

MID SUSSEX DISTRICT COUNCIL

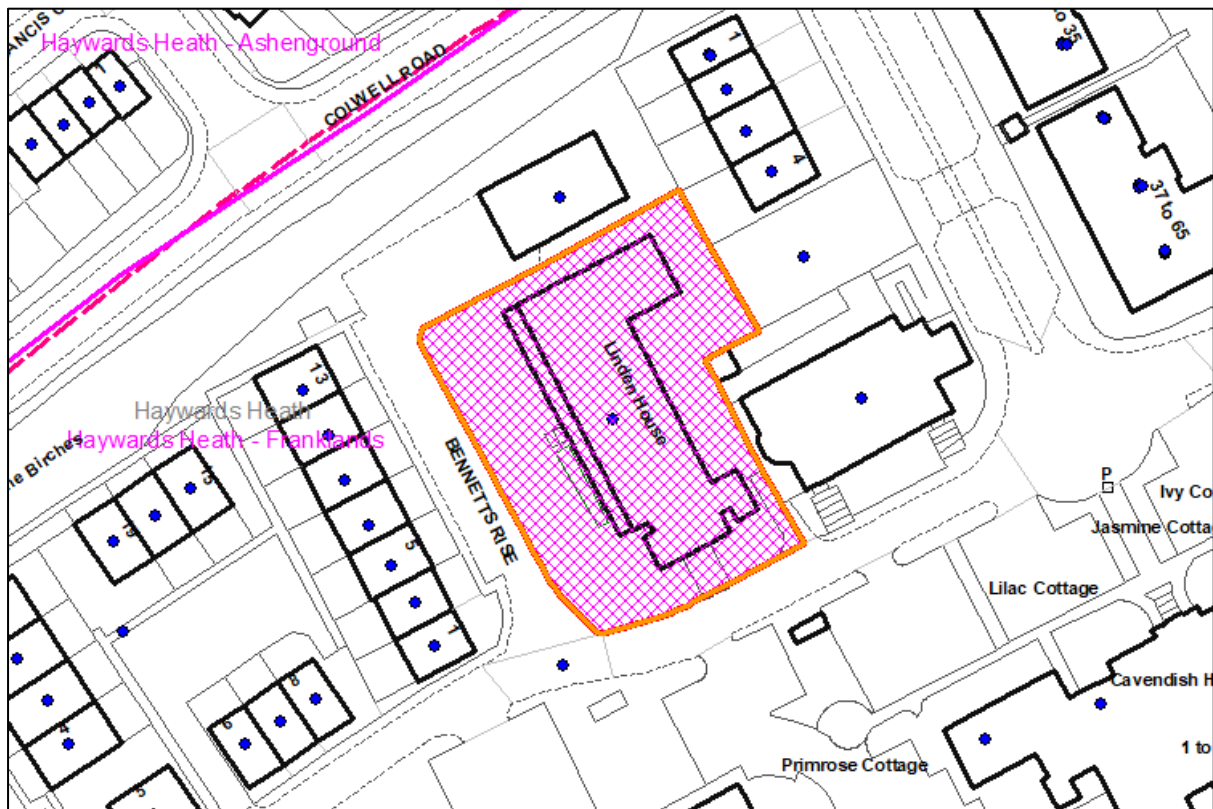
Planning Committee

**24 SEP 2020**

RECOMMENDED FOR PERMISSION

**Haywards Heath**

**DM/18/0421**



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**LINDEN HOUSE SOUTHDOWNS PARK HAYWARDS HEATH WEST  
SUSSEX  
DEMOLISH EXISTING VACANT BUILDING AND ERECT 14 UNIT  
APARTMENT BLOCK.  
MR MARK HIBBERT**

POLICY: Built Up Areas / Planning Agreement / Planning Obligation / /  
Supplemental Planning Agreement / SWT Bat Survey

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 20th December 2019

WARD MEMBERS: Cllr Rod Clarke / Cllr Michael Pulfer /

CASE OFFICER: Joseph Swift

## **PURPOSE OF REPORT**

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

## **EXECUTIVE SUMMARY**

This application seeks outline consent with access being the only reserved matter for the demolition of existing vacant building and erection of a 14 unit apartment block at Linden House, Southdowns Park, Haywards Heath.

This application was taken to committee on the 19th December 2019 where it was resolved to approve the application. Since that resolution it has come to light that the infrastructure contributions were not correct and the applicants solicitor had questioned the clarity on what would be required in the viability review. As such the application is returning to committee to clarify these matters.

The application site is designated within the Mid Sussex District Plan as being within the built up area boundaries of Haywards Heath where the principle of development accords with Policies DP4 and DP6 of the Mid Sussex District Plan.

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

National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

Weighing in favour of the scheme is that the development will provide 14 additional residential units in a sustainable location at a time where there is a general need for Local Authorities to boost significantly the supply of housing and this should be given positive weight. The New Homes Bonus is a material planning consideration and if permitted the Local Planning Authority would receive a New Homes Bonus for the units proposed.

There will be a neutral impact in respects of a number of issues, such as design, neighbouring amenities, drainage, sustainable construction, contaminated land, space standards, biodiversity, parking, including the impact on the Ashdown Forest.

Weighing against the scheme is the proposal would cause less than substantial harm to the setting of the Listed Buildings. In addition the proposal has been found to not be viable if it has to provide affordable housing or infrastructure contributions.

Owing to the fact that the proposal is replacing an existing vacant and dilapidated building, pulling the building away from the Listed Building, while matching in with the design of similar sized new blocks constructed as part of the wider Southdowns Park development, it is considered to be at the lower end of the scale of less than substantial.

The proposal will be utilising a brownfield site, within the built up area boundaries of Haywards Heath and would be providing 14 residential units within a sustainable location while also generating economic benefits, through the new homes bonus, and additional spending from future residents and jobs during construction it is considered on balance the public benefits are considered to outweigh the identified harm.

For the above reasons, the proposal is deemed to comply with Policies DP4, DP6, DP17, DP21, DP26, DP27, DP29, DP34, DP38, DP39 and DP41 of the Mid Sussex District Plan, Policies E8, E9, E13, T1, T3 and H8 of the Haywards Heath Neighbourhood Plan, The Mid Sussex Design Guide SPD and the objectives of the National Planning Policy Framework. It is therefore the Officers recommendation that the application is approved subject to the completion of a S106 to secure a viability review.

