Approved 13th July 2018.

## **SITE AND SURROUNDINGS**

The site consists of approximately 2.46 ha of land in the middle of Burgess Hill town centre and consists of a number of buildings and structures, including a multi storey car park. Due to the implementation of the extant permission the majority of the commercial units are now vacant, and some demolition of buildings has occurred and only the former library building remains at the southern end of the site (the library relocated to a new facility late last year).

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

The Martlets is an open-air shopping centre comprising relatively small single storey units fronting the open-air pedestrian arcades with a mix of commercial, leisure and residential units above.

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

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

St John's Church, a Grade II\* listed building, is located to the northwest of the application site and it, along with the area to beyond, lies within the St Johns' Conservation Area.

## **APPLICATION DETAILS**

Full planning permission is sought for the redevelopment of the Martlets Shopping Centre and while some demolition has already occurred, in the context of the extant permission, further is required including that of Martlets Heights and the existing multi-storey car park.

The proposed development comprises the main following elements divided between two principle blocks;

- 8,461sqm of retail (A1) floor space (451sqm additional over existing)
- 841sqm of restaurant and cafes (A3) (348sqm additional over existing)
- 1,338sqm of office (B1(a)) (622sqm less than existing)
- A 10-screen cinema
- A 16-lane bowling alley
- A 89 bed Hotel
- 172 residential flats
- Reconfigured and extended surface car park to provide 167 spaces (an additional 2 spaces compared to the multi storey car park to be demolished).
- 75 parking spaces for the residential units.

The residential units will be provided on the western side of block A (referred to by the applicant as block A1) and primarily fronts onto Civic Way where it follows the line of the road and turn the corner at its southern end. The main element fronts Civic Way is five storeys in height, with an additional two storeys set back at the upper level (making seven floors of accommodation in total). The southern corner of the building will take the form a eleven storey block with an entrance lobby at ground floor. The residential element has been designed to facilitate operation as an institutional build-to-rent development. The lower ground floor/part-basement will provide parking for the residential units.

The remainder of block A (referred to by the applicant as block A2) to the east of the residential element will provide new commercial and leisure uses, with southern and eastern part of the building fronting new surface car park. This element of the building will be five storeys high with the ground and first floor made up or retail and restaurant use, with the hotel occupying the upper floors. The northern section of the block will comprise retained and refurbished at ground floor with the upper floor proposed for office use (B1(a)). A gym is proposed in corner unit with Church Walk. The proposed bowling alley will be located in the basement of block A2.

Block B, to the east of the Martlets remains as broadly permitted under the extant consent with the southern half comprising new build, which the northern section will

be retained, refurbished and re-purposed. The Southern element will comprising two storey retail units with the cinema located above, with an entrance lobby provided at ground floor level to the western side of the block. In total the new build element of this block will be four storeys high.

The proposal also involves public realm improvements including the planting of semi mature trees along Civic Way and the provision of an enlarged public realm between the proposed two blocks linking the development through to Church Walk.

It is proposed that the development will not provide for any affordable housing, with all the 172 apartments being open market units. To support their case the applicants have submitted a full viability assessment.

## **LIST OF POLICIES**

### **Mid Sussex District Plan**

DP1 - Sustainable Economic Development  
DP2 - Town Centre Development  
DP4 - Housing  
DP6 - Settlement Hierarchy  
DP17 - Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
DP20 - Securing infrastructure  
DP21 - Transport  
DP23 - Communication Infrastructure  
DP24 - Leisure and Cultural Facilities and Activities  
DP26 - Character and Design  
DP27 - Dwelling Space Standards  
DP28 - Accessibility  
DP29 - Noise, Air and Light Pollution  
DP30 - Housing Mix  
DP31 - Affordable Housing  
DP34 - Listed Buildings and Other Heritage Assets  
DP35 - Conservation Areas  
DP37 - Trees, Woodland and Hedgerows  
DP38 - Biodiversity  
DP39 - Sustainable Design and Construction  
DP41 - Flood Risk and Drainage  
DP42 - Water Infrastructure & the Water Environment

### **Burgess Hill Neighbourhood Plan**

The Burgess Hill Neighbourhood Plan was made on the 28th January 2016 and forms part of the Development Plan for the district. It can be given full weight.

Relevant policies include;

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

TC4 - The Retail Quarter  
TC6 - Urban Realm and Access in the Town Centre  
S4 - Parking Standards for New Development  
G6 - Footpath and Cycle Links

## **Other Material Considerations and Relevant Legislation**

### **National Planning Policy Framework (2019)**

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 role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local service; and using natural resources prudently. An overall aim of national policy is to 'boost significantly the supply of housing'.

Paragraph 12 of the NPPF states that the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.

Paragraph 38 of the NPPF states that Local Planning Authorities should approach decisions on the proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permissions 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.

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.

Paragraph 85 of the NPPF states that planning policies and decision should support the role the town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

### **National Planning Policy Guidance (NPPG)**

#### **SPD Development Infrastructure and Contributions (2018)**

#### **SPD Affordable Housing (2018)**

#### **SPD Viability Assessments (2018)**

#### **Technical Housing Standards**

## Habitat Regulations

### ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- Principle of Development
- Use Classes
- Impact on Vitality and Viability of Town Centre and Socio-Economic Considerations
- Design and Visual Impact
- Transport
- Parking
- Housing and Affordable Housing
- Heritage Assets
- Residential Amenity
- Infrastructure and Deliverability
- Ecology
- Trees and Landscape
- Ashdown Forest
- Air Quality and Noise
- Contaminated Land
- Other Issues
- Planning Balance and Conclusion

### Background

Prior to the consideration of the main issues associated with the development it is first considered relevant to provide the context in relation to the proposals and to highlight the main changes from the extant permission. In this respect the following extract is set out below from the applicant's planning statement;

*'Since the approved scheme was originally granted permission in 2016, the retail and economic landscape has changed. The demand for retail space has declined due to falling levels of customer spending and changes in people's approach to retailing, namely the rise of internet sales. As a consequence, the retailing environment, both locally and across the wider UK retail market, has seen reduction in footfall and occupancy levels.*

*Accordingly, the applicant wishes to future-proof the scheme by providing a range of appropriate uses across the site. These would promote the long-term operation of the development and secure an enhance vibrancy of the town centre. The new proposals comprise a wider range of uses, particularly in-demand leisure uses, to expand the town centre offer. These include the introduction of a 16-lane bowling alley and a gym.*

*The location of the residential units above the retail/commercial spaces is a key constraint of the approved scheme. Such a location does not lend itself to delivering certain residential products, most notably build-to-rent. Such an arrangement also serves to restrict responses to future changes in retailing by accommodating certain non-retail town centre uses at ground floor that have implications for residential amenity above.*

*To respond to these constraints, a number of changes are proposed within this revised scheme, comprising;*

- *A reconfigured layout to consolidate the residential apartments into a single building, including a focal building on the western corner of the site;*
- *An increase in the number of residential units from 142 to 172, providing further market homes for Burgess Hill, with dedicated lower ground floor parking;*
- *A revised ground floor plan including reduced and refocused retail floorspace, but nonetheless providing a total of 7,671sqm of high quality A1 and A3 floorspace;*
- *The retention, refurbishment and re-use of the existing buildings within the northern portion of Block A, providing 1,632sqm of refurbished A1 and A3 space and 1,114sqm of new B1a office space above;*
- *A larger hotel, including 89 bedrooms and a ground floor food and beverage offer that will be open to the general public, accommodating and facilitating growth and encouraging visitors to the town;*
- *The addition of a bowling alley in the lower-ground floor/basement space;*
- *The provision of 920sqm gym;*
- *A larger central public space suitable for public events including a new kiosk unit; and*
- *A reconfigured car park with 167 spaces rather than 165.'*

it should be noted that the above context was provided with the original submission of the application and it is recognised that the implications of the current climate, as result of the Covid-19 pandemic, are not yet fully known. However, the applicant has reaffirmed their commitment to the project and it is important for members to recognise that they need to determine the application before them based upon the planning merits of the scheme, in accordance with policies with the Development Plan and other material considerations.

### **Principle of Development**

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

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

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

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

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

*'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'*

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

With regard to the policy context within the DP, policy DP2 deals with town centre development and states, inter alia;

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

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

Policy DP4 sets out the overall housing need for the plan period and the DP6 (Settlement Hierarchy) states;

*'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale with particular regard to DP26: Character and Design), and cause harm to the character and function of the settlement.'*

The site lies within the built-up area of Burgess Hill, a category 1 settlement as defined in the District Plan.

With regard to the NP, the town centre is identified within a specific study area where five separate quarters are identified, each with different characteristics, and each with their own policy.

NP policies TC2 (the Leisure and Entertainment Quarter), TC3 (The Brow Quarter) and TC4 (The retail Quarter) all apply to the site in whole or part and promote developments including retail, cinema and hotel uses, amongst others. It is acknowledged that the application site covers, in whole or part, three of the five 'Quarters' identified within the Neighbourhood Plan and that some of the proposed uses are not necessarily located within each 'Quarter' designated by the Plan, notably the cinema, however, paragraph 5.6 of the Neighbourhood Plan states;

*'It is recognised that in regenerating the town centre over a period of time it will be necessary to be able to approach opportunities for redevelopment in a flexible way across the Quarters to secure a successful regeneration.'*

The above demonstrates that a flexible approach needs to be taken when considering the redevelopment proposals across the 'Quarters' as a whole.

Having regard to the above policy position within the Development Plan as whole and given that the proposed uses consistent with those identified for the town centre, the principle of the proposed development should be supported.

Notwithstanding the above, the extant planning permission has also established that a mixed-use development contained the principle uses contained within this current application is acceptable in principle.

With this established, consideration needs to be given to the detailed matters associated with the current proposal and these will be assessed in the remainder of the report.

## Use Classes

On the 20th July the Government made The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, which take effect from the 1st September 2020, which make important changes to the existing 1987 Use Classes Order (as amended).

This is being highlighted as by the time members determine the application, the changes will have taken effect and some of the Uses set out within the description of the application, as defined within the Use Classes Order, will no longer exist and will be consumed into new Classes.

The 2020 Regulations include the revocation of Use Classes 'A', B1 and D and the introduction of new Use Class E (Commercial Business and Services), F.1 (Learning and non-residential institutions) and F.2 (Local Community Uses). The table below sets out the changes in simple terms;

Use	Existing Use Class	Use Class as of 1 <sup>st</sup> Sept
Retail shop	A1	E
Financial and Professional Service	A2	E
Café or restaurant	A3	E
Pub/Drinking Establishment	A4	Sui-Generis
Hot Food Takeaway	A5	Sui-Generis
Office	B1a	E
Research and Development	B1b	E
Any industrial process	B1c	E
Clinics, health centres, creches and day nurseries/centres	D1	E
Centres, museums, public libraries, public halls, exhibition halls, places of worship, law courts	D1	F.1
Cinemas, concert hall, live music performance venues, bingo halls and dance halls	D2	Sui-Generis
Gyms, indoor sport, recreation or fitness not involving motorized vehicles or firearms, principally to visiting members of the public	D2	E
Hall or meeting place for the principal use of the local community	D2	F.2
Indoor or outdoor swimming baths, skating rinks, outdoor sports or recreation grounds (not involving motorised vehicles or firearms)	D2	F.2

As of the 1st September 2020, a building that is in use for one of the uses specified in the new Class E could change its use for any other use falling within that Class

without the need for planning permission, as it would not be classed as development. It should be noted that any material alteration to the external appearance of the building would still require planning permission.

It is noted that the description of the development includes references to uses falling within Use Classes A1, A3 and D2 all of which will be revoked by the 2020 Regulations when they come into effect on the 1st September.

The Regulations contain transitional provisions, which are of relevance, which includes the following;

*'If prior to the commencement of the material period, a relevant planning application was submitted, or was deemed to be submitted, to the local planning authority which referred to uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020, that application must be determined by reference to those uses or use classes.'*

In line with the transitional provision set above and contained within the 2020 Regulations, this application needs to be determined upon the basis of its submissions and the use classes referred within it.

Having established the basis on which the application should be considered, it is further worth noting that case law has established that in order to benefit from the Use Classes Order the land has to be being used for one of the purposes specified in the relevant Class. Furthermore, the courts have established that a building must have been put to use upon which the claim to change the use is based, i.e. schemes not yet implemented or under construction could not benefit from changes within the new Class E until such time as the original, permitted use, has first been established.

This means that the uses contained with this application need to be implemented, as being requested and set out in the submissions, and the new Class E would only take effect once a particular unit has been first bought into use as per its planning permission.

### **Impact on Vitality and Viability of Town Centre and Socio-Economic Considerations**

In policy terms, as outlined above, Policy DP2 of the DP supports the redevelopment of the town centre, and expressly supports mixed use and tourism related development (providing it meets certain requirements) to support the regeneration and renewal and environmental enhancement of town centres.

In addition, the NP policies TC2, TC3, TC4, promote development within three of the five 'Quarters' in order to support the NP's Core Objective 7 to promote the vitality and vibrancy of Burgess Hill town centre. These NP policies support uses such a hotel, retail, residential and cinema uses.

The NPPF promotes economic growth with paragraph 80 setting out that *'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for*

*development'*. Furthermore, paragraph 85 states that *'planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.'* The Government's published Planning Policy Guidance (PPG) for town centre development encourages Local Planning Authorities to lead and promote measures to ensure town centres are robust and can adapt to changes in shopping and leisure patterns and formats. The guidance sets out how a wide range of complementary uses can support the vitality and viability of town centres, and states, inter alia;

*'A wide range of complementary uses can, if suitably located, help to support the vitality of town centres, including residential, employment, office, commercial, leisure/entertainment, healthcare and educational development. The same is true of temporary activities such as 'pop ups', which will often benefit from permitted development rights. Residential development in particular can play an important role in ensuring the vitality of town centres, giving communities easier access to a range of services. Given their close proximity to transport networks and local shops and services, local authorities may wish to consider locating specialist housing for different groups including older people within town centres or edge of centre locations.*

*Evening and night time activities have the potential to increase economic activity within town centres and provide additional employment opportunities. They can allow town centres to diversify and help develop their unique brand and offer services beyond retail.'*

It is recognised that while Burgess Hill has a compact centre, it benefits from good accessibility and a relatively good mix of retailers and service businesses, there are potential threats to its overall vitality and viability. These include:

- No major department and/or larger format variety stores to help anchor the town's retail offer and attraction.
- An increase in the number of vacant units in town centre.
- A long term deterioration and lack of investment in The Martlets, which is detracting from the town's overall shopping environment and offer.
- A decline in shopping trips and frequency of trips to the centre since 2005.

The last retail study commissioned by the Council to support the evidence base for the District Plan, concluded that *'there is a clear need for new investment in the town's shopping offer and physical environment to help maintain and strengthen its competitive position'*. It is evident that the current Martlets Shopping Centre and the town centre as a whole, is in need of redevelopment and this is recognised within the Development Plan policies, where both the DP and NP have policies positively supporting redevelopment of the town centre for uses incorporated within the application.

It is considered that the proposed development will sustain and enhance the vitality and viability of the town centre and in this regard the application complies with relevant Development Plan policies and the aims and objectives of the NPPF in this regard.

Turning to socio-economic matters, it is estimated by the applicant that the development could create approximately 644 new jobs, which they estimate would create annual gross value added to the local economy of approximately £32.6m in perpetuity.

In addition, throughout the construction period temporary construction jobs would be created, in addition to those noted above, which would generate additional expenditure in local economy.

The additional 172 residential units would, in addition to generating a new homes bonus, would increase the local household expenditure in the local economy, which the applicant's estimate would be worth approximately £3m annually.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a Local Planning Authority must have regard to a local finance consideration as far as it is material and such the above matters are material and should be given significant positive weight in the planning balance.

### **Design and Visual Impact**

Policy DP26 of the District Plan requires developments to demonstrate high quality design and layout, which includes appropriate landscaping and greenspace. Furthermore, it states that development should positively contribute to public and private realms and create a sense of place, while addressing the character and scale of the surrounding area.

The Council is currently in the process of adopting 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. It recognises that this part of the Burgess Hill has opportunities for development. In addition, principle DG33 relates to the 'potential for tall buildings (over 6 storeys)' and sets out that there may be the potential for tall buildings in town centres. It then sets out a series of criteria. The Design Guide has been through public consultation and the Scrutiny Committee for Housing, Planning and Economic Growth have recommended to Council its adoption as an SPD for use in the consideration and determination of planning applications. While not yet adopted, it is considered that this document carries weight and is a material consideration in the determination of the application.

Paragraph 117 of the NPPF states in part *'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'*

Paragraph 122 of the NPPF states *'Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- a) *the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) *local market conditions and viability;*

- c) *the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) *the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) *the importance of securing well-designed, attractive and healthy places.'*

Paragraph 124 of the NPPF states that *'The creation of high-quality 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.'*

The scheme has been carefully considered by your Urban Designer and the Design Review Panel and their full comments can be found in appendix B to this report.

In layout terms, the scheme follows the lead of the extant permission with an outward looking scheme with that addresses Civic Way and, faces towards, Station Road with its active frontages. In addition, the focus around the new public real between Blocks A and B provides the scheme with legibility that will help define the town centre and provide increased levels of activity. The widening of this area and the introduction of the kiosk are positive additions that are an improvement over the extant scheme and will provide a space that has the ability to form an important role in the overall function of the town centre.

The comments of the Urban Designer are noted with regard to his desire for a more comprehensive design intervention, which would include the surface car park to Station Road. However, that is something that has never been brought forward and the extant permission has established the principles, in terms of the development envelope, that are acceptable. The current scheme falls to be considered on its merits and it is considered that the proposed layout is acceptable.

Turning to massing, notwithstanding the 11-storey element at the southern end of block A1, the scheme as a whole is of a significant size (in terms of massing/scale), but with the exception of this taller element, the scale of the buildings are similar to that of the extant consent. The main element of the residential block to Civic Way will be 5 storeys, with a further 2 storeys set in. This not only helps break up the scale but has allowed the taller southern element to be better defined and integrated into the development. The eastern side of block A2 has a reduced scale, compared to the extant permission, due to the retention and refurbishment of the existing units. It is not considered that this detracts from the scheme. Block B remains almost as previously consented.

It is clear that the taller element of the scheme has attracted the most concern in respect of the representations received. This element has been subject to much consideration by your Urban Designer and the Design Review Panel, which has resulted in significant improvements to its design, including a reduction in its height and massing. While it is tall, it should be remembered that the existing Martlets Height building is 8 storeys high and of significantly inferior design, yet it has become an accepted part of the skyline and acts as a focal point of the town. The adjacent

Amex building is also of significant scale and bulk. This element forms part of a comprehensive redevelopment proposal for the town and it should be considered in the context of the scheme as whole, not as an individual component.

Turning to elevational treatment, then the development follows on from the extant permission with a modern design approach, utilising a high standard of detailing, particularly to the residential element. Through the course of the application, the applicants have responded to comments from your Urban Designer and the Design Review Panel to improve the articulation and general appearance of the scheme. While conditions are suggested to secure details of certain elements, including the proposed between blocks A1 and A2, it is considered that the overall appearance of the scheme is much improved of that of the extant permission and it would make a positive contribution to character and appearance of the area.

No objections are raised by either your Urban Designer or the Design Review Panel in respect to the design and form of the proposed scheme.

The application has been submitted with an updated Wind Study to assess the likely wind conditions on site as a result of the proposals. A previous study resulted in a condition being attached to the extant permission requiring the submission and approval of mitigation measures to certain parts of the site. The submitted study sets out that the wind conditions in and around the site remain similar to those of the previous study and similar mitigation measures should be introduced. Furthermore, it identifies some localised exceptions to the southern frontage of block A2, where additional measures should be introduced. It is considered that a condition can secure and agree the appropriate mitigation measures, and this would be an acceptable way to address the issue, as it was with the extant permission.

It is considered that the scheme proposed is of a scale and form appropriate to its town centre location and while it is appreciated that there will be differing views regarding the overall design approach and the taller residential element, it is your officers' view that the proposal would make a positive contribution to the overall character and appearance of the town and help contribute towards the visions set out in the Development Plan for its regeneration and renewal. Conditions are suggested to cover points of detail raised by your Urban Designer. While the issue regarding the wind tunnelling effect should not be underestimated, the impact can be mitigated through a condition and in overall conclusion on this matter it is considered that the proposal complies with policy DP26 of the DP.

### **Impact on Heritage Assets**

It has been identified that the application site lies adjacent to St Johns Church, a Grade II\* listed building and s.66 of the Listed Building and Conservation Area (LBCA) Act 1990 has a duty, in exercising of planning functions, *'to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses'*. Furthermore, the development has the potential to impact on the setting of the St Johns Conservation Area and the under s.72 of the LBCA set the same duty for an LPA when exercising its planning functions in relation to Conservation Areas, as set for listed buildings above.

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

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

Policy DP34 of the District Plan states in relation to Listed Buildings:

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

- *A thorough understanding of the significance of the listed building and its setting has been demonstrated. This will be proportionate to the importance of the building and potential impact of the proposal;*
- *Special regard is given to protecting the setting of a listed building;'*

Policy DP34 of the District Plan states in relation to other heritage assets:

*'The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic.*

*The Council will seek to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the character and quality of life of the District. Significance can be defined as the special interest of a heritage asset, which may be archaeological, architectural, artistic or historic.*

*Proposals affecting such heritage assets will be considered in accordance with the policies in the National Planning Policy Framework (NPPF) and current Government guidance.'*

Policy DP35 deals with Conservation Areas and states;

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

Section 16 of the NPPF is particularly relevant in this instance and paragraph 190 states;

*'Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal of heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'*

*'192. In determining applications, local planning authorities should take account of:*

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

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

*194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

- a) Grade II listed buildings, or Grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, Grade I and II\* listed buildings, Grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional*

*195. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*

- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

196. *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*

Turning to the impact on St John's Church, the proposals have been carefully considered by the Council's Conservation Officer, who in firstly considering the significance of the asset states;

*'St John's Church is a Grade II\* listed building dating from the 1860s. Section 6.10 of the submitted Planning Statement addresses the significance of the setting of the building to its special interest and comments:*

*'The church's setting contributes significantly to the significance of the heritage asset as its scale and location gives it a prominence befitting of its status as a historic place of worship. Despite the growth of the town around the church throughout the 20th century it remains (a) focal point in the town.'*

*I would not disagree with the essence of this assessment, the visual prominence of the Church within its setting and the relationship of scale with its surroundings are key features contributing positively to the manner in which its special interest is appreciated. Views of the Church looking north along Church Walk and Civic Way, and from viewpoints within the Conservation Area including from St John's Park and its vicinity, also make a strong contribution to the manner in which its special interest is appreciated.'*

Having established its significance, the Council's Conservation Officer has then stated the following in relation to the impact of the proposals;

*'In making an assessment of impact of the proposal on the setting of the of the listed building I am mindful of the existing permission relating to the site, and also of the poor quality of the existing development on it. Notwithstanding this, the scale of the development now proposed at block A1, including in particular the tower block at its south eastern end, is such that in my opinion there will be a negative impact on the setting of the listed building, including views of it along Civic Way. In particular the current and characteristic visual prominence of the Church will be diminished by the introduction of a building of greater height in close proximity to it.'*

It is categorised that the harm to the significance of the heritage asset (St Johns Church) is considered to be less the substantial. Furthermore, the Conservation Officer states;

*'I would note that this less than substantial harm is only partially mitigated and not removed by the design quality and materials of the proposed new development which (subject to detail) would when viewed in isolation of issues of height and scale relate better to the historic asset than the existing development on the site.'*

As the church is Grade II\* Historic England, as a statutory requirement, have been consulted on the proposal and did not wish to make any comments.

Your officer agrees with the Conservation Area Officer's assessment the proposed development would be harmful to the significance of the heritage asset and having regard to the NPPF, it is considered that the identified harm can be categorised as less than substantial.

With regard to the impact on the Conservation Area, the applicant's submissions do not address this matter, but it is the view of your officers that the proposal has the potential to impact on its setting and in this context your Conservation Officer has stated;

*'The character of this Conservation Area and key features contributing to its significance are identified in the Council's document Conservation Areas in Mid Sussex. The Conservation Area contains some of the oldest buildings in Burgess Hill and two listed buildings (one of which is St. John's Church). It is centred on St. John's Park.*

*The development site forms a key part of the setting of the Conservation Area and the southern approach to it along Civic Way. At present, for the reasons given above, the development site is considered to detract from this setting. Although the proposal would represent, subject to detail, an improvement to the architectural quality of the buildings on the site, it is considered on balance to detract from the setting of the Conservation Area for reasons of its scale, in particular the that of the tower block forming part of A1. This element of the scheme would be considerably overscaled in relation to the predominant height of the buildings within the nearest part of the Conservation Area, being taller even than the Church spire. The tower would be unduly prominent both in the approach to the Conservation Area along Civic Way and in views into and out of this southern part of the Conservation Area.*

*In terms of the NPPF, I would consider the harm caused to the setting of the Conservation Area to be less than substantial.'*

The above assessment of the impact of the proposed development on the setting of the Conservation Area is agreed by your officer and again in terms of the NPPF that harm can be considered to be less than substantial.

In accordance with paragraph 193 of the NPPF 'great weight' needs to be given to the less than substantial harm identified. Your Conservation Officer has identified that this would be partially mitigated through the proposed design quality and use of materials (notwithstanding impact of height and scale), and conditions are suggested that will secure these elements of the proposal. This will ensure that 'great weight' is afforded to the less than substantial harm identified.

Having regard to paragraph 196 of the NPPF, the development will deliver a comprehensive scheme to revitalise the town centre socially, economically and visually. The proposed commercial uses that form part of his application will provide a significant boost to both the daytime and night time economies of the town and the additional provision of 172 residential units will make a significant boost to the district

housing supply. As such it is considered that these significant public benefits of the scheme outweigh the less than substantial harm to the setting of the heritage assets outline above. The harm should nonetheless be given considerable importance and weight in accordance with the relevant provisions of the 1990 Act.

## **Transport**

There are three main strands that need to be considered as part of this aspect of the scheme and they can be broadly categorised as follows, access arrangements, impact on surrounding highway network and accessibility. Each will be considered in turn.

Looking at the policy context, policy DP21 of the DP states, inter alia,

*'decisions on development proposals will take account of whether:*

- *The scheme is sustainably located to minimise the need for travel....*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*
- *The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- *The scheme protects the safety of road users and pedestrians.'*

Policy G6 of the NP deals with footpaths, rights of way and cycle links and sets out that *'new development will be expected to provide links to the existing network where appropriate and new crossing will be proposed in locations of new residential development such as the town centre'* (amongst other locations).

The application has been considered by the Local Highway Authority and their full comments can be found in appendix B of this report.

## Access Arrangements

Proposals for access are similar to that contained within the extant consent and the main elements are as below;

- The Civic Way / Martlets MSCP Exit priority junction is to become an all movements priority junction. This was included in the previous permission.
- The Civic Way / Martlets MSCP Entry priority junction, including the taxi link between the Civic Way / Martlets MSCP Entry priority junction and the egress from the Waitrose Car Park onto Civic Way, is to be closed. This was included in the previous permission.
- Ingress to the Waitrose Car Park is to be via the ingress off the B2113 Station Road, as existing.
- Egress from the Waitrose Car Park is to be via the egress onto Civic Way; however this junction will be altered to allow for right turns out.

- Access to the service yard to the northeast of The Martlets from Church Road will be retained as existing and will serve the residential parking.

The proposals were submitted with a road safety audit that has not identified any problems with the proposed highway design.

No alterations are proposed to the Waitrose car park ingress as this falls outside the ownership of the applicant and should any improvements to this be sought, then they would need to come forward separately.

The Local Highway Authority have not raised an objection to the proposed access arrangements.

On this matter it is considered that the application complies with Policy DP21.

#### Impact on surrounding highway network

The submitted Transport Assessment considers the impact of the additional trips generated by the proposals on a number of identified junctions. In determining potential trip rates some had previously approved, others are based upon TRICS and a 9% uplift in retail trips (based on car surveys and existing retail trip attraction. The junctions considered are listed below;

- Martlets MSCP Egress
- Proposed Civic Way / Site Access All-Movements Priority Junction
- Martlets MSCP Ingress
- Waitrose Car Park Egress
- Waitrose Car Park Ingress ('Station Road Crossroads')
- Civic Way / Lower Church Road Mini-Roundabout
- Civic Way / The Brow Priority Junction.
- McDonald's Roundabout

The Local Highway Authority have not raised an objection based upon the submitted information and have confirmed that the assessment shows the *'impact on all junctions is manageable under the retail uplift and future years scenarios.'*

The Local Highway Authority did request the applicant to consider the issue of localised queuing at 'McDonalds roundabout' which is known to occur at certain peak times. In response they made the following comments;

*'As shown by the junction capacity testing provided with the Transport Assessment, based upon existing junction geometries and surveyed traffic flows the McDonald's roundabout should, in theory, not experience significant queuing. Residents, however, cite the roundabout as a queueing issue.'*

*Analysis of survey footage of the McDonald's roundabout have identified that the cause of the queuing at the roundabout is a result of vehicles entering the McDonald's Drive-Thru lane, queuing out of lane and into the roundabout. To reduce this issue, more capacity would need to be added to the McDonald's Drive-Thru lane, either in the form of faster food processing, or an increase to the number of vehicles*

*that could queue within the McDonald's site, neither of which are options available to the applicant. Alternatively, there is potential for a no-stopping yellow box to be painted within the circulatory carriageway of the roundabout next to the McDonald's arm of the roundabout which would deter blocking of the roundabout.'*

It is recognised that the solution to the mitigating any impact of queuing at this roundabout as a result of customers visiting McDonald's falls outside the scope of this application and the Local Highway Authority have not made any specific recommendations within their final comments as a result of the applicant's response. Notwithstanding this, the proposed altering of the egress from the Waitrose car park to allow right hand turns may help with the current issues.

On this matter it is considered that the application complies with Policy DP21.

### Accessibility

As the site is located within a town centre location it already benefits from good links to the wider town and the current Place and Connectivity Programme will bring forward projects across the whole town that encourage people to choose to walk, cycle or use public transport in the future. As such the applicant has looked to complement these proposals, while bring forward measures to mitigate against the impacts of their scheme. The main measures proposed are listed below;

- Improvements to bus stop on the eastern side of Civic Way, including the provision of real-time passenger information.
- Waitrose car park egress amended to enhance pedestrian and cycle crossing.
- Provision of a cycle hub at the north-western end of Church Walk (which could include secure storage, lockers electric bike charging stations and associated ancillary facilities such as puncture repair kits).
- Expansion of the island crossing opposite the site for the cycle hub to allow/support cycle crossing
- 34 cycle hoops to be provided within the commercial element of the scheme, 8 of which would be principally for staff given proposed location within loading area.
- 172 cycle spaces for the residential element of the scheme
- Additional signage to improved pedestrian and cycle wayfinding.