#### **RECOMMENDATION A**

It is recommended that planning permission is granted subject to the conditions set out in Appendix A and to the completion of the S106 agreement to secure a viability review on the sale of 75% of the units for infrastructure contributions and affordable housing.

#### **Recommendation B**

It is recommended that if the applicants have not submitted a satisfactory signed S106 Legal Agreement/or legal undertaking securing the viability review for the infrastructure payments and affordable housing provision by the 24th December 2020, then permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reason:

1. 'The application fails to comply with policies DP20 and DP31 of the Mid Sussex District Plan in respect of the infrastructure required to serve the development and the required affordable housing.'

## **SUMMARY OF REPRESENTATIONS**

### **Haywards Heath Society:**

The society supports the proposal provided the appropriate percentage of affordable housing is supplied by the developer. The society expects MSDC to impose conditions which protect local neighbours during demolition and construction after development is complete.

12 letters of representation have been received raising the following issues:

- Noise and disturbance
- Dust and dirt
- Parking
- Loss of existing attractive building/architectural merit
- Damage to Bennetts Rise
- Asbestos within the original building
- Rats
- Drainage
- Loss of outlook
- Not sympathetic to the surroundings
- Highway safety
- Lack of affordable housing
- Site safety
- Existing roof beginning to collapse (safety concern)

## **SUMMARY OF CONSULTATIONS (full comments in appendices)**

### **Urban Designer:**

While this is an outline application, only access is reserved with approval being sought for appearance, landscaping, layout and scale. The proposed building is an unconvincing pastiche that unsatisfactorily articulates this substantial building and lacks the finesse and architectural interest of the existing building. At 4 rather than 3 storeys it is substantially larger than the existing building and will inappropriately impose upon its surrounds including the adjacent listed buildings and the modest 2 storey houses opposite. I therefore object to this planning application.

### **West Sussex County Council Highways:**

In principle, there are no particular highway concerns.

### **Street Naming and Numbering:**

Info 29

### **Environmental Protection:**

No objections subject to conditions.

### **Contaminated Land Officer:**

Approve with conditions.

**Leisure Officer:**

Contributions required towards children's playing space, formal sports and community buildings.

**Drainage Officer:**

No objections subject to conditions.

**Conservation Officer:**

I would consider the harm caused to the setting of the listed buildings and the manner in which their special interest is appreciated to be less than substantial, such that the criteria set out in paragraph 196 of that document would apply.

**Ecology Officer:**

In conclusion, therefore, and subject to the public interest test, I am of the view that more thorough survey information could wait until the reserved matter submission.

**Haywards Heath Town Council:**

Acknowledging that previous applications have set a precedent for the development of this site, the Town Council supports this latest application in principle, subject to compliance with conditions.

**Housing Officer:**

Indeed even if no section 106 costs are payable and no affordable housing provided the scheme as it currently stands will not result in a 17.5% profit.

**WSCC Flood Risk Management:**

No Objections.

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**INTRODUCTION**

This application seeks outline consent for the demolition of existing vacant building and erection of a 14 unit apartment block at Linden House, Southdowns Park, Haywards Heath. Access is the only matter reserved for future approval and thus the details of the appearance of the building, landscaping, layout and scale are subject of this application.

This application was taken to committee on the 19th December 2019 where it was resolved to approve the application. Since that resolution it has come to light that the Infrastructure contributions were not correct and the applicants solicitor had

questioned the clarity on what would be required in the viability review. As such the application is returning to committee to clarify these matters.

## **RELEVANT PLANNING HISTORY**

The wider Southdowns Park has been subject to a number of planning applications. In respect of the site subject of the current application, it was resolved to grant consent in 2011 for:

11/00518/FUL: Conversion of existing building to provide 13 no. new units. Change of use from C2 (Hospital) to C3 (Residential). Provision of 30% affordable housing subject to further discussion with Mid Sussex District Council Enabling Manager.

However, the legal agreement was never completed and the application was not proceeded with.

## **SITE AND SURROUNDINGS**

Linden House is an imposing 3-storey building that is located on the northern side of the internal spine road, serving the Southdowns Park development, between Ashurst and The Chapel. The building was previously used in association with the hospital but has remained vacant for a number of years and occupies an elevated position on a grassed plateau. The building, in the main, is attractive and has a distinct character that differs from other buildings within the vicinity.

Immediately to the north of the building is the site office serving the current development (which will be removed from site), beyond which lies a tree belt to Colwell Road.

To the east of the Linden House is The Chapel a grade II Listed Building, which is occupied by a day nursery that has its outdoor space to the rear. A mature Monterey Pine, which has a Tree Protection Order (TPO), is located between The Chapel and four properties known as the Elms, which were converted under planning permission 09/02267/FUL.

To the west of the Linden House is Ashurst, which has been converted to 5 dwellings, with a further two allowed on appeal, constructed on its southern end. Between the Linden House and Ashurst, is a newly created access road that serves a parking area at its northern end.

To the south lies the internal spine road for the Southdowns Park development, with parking areas and the main listed building beyond.

The application site is designated as being within the built up area boundaries of Haywards Heath and is within the setting of the Grade II Listed Buildings The Chapel and Southdowns Park.

## **APPLICATION DETAILS**

This application seeks outline consent for the demolition of existing vacant building and erection of a 14 unit apartment block at Linden House, Southdowns Park, Haywards Heath. Access is the only matter reserved for future approval and thus the details of the appearance of the building, landscaping, layout and scale are subject of this application.

The existing building to be demolished measures some 36.5 metres in width, by a maximum of 19 metres in depth with an eaves height of 9.2 metres and an overall height of 13.7 metres. The existing building is three storey in height, it is a distinctive building with a number of attractive features. However it has remained vacant for a number of years and its condition is deteriorating .

Plans show that the proposed dwelling would measure some 36.5 metres in width, by 15 metres in depth, with an eaves height of 10.7 metres and an overall height if 14.8 metres. The proposed replacement building would be four storeys in height, the plans show that the proposal is to be constructed of a slate roof, facing brickwork with red brick banding and timber sash windows. 14 parking spaces are to be provided to the western (front) of the building and the proposal would provide a bin store and cycle store to the eastern (rear) of the replacement building.

The proposed building will be moved west slightly, providing a larger gap of 13 metres from the Grade II Listed Building, The Chapel, while maintaining a distance of 21 metres to the dwelling to the western (front) of the proposed building and a distance of 21 metres from The Elms to the eastern (rear) elevation.

The proposal would provide 14 units in total, with ground floor, first floor and second floor each providing 4x 2 bedroom units and the third floor providing 2x 3 bedroom units.

The application has already been approved by planning committee. However, it has been brought back to planning committee to correct the infrastructure contributions required by WSCC, as these were calculated at a rate for houses rather than flats, as such a revised Infrastructure contributions are required as set out within Appendix B and the infrastructure section of this report. In addition, it is to make it clear to members that the viability review at the sale of the 75 per cent of the units is a mechanism for applications where policy requirements are not met in full at the time permission is granted.

As set out within the development viability SPD:

*'A viability review will determine whether a development is capable of providing additional affordable housing or meeting other unmet policy requirements, deemed unviable at planning application stage through the Submission VA'*

As such the viability review is to assess if the proposal is capable of providing affordable housing as set out within Policy DP31 of the District Plan and Infrastructure Contributions as set out within Policy DP20 of the District Plan.

## **LIST OF POLICIES**

## **Mid Sussex District Plan 2014-2031**

The Mid Sussex District Plan 2014-2031 was adopted by Full Council on 28 March 2018. Relevant policies include:

Policy DP4: Housing  
Policy DP6: Settlement Hierarchy  
Policy DP17: Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)  
Policy DP20: Securing Infrastructure  
Policy DP21: Transport  
Policy DP26: Character and Design  
Policy DP27: Dwelling Space Standards  
Policy DP29: Noise, Air and Light Pollution  
Policy DP30: Housing Mix  
Policy DP31: Affordable Housing  
Policy DP34: Listed Building  
Policy DP38: Biodiversity  
Policy DP39: Sustainable Design and Construction  
Policy DP41: Flood Risk and Drainage

## **Haywards Heath Neighbourhood Plan (Dec 2016)**

Mid Sussex District Council formally 'made' the Haywards Heath Neighbourhood Plan part of the Local Development Plan for the Haywards Heath Neighbourhood Plan area as of 14 December 2016. The policies contained therein carry full weight as part of the Development Plan for planning decisions within the Haywards Heath Neighbourhood Plan area.

Relevant policies include:

Policy E6: Green Infrastructure  
Policy E7: Sustainable Drainage Systems  
Policy E8: Sustainable Design  
Policy E9: Local Character  
Policy E13: Amenity Space  
Policy T1: Pedestrian and Cycle Connections  
Policy T2: Funding of Cycle Routes  
Policy T3: Parking Provision  
Policy H8: Housing Development within the Built up Area Boundary

Development Infrastructure and Contributions Supplementary Planning Document (Jul 2018)

Affordable Housing Supplementary Planning Document (Jul 2018)

Development Viability SPD (July 2018)

## **Design Guide SPD**

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. 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.

## **National Policy and Legislation**

### *National Planning Policy Framework (NPPF) (February 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 objective, a social objective and an environmental objective. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently. 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 proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

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.

## **National Planning Policy Guidance**

### **Technical Housing Standards: Nationally Described Space Standard (Mar 2015)**

## **ASSESSMENT**

The main issues for consideration are:

- The principle of development;
- The design and visual impact;

- Impact on the setting of the Listed Building;
- The impact on neighbouring amenity;
- Highways matters;
- Drainage;
- Land contamination;
- Sustainability;
- Biodiversity;
- Habitats Regulations;
- Infrastructure contributions;
- Affordable housing;
- Standard of accommodation; and
- Planning Balance and Conclusion

### **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 application,*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations."*

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

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

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

Using this as the starting point, the development plan in this part of Mid Sussex consists of the Mid Sussex District Plan (2018) together with the Haywards Heath Neighbourhood Plan (2016).

The District Plan has been adopted and the Council can demonstrate a 5 year supply of deliverable housing land. The balance to be applied in this case is therefore a non-tilted one.

The site falls within the built-up area of Haywards Heath as designated in the Mid Sussex District Plan and Haywards Heath Neighbourhood Plan.

Policy DP4 of the District Plan identifies a minimum District housing requirement of 16,390 dwellings between 2014 and 2031. It sets out a spatial strategy of focusing the majority of housing at Burgess Hill, with the remainder as sustainable developments elsewhere. To this end, a settlement hierarchy has been developed which identifies five categories of settlement within Mid Sussex.

Haywards Heath is identified in this policy as a Category 1 settlement, the largest settlement category in Mid Sussex. Category 1 settlements are defined in Policy DP6 of the District Plan as a "Settlement with a comprehensive range of employment, retail, health, education leisure services and facilities. These settlements will also benefit from good public transport provision and will act as a main service centre for the smaller settlements."

Policy DP6 states (in part):

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

*"The growth of settlements will be supported where this meets identified local housing, employment and community needs."*

The site is considered suitably sustainable in location and the proposal is considered to be of an appropriate nature and scale within the built up area. Therefore the proposal accords in principle with the broad aims of the Mid Sussex District Plan, specifically Policies DP4 and DP6. The District Plan itself is deemed to be reflective of the aims of the NPPF. At Neighbourhood Plan level, Policy H8 is relevant and states:

*"Policy H8: Housing Development within the Built up Area Boundary - Housing development within the Haywards Heath built-up area boundary, as defined, will be permitted including infill development and change of use or redevelopment to housing where it meets the following criteria:*

- *The scale, height and form fit unobtrusively with the existing buildings and the character of the street scene.*
- *Spacing between buildings would respect the character of the street scene.*
- *Gaps which provide views out of the Town to surrounding countryside are maintained.*
- *Materials are compatible with the materials of the existing building.*
- *The traditional boundary treatment of an area is retained and, where feasible reinforced.*
- *The privacy, daylight, sunlight and outlook of adjoining residents are safeguarded."*

It is considered that the proposal also meets the criteria within this policy.