In providing further responses to the matters raised by the Local Highway Authority the applicants have stated on the securing improvements to bus services;

*'Consideration has been given as to how bus service improvements could be improved, but it is doubtful that it would be viable to operate bus services to serve the cinema, as there would not be enough patronage to cover the cost, especially considering that the Compass Travel bus services already operate under a subsidy from WSCC. In any case, given the viability constraints of the development, it is not within the applicant's gift to offer any further subsidies for additional services.'*

The extant permission does not contain any requirement for improvements to public transport services, specifically bus services, within the town and it is not considered that justification exists in this instance. It is noted that the Local Highway Authority

are satisfied by the measures proposed by the applicants and have not requested any contribution towards bus service improvements.

The proposed off-site accessibility measures outlined above will be secured through a s106 Legal Agreement to ensure their provision at appropriate trigger points within the development. On site measures will be secured through appropriately worded conditions.

In addition to the above, the applicants have provided draft residential and non-residential Travel Plans, the contents of which have been noted by the Local Highway Authority, who believe the relevant targets should be revised, with more robust actions to support them. In addition to the already stated measures above, the applicant is also supportive of the provision a car club, which would typically be a specific Travel Plan measure. A suitability worded condition is proposed to secure the Travel Plans for both the residential and non-residential elements of the scheme.

On this matter it is considered that the application complies with policy DP21 of the DP and policy G6 of the NP.

In conclusion on the above matters the development will provide satisfactory access and the proposed trip generation will not have a severe impact on the local highway network. The proposal contains measures to improve accessibility for both pedestrians and cyclists and no safety concerns have been identified by the Local Highway Authority. The proposed measures will be secured either by condition of through the s106 Legal Agreement and on these issues no objection has been raised by the Local Highway Authority.

Having regard for all of the above it is considered that the application complies with the policy DP21 of the DP and policy G6 of NP.

## **Parking**

It is clear from the representations received, including those of the Town Council, that there is considerable concern about the level of car parking being proposed and whether it is sufficient to meet the needs of the proposed development.

The nature of the parking proposed as part of this application is split between public and private provision, with the latter relating to an element of provision for the proposed residential units.

The proposed development will result in the loss of the existing Martlets multi-storey car park, as well as the small private car park to the rear of Martlets Hall and spaces within the both the Church Road and Civic Way service yards. The breakdown of these losses is as follows;

- 165 spaces from The Martlets multi-storey car park
- 27 spaces from the Civic Way service yard
- 14 spaces from the Martlets private car park
- 19 spaces from the Church Road service yard

The above list comprises 225 parking spaces. (For the purposes of the TA all the above spaces have been considered as 'public' as demand for these spaces is likely to remain post development.)

As part of the proposal, the applicants are proposing an extension to the existing surface level Waitrose/Market Place car park. The extension of this car park provides for the following;

- 167 spaces extension to the Waitrose/Market Place car park

Having regard for the above, the total public provision associated with the 'public' element of the scheme is an overall reduction of 58 car parking spaces.

In respect of the private provision, the applicant proposes a total of 75 parking spaces at basement/lower ground level accessed off Civic Way via the Church Walk service yard (below proposed block A1).

Taking into account all of the above, the application proposal includes provision for a total of 242 parking spaces, split between the public and private provision.

The submitted Transport Assessment identifies that there is a total of 1,135 car parking spaces within the town centre across its 6 public car parks. (This total does not include the spaces with the small Martlets car park or two surface yards).

Policy DP21 deals with transport matters and sets out that decisions on development proposals will take account of, inter alia, the following;

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

Policy S4 of the Neighbourhood Plan makes references to Burgess Hill parking standards and states that all housing developments must comply with these new standards. The policy does not make any reference to commercial parking standards.

As part of the Transport Assessment (TA) the applicants have calculated, based upon updated additional car park beat surveys, that the parking demand in the town centre is 9% more on a weekday and 18% less on Saturday based upon the demand recorded in 2015 (evidence submitted in support of extant permission). Using this latest survey work, the parking detailed car parking surveys used to support the 2015 submission have been adjusted by the above amounts (plus 9% weekdays and minus 18% weekends), to form a '2019 adjusted parking demand'.

Furthermore, the TA sets out that the calculated car parking demand associated with the redevelopment, based upon TRICS datasets, can be accommodated within the proposed total town centre car parking provision (as set out in the application). Taking into account the adjusted 2019 parking demand without development.

The TA also provides a calculation for weekday and Saturday occupancy of the extended Waitrose/Market Place car park, with the proposed new uses. This shows the car park would operate within capacity.

Concerns have been raised about the level of the car parking available to commercial uses and in particular the impact that it may have on the operation of the existing Waitrose car park. It is clear the proposed development will result in additional use of the town centre car parks and given its location, the extended Waitrose/Market Place car park will potentially be under the greatest pressure, although this would be the case even without the development and the associated car park expansion. As stated above, the submitted evidence shows that this will still operate within capacity.

In terms of the proposed commercial uses, the main material differences between the extant permission and the current submission is the introduction of the bowling alley and the increase in the number of bedrooms in the hotel. It is not uncommon for a town centre hotel to have no dedicated parking, as is the case for the already consented scheme, It is a material consideration that there is, in some cases, significant spare capacity within the town centre car parks that can cater for the demands of the proposed hotel. The proximity of the railway station is also of relevance.

In terms of the cinema and bowling alley it can be reasonably be expected that that within any given 'normal' week the greatest demand for parking for the proposed these facilities will occur late in the afternoon/evening for weekdays and perhaps early afternoon/evening at weekends. Furthermore, it would be reasonable to assume that during school holiday periods peak demand times may fluctuate.

While no specific dedicated parking facilities are being provided for these facilities it needs to be remembered that across the town centre there will be, post development, approximately 1137 public car parking spaces. It has already been demonstrated that there is a significant spare capacity across all the car parks and this would be more than sufficient to meet demand. It should not be a question of requiring this development to provide more parking but trying to ensure that there is better of use of the spaces that currently exist (and will exist). In this regard, the 167-space expansion of the Waitrose/Market Place car park will provide attractive surface level parking in-lieu of the un-welcoming multi-storey spaces of the Martlets car park, which despite its central location, is significantly under used. Given the observed occupancy rates of the Waitrose/Market Place car park, then these 167 spaces will be well used, making more efficient use of the overall number of spaces available across the town.

In terms of residential provision, then it is clear from the representations that the proposals in this respect are of particular concern. In assessing this issue, it is worth noting that there are two separate standards within the Development Plan that could apply. The Local Highway Authority use their 'Guidance of Parking for New Developments' as a means of determining the likely demand of a development dependent upon its location. Policy S4 of the NP sets out its own parking standards for new residential developments, which pre-date the WSSC standards. It is worth noting that within Appendix D of the NP the following is stated;

*'In some areas within Burgess Hill, particularly those in the Town Centre it may be appropriate to constrain levels of parking further, although in these areas it would be realistic to promote lower levels of car ownership and therefore the following must be provided: Travel Plan measures, high level of public transport accessibility and comprehensive parking controls.'*

The proposed level of parking of parking provision of 75 spaces to meet the demand of the 172 flats falls below the required likely levels when measured against either of the above methods. However, given the location of the site within a town centre, the NP reference to constraining parking in the town centre is relevant.

For context, the 120 parking spaces approved as part extant permission for residential use (142 flats), also fell below the adopted standards (including those with of the NP).

Following initial comments from the Local Highways Authority, the applicant has undertaken a survey of on-street parking availability which shows that there are a total of 503 unrestricted parking spaces within the survey area and the highest surveyed demand across that area equated to 73% occupancy, leaving 135 spaces available at peak times.

In justifying the proposed level of parking, the submitted TA makes the following main points (summarised by officers)

- 2011 census data provides evidence that not all residents of the area are dependent on the car to travel (25% did not own a car).
- Burgess Hill Programme includes major investment in public transport and enhanced cycle provision meaning future residents will be less reliant on the car.
- Residents of the flats will be within the town centre that will provide for most of their needs.
- Town centre flats generally appeal to those who envisage a largely 'car-free' lifestyle.

They conclude that the provision of the 75 car parking spaces is appropriate as *'it balances the needs of future residents whilst promoting sustainable transport methods.'*

The Local Highway Authority have not raised an objection to the application.

Section 9 of the NPPF promotes sustainable transport and paragraph 103 sets out that *'significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice if transport modes'*. Furthermore, paragraph 106 states;

*'Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities*

*should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.'*

It is accepted that the proposed level of parking is significantly below that normally required, however, given the NP and NPPF statements regarding sustainable transport and constraints in town centre locations it is appropriate to allow development within a town centre to have reduced parking facilities to serve residential units. These units will be very accessible to services and alternative transport modes. The proposals will be subject to a Travel Plan and, as set out in other sections of this report, a number of sustainability measures will be secured, including a car club and a cycle club, that support and encourage residents to move away from car ownership. The survey work undertaken by the applicant in respect of the town centre car parks and on-street parking demonstrate that there is sufficient capacity to absorb the impact of the development as proposed.

In conclusion on this matter, there is no objection from the Local Highway Authority with regard to the level of proposed parking being provided as part of this application. The applicants have demonstrated that there is significant spare capacity across the town centre car parks and within the surrounding street to meet demands. The demolition of the Martlets multi-storey and expansion of the Market Place car park will provide more attractive parking arrangements and help make more efficient use (in terms of occupancy) of the spaces available within the town. While in the main it is considered that the application in this respect complies with policy DP21 of the DP, it should be recognised that the residential element of the scheme is contrary to policy S4 of the Neighbourhood Plan.

## **Housing and Affordable Housing**

Policy DP30 of the DP deals with housing mix and requires housing developments to provide a mix of dwelling types and sizes that reflects current and future needs. Policy DP31 deals specifically with the provision of affordable housing and requires developments to provide a minimum of 30% affordable housing on schemes of 11 no. dwellings or more. The policy goes on to state;

*'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.'*

Policy DP27 requires all development to meet the nationally described space standard and policy DP28 deals with accessibility and requires developments of 5 or more dwellings to make provision for 20% of dwellings to meet Category 2 - accessible and adaptable dwellings under Building Regulations - Approved Document M requirements M4(2), unless proposals meet one of the exceptions listed.

The applicants have set out that the residential units will be provided as a build to rent development which, as the name suggests, means the proposed units are designed for rent instead of sale, which are rented through a single agent.

The submitted details show that 100 of proposed units will be one-bedroom flats with remaining 72 being two-bedroom flats. All of the units will meet the minimum size requirements set by the national described spaces standards. It is considered that given the proposed location, and the nature of the proposed development, that the mix is acceptable.

The application has been submitted with a viability assessment as the applicants consider that the development cannot provide the required amount of affordable housing as set out by policy DP31 (along with other infrastructure contributions). This assessment has been independently assessed by suitably qualified consultants instructed by the Council, at the cost of the applicant, and it is agreed that the scheme is not capable of supporting any affordable housing. The comments of the Council's Housing Officer support this view although, as per the adopted SDP on affordable housing, a re-view clause is required to re-assess the values of the scheme at an appropriate later date. More will be said on this matter in the later section of the report on Infrastructure matters. In this regard, the proposal complies with policy DP31.

The applicant's submissions confirm that the *'proposed development has been designed to fully accord with the requirements of policy DP28 relating to accessibility. The residential scheme will be provided with 20% units that meet M4(2)'*. These units can be secured through an appropriately worded condition.

Having regard to the above it is considered the application complies with policies DP27, DP28, DP30 and DP31 of the District Plan.

### **Residential Amenity**

There are two elements to this issue that need to be considered, the first relates to the impact on existing residential amenities and the second in relation to any impact on the residential amenities of future occupiers. In regard to this latter point, it is inherent within the good planning that high quality living environments are created by new developments and that potential issues should be planned out at an early stage.

In support of their application the applicants have submitted a daylight and sunlight report, based upon BRE (Building Research Establishment) Guidelines for VSC (Vertical Sky Component) and daylight distribution to consider the impact of the proposal on the adjacent existing properties. In addition, the report also considers the proposed environment for future occupiers of the development.

Policy DP26 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 ... does*

*not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.'*

Section 12 of the NPPF is deals design matters and paragraph 127 (f) sets out that decisions should ensure developments '*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*', amongst other things.

It is also worth paragraph 123 (c) of the NPPF, which relates to achieving appropriate densities, that states;

*'local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).'*

#### Existing Residential Amenity

The nearest existing residential properties are located adjacent to north of the application site above the retail units in Church Walk. In addition, there are two units at ground floor level behind 105/107 Church Walk, adjacent to the exit of the existing multi-storey car park.

In summary, the report states;

*'The majority of surrounding windows and rooms are in accordance with the recommendations in the BRE Guidelines for daylight and sunlight. Where there are transgressions of the BRE Guideline recommendations, when the impact of the current proposals is compared to the previously consented daylight and sunlight position, all windows in the surrounding properties either experience an increase in the VSC (daylight) with the current proposal in place compared to the consented position or experience a reduction of less the 10% of their consented level of daylight; in our opinion, these are small reductions and are likely to result in a similar daylight and sunlight position experienced by the residents. There are a small number of rooms which experience larger reductions in daylight distribution, but the majority of these rooms are considered to be either not sensitive or less sensitive to daylight with the three meaning rooms likely to be well artificially lit.'*

At this point it is relevant to recall how officers considered the impact on existing amenities, in terms of daylight/sunlight, in relation to the extent permission. The report to committee stated;

*'It is clear that in respect of the physical massing of the proposed development then there will be an impact on the residential amenities of those existing properties in Church Walk, both in terms of daylight/sunlight and a greater sense of enclosure. In majority of instances it is not considered that such harm could be considered as significant in relation to policy B3 of MSLP however, the impact on the two ground*

*floor units to the rear of 105/107 Church Walk will be much greater and while it is recognised that these units were created in the knowledge of their proximity to the Martlets Shopping Centre, its servicing area and car park, the impact must be taken into account. The proposed development is likely to have a significant impact on the residential amenities of the occupiers of these two units.'*

Having regard to the design and form of the proposed scheme in relation to the existing properties, it is understandable that there are reductions in the level of daylight reaching some of the rooms, over and above what was considered in consenting the extant permission. The proposed development is likely to have a significant impact on the residential amenities of existing residents to the north, particularly 105 and 107 Church Walk, by means of loss of light and enclosure, and this will need to be considered in the overall planning balance. This view is consistent with those expressed by officers in relation to the extant permission.

In addition to the physical impact of the proposal, consideration needs to be given to any potential impacts resulting from the servicing of the proposed development, both in respect of deliveries and extraction/mechanical plant. It is appreciated that the residential units as they currently exist bound onto the existing service yard and as such experience a certain degree of noise and disturbance from such activities, however, the proposed development would intensify this.

It is considered appropriate that conditions are placed upon the development to restrict the timings of deliveries to ensure that residential amenities are protected as much as possible, while it is accepted that a balance needs to be struck to ensure that timings are not so restrictive as to affect the operation of the new commercial units. The suggested condition mirrors that which is attached to the extant permission.