Thus, the principle of this development is deemed acceptable in line with the above development plan policies and the NPPF.

## **Design and visual impact**

Policy DP26 of the District Plan states:

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

- *is of high quality design and layout and includes appropriate landscaping and greenspace;*
- *contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance;*
- *creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;*
- *protects open spaces, trees and gardens that contribute to the character of the area;*
- *protects valued townscapes and the separate identity and character of towns and villages;*
- *does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);*
- *creates a pedestrian-friendly layout that is safe, well connected, legible and accessible;*
- *incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed;*
- *positively addresses sustainability considerations in the layout and the building design;*
- *take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre; larger (300+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- *optimises the potential of the site to accommodate development."*

A similar ethos is found within Policy E9 of the Haywards Heath Neighbourhood Plan which states:

*"Policy E9: Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site. This will include having regard to the following design elements:*

- *height, scale, spacing, layout, orientation, design and materials of buildings,*
- *the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,*
- *respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,*

- *creates safe, accessible and well-connected environments that meet the needs of users,*
- *Will not result in unacceptable levels of light, noise, air or water pollution,*
- *Makes best use of the site to accommodate development,*
- *Car parking is designed and located so that it fits in with the character of the proposed development.*

*Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character."*

Principle DG38 of the Mid Sussex Design Guide SPD (Design buildings with architectural integrity and a sense of place) States:

*'Applicants should establish an architectural approach and identity in the design of building that is borne from the place.*

*The facade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings. However, this should not result in pastiche replicas of traditional buildings. Instead a re-interpretation of key aspects of their form should be demonstrated.*

*Good architecture involves the successful co-ordination of proportions, materials, colour and detail. Buildings should therefore be holistically designed with each part in harmony with its whole while appropriately responding to both its context and modern living requirements. This includes:*

*The elevational treatment and overall façade design;  
The placement, proportions and design of windows, doors and balconies;  
A roofscape and form that creates a harmonious composition and minimises the visual impact of downpipes and guttering;  
The appropriate incorporation of dormer windows and chimneys;  
An appropriate palette of good quality materials that are preferably locally sourced.'*

The Council's Urban Designer has raised concerns about the proposal, as he is of the opinion that the proposed building does not have the finesse and architectural interest of the existing building, it is 4 storey instead of 3 making it substantially larger than the existing building.

It is not considered that the proposed building will appear substantially larger than the existing building, with the proposal having a similar sized footprint and only 1.1 metre higher, as it will no longer be set on raised ground, furthermore, the 4th storey would be contained within the roof slope. While it is accepted that the existing building is of some architectural merit, the building has been vacant for a number of years and has fallen into a serious dilapidated state. Within the applicants design statement it set out that the design has been informed by existing St Francis block (Kendall Court and Park West) and the new build blocks (Kendall Heights and Lockhart Court). Although not having the architectural finesse of the existing building,

the applicants are seeking to reflect the design of the new blocks already approved within the wider Southdowns Park development.

This, combined with the fact that the proposal would be replacing an existing building that is vacant and continues to deteriorate, with a new building block which is in-keeping with the character of other blocks within the wider Southdowns Park, on balance the proposal is considered to be of an appropriate design, size and scale that is in-keeping with the character of the street scene and would comply with Policy DP26 of the Mid Sussex District Plan and Policy E9 of the Haywards Heath Neighbourhood Plan.

Because of a number of similar designed developments already approved within Southdowns Park, it is not considered that there is a robust justification to refuse permission in this case.

### **Impact on the setting of the Listed Building**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Recent case law has stated that:

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

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

Policy DP34 of the Mid Sussex District Plan in part states:

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

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

Paragraphs 192-196 of the NPPF are relevant, as follows:

*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."*

The Council's Conservation Officer has been consulted on the merits of the application and her comments are set out within Appendix A. She considers that the proposal would result in less than substantial harm to the setting of the Listed Buildings.

This identified 'less than substantial harm' would need to be afforded significant importance and weight to reflect the statutory provisions in the Listed Buildings (and Conservations Areas) Act 1990. This is clear from recent case law on the subject.

In cases where less than substantial harm to a designated heritage asset has been identified, paragraph 196 of the NPPF is applicable. This states that where a proposed development 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 securing its optimum viable use.

In this case the decision maker needs to weigh up whether or not the identified less than substantial harm outweighs any public benefits brought about by the development. This balancing exercise is carried out in the final section of the report.

### **The impact on neighbouring amenity**

Policy DP26 of the District Plan states in part that proposals should:

*'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'.*



A similar ethos is found within Principles DG45, 46 47 and 48 of the Mid Sussex Design Guide.

H8 requires residential amenities to be safeguarded, while DP26 of the Mid Sussex District Plan states that development should not cause significant harm to neighbouring amenities. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. As such, policy DP26 is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.

Within the built up area boundaries a degree of overlooking is considered acceptable, furthermore a back to back distance of 21 metres is considered acceptable. The proposed apartment block is moved slightly west and would provide a distance of 21 metres back from the Elms to the east and 21 metres from the dwellings to the western (front) elevation. The proposal would not provide a distance of 21 metres from The Chapel, however, this is a commercial premises used as a nursery and the proposal would provide a better degree of separation than the existing building. Consequently, the resulting relationships are not considered to cause a significant detrimental impact upon neighbouring amenities in terms of overlooking and a loss of privacy.

Owing to these distances of 21 metres and an improved separation to The Chapel it can also be reasonably concluded that the proposal would not have a significant detrimental impact in terms of reduction in sunlight and daylight.

Concerns have been raised in regards to noise and disturbance and dust crossing the site boundary, the Council's Environmental Protection Officers have been consulted on this application and have raised no objection to the proposal subject to conditions on hours of construction, deliveries and a Demolition and Construction Environmental Management Plan. These conditions will seek to address these concerns and subject to these conditions, it is not considered that the proposal would have a significant detrimental impact on neighbouring residential amenities in regards to the above mentioned policy.

## **Highways matters**

MSDP Policy DP21 states:

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

- *A high quality transport network that promotes a competitive and prosperous economy;*

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

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

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

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

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

The reference to development not causing a severe cumulative impact reflects the advice in paragraph 109 of the NPPF, which states:

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

West Sussex County Council as the Local Highway Authority has commented on the application and have raised no objection in principle. Details on access would need to be considered at the reserved matters stage. While it is appreciated that the proposal only provides one car parking space per dwelling with no visitor spaces, the application site is within a sustainable location being within the built up area boundaries of Haywards Heath, with the proposal include cycle provision and being in close proximity to a bus stop outside the Princess Royal Hospital.

In light of the above it is considered that there is no conflict with the requirements of Policy DP21 of the Mid Sussex District Plan or the National Planning Policy Framework as concerns highway safety and congestion.

### **Drainage**

In accordance with both the Councils Drainage Officer and WSCC Flood Risk Management Comments, the means of drainage to serve the proposed development could be controlled by condition, and hence the proposal would comply with Policy DP41 of the Mid Sussex District Plan.

### **Land contamination**

The NPPF Glossary defines Site investigation information as:

*"Includes a risk assessment of land potentially affected by contamination, or ground stability and slope stability reports, as appropriate. All investigations of land potentially affected by contamination should be carried out in accordance with established procedures (such as BS10175 (2001) Code of Practice for the Investigation of Potentially Contaminated Sites). The minimum information that should be provided by an applicant is the report of a desk study and site reconnaissance."*

The Council's Contaminated Land Officer has recommended that conditions can be applied to any planning permission to ensure compliance with the NPPF requirements.

### **Sustainability**

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.'*

A similar ethos is found within Principle DG37 of the Mid Sussex Design Guide and within Policy E8 of the Haywards Heath Neighbourhood Plan which states:

*"Policy E8: New major development proposals, defined as 10 or more dwellings, 1000sqm floorspace or more, or application sites over 1 hectare, will be required to be designed to support making the town more sustainable by having regard to the following matters when designing the scheme:*

- *provision of recycling, including commercial waste within the scheme*
- *submission of details of how the scheme will promote walking, cycling, public transport use and promotion of car sharing*
- *submission of details on how the scheme will manage energy and water use*
- *demonstrate how the scheme would contribute to the improvement of the health and wellbeing of the community."*

The proposal has been submitted with a sustainability statement which sets out the following:

- The proposal will be designed and constructed to meet building regulations
- Close proximity to bus stops
- Cycle parking
- Porous footpaths and surfacing
- Energy requirements to exceed current buildings regulations, with home information provided to each occupant.
- Efficient fixtures and fittings and water recycling

It has also been noted that the new dwelling would replace a building with considerably low energy efficiency.

The features listed are considered to satisfy the requirements of Policy DP39 of the District Plan, Policy E8 of the Haywards Heath Neighbourhood Plan and Principle DG37 of the Mid Sussex Design Guide.

## **Biodiversity**

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed

in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

Policy DP38 of the Mid Sussex District Plan 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."*

Chapter 15 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value by minimising impacts on and providing net gains for biodiversity. In particular, paragraph 175 states:

*"When determining planning applications, local planning authorities should apply the following principles:*

- *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- *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 exists; and*
- *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity."*

The Council's Ecology consultant has been consulted on this application. The ecology issue concerns the presence of bats within the existing building to be demolished and the standard of survey work that has been carried out to date. He has recommended, however, that subject to the public interest test, he is of the view that the further survey work can wait until the reserve matters submission. An appropriate condition could therefore be added to this outline planning permission, should it be granted. The proposal would provide economic and social benefits, with the addition of 14 small dwellings within the built up area of Haywards Heath at a time where national policy is to boost significantly the supply of housing. As such it is considered that subject to a condition requiring the additional information the proposal would comply with the above mentioned policies.

### **Habitats Regulations**

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.

### Conclusion of the Habitats Regulations Assessment screening report

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.

### **Infrastructure contributions**

The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 54 and 56. Respectively, these paragraphs state:

*"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."*

and:

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

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

Policy DP20 of the Mid Sussex District Plan requires applicants to provide for the costs of additional infrastructure required to service their developments and mitigate their impact. These are usually secured through the completion of an appropriate legal agreement. All requests for infrastructure payments must meet the 3 tests of the Community Infrastructure Levy (CIL) Regulations 2010, which are as set out above.

The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:

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

The contributions necessary for this development are as follows:

*County Council Contributions:*

Education - Primary	£19, 880
Education - Secondary	£21,396
Education - 6th Form	N/A
Libraries	£4,994
Waste	N/A
Fire & Rescue	N/A
No. of Hydrants	0
TAD	£31,884

*District Council Contributions:*

Equipped play	£12,845	(Sandy Vale)
Kickabout facilities	£3,640	(Sandy Vale)
Formal sport	£15,470	(St Francis Sports Ground)



Community Buildings £6,720 (improvements to Ashenground Community Centre)

Local Community Infrastructure £9,846

Although a proposal of this scale would normally require Infrastructure Contributions, the applicant does not consider that the scheme is viable with such financial contributions. As such the application is supported by a Viability Assessment which has been reviewed by the Council's independent consultants, Dixon Searle. The resulting viability review agrees with the applicant and has found the scheme would not be viable with them. This is set out within the Housing Officers comments:

*"although section 106 costs of £166,713 have been included in the assessment (and no affordable housing) the scheme is NOT VIABLE, allowing for profit at 17.5%, if any S106 costs are payable even if there is also no affordable housing. This is because the Residualised Price of £655,294 is still some £224,706 below the benchmark land value of £880,000 and the two figures must be equal for the scheme to be viable. Indeed even if no section 106 costs are payable and no affordable housing provided the scheme as it currently stands will not result in a 17.5% profit."*

Accordingly financial contributions to infrastructure would make the scheme unviable and thus are not being sought at the time permission is being granted. However, in accordance with the Council's Development Viability SPD

*'A viability review will determine whether a development is capable of providing additional affordable housing or meeting other unmet policy requirements, deemed unviable at planning application stage through the Submission VA'*

Therefore, the viability review will determine if the development is capable of providing infrastructure contributions once 75 percent of the units have been sold in accordance with DP20 of the Mid Sussex District Plan.