### Future Residential Amenity

The main concern about future residential amenity is the quality of the environment created by the development, particularly given the height and depth of the proposed residential elements and the relationship with the courtyard. The proposal has a number of units that are only served by north facing windows.

The applicants' 'Daylight and Sunlight' report also seeks to address the issues relating to the proposed residential units. It concludes that in terms of daylight, 416 rooms within the development have been analysed and 97% of them meet the target values of their room in terms of ADF (Average Daylight Factor). In respect of sunlight, the report has analysed 102 living areas (i.e. living/kitchen/dining) and where a south facing window is present (53 rooms), 37 (70%) of them meet the target values for both annual and winter APSH (Annual Probable Sunlight Hours). The submitted report considers this reasonable and makes the further point that all units will have access to an alternative source of sunlight amenity (i.e. balcony)

There is no evidence in front of officers to challenge the above conclusions. It is a fact that given the nature of the development there are only a limited number of potential south facing windows and while nearly all the rooms will achieve acceptable levels of daylight, significant number of the main habitable rooms will not achieve desirable levels of sunlight and it should be recognised that the amenity levels for

those future occupiers would not comply with current development plan policy. The NPPF does make it clear however, that in *'considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site.'*

The issues raised will need to be considered as part of the overall planning balance, but regard should be given to the fact that this is a town centre location where compromises to the overall living environment are often needed and it is for the decision maker to place appropriate weight to this issue in overall planning balancing exercise that is required.

### **Infrastructure and Deliverability**

While the proposed development will provide for a total of 172 residential apartments, the applicants have outlined that the scheme is not economically viable to provide any affordable housing provision or other Section 106 financial contributions, as detailed within the Council's SDP 'Development Infrastructure and Contributions'. To support their case, the applicants have submitted a viability assessment that has been reviewed independently by a consultant instructed by the Council but funded by the applicant.

While the applicants consider that the scheme is not viable to provide such infrastructure/contributions, the scheme is still deliverable, and they have provided a recent letter reaffirming their commitment and stating the following:

*'We can confirm that NewRiver remains as committed as ever to the town centre of Burgess Hill, having already invested more than £2million in preparing the site for a mixed-use redevelopment comprising commercial, leisure and residential uses...*

*Most retailers consider that the impact of Covid 19 could last for up to two years after which trading should have returned to pre Covid 19 levels, so that a construction period of two years such as is proposed at Burgess Hill would allow a recovery period for retailers trading performance and allowing leasing discussions to be set against that timeframe. I can confirm that the certainty a planning permission would bring would give NRR the best opportunity to negotiate with the retailers, allowing a suitable period of time for them to reassess their own financial health as well as the wider market place.'*

Policy DP31 of the DP sets out the council would normally seek to secure 30% affordable housing from schemes of 11 units or more or on sites over 0.5 hectares. There are a number of caveats to the policy in respect of determining the appropriate mix and tenure split, including situations where there is a demonstrated viability issue. Policy DP20 requires infrastructure to be secured to mitigate against the impacts of a development.

In addition to the SDP referred to above, there are separate ones relating to affordable housing and development viability, which are relevant in respect of this application and are material planning considerations.

The SPD entitled 'Affordable Housing' provides detailed information on the requirements for on-site and off-site affordable housing provision. The thirds relevant SPD, 'Development Viability', provides information on the viability assessment process, including a review mechanism.

A policy compliant scheme in this case would deliver 52 units of affordable housing with financial contributions towards infrastructure matters such as education and formal sport totalling £930,986.

The Council's independent review of the assessment of the scheme has concluded that taking account of the deliverability of the scheme it currently cannot provide for any affordable housing or other Section 106 financial contributions and officers accept and agree with these findings.

It should be noted that the extant permission underwent a similar viability assessment, the conclusions of which were the same.

Under the terms of the Council's agreed SPDs, as referred above, the Council will seek a review clause to re-assess the viability of the scheme again, at a set point, and should there be additional value in the scheme then monies may be reclaimed in-line with the terms of the clause. Any monies received this way would be allocated depending on the priority needs at the time.

On the basis that a review clause is secured through a s106 Legal Agreement, the application complies with the Council's approach on such matters as set out in policy DP31 and the accompanying SDPs. Flexibility is required in situations like this to ensure that development can be brought forward.

## **Ecology**

The application has been supported by an Ecological Impact Assessment which includes habitat and protected species surveys, an assessment of the proposal's effects and mitigation proposals. Given the nature of the site, the main focus of the submitted report focuses on the buildings to be demolished and their suitability for nesting birds and bat roosting.

Policy DP38 states;

*'Biodiversity will be protected and enhanced by ensuring development:*

- *Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- *Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*

- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- *Promotes the restoration, management and expansion of priority habitats in the District; and*
- *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

*Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.*

*Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution.*

*Geodiversity will be protected by ensuring development prevents harm to geological conservation interests, and where possible, enhances such interests. Geological conservation interests include Regionally Important Geological and Geomorphological Sites.'*

Paragraph 170 of the NPPF sets out that planning policies and decisions should contribute to and enhance the natural and local environment and lists a series of ways that this should be done. Paragraph 175 relates specifically to the determination of planning applications and states, amongst other things, *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exist.'*

The report does not identify any species or habitats of particular significance and while a low level of activity from single common bat species was recorded, given the low quality of the habitat on site, they are highly unlikely to make use of the site as a regular foraging source. The site has some suitability for nesting birds and as means of mitigation 10 new bird boxes, to be integrated with the buildings, are proposed.

In conclusion the report states;

*'The site has suitability for nesting birds. Adverse impacts on these ecological features have been identified and appropriate mitigation measures proposed. The minor loss of scattered tree habitat will also be compensated. Post-development, no residual or cumulative impacts are anticipated. The site will be enhanced through new habitat creation comprising native species and through the installation of additional bird nesting features, resulting in an overall net gain for biodiversity.'*

The application has been considered by the Council's Ecology Consultant who has not raised an objection and has suggested a condition to ensure that the proposed mitigation measures are secured and delivered as per the submitted report.

Having regard to the above, it is considered that the proposals comply with policy DP38 of the District Plan and the principles contained within the NPPF.

### **Trees and Landscaping**

Policy DP37 of the District Plan states that development that will damage or lead to the loss of trees, woodland or hedgerows that contribute, either individually or as part of a group, to the visual amenity value or character of an area, and/ or that have landscape, historic or wildlife importance will not normally be permitted. Proposals for new trees/planting should be of suitable species (usually native). Policy DP26 refers to high quality design and layout that includes appropriate landscaping.

The application is supported by a supplementary addendum to the Arboricultural Impacts and Tree Protection Method Statement submitted in support of the extant permission. The report is intended to consider the impact of the revised development proposals. The original submission identified a total of 85 trees, either within the site or situated nearby and the latest submission confirms that no additional trees have been identified for inclusion.

In order to facilitate the development a total of 14 trees will need to be removed and the submission supporting the extant identified that four of these trees were categorised 'A' grade trees, these include T56 (Red Oak) and T60 (London Plane) which are both located adjacent to Civic Way. The extant permission allowed for their removal, as they sat within the footprint of a proposed building or the expanded surface car park, and that still remains the case with the current scheme.

Comments within the representations are noted with regard to the retention of the trees and in particular T56 which is specifically mentioned. While the loss of any tree to facilitate development is regrettable, the proposals do provide the opportunity to secure a replanting scheme that will, in the long term, a better landscaped environment for this part of the town.

The relationship between the development and the existing trees remains as consented and the trees themselves are not subject to any protection Orders, nor would they be given the extant permission. There are no grounds to support an alternative view on this matter in light of the current scheme.

The scheme is supported by a landscape masterplan that shows significant new planting along Civic Way for the length of the application boundary, in addition to new tree planting within the expanded surface car park and public realm between proposed blocks A and B. The final details of the planting scheme will be secured via a condition.

It is considered that the application complies with policies DP26 and DP37 of the District Plan in regard to these matters.

## **Ashdown Forest**

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).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

### Recreational disturbance

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.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in the 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.

The proposed development is outside the 7km zone of influence and as such, mitigation is not required.

### Atmospheric pollution

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

The proposed development has been assessed through the Mid Sussex Transport Study (Updated Transport Analysis) as windfall development, such that its potential effects are incorporated into the overall results of the transport model which indicates there would not be an overall impact on Ashdown Forest. Sufficient windfall capacity exists within the development area. This means that there is not considered to be a

significant in combination effect on the Ashdown Forest SAC by this development proposal

The screening 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.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

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.

The application complies with policy DP17 of the District Plan.

### **Air Quality and Noise**

In support of the application, an air quality assessment and various other reports including a ventilation strategy and noise assessment have been submitted and considered by the Council's Environmental Protection Team.

In relation to noise and air pollution policy DP29 in the District Plan states

*'The environment, including nationally designated environmental sites, nationally protected landscapes, areas of nature conservation or geological interest, wildlife habitats, and the quality of people's life will be protected from unacceptable levels of noise, light and air pollution by only permitting development where:*

*Noise pollution;*

- *it is designated, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area;*
- *if it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures;*

*Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.*

*Air Pollution;*

- *It does not cause unacceptable levels of air pollution;*
- *Development on land adjacent to an existing use which generates air pollution or odour would not cause any adverse effects on the proposed development or can be mitigated to reduce exposure to poor air quality to recognised and acceptable levels;*
- *Development proposals (where appropriate) are consistent with Air Quality Management Plans.*

*The degree of the impact of noise and light pollution from new development or change of use is likely to be greater in rural locations, especially where it is in or close to specially designated areas and sites.'*

Policy DP26 of the DP states that development will not cause significant harm to the amenities of existing nearby residents and future residents of new dwellings, including taking account of impact on noise, air and light pollution.

With regard to noise and the proposed commercial uses, your Environmental Protection Officer is content that sufficient control lies within the Licencing regime to deal with any issues of break out noise from premises, especially given that there are no proposed residential properties over the proposed units.

It has been identified that in respect of the residential units, to achieve the necessary internal acoustic levels to mitigate against traffic noise, then windows would need to remain closed. In such circumstances it is important that alternative means of ventilation, i.e. acoustic trickle vents or through wall ventilators, is provided and this can be secured via a condition. It should be noted that situation is not specific to this site and proposal but is common across all similar town/city centre locations across the country.

The submitted air quality assessment has been considered by your officers. The report concludes that the impact of the development upon air quality during the operational phase is low, although the report does identify potential risks during the construction phase, particularly regarding dust. This construction issue is not uncommon and suitable mitigation can be secured through a construction management plan.

Further information has been requested from your Environmental Protection Officer with regard to any possible impact on the air quality of the AQMA at Stonepound Crossroads. At the time of completing this report this information was still awaited and members will be updated at the committee. In determining the extant permission the submitted assessment considered that the development would have a low/imperceptible impact on air quality within the Stonepound Crossroads AQMA as a result of both construction and operational traffic. This assessment was accepted. While it is not anticipated that the position will have materially altered, updated information is awaited in order to enable your Environmental Protection Officers to confirm the position.

Matters regarding the control of plant noise and cooking extract systems can be controlled via condition and in overall conclusion on these issues no objections have been received from your Environmental Protection Officer (subject to conditions), and it is considered that the application complies with policies DP26 and DP29 of the DP in respect of these matters.

## Contaminated Land

Paragraph 170 of the NPPF states, inter alia, that decisions should,

*'contribute to and enhance the natural and local environment by...*

- a) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- b) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'*

Paragraph 178 of the NPPF states that decisions should,

*'ensure that:*

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.'*

The comments of your Contaminated Land Officer are noted, and the suitable conditions have been suggested. Your officer is aware that the applicants have submitted an application for the discharge of the condition attached to the outline consent, which would equally cover the site subject to this application. In the event that this is discharged before this application is determined, then the suggested contaminated conditions would not be required.

Overall, no objection is raised on this matter and appropriate conditions could be used to secure any remediation and monitoring works.

It is not considered that the proposed development would give rise to contaminated land issues and thus accords with the relevant paragraphs of the NPPF in this regard.

## **Sustainability**

Policy DP39 of the District Plan 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.'*

Paragraph 150 of the NPPF seeks to ensure new development helps, *'to reduce greenhouse gas emissions, such as through its location, orientation and design.'* Paragraphs 153 expects new development to, *'take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

The application is supported by an Energy Statement that considers an energy strategy for the development. It sets out the following;

- Fabric first approach in accordance with Building Regulations
- Provision of energy efficient lighting
- Provision of time and temperature zone controls
- Air Source Heat Pumps to commercial element

In addition to the above the applicant has also confirmed the appropriate measures will be installed to achieve 110 litres per person per day water consumption and four passive EV charging points within the surface level car park to the front of the commercial element.

Having regard to the above, officers are satisfied that the proposal has been sought to improve the sustainability of the development and the application is therefore in accordance with Policies DP39 of the DP and paragraphs 150 and 153 of the NPPF.

## **Other Matters**

In terms of drainage, policy DP41 of the DP deals with this seeks to ensure that development does not increase flooding elsewhere and Sustainable Drainage Systems (SuDS) are implemented, unless it is demonstrated to be inappropriate. The applicants indicate that that water will be discharged into an existing surface

water sewer and while your Drainage Officer has not raised an objection in principle, the final details will need to take into account the need to restrict run-off to 50% of the re-development rate. There are no objections from any statutory consultee and the details of the final drainage design can be secured by condition. It is considered that the application complies with policy DP41 of the DP.

Policy DP42 deals with water infrastructure and water environment and in particular the water consumption requirements for new developments. The applicants have confirmed in their submissions that all the proposed dwellings will meet the water consumption standard of 110 litres per person per day through the use of water saving and flow restricting fittings, in line with policy DP42.

Policy DP1 of the DP seeks, inter alia, to protect employment land and premises (i.e. offices) unless it can be demonstrated that its continued use or the loss outweighs the benefits or relative need for the proposed alternative use. The extant permission has established that the loss of Martlets Height, an eight-storey office building, is acceptable and the wider community benefits that derive from the improved retail and leisure offer proposed by the development will help the long term viability and vitality of the town centre, while the provision of 172 residential units that will make a positive contribution to the meeting of the housing needs of the town and the district as a whole. The proposal does still retain a significant proportion of B1(a) use and the application is considered to comply with policy DP1 of the DP.

### **Planning Balance and Conclusion**

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.

Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex the Development Plan comprises the District Plan (DP) and the Burgess Hill Neighbourhood Plan (NP).

The principle of development has been established by virtue of the consent for a similar type of development under DM/15/3858, which has been implemented and is extant. Furthermore, the redevelopment of the town centre is supported by policy DP2 of the DP and policies TC2, TC3 and TC4 of the NP.

The proposal would result in the delivery of 172 residential units within a highly accessible and sustainable location, that would boost the Council's housing supply. Furthermore, the applicants have set out that the scheme would generate approximately 644 new jobs and create additional worker expenditure in the local economy. Other economic benefits including additional council tax and business rates revenue would also be generated by the scheme. These matters should be given significant weight.

It is considered that the scheme proposed is of a scale and form appropriate to its town centre location and while it is appreciated that there will be differing views regarding the overall design approach and the taller (11-storey) residential element,

it is considered that the proposal would make a positive contribution to the overall character and appearance of the town and help contribute towards the visions set out in the Development Plan and Neighbourhood Plan for its regeneration and renewal. While issues relating to the effect of wind conditions in and around the development have been identified, they remain largely as previously considered under the extant scheme, and the impact can be mitigated through a condition and in overall conclusion on this matter it is considered that the proposal complies with policy DP26 of the DP.