### **Affordable housing**

Members will be aware that affordable housing would normally be provided for developments of this scale.

Policy DP31 of the Mid Sussex District Plan states:

*"The Council will seek:*

- 1. the provision of a minimum of 30% on-site affordable housing for all residential developments providing 11 dwellings or more, or a maximum combined gross floorspace of more than 1,000m<sup>2</sup>;*
- 2. for residential developments in the High Weald Area of Outstanding Natural Beauty providing 6 -10 dwellings, a commuted payment towards off-site provision, equivalent to providing 30% on-site affordable housing;*
- 3. on sites where the most recent use has been affordable housing, as a minimum, the same number of affordable homes should be re-provided, in accordance with current mix and tenure requirements;*

4. *a mix of tenure of affordable housing, normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix; and*
5. *free serviced land for the affordable housing.*

*All affordable housing should be integrated with market housing and meet national technical standards for housing including "optional requirements" set out in this District Plan (Policies DP27: Dwelling Space Standards; DP28: Accessibility and DP42: Water Infrastructure and the Water Environment); or any other such standard which supersedes these.*

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

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

As outlined above, the applicant has made submissions through a viability assessment to demonstrate that if the development included the required affordable housing provision, then the whole development would be rendered unviable.

These submissions have been made in the form of a report with financial information that has been subject to review by the Dixon Searl, an independent expert body on such matters. The full report is available to view on the planning file. However to summarise:

*"Following these latest clarifications, now inputted into our appraisal model, we consider the viability position as presented cannot support the inclusion of an affordable housing contribution."*

The local planning authority has no evidence of its own to counter this and officers therefore accept the position and conclude that, in this instance, affordable housing cannot be secured in line with local policy.

The Council's Housing team has confirmed this approach in their consultation response which confirms that it is not viable for the applicants to provide any Affordable Housing as part of the scheme. It recommends, however, a viability review clause in a S106 Agreement which will reassess the situation when the development is implemented. As such in accordance with DP31 the application can be accepted without affordable housing provision where significant clear evidence demonstrates to the Council's satisfaction that the site cannot support the required affordable housing from a viability perspective.

### **Standard of accommodation**

Policy DP27 of the Mid Sussex District Plan states:

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

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

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

The proposed dwellings would range between 76 and 93 square metres in terms of internal floor space which would exceed the standards of 70 square metres for a 2 bedroom, 4 person, single storey unit as set out within the government's Technical House Standards - Nationally Described Space Standards. With the three bedroom, third floor flats ranging between 174 square metres to 192 square metres, which again exceeds the Technical Housing Standards - Nationally Described Space Standards document. Accordingly, the proposal would comply with Policies DP26 and DP27 of the Mid Sussex District Plan.

### **Other matters**

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

### **PLANNING BALANCE AND CONCLUSION**

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

National planning policy states that planning should be genuinely plan-led. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise. As the Council can demonstrate a 5 year supply of deliverable housing land the planning balance set out in the NPPF is an un-tilted one.

Weighing in favour of the scheme is that the development will provide 14 additional residential units in a sustainable location at a time where there is a general need for Local Authorities to boost significantly the supply of housing and this should be given positive weight. The New Homes Bonus is a material planning consideration and if

permitted the Local Planning Authority would receive a New Homes Bonus for the units proposed.

There will be a neutral impact in respects of a number of issues, such as design, neighbouring amenities, drainage, contaminated land, space standards, sustainable construction, biodiversity, parking, including the impact on the Ashdown Forest.

Weighing against the scheme is the proposal would cause less than substantial harm to the setting of the Listed Buildings. In addition the proposal has been found to not be viable if it has to provide affordable housing or infrastructure contributions.

Owing to the fact that the proposal is replacing an existing vacant and dilapidated building, pulling the building away from the Listed Building, while matching in with the design of similar sized new blocks constructed as part of the wider Southdowns Park development, it is considered to be at the lower end of the scale of less than substantial.

The proposal will be utilising a brownfield site, within the built up area boundaries of Haywards heath and would be providing 14 residential units within a sustainable location while also generating economic benefits, through the new homes bonus, and additional spending from future residents and jobs during construction it is considered on balance the public benefits are considered to outweigh the identified harm.

For the above reasons, the proposal is deemed to comply with Policies DP4, DP6, DP17, DP21, DP26, DP27, DP29, DP34, DP38, DP39 and DP41 of the Mid Sussex District Plan, Policies E8, E9, E13, T1, T3 and H8 of the Haywards Heath Neighbourhood Plan, The Mid Sussex Design Guide SPD and the objectives of the National Planning Policy Framework. It is therefore the Officers recommendation that the application is approved.

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## **APPENDIX A – RECOMMENDED CONDITIONS**

1. Approval of the details of the access (hereinafter called the "reserved matters") shall be obtained from the Local Planning Authority, prior to the commencement of development on site.

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

The development hereby permitted must be begun either not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990.

2. No development shall be carried out unless and until a schedule/samples of materials and finishes to be used for external walls, roof windows and doors of the proposed apartment block have been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details unless otherwise agreed with 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 and Policy E9 of the Neighbourhood Plan. (The pre-commencement condition is necessary as it requires approval of the materials to be used during the construction period).

3. 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 District Plan (2014 - 2031).

4. The reserved matters application must be supported by full bat survey data and a report prepared in accordance with current best practice guidelines published by the Bat Conservation Trust and BS4220: 2013 Biodiversity Code of practice for planning and development. Details must also be provided of mitigation and compensatory roost provision (both temporary to cover the demolition phase and long-term to provide replacement roosts within the new building, which in accordance with the district plan and NPPF policies should aim to provide an overall enhancement of roosting opportunities. The approved details shall be implemented in full and the appropriate licence obtained from Natural England prior to demolition.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with DP38 of the District Plan and 175 of the NPPF.

5. Construction shall not commence until there has been submitted to and approved in writing by the Local Planning Authority:
  - a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practice; and, unless otherwise agreed in writing by the local planning authority,
  - b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (5)c that any remediation scheme required and approved under the provisions of condition (5)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (5) c."