In highway terms, the access arrangements are similar to those previously consented and the Local Highway Authority are satisfied that the development will provide satisfactory access and the proposed trip generation will not have a severe impact on the local highway network. The proposal contains measures to improve accessibility for both pedestrians and cyclists and no safety concerns have been identified by the Local Highway Authority. The proposed measures will be secured either by condition or through the s106 Legal Agreement and the application complies with policy DP21 of the DP and policies TC6 and G6 of the NP in respect of these matters.

It has been demonstrated through an independently reviewed viability assessment that the scheme is unable to support any affordable housing or infrastructure contributions and remain deliverable. In accordance with the Council's adopted Supplementary Planning Documents, a review clause will be secured through a s106 Legal Agreement to enable a review of the scheme's value at a specific point in the development (this will be identified within the s106 Agreement). The application complies with policy DP31 of the DP in this regard.

While the proposals would result in the loss of some existing trees on the site, the supporting landscape masterplan shows significant new planting along Civic Way for the length of the application boundary, in addition to new tree planting within the extended surface car park and public realm between proposed blocks A and B. The final details of the planting scheme will be secured via a condition and such planting would be a positive addition to the town centre. The application complies with policies DP26 and DP37 of the DP and policy TC6 of the NP.

It considered that through the use of conditions matters associated with ecology, drainage, accessibility, air quality and noise mitigation can be appropriately controlled and there would be no adverse impacts with respect to these matters.

The Habitats Regulations Assessment for this application concludes that the proposed development would not have an adverse effect on the integrity of the Ashdown Forest SPA and would not have a likely significant effect, alone or in combination, on the Ashdown Forest SAC.

It has been identified that the proposals would lead to less than substantial harm to the significance of St Johns Church (Grade II\* listed building) and the setting of the St John's Conservation Area, as a heritage asset, which carries 'considerable importance and weight' in accordance with s.66(1) and s.72 of the Listed Building and Conservation Area (LBCA) Act 1990. The guidance in paragraph 196 of the NPPF is that the harm should be weighed against the proposal's public benefits. The

development will deliver a comprehensive scheme to revitalise the town centre socially, economically and environmentally. The proposed commercial uses that form part of his application will provide a significant boost to both the daytime and night time economies of the town and the additional provision of 172 residential units will make a significant boost to the district housing supply. As such it is considered that these significant public benefits of the scheme outweigh the less than substantial harm to the setting of the identified heritage assets.

The harm should nonetheless be given considerable importance and weight in accordance with the relevant provisions of the 1990 Act. Historic England have been consulted on the proposals and have chosen not to comment. If they had an objection it would have been stated.

Against the proposal, while it has been demonstrated that there is sufficient spare capacity within the town centre car parks and on surrounding streets, the proposed level of parking associated with the residential element of the scheme does not comply with the standards set out in the Neighbourhood Plan. In addition, there is the potential for users of the link through the development to Church Walk and along the southern commercial frontage to be affected by wind funnelling impacts and while mitigation can be secured through conditions, there is still a likely impact that needs to be taken in to account.

Given the nature of the proposed development there are only a limited number of potential south facing windows and while nearly all the rooms will achieve acceptable levels of daylight, a significant number of the main habitable rooms will not achieve desirable levels of sunlight, to the detriment of future residential.

Furthermore, the proposed development is likely to have a significant impact on the residential amenities of existing residents to the north, particularly 105 and 107 Church Walk, by means of loss of light and enclosure, This view is consistent with those expressed by officers in relation to the extant permission scheme. Nevertheless, these elements of the scheme do not comply with Policy DP26 of the DP

It is for the decision maker to consider the weight that should be attached to these issues, individually and collectively.

Having regard to all the identified issues, it is considered that the that the proposal complies with the development plan when read as whole, which is the proper basis for decision making. It is therefore recommended that planning permission be granted for this development subject to the conditions set out in appendix and the completion of the s106 Legal Agreement to secure the viability review clause and sustainable transport measures.

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## 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 demolition, until Construction Management Plan(s) have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate 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) details of public engagement both prior to and during construction works.
- k) measures to monitor and control noise and vibration affecting nearby residents
- l) pollution incident control and site contact details in case of complaints

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 until a programme of phasing for implementation of the whole development has been agreed in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved programme.

Reason: To ensure that the development is delivered in cohesive manner to accord with policies DP2, DP26 and DP31 of the Mid Sussex District Plan 2014-2031.'

4. No development, in each respective phase of the agreed programme, 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. The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building

shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy DP41 of the Mid Sussex District Plan.

6. No development (excluding demolition), in each respective phase of the agreed programme, shall commence unless and until detailed 1:20 scale vignettes including both full elevation and section drawings showing the typical features and detailing for the frontages of block A1 (residential), block A2 (hotel), block B (cinema), unit 1 and a typical unit on the west side of the pedestrian street, have been submitted and approved in writing with the Local Planning Authority.

In addition, the following shall also be provided;

- Details of 'Green Wall' between the block A1 and A2, including maintenance programme
- Details of the treatment of the eastern flank of block B
- Details of the treatment of the northern flank of block A2 (hotel)
- Details and design of the kiosk

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

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

7. Prior to the commencement of development (excluding demolition), details of the mitigation measures to address the issues raised within the Wind Microclimate Desktop Study by BMT dated 16th August 2019, shall be submitted to and approved in writing with the Local Planning Authority. The submission will be supported by a timetable for implementation and the scheme shall only be implemented in accordance with the approved details.

Reason: To ensure that an acceptable public environment is created and to accord with Policy DP26 of Mid Sussex District Plan 2014 - 2031.

8. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:

- a) A site investigation scheme, based on the BJB Consulting Phase 1 Desk Top Study, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- b) Based on the site investigation results and the detailed risk assessment (a) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: In the interests of health of future occupiers and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031 and paragraph 170 of the National Planning Policy Framework.

- 9. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified, unless otherwise agreed in writing with the Local Planning Authority. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings along with details of any remedial action required (including timing provision for implementation), has been submitted to and approved in writing by the Local Planning Authority. The development shall only then be recommenced in accordance with the approved details.

Reason: In the interests of health of future occupiers and to accord with Policy DP41 of the Mid Sussex District Plan 2014 - 2031 and paragraph 170 of the National Planning Policy Framework.

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

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.

- 11. Prior to the commencement of development details shall be submitted to and approved in writing to demonstrate how the recommendations contained within the ECOSA Ecological Impact Assessment dated August 2019, have been incorporated into the scheme. Thereafter, the scheme shall only be implemented in accordance with the approved details.

Reason: To protect the ecological value of the site and to accord with Policy DP38 of the Mid Sussex District Plan 2014-2031.

- 12. No development (excluding demolition) shall take place until a scheme for protecting the residential and any other noise sensitive units from noise generated by road traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an Acoustic Design Statement in line with the recommendations of ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise 2017. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme

shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L<sub>Amax</sub> when measured in bedrooms internally between 23:00 and 07:00, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period.

Reason: To safeguard the amenity of residents and accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

13. No part of the commercial elements of the development hereby approved shall be first occupied until such time as until a Servicing Management Plan for has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Plan.

Reason: To safeguard the operation of the highway and to protect residential amenity and to accord with policies DP21 and DP26 of the Mid Sussex District Plan 2014-2031.

14. No commercial goods or commercial waste shall be loaded or unloaded onto or from a delivery or collection vehicle and no such vehicles shall arrive or depart, within the application site except between the hours of 07:30 - 20:00 hours Monday to Saturday and 08:00 - 18:00 hours Sunday and Bank Holidays.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies DP26 and DP26 and DP29 of Mid Sussex District Plan 2014-2031.

15. Unless otherwise agreed in writing, noise associated with fixed plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall achieve at least 5dB below the background noise levels. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Details of fixed plant or machinery and any mitigation measures required to achieve this standard shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commercial operation concerned begins operating on site, and thereafter be maintained in accordance with the approved details. Details of post installation testing shall be submitted to the LPA upon request.

Reason: To protect residential amenity and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

16. Prior to the commencement of construction of any building subject of this permission, including construction of foundations, full details of a hard and soft landscaping scheme shall be submitted to and approved by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. In addition, a plan/strategy that demonstrates how the planting of the proposed line of trees along the Civic Way

frontage will be coordinated with the underground services and is acceptable to the utility companies. All 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 Policy DP26 of the Mid Sussex District Plan 2014 - 2031

17. Prior to the commencement of any residential part of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To preserve the amenity of local residents regarding air quality and missions and to accord with policy DP29 of the Mid Sussex District Plan.

18. External lighting at the development hereby permitted shall not be brought into use until a lighting scheme has been submitted and approved in writing by the Local Planning Authority. The lighting scheme installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Note 1 for the Reduction of Obtrusive Light 2020" for Environmental zone E3. Thereafter the approved installation shall be maintained and operated in accordance with zone E3 requirements unless the Local Planning Authority gives its written consent to a variation.

Reason: To protect the amenity of local residents and to accord with policies DP26 and DP29 of the Mid Sussex District Plan 2014-2031.

19. Unless otherwise agreed in writing by the LPA, prior to the use of any business or commercial premises that involve the cooking of food, measures shall be implemented in accordance with an Odour Control Scheme submitted to, and approved in writing by, the Local Planning Authority, to prevent odour from cooking at the premises affecting neighbouring residential premises. The agreed measures shall be fully completed and operational prior to the first use of the unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority.

Reason: To protect residential amenity and to accord with policies DP26 and DP29 of the Mid Sussex Local Plan.

20. Unless otherwise agreed in writing by the LPA, prior to the occupation of the cinema, gym or bowling alley, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall assess the likely risks posed to residential amenity from the emission of noise from the intended use and shall include measures to protect residential amenity. The approved mitigation measures shall be implemented prior to the first use of the

unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority

Reason: To protect residential amenity and to accord with policies DP26 and DP29 of the Mid Sussex Local Plan 2014-2031.

21. Prior to first occupation of any part of the development hereby approved the proposed modifications to the public highway, including accesses onto Civic Way, shall be designed/constructed, in general accordance with drawing 14091-012 rev C. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. Thereafter, the scheme shall only be implemented in accordance with the approved details.

Reason: In the interests of road safety and to accord with policy DP21 of the Mid Sussex District Plan.

22. No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with the approved. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the uses and to accord with policy DP21 of the Mid Sussex District Plan.

23. No part of the proposed development hereby approved shall be occupied until:
- (a) A Travel Plan for each major use class or group of use classes of the development has been submitted to and approved in writing with the Local Planning authority. The Travel Plan(s) shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

(b) The Travel Plan(s) once completed shall be implemented as specified within the document.

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

24. No part of the development shall be first occupied until electric vehicle charging spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To provide sustainable travel options and to accord with policies DP21 and DP39 of the Mid Sussex District Plan 2014-2031.

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

Reason: To provide alternative travel options to the use of the car in accordance with policy DP21 of the Mid Sussex District Plan.

26. Units \*\*\*\* and \*\*\*\* hereby permitted shall be Part 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.

27. In respect of the units identified as A3 use on drawings hereby permitted, the premises shall be limited to the following hours of use:

Monday to Thursday: 0730 - 2330 hrs  
Friday and Saturday: 0730 - 0000 hrs  
Sunday & Public/Bank holidays: 0800 - 2330 hrs.

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

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

Reason: To protect the amenity of local residents from smoke, ash, odour and fume and to accord with policy DP29 of the Mid Sussex District Plan.

29. 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.
2. Any changes to the Use Classes Order 1987 Use Classes Order (as amended) - notably those contained within the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 - only apply once any building/planning unit has been bought into use for its permitted purposes, as set out in the application and shown on the approved drawings.
3. In respect to condition 19, the submitted Odour Control Scheme should include an odour "risk assessment" and should be in line with current best practice.
4. In respect of condition 20, the cinema noise management plan (NMP) should align with recommendations in 5.13 and 5.14 of Environmental Noise Report

by Sharps Redmore dated 16th August 2019, gym NMP to align with 5.15 and 5.16, bowling alley NMP to align with 5.17 to 5.19.

5. In respect of condition, please note the comments from the Council's Drainage Officer in regard to the matters that will to be addressed in the submission details.

### 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>
Existing Site Plan	19017 0220	P01	19.06.2020
Existing Floor Plans	19017 0221		19.08.2019
Existing Floor Plans	19017 0222	P01	19.06.2020
Existing Floor Plans	19017 0223	P01	19.06.2020
Existing Floor Plans	19017 0224	P01	19.06.2020
Existing Elevations	19017 0230		19.08.2019
Existing Elevations	19017 0231		19.08.2019
Proposed Floor Plans	19017 0349	P01	19.08.2019
Proposed Elevations	19017 0350	P02	19.06.2020
Proposed Elevations	19017 0351	P03	19.06.2020
Proposed Elevations	19017 0352	P06	19.06.2020
Proposed Sections	19017 0360	P02	19.06.2020
Proposed Sections	19017 0361	P03	19.06.2020
Proposed Sections	19017 0362	P01	19.06.2020
Proposed Elevations	19017 0370		19.08.2019
Landscaping Details	W2352 MP01		19.08.2019
Landscaping Details	W2352 MP02		19.08.2019
Existing Elevations	19017 0232	P02	19.06.2020
Existing Elevations	19017 0233	P02	19.06.2020
Existing Elevations	19017 0234	P02	19.06.2020
Existing Elevations	19017 0235	P02	19.06.2020
Proposed Site Plan	19017 0307	P02	19.06.2020
Location and Block Plan	19017 0308	P01	19.06.2020
Landscaping Details	19017 0309	P02	19.06.2020
Proposed Floor Plans	19017 0310	P02	19.06.2020
Proposed Floor Plans	19017 0311	P04	19.06.2020
Proposed Floor Plans	19017 0312	P02	19.06.2020
Proposed Floor Plans	19017 0313	P01	19.06.2020
Proposed Floor Plans	19017 0314	P01	19.06.2020
Proposed Floor Plans	19017 0315	P01	19.06.2020
Proposed Floor Plans	19017 0316	P01	19.06.2020
Proposed Floor Plans	19017 0317	P01	19.06.2020
Proposed Floor Plans	19017 0318	P01	19.06.2020
Proposed Floor Plans	19017 0319	P01	19.06.2020
Proposed Floor Plans	19017 0320	P01	19.06.2020
Proposed Floor Plans	19017 0321	P01	19.06.2020
Proposed Floor Plans	19017 0322	P01	19.06.2020
Proposed Floor and Elevations Plan	19017 0325		19.08.2019
Proposed Floor Plans	19017 0330	P02	19.06.2020
Proposed Floor Plans	19017 0331	P02	19.06.2020
Proposed Floor Plans	19017 0332	P02	19.06.2020
Proposed Floor Plans	19017 0333	P02	19.06.2020
Proposed Floor Plans	19017 0334	P02	19.06.2020
Proposed Floor Plans	19017 0335	P02	19.06.2020

Proposed Floor Plans	19017 0336	P04	19.06.2020
Proposed Floor Plans	19017 0337	P04	19.06.2020
Proposed Floor Plans	19017 0338	P03	19.06.2020
Proposed Floor Plans	19017 0339	P03	19.06.2020
Proposed Floor Plans	19017 0340	P03	19.06.2020
Proposed Floor Plans	19017 0341	P03	19.06.2020
Proposed Floor Plans	19017 0342	P02	19.06.2020
Proposed Floor Plans	19017 0345	P03	19.06.2020
Proposed Floor Plans	19017 0346	P03	19.06.2020
Proposed Floor Plans	19017 0347	P02	19.06.2020
Proposed Floor Plans	19017 0348	P02	19.06.2020

## APPENDIX B – CONSULTATIONS

### Parish Consultation

#### OBSERVATIONS:

The Committee wished to raise concerns over the height of the tower block. 11 storeys was out of keeping with the character of the town and the townscape. The application contradicted District Plan Policy DP26 and DP34 as it detracted from St John's Church. The Committee would wish the height to be reduced.