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 not be completed other than in accordance with the approved details.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6. No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and to accord with and Policy DP21 of the Submission Draft District Plan (2014 - 2031).

7. No dwelling shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include 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 and these works shall be carried out as approved.

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 and Policy E9 of the Haywards Heath Neighbourhood Plan.

8. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion

of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031 and Policy E9 of the Haywards Heath Neighbourhood Plan.

9. Construction hours: Works of demolition and/or construction, 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 and to accord with Policy DP26 of the Mid Sussex District Plan.

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

Monday to Friday: 08:00 - 18:00 Hours

Saturday: 09:00 - 13:00 Hours

Sunday & Public/Bank holidays: None permitted

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

11. Demolition and Construction Environmental Management Plan: Prior to the commencement of the development, a Demolition and Construction Environmental Management Plan (DCEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Environmental Management Plan shall include amongst other matters details of:

- measures to control noise affecting nearby residents (in accordance with BS5228:2014 Code of practice for noise and vibration control on construction and open sites - with particular regard to the noisiest activities, typically piling, arthmoving, concreting, vibrational rollers and concrete breaking);
- dust management plan in accordance with best practice for example as detailed in the IAQM Guidance on the assessment of dust from demolition and construction.
- artificial illumination
- complaints procedure and site contact details in case of complaints from nearby residents.
- The method of access and routing of vehicles during construction.
- The provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway.
- The demolition and construction works shall thereafter be carried out at all times in accordance with the approved demolition and 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 demolition and/or construction and to accord with Policy DP26 of the Mid Sussex District Plan.

12. The development hereby approved shall be carried out to provide at least 20% of dwellings to meet relevant Building Regulation Standards for Accessible and Adaptable Dwellings.

Reason: To accord with Mid Sussex District Plan Policy DP28 which seeks to maintain a high standard of accessibility.

13. No development shall be carried out above ground slab level unless and until details of charging points ducting for electric cars to be provided on the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved details and thereafter retained unless otherwise agreed in writing by the Council.

Reason: To provide for the use of low emission cars in accordance with current sustainable transport policies and to accord with Policy DP21 of the District Plan.

## INFORMATIVES

1. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.
2. No burning of demolition/construction waste materials shall take place on site.
3. Having planning permission in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should Environmental Protection at MSDC receive a complaint, we are required to investigate under the provisions of the Environmental Protection Act 1990 and must take formal action where a statutory noise nuisance is in existence.
4. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## Plans Referred to in Consideration of this Application

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Submitted Date</b>
Location Plan	1720/1/0101		29.01.2018
Block Plan	1720-1/0201		29.01.2018
Block Plan	1720-1/0202	A	27.02.2018
Proposed Floor Plans	1720-1/0401	A	27.02.2018
Proposed Elevations	1720/1/0402	A	27.02.2018



Street Scene	1720/1/0403	A	27.02.2018
Existing Elevations	1720/1/0302		29.01.2018
Street Scene	1720/1/0303		29.01.2018
Existing Floor Plans	HH/LD/05		29.01.2018

## APPENDIX B – CONSULTATIONS

### Parish Consultation

Acknowledging that previous applications have set a precedent for the development of this site, the Town Council supports this latest application in principle, subject to compliance with the following conditions:

1. the development must deliver a 30% affordable housing element, i.e. a minimum of 4 units. This is perfectly feasible, given the sustainable location of the site where there is already a well-established mix of open market/affordable housing dwellings. For the avoidance of doubt, failure to comply with this condition would conflict with the objectives of the Haywards Heath Neighbourhood Plan and would be contrary to Policy DP31 of the Mid Sussex District Plan 2014'2031, and would result in the Town Council objecting to the application in the strongest terms possible;

2. no development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved by the local planning authority. Thereafter, the approved CMP shall be implemented and adhered to throughout the construction period. The CMP shall include and give details for, but not be limited to, the following:

- the method for handling deliveries associated with demolition/construction. Vehicles must be prohibited from stacking in the vicinity of the site;
- the provision of high standard and effective wheel washing facilities required to mitigate the impact of construction upon the public highway;
- the provision of parking for site operatives' and visitors' vehicles. Given the location of the site, in an area of relatively high density residential development where unallocated parking facilities are limited, contractors must be prohibited from parking their vehicles en masse in the immediate vicinity of the site. Suitable alternative arrangements must be made;
- a scheme to protect neighbouring properties from dust and noise emissions, particularly during the demolition phase. Residents of properties that have elevations which face the site, notably those in Bennetts Rise, The Elms and the Busy Bees Nursery School (housed in the Chapel), must be given the option of having their properties professionally cleaned at the developers' expense and at an appropriate juncture. Furthermore, in order to safeguard the well-being of the children attending the Busy Bees Nursery School, the developers shall liaise with the Nursery Manager and agree, in writing, the exact dates when demolition works will take place;
- a requirement for all vehicles carrying loose materials, e.g. earth-moving lorries, to have tonneau covers. This will prevent the materials from being accidentally jettisoned whilst in transit;

3. demolition or construction works, including any associated deliveries, shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays or Public Holidays. Furthermore and for the avoidance of doubt, demolition works shall not take place on Saturdays, and scaffolding shall not be erected or taken down outside the permitted hours;

4. if the development is to be serviced by larger, Eurobin facilities ' which will be collected by a commercial operator ' no collections shall be permitted before 0700 hours, in order to protect resident amenity;

5. in order to future-proof the development, trunking shall be laid to enable all 14 units to have their own electric car charging point.

The Town Council notes and shares the concerns raised by local residents relating to the minimal parking provision, i.e. 1 space per unit and no designated visitor spaces.

In the event that the application is approved, the Town Council requests that developer Section 106 contributions for local community infrastructure ' estimated at between £7,126 and £7,850 ' are allocated towards improvements to Commercial Square Roundabouts as included in the West Sussex County Council Atkins Study.

#### **Conservation Officer:**

Will has asked me to provide final comments on the above application as no further information has been forthcoming regarding the existing building on the site.