The Committee expressed concerns over the amount of parking, and wished the applicant to follow the parking guidelines in the Neighbourhood Plan. It was noted that using public transport was not always viable, and that the residents of the flats would instead park in the surrounding residential roads if not enough parking was provided. The Committee were concerned that there would not be enough parking for the users and employees of the hotel and leisure facilities. They wished for the applicant to complete a Traffic Flow Assessment, and to model the car park usage and traffic flow.

A member of the public noted that the cinemas in Crawley and Brighton had free parking.

The Committee trusted that concerns over potential wind disturbance had been considered.

The Committee expressed concerns over the potential insufficient daylight for the North facing flats.

The Committee wished that the design would include up to date, modern, appropriate public toilets.

The Committee hoped that the applicant would adhere to District Plan Policies DP21 and DP39. It was noted that there was a lack of encouragement for people not to travel by car ' the design should be favourable to pedestrians and cyclists. Concerns were raised over the location of cycle racks. It was suggested that the designs could include charging points for electric vehicles.

The Committee wished to reiterate their previous statement:

'Burgess Hill Town Council will encourage Mid Sussex District Council to ensure that applicants comply with Policy DP39 of the District Plan and that this is reinforced in any subsequent supplementary design and access statement documents on sustainable development.'

The Committee expressed concerns over the lack of Section 106 contributions. There should be an agreement and a contribution towards the Beehive.

## **Parish Consultation**

### **OBSERVATIONS:**

The Committee wished to reiterate their previous comments from when this was previously considered on 30 September 2019, below, with the addition of the following:

The Committee understood that MSDC was seeking a section 106 contribution for children's play spaces in St John's Park, this was welcomed. There was £144,000 of section 106 funding marked towards formal sport, however as section 106 funding from the Northern Arc development would be funding this, the Committee wished this funding to go towards the Beehive Community Arts Venue. There was also a contribution of £83,000 marked to towards refurbishment of the RBL building, however as Burgess Hill Town Council would be redeveloping this site by knocking down the RBL building and building the Beehive Community Arts Venue in its place, this £83,000 contribution should instead go towards the cost of the Beehive.

The Committee wished to reiterate their comment that the design would include up to date, modern, appropriate public toilets.

Previous Comments from 30 September 2019 to be reiterated:

'OBSERVATIONS: The Committee wished to raise concerns over the height of the tower block. 11 storeys was out of keeping with the character of the town and the townscape. The application contradicted District Plan Policy DP26 and DP34 as it detracted from St John's Church. The Committee would wish the height to be reduced.

The Committee expressed concerns over the amount of parking, and wished the applicant to follow the parking guidelines in the Neighbourhood Plan. It was noted that using public transport was not always viable, and that the residents of the flats would instead park in the surrounding residential roads if not enough parking was provided. The Committee were concerned that there would not be enough parking for the users and employees of the hotel and leisure facilities. They wished for the applicant to complete a Traffic Flow Assessment, and to model the car park usage and traffic flow. A member of the public noted that the cinemas in Crawley and Brighton had free parking.

The Committee trusted that concerns over potential wind disturbance had been considered.

The Committee expressed concerns over the potential insufficient daylight for the North facing flats.

The Committee wished that the design would include up to date, modern, appropriate public toilets.

The Committee hoped that the applicant would adhere to District Plan Policies DP21 and DP39. It was noted that there was a lack of encouragement for people not to travel by car ' the design should be favourable to pedestrians and cyclists. Concerns were raised over the location of cycle racks. It was suggested that the designs could include charging points for electric vehicles.

The Committee wished to reiterate their previous statement: 'Burgess Hill Town Council will encourage Mid Sussex District Council to ensure that applicants comply with Policy DP39 of

the District Plan and that this is reinforced in any subsequent supplementary design and access statement documents on sustainable development.'

The Committee expressed concerns over the lack of Section 106 contributions. There should be an agreement and a contribution towards the Beehive."

## **MSDC Urban Designer**

### Summary and Overall Assessment

This application follows the 2016 approval (DM/15/3858) for the redevelopment of the Martlets Shopping Centre. While I was supportive in principle of the 2016 scheme because of its regeneration potential, it did not follow the 2007 Burgess Hill Masterplan vision that envisaged a more comprehensive urban design intervention; in particular, land ownership divisions have limited the scope and resulted in the surface car park remaining a dominant feature on the main southern approach and along Station Road. The current proposal shares this deficiency; furthermore, it has a less consistent scale and a less integrated mix of uses than the approved scheme. This is because more of the existing 2 storey structure is being retained along the central pedestrian link, while the residential component along Civic Way has been significantly enlarged including an eleven-storey tower.

However, as before the scheme benefits from a legible layout focussed on a new square and from outward-looking buildings (with residential apartments and hotel rooms as well as shops and cafes that face southwards towards Civic Way and Station Road) that helps announce the town centre and provide improved levels of natural surveillance and activity.

The Design Review Panel (DRP) are also supportive and commended the geometry of the tower and the high standard of the detailing of the residential element that was especially needed because of the size of the building. For this reason, they have recommended that 1:20 scale drawings are submitted to secure the quality of the scheme.

The applicant has now submitted further revised drawings that address concerns raised by both the DRP and I. This includes, improving the articulation and finish of the cinema building and extending the upstand parapet on the hotel roofline that helps to integrate this element.

While the scheme still has deficiencies, these are outweighed by the overall design improvements in relation to the existing buildings/layout and its significant regeneration benefits. For these reasons, I raise no objections to this planning application. However, bearing in mind the DRP's comments, I would recommend conditions requiring further approval of additional drawings/materials for the following:

- Detailed 1:20 scale vignettes including both full elevation and section drawings showing the typical features and detailing for the frontages of block A1 (residential), block A2 (hotel), block B (cinema), unit 1 and a typical unit on the west side of the pedestrian street.
- The "green wall" between the residential tower and block A2 (hotel).
- The eastern flank of block B (cinema) and northern flank of block A2 (hotel)
- The details of the facing materials.
- A detailed soft and hard landscape plan including: (a) measures necessary to address the recommendations of the Wind Study to make the square and the area around the residential tower comfortable to walk and sit; (b) a plan/strategy that demonstrates how the planting of the proposed line of plane trees along the Civic Way frontage will be

coordinated with the underground services and is acceptable to the utility companies; (c) all boundary treatments.

- The design of the kiosk.

### Block A1 - Residential

The residential block is the part of the scheme closest to St John's Church and Conservation Area. My comments do not consider its impact upon their setting as this is dealt with by Emily Wade.

The most prominent element of the scheme is the tower on the southern end of block A1. Although the tower does not perform a public function, it helps to mark the town centre and punctuates the prominent corner in which it sits.

The design of the tower has been significantly improved at the pre-application stage as acknowledged by the DRP. Furthermore, its height and massing has been reduced; it is now helped by being more clearly articulated from the longer residential frontage facing Civic Way. Setting back the upper two floors of the latter has helped reduce its scale along with the subdivision of the frontage into a series of projecting bays.

The base of the Civic Way elevation now accommodates an undercroft car park rather than a library (as proposed in the 2016 consent); while this has a deadening effect on this prominent frontage, it has been mitigated by the following measures: firstly, because the car park is only partially visible as it is at semi-basement rather than ground floor level; secondly, the large number of windows and balconies on the upper levels should provide a good level of natural surveillance and sense of activity. Care has also been taken over the front threshold landscaping and the decorative metal screen that will articulate the apertures in front of the parking.

The north-east elevation successfully addresses the prominent flank return.

### Block A2 - Hotel

The design of the hotel has been improved since the pre-application stage. The main facade now works more comfortably as it incorporates a series of projecting bays that generate a more vertically proportioned elevation that sits well with the adjacent tower despite the height difference. The revised drawings also show a more robust and integrated up-stand parapets on the hotel roofline that should address the DRP's concerns about this element.

Nevertheless, the façade suffers from a lack of coordination (except for the end bays) between the ground floor and the upper floors, which (I understand) is an unfortunate consequence of the retail occupier's requirements.

A window has been added to the two-storey frontage facing the square which accommodates the hotel entrance. However, there is still an unfortunate lack of openings that make it a rather dead frontage on to this key space. The west elevation facing the square is nevertheless fully fenestrated.

The five-storey northern flank also lacks openings, which is also a shame as it will be visible above the retained two storey buildings on the pedestrian street. The revised drawing now at least shows the flank featuring brick detailing but I am recommending this is covered by a condition as little detail has been provided.

The quality of the building will be determined by the depth of the frontage. As well as the flimsy-looking parapet upstands, I also have concerns about the depth of the bay returns and

the window reveals. Further detailed drawings should demonstrate this. Likewise, details are also needed to demonstrate the long-term viability and design of the green wall.

### Block B - Cinema

As with blocks A and B, the articulation of this frontage into a series of projecting bays break-down the scale of this large building and enables it to echo the rhythm of the residential and hotel facades. The employment of a grey metal clad roof should also address the DRP's concerns about avoiding a light colour (as this may make this large building stand-out more in the landscape/townscape from longer views).

Overall it represents an improvement upon the approved scheme, however details are recommended to secure the quality of the main façade.

Furthermore, I still have concerns about the substantial eastern flank which needs more articulation to avoid it looking stark and it would benefit from being more integrated with the main façade. A condition is therefore recommended for this too.

### The Square

The square benefits from being slightly wider than on the consented scheme. The west side provides most scope for seating / dwell space because it is away from the main north south pedestrian axis. Unfortunately, the scope is reduced as access will be needed for building entrances to upper or lower floors that account for almost half of this west side.

Except for illustrations in the DAS, the proposed kiosk is not shown in the drawings. It will need to be carefully designed so that it addresses all 4 sides.

### Pedestrian Street

The building frontages are proposed to be re-clad on the west side that should enable them to integrate better with the new buildings. I am recommending the submission of more detailed 1:20 drawings for this and unit 11.

### Landscaping

The tree-planting strategy is important in softening the scale of the development and screening the car park while helping to define the edge of Civic Way, particularly where there is no building frontage. I support the choice of London Plane trees along the street frontage, because of their appearance, size and robustness; they will work well with the scale of the buildings and spaces while being hardy enough to absorb and withstand the pollutants in this heavily trafficked environment. They will also coordinate with the plane trees along Queen Elizabeth Avenue, and with time will provide an attractive formal approach to the town centre. I nevertheless have concerns because underground services may be an impediment; the applicant will therefore need to demonstrate how they will coordinate the planting with the underground sewer and gas line.

### The Wind Study

The Wind Study states that further mitigation measures are needed to address the conditions in the square and at the base of the tower. As the quality of the environment in and around the square is fundamental to the success of the scheme there is an argument that this information would be better provided as part of the application as it may have a significant impact upon the design. Confusingly, the study recommends a "green wall", which

I understand is referring to the idea of a soft-landscaped buffer and is not to be mixed-up with the "green wall" proposed between the residential and hotel blocks.

### **MSDC Conservation Officer**

The application site is a substantial area to the western side of the commercial centre of Burgess Hill. It is bounded to the west by Civic Way. To the north is the St John's Conservation Area, which includes Grade II\* listed St John's Church, situated just to the north of the site on the opposite side of the road junction between Civic Way, Church Road and Crescent Road. The site is currently partly occupied by 20th century development which is of a low architectural quality and partly by car parking and service yards, with a small amount of soft landscaping. The existing development on the site is relatively low in scale but is of a poor design quality and makes a negative contribution to the setting of the Church and Conservation Area for this reason.

The current proposal is for redevelopment of the site including demolition of the existing multi-storey car park, library and offices, conversion with alterations of the remaining existing buildings and construction of new buildings to provide a new mixed-use development including retail and residential units, a cinema, bowling alley, gym and hotel and associated car parking and landscaping. The area of the site in closest proximity to the heritage assets (Block A1) comprises a residential block of predominantly 7 stories on a tall plinth (the top two stories being recessed), with at the south eastern end addressing the corner of Civic Way a tower block of 11 storeys.

The application replaces the previously granted and still extant permission DM/18/1580, with the exception of the proposed new library building and retail units on the southern corner of Church Walk and The Martlets which are unchanged from the existing permission and therefore excluded from this application. This extant permission does not include the currently proposed tower block element.

St John's Church is a Grade II\* listed building dating from the 1860s. Section 6.10 of the submitted Planning Statement addresses the significance of the setting of the building to its special interest and comments:

'The church's setting contributes significantly to the significance of the heritage asset as its scale and location gives it a prominence befitting of its status as a historic place of worship. Despite the growth of the town around the church throughout the 20th century it remains (a) focal point in the town.'

I would not disagree with the essence of this assessment- the visual prominence of the Church within its setting and the relationship of scale with its surroundings are key features contributing positively to the manner in which its special interest is appreciated. Views of the Church looking north along Church Walk and Civic Way, and from viewpoints within the Conservation Area including from St John's Park and its vicinity, also make a strong contribution to the manner in which its special interest is appreciated.

In making an assessment of impact of the proposal on the setting of the of the listed building I am mindful of the existing permission relating to the site, and also of the poor quality of the existing development on it. Notwithstanding this, the scale of the development now proposed at block A1, including in particular the tower block at its south eastern end, is such that in my opinion there will be a negative impact on the setting of the listed building, including views of it along Civic Way. In particular the current and characteristic visual prominence of the Church will be diminished by the introduction of a building of greater height in close proximity to it.

I would categorise the harm caused to the significance of the asset to be less than substantial, such that the criteria set out in Paragraph 196 of the NPPF would apply. I would note that this less than substantial harm is only partially mitigated and not removed by the design quality and materials of the proposed new development which (subject to detail) would when viewed in isolation of issues of height and scale relate better to the historic asset than the existing development on the site.

The submitted Planning Statement does not consider the impact on the setting of the St John's Conservation Area; however I do consider that this affected by the proposal. The character of this Conservation Area and key features contributing to its significance are identified in the Council's document Conservation Areas in Mid Sussex. The Conservation Area contains some of the oldest buildings in Burgess Hill and two listed buildings (one of which is St. John's Church). It is centred on St. John's Park.

The development site forms a key part of the setting of the Conservation Area and the southern approach to it along Civic Way. At present, for the reasons given above, the development site is considered to detract from this setting. Although the proposal would represent, subject to detail, an improvement to the architectural quality of the buildings on the site, it is considered on balance to detract from the setting of the Conservation Area for reasons of its scale, in particular the that of the tower block forming part of A1. This element of the scheme would be considerably over scaled in relation to the predominant height of the buildings within the nearest part of the Conservation Area, being taller even than the Church spire. The tower would be unduly prominent both in the approach to the Conservation Area along Civic Way and in views into and out of this southern part of the Conservation Area.

In terms of the NPPF I would consider the harm caused to the setting of the Conservation Area to be less than substantial, such that the criteria set out in paragraph 196 would apply.

### **Mid Sussex Design Review Panel**

The panel agreed this scheme was much improved, and was especially helped by the geometry of the tower; the latter now successfully addresses the corner and the level change between Civic Way and the car park. The detailing of the elevations is of a high standard particularly in respect of the residential frontage where deep window reveals are suggested; because of the size of the building this was particularly needed. A similar level of care was required to deliver the elegantly designed balconies shown on the drawings.

The green wall between the tower and the hotel frontage provides an appropriate and much needed punctuation. However, there was concern how achievable this was as something was needed to define this important junction.

The landscaping of the car park and the Civic Way now worked much better. This includes the juxtaposition of the verges and the basement car park, and the relationship of the proposed trees with the buildings, car parking and street edges.

The panel did have the following specific areas of concern:

- The facing materials need to be carefully chosen on the cinema building and the set-back tops of the residential buildings and the cinema; a light colour may make these large buildings stand-out more in the landscape/townscape from longer views.
- The eastern flank of the cinema building needs articulation to avoid it looking stark.
- The up-stand parapets on the hotel roofline look flimsy as drawn and would benefit from return parapets to make them more substantial.

## Overall Assessment

The panel support the scheme but would recommend that 1:20 scale drawings are submitted to secure the detailed finish that underscores the quality of the scheme.

### **MSDC Housing Officer**

The applicant is proposing a mixed scheme which includes 172 new and 16 existing open market residential units. A fully policy compliant scheme would provide 52 new affordable homes based on the 172 new units proposed. A viability appraisal was submitted with the application to demonstrate that the scheme was not capable of supporting any affordable housing. The resulting viability assessment agreed that, at the current time and on the basis of the information provided, the scheme could not viably provide any contribution towards infrastructure costs or affordable housing. The position will need to be re-assessed at a later stage in the project, when more definite information about costs and values will be able to be provided. This requirement will be included in the section 106 agreement.

### **MSDC Community Leisure Officer**

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

#### CHILDRENS PLAYING SPACE

St Johns Park, owned and managed by the Council, is the nearest locally equipped play area approximately 200m from the development site. This facility will face increased demand from the new development and a contribution of £121,224 is required to make improvements to play equipment (£65,883) and kickabout provision (£55,341). These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

#### FORMAL SPORT

In the case of this development, a financial contribution of £144,758 is required toward new playing pitches and ancillary facilities at the Centre for Community Sports site and / or The Triangle leisure centre in Burgess Hill.

#### 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 £83,023 is required toward the refurbishment of the former Royal British Legion Club, Cyprus Road, Burgess Hill

In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the number of units proposed and average occupancy (as laid out in the Council's Development Infrastructure and Contributions 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 Drainage**

### FLOOD RISK

The site is within flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The site is not within an area identified as having possible surface water (pluvial) flood risk.

There are not any historic records of flooding occurring on this site and in this area. This does not mean that flooding has never occurred here, instead, that flooding has just never been reported.

### SURFACE WATER DRAINAGE

No detail has been submitted to show how surface water drainage will be incorporated into the design. However, the Campbell Reith document (Revisions to original BJB Flood Risk Assessment 13176-CRH-XX-XX-RP-C-0002-BJB\_FRAaddendum-P2.doc) does inform that the proposed development will look to utilise the existing public surface water sewers for the discharge of surface water. The addendum also clarifies that it is intended to restrict flows to this system to 30% less than the current brownfield site does. At the time of writing this consultation response, the West Sussex LLFA Policy for the Management of Surface Water requires that run-off should be restricted to no greater than 50% of the pre-developed brownfield rate.

The BGS infiltration potential map shows the site to be in an area with low infiltration potential. Therefore, the use of infiltration drainage such as permeable paving or soakaways may not be to be possible on site, but an infiltration test will be expected to establish this as per the hierarchy of surface water disposal.

Further information into our general requirements for surface water drainage is included within the 'General Drainage Requirement Guidance' section.

### FOUL WATER DRAINAGE

It is proposed that the development will utilise existing public foul sewers.

Further information into our general requirements for foul water drainage is included within the 'General Drainage Requirement Guidance' section.

### SUGGESTED CONDITIONS

#### **C18F - MULTIPLE DWELLINGS/UNITS**

The development hereby permitted shall not commence unless and until details of the proposed foul and surface water drainage and means of disposal have been submitted to and approved in writing by the local planning authority. No building shall be occupied until all the approved drainage works have been carried out in accordance with the approved details. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and management during the lifetime of the development should be in accordance with the approved details.

Reason: To ensure that the proposal is satisfactorily drained and to accord with the NPPF requirements, Policy CS13 of the Mid Sussex Local Plan, Policy DP41 of the Pre-Submission District Plan (2014 - 2031) and Policy ...'z'... of the Neighbourhood Plan.

Dependant on the final drainage design, in order to meet with this condition it is expected that the developer will need to submit:

- Supporting detail drainage layout plans showing the intended drainage design. This should include all drain runs, SuDS and attenuation features, foul drainage arrangements, and any other elements that make up the drainage design.
- Supporting design calculations that show the proposed development can cater for the 1 in 100 year rainfall scenario, plus 40% extra capacity for climate change predictions.
- Supporting design calculations that show the proposed rate of discharge from the attenuation system/s has been restricted to within a range from the greenfield QBar run-off rate to no greater than 50% of the existing brownfield run-off rate. This is in line with the WSCC Policy for SuDS.
- Supporting design sections of any attenuation structures.
- Evidence of communication with the sewerage undertaker agreeing to the proposed connection to, and discharge rates into, the existing public sewer.
- If necessary, evidence of communication with the sewerage undertaker agreeing to any public sewer removal and/or diversion.
- Supporting exceedance flow plan, showing with arrows the direction of surface water flow in the event of rainfall that exceeds the design.
- Supporting final maintenance and management plan that identifies all of the drainage elements, how they will be maintained for the lifetime of the development, who will undertake this work and how it will be funded.

## **MSDC Environmental Protection Officer**

Main Comments:

This application has implications concerning Environmental Health with regards to noise, air quality, odour and light. Comments are separated into the sections below.

### Flexible use classes A1 & A3 (retail, food and drink)

The most significant risks to amenity are likely to be posed by A3 uses. Of particular concern will be the potential impact of clientele noise and noise breakout through any open frontage. Without more detail, it is not possible to advise on the significance of this risk, but given that the premises of concern will be licensed premises, it seems reasonable that the Licensing regime be considered the most appropriate tool to deal with this issue. This should allow the Council to ensure that the intended uses are suitable for the building design and sensitive to the mixed commercial/residential nature of the town centre.

### Cooking Extract system

Full details of the extract systems have not been submitted and as such, the relationship of the flue terminals to residential units and the nature of the odour abatement techniques to be employed is still unclear. I have attached recommended conditions to address both noise and odour.

### Air Quality

The submitted AQ Assessment recommends that dust from the construction phase can be mitigated by good management and mitigation, by way of a planning condition. The operational use has been modelled and the overall impact upon air quality is assessed as negligible. A damage cost calculation has been undertaken in accordance with the Sussex Air Guidance and Defra damage cost values. Accordingly it is recommended that a

mitigation scheme be agreed to the calculated value - however it is noted that there is some crossover with other measures within the scheme such as the travel plan and provision of cycle spaces. Further information has also been requested in order to clarify the potential effects upon the Stonepound Crossroads AQMA.

### Traffic Noise

The acoustic report states that "It would therefore be necessary to have windows closed to achieve reasonable noise levels in accordance with BS 8233:2014. For all properties thermal double glazing which would be provided as a matter of course to meet the thermal requirements of the Building Regulations will be sufficient to ensure internal noise levels are within the guideline values. To enable windows to be closed, alternative means of ventilation shall be provided i.e. acoustic trickle vents, through-wall ventilators."

Environmental Protection accepts that a well-designed scheme can achieve satisfactory internal noise levels but as residential accommodation will not meet accepted noise standards unless windows are kept closed, it is important that the alternative means of ventilation referred to above is implemented. Condition recommended accordingly.

It should be noted that the acoustic background survey was carried out on a Mon & Tues. This is acceptable for road noise but town centre ambient "people noise" has not been assessed. It is requested that further information is supplied to clarify this.

There is also potential for noise from mechanical plant, A3 use, cinema, gym, bowling alley and deliveries.

Environmental Health uses professional standards and guidance (e.g. World Health Organisation Guidelines on Community Noise, BS8233, ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise 2017) to assess whether noise levels are likely to be acceptable.

NPPF recognises the need to protect future residents from potential noise pollution and this is shown in paragraphs 170 and 180. It also recognises the need to protect existing business from the potential impacts of complaints.

Given the size and scope of the project it is understandable that at this stage it is not known precisely what business operations will be involved, or what machinery or plant they may require. Conditions are therefore suggested, in order to ensure that times operated, deliveries and collections, and any plant installed does not impact on existing or proposed residents.

It is recommended that when the proposed development is in its design phase it should be subject to a ProPG Stage 2: Element 2 assessment - seeking to achieve recommended noise levels inside noise sensitive rooms in the new residential development, as a part of a detailed acoustic design statement (ADS) setting out how the numbers and levels of individual noise events are to be controlled within sensitive premises.

### Construction Noise

Construction by its very nature does have noisy phases and will inevitably be noticeable at various stages to various individuals throughout the build. It is therefore sensible to put the onus onto the developers to consider proactive measures to minimise complaints, design their timetable with best practicable means in place, meet with residents and have complaint handling systems in place in order to minimise disruption.

Therefore it is recommended that a Construction Environmental Management Plan (CEMP) is required.

### Light

The Proposed Development is likely to have a variety of lighting requirements, the details of which are not known at this early stage. Lighting within the project should be designed to meet the benchmarks laid out in the ILP Guidance Note 1 for the Reduction of Obtrusive Light 2020. This should be conditioned.

Summary - In our view there are no Environmental Protection issues that cannot be addressed by a suitable condition.

Should the development receive permission, the following conditions are recommended:

1. Soundproofing (Road Traffic): No development shall take place until a scheme for protecting the residential and any other noise sensitive units from noise generated by road traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an Acoustic Design Statement in line with the recommendations of ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise 2017. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L<sub>Amax</sub> when measured in bedrooms internally between 23:00 and 07:00, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation. Noise levels in gardens and public open spaces shall not exceed 55 dB LAeq 1 hour when measured at any period.

Reason: To safeguard the amenity of residents.

2. Plant & Machinery: Unless otherwise agreed in writing, noise associated with fixed plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall achieve at least 5dB below the background noise levels. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. Details of fixed plant or machinery and any mitigation measures required to achieve this standard shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the commercial operation concerned begins operating on site, and thereafter be maintained in accordance with the approved details. Details of post installation testing shall be submitted to the LPA upon request.
3. Deliveries and Collections (operational) - Unless otherwise agreed in writing, no commercial goods or commercial waste shall be loaded, unloaded, stored or otherwise handled, and no commercial vehicles shall arrive or depart, within the application site outside the hours of 07:00 to 20:00, Monday to Friday, and 08:00 to 18:00 on Saturdays and Sundays.
4. Hours of Use - The proposed commercial / industrial units shall only be open to the public between the hours of 07:00 to 23:00 unless otherwise agreed in writing by the LPA.

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

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

Reason: To protect the amenity of local residents.

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

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

Reason: To protect the amenity of local residents.

7. Construction Environmental Management Plan: Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include, amongst other matters details of: measures to monitor and control noise and vibration affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents from noise and dust emissions during construction.

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

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

9. Air Quality: Prior to the commencement of any residential part of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To preserve the amenity of local residents regarding air quality and emissions.

10. Lighting: External lighting at the development hereby permitted shall not be brought into use until a lighting scheme has been submitted and approved in writing by the Local Planning Authority. The lighting scheme installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Note 1 for the Reduction of Obtrusive Light 2020" for Environmental zone E3. Thereafter the

approved installation shall be maintained and operated in accordance with zone E3 requirements unless the Local Planning Authority gives its written consent to a variation.

Reason: To protect the amenity of local residents

11. Odour Control (Cooking): Unless otherwise agreed in writing by the LPA, prior to the use of any business or commercial premises for the cooking of food, measures shall be implemented in accordance with an Odour Control Scheme submitted to, and approved in writing by, the Local Planning Authority, to prevent odour from cooking at the premises affecting neighbouring residential premises.

Informative: The submitted Odour Control Scheme should include an odour "risk assessment" and should be in line with current best practice.

12. Noise Control: Unless otherwise agreed in writing by the LPA, prior to the occupation of the cinema, gym or bowling alley, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall assess the likely risks posed to residential amenity from the emission of noise from the intended use and shall include measures to protect residential amenity. The approved mitigation measures shall be implemented prior to the first use of the unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority.

(Note - Cinema noise management plan (NMP) to align with recommendations in 5.13 and 5.14 of acoustic report, gym NMP to align with 5.15 and 5.16, bowling alley NMP to align with 5.17 to 5.19)

## **MSDC Contaminated Land Officer**

Main Comments:

Having reviewed the application it is noted that no land contamination documents have been submitted with the current application.

However under application DM/15/3858, a Phase 1 Desk Top Study was undertaken by BJB Consulting and the results were presented as report number 2092/DS01. Further to this a Geo-environmental Investigation, by Rogers Geotechnical Services Ltd (ref: J3980/17/E), dated August 2017 was submitted as part of DM/17/4681.

Having re-assessed the report by Rogers Geotechnical Services Ltd I would query whether 4 lab samples taken from two locations are enough to adequately analyse a site of this size. There is the argument that the proposed site is predominantly commercial with hard standing and therefore there are limited pathways for any ground contamination impact on proposed end users.

With regards to the ground gas assessment, I am concerned that one visit, in one location is not enough to adequately analyse the site. It may be necessary to undertake further gas testing, with at least one visit occurring during low atmospheric pressure.

The Rogers Geotechnical Services Ltd report notes that the site is in radon risk area, and that radon protection measures will therefore need to be installed in line with building regulations.

I am happy to speak with Rogers Geotechnical Services to discuss the concerns relating to the current ground investigation report. However in order to allow the application to proceed

in its current format a number of conditions are recommended including further ground investigations.

Recommendation:

1. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site, including the identification and removal of asbestos containing materials, shall each be submitted to and approved, in writing, by the local planning authority:
  - a) A site investigation scheme, based on the BJB Consulting Phase 1 Desk Top Study, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - b) Based on the site investigation results and the detailed risk assessment (a) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  - c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

2. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified, unless otherwise agreed in writing with the Local Planning Authority. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings along with details of any remedial action required (including timing provision for implementation), has been submitted to and approved in writing by the Local Planning Authority. The development shall only then be recommenced in accordance with the approved details.

### **MSDC Ecology Consultant**

In my opinion, there are no biodiversity policy reasons for refusal or amendment of the proposals, subject to the following conditions:

The recommendations in the Ecological Impact Assessment report by Ecosa (August 2019) shall be implemented in full unless otherwise approved in writing by the local planning authority and there shall be no occupation until evidence of compliance with these recommendations has been submitted to, and approved by, the local planning authority.

Reason: To protect wildlife (nesting birds) and provide biodiversity enhancements in accordance with policy DP38 of the Mid Sussex District Plan and para 175 of the NPPF.

### **WSCC Highways**

The highway authority has no objection to the application, subject to conditions. The authority has previously commented on a variety of matters (9 October 2019) and these have to a large extent been resolved with the developer's consultants.

The authority is aware of amendments to the application concerning one extra home and alterations to building facades. These have no impact as far as highways and transport are concerned.

We have previously reviewed the agent's letter regarding highways dated 22 April 2020 and commented informally to the planning authority. In short, we do not consider that there are any identified outstanding issues which cannot be resolved through condition or through negotiation during discharge of conditions. The points in the agent's letter have been further clarified in another letter dated 19 June 2020.

Our response to the current planning consultation is based on the headings set out in that letter.

### Parking spaces

75, rather than 72, parking spaces are now to be provided for the proposed homes, equating to a site total of 240 spaces. The authority has no issue with this small increase, which will not result in a noticeable increase in car trips. The applicant has already demonstrated (see below) that there is sufficient parking capacity in town centre car parks and in surrounding streets to allow for the impact of the development.

The developer has carried out a survey of on-street parking availability in agreement with the authority. The survey showed that there were a total of 503 unrestricted parking spaces within the survey area and the highest surveyed parking demand across the whole area was 367 spaces at 12:00 on Thursday 12th March, which equates to 73% occupancy.

The assessment showed that with the calculated increase to on-street parking as a result of the development, the highest parking demand for Burgess hill would be 384 vehicles at 12:00 on Thursday, which equates to 76% of available capacity.

### Improved bus services

While it is recognised that actual provision of bus services may not be appropriate in connection with the development, the applicant proposes improvements to the bus stop on the east side of Civic Way. This includes the provision of real-time passenger information (RTPI). The developer should ensure that liaison takes place with the Town Council on their programme for RTPI.

### Improvements to Waitrose junction

The proposed improvements appear to have been the subject of an existing road safety audit, which did not find any issues. A Section 278 highway agreement will be needed to carry out this and other proposed works, and further alterations may be required at detailed design stage.

### Northern pedestrian and cycle crossing

This proposed improved crossing point is acceptable in principle, subject to detailed design and the possible provision of a road safety audit. The crossing will need to be included in the Section 278 works.

### Signage

The authority welcomes the proposed additional signage. Liaison with the local highway manager will be required prior to implementation.

### Cycle hub

The proposed hub at the north-western end of Church Walk should be secured through a Section 106 planning agreement. The authority will expect full public consultation on the proposal prior to implementation and the developer should expect the detailed design of the hub to be subject to approval by the authority.

### Additional cycle parking

The increase from 192 to 206 cycle parking spaces is welcomed. It would be preferable if all spaces could be at least partially weatherproof and demonstrate that full consideration has been given to security. The authority will require approval under a condition of the provision.

### Electric vehicle charging points

The proposal to provide charging points will need to be subject to a planning condition to ensure that it meets current County Council standards.

### Crossing point adjacent to The Brow

The crossing point has been deleted from the proposed highway works for rational safety reasons, and the authority agrees.

### Conclusion

Work has been carried out by the developer to ensure that the proposal fits in with sustainable transport aspirations and plans for Burgess Hill as a whole. The highway authority welcomes the proposed alterations to transport-related works. The developer should ensure that full liaison is carried out with all interested parties prior to and during their implementation.

### Section 106 agreement requirements

A Total Access Demand (TAD) contribution of £204,053.00 is payable on the residential element of the development. This is to be reduced by subtracting the estimated cost of the cycle hub only of £20,000.00. The authority will also separately require provision of the proposed cycle hub in the S106 agreement, to a specification to be agreed but based round the description of the scheme in the WSP letter to the district council dated 22 April 2020.

The residue of the TAD contribution will be allocated to public realm and connectivity improvements in Burgess Hill Town Centre, in general accordance with the area's Local Transport Investment Plan 2016.

### Conditions

#### Highway works

No part of the development shall be first occupied until such time as a timetable covering the construction of the vehicular, non-vehicular accesses and other transport-related works, including bus stops, has been submitted to and approved in writing by the Local Planning Authority. The accesses shall thereafter be constructed in accordance with the approved timetable and the details shown on the drawings 0307-PO2 and 0311-PO4.

Reason: In the interests of road safety and sustainable transport provision.

### Car parking space

No part of the development shall be first occupied until the car parking spaces have been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These spaces shall thereafter be retained at all times for their designated use.

Reason: To provide car-parking space for the use.

### Electric Vehicle Charging Spaces

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

Reason: To provide sustainable travel options in accordance with current sustainable

### Cycle parking

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

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

### Turning space

No part of the development shall be first occupied until the vehicle turning space has been constructed within the site in accordance with the approved site plan. This space shall thereafter be retained at all times for their designated use.

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. The approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide the following details as a minimum:

- 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.

## Travel Plan

No part of the development shall be first occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the approved document. The Travel Plan shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

Reason: To encourage and promote sustainable transport.

## Servicing Management Plan

No part of the retail development shall be first occupied until such time as until a Servicing Management Plan for has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Plan.

Reason: To safeguard the operation of the highway.

## Summary of previous comments dated 9th October 2019

There is no issue with the principle of the development.

However, there is a need to address the impact of the development on on-street parking. Also, sustainability is only partially evidenced in the accompanying transport assessment, while at the same time the assessment makes great play of the sustainable credentials of the site. In particular, the travel plan the, the role of on-street parking and the role of buses in serving the development need further attention.

## **WSCC Lead Local Flood Authority**

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water drainage.

The following is the comments of the LLFA relating to surface water drainage and flood risk for the proposed development and any associated observations, recommendations and advice.

### Flood Risk Summary

Current surface water flood risk based on 30year and 100year events; Low/moderate risk

Comments: Current surface water mapping shows that the majority of the proposed site is at low risk from surface water flooding although there are a few small pockets of higher risk on site.

This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.

Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.

Reason: NPPF paragraph 163 states - 'When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.'

Modelled groundwater flood hazard classification; Low/moderate

Comments: The area of the proposed development is shown to be at low/moderate risk from groundwater flooding based on current mapping. This risk is based on modelled data only and should not be taken as meaning that the site will/will not suffer groundwater flooding.

Ground water contamination and Source Protection Zones.

The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.

Ordinary Watercourses nearby? No

Comments: Current Ordnance Survey mapping shows no ordinary watercourses in close proximity to the site.

Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around or across the site. If present these should be maintained and highlighted on future plans.

Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.

Records of any historic flooding within the site? No

Comments: We do not have any records of historic surface flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.

Future development - Sustainable Drainage Systems (SuDS)

The Flood Risk Assessment included with this application states that permeable paving and below ground attenuation with a restricted discharge to the main sewer, would be used to control the surface water runoff from the site.

In line with Defra's non-statutory technical standards for sustainable drainage systems, for a brownfield site such as this, the peak runoff rate and runoff volume should be as close as reasonably practicable to the Greenfield runoff rate/volume from the development for the same rainfall event. If this is not possible, significant betterment, at least 50% reduction in rate from the peak pre-redevelopment rate, should be achievable.

It is recommended that this application be reviewed by the District Council Drainage Engineer to identify site specific land use considerations that may affect surface water management and for a technical review of the drainage systems proposed.

Development should not commence until finalised detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, for the development have been submitted to and approved in writing by the Local Planning Authority. The drainage designs should demonstrate that the surface water runoff generated up to and including the 100 year, plus climate change, critical storm will not exceed the run-off from the current site following the corresponding rainfall event.

Development shall not commence until full details of the maintenance and management of the SuDS system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

## WSCC Infrastructure

### Summary of Contributions

<b>Education</b>			
School Planning Area	Burgess Hill		
Population Adjustment	266.8		
	Primary	Secondary	6th Form
Child Product	0.6840	0.6840	0.3694
Total Places Required	4.7880	3.4200	0.7387
<b>Library</b>			
Locality	Burgess Hill		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£44,414		
Contribution towards East Grinstead/Haywards Heath	£0		
Population Adjustment	266.8		
Sqm per population	30/35		
<b>Waste</b>			
Adjusted Net. Households	172		
<b>Fire</b>			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
<b>TAD- Transport</b>			
Net Population Increase	266.8		
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>	£90,651
<b>Education - Secondary</b>	£97,566
<b>Education - 6<sup>th</sup> Form</b>	£22,855
<b>Libraries</b>	£44,414
<b>Waste</b>	No contribution
<b>Fire &amp; Rescue</b>	No contribution
<b>No. of Hydrants</b>	secured under Condition
<b>TAD</b>	£184,053
<b>Total Contribution</b>	<b>£439,539</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 3rd 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 in the National Planning Policy Framework, 2019.

The CIL Regulations 2010 (as amended by the CIL amendment Regulations 2019) came into force on 1st 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 1st April 2020 West Sussex County Council will implement a S106 monitoring fee of £200 per trigger, per year of monitoring. Financial triggers are monitored for an average of three years and will therefore produce a fee of £600 per trigger, with non-financial triggers taking around six years to fulfil and therefore costing £1200.

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 172 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 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 2021. 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 St Wilfrid's Catholic 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 expansion of the facilities at Burges Hill Library.

The contributions generated by this proposal shall be spent on public realm and connectivity improvements in Burgess Hill Town Centre plus Highway Works consisting of a cycle hub as outlined in the applicant's letter submitted alongside the transport assessment.

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 the need for appropriate indexation arrangements in relation to financial contributions.

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 2020/2021, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

- Primary Schools: £18,933 per child
- Secondary Schools: £28,528 per child
- Sixth Form Schools: £30,939 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

WSSC estimated cost of providing relatively small additions to the floorspace of existing library buildings is £5,549 per square metre. This figure was updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index for the 2020/2021 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 WSSC's estimated cost of providing transport infrastructure per vehicle Infrastructure cost multiplier. The Infrastructure cost multiplier as at 2020/2021 is £1,450 per parking space.

Infrastructure contributions = Car parking spaces x Cost multiplier

b) 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 (£724).

Sustainable transport contribution = (net car parking - occupancy) x 724

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

## Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

## **South Downs National Park Authority**

The proposal site is located within the built-up area in the centre of Burgess Hill, and located almost 2km from the National Park Boundary.

Given the site's location it is not considered that there would be any impacts on the National Park.

## **Southern Water**

Please find attached a plan of the Southern Water records showing the approximate position of foul and surface water sewer crossing the site. The exact position of the foul sewer and surface water sewer must be determined on site by the applicant before the layout of the proposed development is finalised.

It might be possible to divert the foul and surface water sewers, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

Please note:

- The 375mm, 300mm, 225mm and 150mm diameter foul sewers requires a clearance of 3 metres on either side of the sewer to protect it from construction works and allow for future access for maintenance. No development or new tree planting should be located within 3 metres on either side of the external edge of the foul sewers.
- The 450 mm diameter surface water sewer requires a clearance of 3.5 metres on either side of the sewer to protect it from construction works and allow for future access for maintenance. No development or new tree planting should be located within 3.5 metres on either side of the external edge of the surface water sewers.
- The 375mm and 225mm diameter surface water sewer requires a clearance of 3 metres on either side of the sewer to protect it from construction works and allow for future access for maintenance. No development or new tree planting should be located within 3 metres on either side of the external edge of the surface water sewers.
- No new soakaways should be located within 5 metres of foul and surface water sewers.
- No development or new tree planting should be located within 3 metres on either side of the external edge of the foul sewer and surface water sewer respectively.
- All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works

Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

In order to protect and divert drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example, "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to protect and divert the public sewers, prior to the commencement of the development."

Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network.

This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water.

Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme.

Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

It may be possible for some initial dwellings to connect, pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required.

Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (if any) and to design such works in the most economic manner to satisfy the needs of existing and future customers.

Our assessment of the timescales needed to deliver network reinforcement will consider an allowance for the following:

- Initial feasibility, detail modelling and preliminary estimates.
- Flow monitoring (if required)
- Detail design, including land negotiations.
- Construction.

Southern Water hence requests the following condition to be applied:

Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development.

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, 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.

The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

The design of drainage should ensure that no land drainage or ground water is to enter public sewers network.

The design of the proposed basements and on-site drainage system should consider the possibility of surcharging within the public sewerage system in order to provide the protection from the risk of flooding.

The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage 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 Sewers for Adoption standards 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.

### **Gatwick Airport**

The proposed amendments have been examined from an aerodrome safeguarding perspective and do not conflict with safeguarding criteria. We, therefore, have no objections.

### **Sussex Police**

Thank you for your correspondence of 20th September 2019, advising me of a full planning application for the demolition of multi-storey car park, public library and offices. The conversion of existing buildings and erection of new buildings to provide, additional retail floor space (Classes A1 and A3), residential units (Class C3) with under-croft car parking, a multiscreen cinema (Class D2), bowling alley (Class D2), gymnasium (Class D2), a hotel (Class C1), the reconfiguration and expansion of existing public car park, amendments to the site access, public realm improvements including landscaping, and other associated works (revision of DM/15/3858 and DM/18/1580). (Amended plans received 19th June including one additional residential units, design amends and additional transport information)

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments.

I note from the application form submitted in support of this application that the amendments relate to one additional residential unit, design amends and additional transport information.

From a crime prevention perspective I have no further crime prevention advice at present other than my previous comments within PE/MID/19/25/A dated 08/10/2019 which remain extant.

Given the size of the multi-use development, I would encourage the applicant and their agent to reflect the following attributes of safe, sustainable places within the final design and layout.

These are;

- Access and movement - places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security,
- Structure - places that are structured so that different uses do not cause conflict.
- Surveillance - places where all publicly accessible spaces are overlooked.
- Ownership - places that promote a sense of ownership, respect, territorial responsibility and community.
- Physical protection - places that include necessary, well designed security features.
- Activity - places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- Management and maintenance - places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

I look forward to providing more in-depth comments at reserved matters.

I thank you for allowing me the opportunity to comment.

The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. With the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should be considered.

The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

This letter has been copied to the applicant or their agent who is asked to note that the above comments may be a material consideration in the determination of the application but may not necessarily be acceptable to the Local Planning Authority. It is recommended, therefore, that before making any amendments to the application, the applicant or their agent first discuss these comments with the Local Planning Authority.

### **Mid Sussex and Horsham CCG**

As you may be aware, Horsham & Mid Sussex Clinical Commissioning Group (CCG) are the GP-led statutory NHS body responsible for planning, commissioning and monitoring the majority of local health services in the Horsham & Mid Sussex area. (CCGs having been created following the Health & Social Care Act 2012 and replaced Primary Care Trusts on 1st April 2013).

Horsham & Mid Sussex CCG cover the entirety of Mid Sussex District Council's catchment area and the above planning application would be on land which is within the area served by The Brow Surgery Burgess Hill. Should a planning consent be given then the domestic apartment aspect would create a potential further 266 new residents/patients.

In this respect, the council will be aware of the capacity pressures which the Brow Surgery are already coping with and their quest to relocate to more suitable accommodation within Burgess Hill town centre. Indeed, MSDC's letter of support to Dr Karen Eastman of The Brow Surgery of this endeavour dated 12th February 2015 backing the surgery's project was greatly appreciated.

In the circumstances, we therefore consider that a Section 106 application for a developer contribution towards NHS Healthcare capital infrastructure improvements to be entirely appropriate, for the domestic flats/apartment element of the wider regeneration planning application only.

In calculating our requirement, we utilise currently available West Sussex average occupancy figures, agreed with West Sussex County Council and use the Senior District Valuer's approved formula.

Overall, all potential new residents will utilise some or all of the health services the CCG commissions and will put further pressure on medical services generally. We are also mindful that new housing developments do not disadvantage the health services for existing residents/patients.

Accordingly, we are seeking a Section 106 developer contribution of £125,029 on a pro rata basis (This equates to an average of £731 per dwelling).