On the basis of the limited information in front of me I would be of the view that the existing building is of some interest and that although not in itself a designated heritage asset makes a positive contribution to the setting of the nearby listed chapel and hospital, partly for its attractive and characterful appearance and partly for the evidential value it has with respect to the earlier hospital use of the site. Furthermore I consider that the proposed replacement building does not show the same potential historic interest or quality of design or detailing and would not make the same contribution to the setting of the adjacent heritage assets. I therefore consider that the proposal is harmful to the setting of the listed chapel and hospital, which would be contrary to the requirements of District Plan Policy DP34. In terms of the NPPF I would consider the harm caused to the setting of the listed buildings and the manner in which their special interest is appreciated to be less than substantial, such that the criteria set out in paragraph 196 of that document would apply.

#### **Drainage Officer:**

Recommendation: No objection subject to conditions

#### Summary and overall assessment

This proposed development will need to fully consider how it will manage surface water runoff. Guidance is provided at the end of this consultation response for the various possible methods.

However, the hierarchy of surface water disposal will need to be followed and full consideration will need to be made towards the development catering for the 1 in 100 year storm event plus extra capacity for climate change. Any proposed run-off to a watercourse or sewer system will need to be restricted in accordance with the Non-statutory Technical Standards for SuDS, so that run-off rates and volumes do not exceed the pre-existing

greenfield values for the whole site between the 1 in 1 to the 1 in 100 year event. This is inclusive of brownfield developments.

As this is for multiple dwellings, we will need to see a maintenance and management plan that identifies how the various drainage systems will be managed for the lifetime of the development, who will undertake this work and how it will be funded.

The proposed development drainage will need to:

- Follow the hierarchy of surface water disposal.
- Protect people and property on the site from the risk of flooding
- Avoid creating and/or exacerbating flood risk to others beyond the boundary of the site.
- Match existing greenfield rates and follow natural drainage routes as far as possible.
- Calculate greenfield rates using IH124 or a similar approved method. SAAR and any other rainfall data used in run-off storage calculations should be based upon FEH rainfall values.
- Seek to reduce existing flood risk.
- Fully consider the likely impacts of climate change and changes to impermeable areas over the lifetime of the development.
- Consider a sustainable approach to drainage design considering managing surface water at source and surface.
- Consider the ability to remove pollutants and improve water quality.
- Consider opportunities for biodiversity enhancement. Flood Risk

The proposed development is within flood zone 1 and is deemed as low fluvial flood risk. The proposed development is not within an area identified as having possible 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 Proposals

It is proposed that the development will attenuate surface water with controlled outflow to local system.

#### Foul Water Drainage Proposals

It is proposed that the development will utilise existing system

#### Suggested Conditions

##### C18F - Multiple Dwellings

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.

**Ecology Officer:**

Thank you for forwarding the response from the applicant's bat consultant and also confirming that this is only an outline application, as this wasn't clear in the formal consultation request. This being the case, then the key consideration is whether bat impacts might be sufficient to warrant refusal or whether, in principle, adequate mitigation and compensation measures are feasible to comply with the requirements the NPPF and to secure the necessary licence for destruction of bat roosts from Natural England.

For a licence to be granted, Natural England must be satisfied that the proposal will not be 'detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'; they must also ensure that there is an overriding public interest (which requires weighing the conservation impact against any social, economic or environmental benefits of the proposal) and that there is no satisfactory alternative.

In the absence of more thorough survey information, I would have to advise that any planning decision is based on a worst-case scenario of what could be present, not on the limited information about roosting bats that has been presented thus far. I think it unlikely, given the location and context of the building that it will support any rarer Annex II species. However, it is entirely feasible that the building is used by other species, either not present or missed by the survey (especially given the survey limitations admitted by the bat consultant in the recent email). It is also possible that a maternity roost could have been missed by the late timing of the survey and that greater numbers of bats use the building over the seasons. Also, I am not convinced that hibernation potential can be ruled out based on the information submitted.

Given these factors, I cannot be confident that there would be only be low impacts and that demolition could lawfully take place under the 'low-impact' class licence without further survey effort to provide confidence in the initial results and conclusions (even the consultant's report (para 6.1) acknowledges the potential for bat use of the roof and hanging tiles to vary over the year. However, if MSDC are satisfied that, taking into account all other material considerations, that granting consent would be in the public interest, which can include social and economic benefits, then I would consider it feasible, for adequate compensation and mitigation, informed by more thorough survey work, to be designed that would enable a licence covering greater impacts to be obtained. In conclusion, therefore, and subject to the public interest test, I am of the view that more thorough survey information could wait until the reserved matter submission.

However, if MSDC is minded to grant outline consent on this basis, to ensure that any reserved matters application can be determined in accordance with legal and policy requirements, it is essential that supporting information follows best practice or that any departure is justifiable on ecological grounds. Whilst it is true that guidelines are not absolute rules and that professional judgement should be used to design appropriate and proportionate surveys, this does not mean that accepted best practice guidelines can simply be disregarded without proper justification and it certainly isn't an excuse for lowering standards. It should be noted that the current guidelines already aim at proportionality and the number of surveys given is the minimum recommended based on whether a building or structure has low, moderate or high potential. Justification for

departure from guidelines means being able to demonstrate how adequate information will still be obtained to enable a proper impact assessment; it is not sufficient to simply assert that, in the consultants opinion, the minimum guidelines do not need to be followed in any particular case.

Whilst the most recent email from the consultant alludes to the condition of the building being dangerous, reducing visibility of the roof, this if anything would make more surveys necessary rather than fewer because of the increased risk of bats being missed by a single survey. A dawn survey for example, when bats often display swarming activity around a roost entrance, can improve detectability for bats returning to roost around dawn so can be an important component of a suite of surveys. Also, I am surprised that the problems of viewing the roof properly were not mentioned the constraints section of the survey report. Survey designs must account for any constraints and ensure that there are sufficient surveyors / visual aids such as IR cameras (which can be used to zoom in on higher features that are not clear to the naked eye) to provide reliable conclusions about the presence or absence of bats on any given survey visit. If the building is genuinely in such a dangerous state as to make proper surveys unfeasible, then evidence of this needs to be provided by an appropriately qualified building professional as demolition in the absence of adequate survey would require a careful consideration of fairly complex legal issues—a licence from Natural England only covers roosts that have been identified from surveys, it does not provide any legal cover for destruction of roosts that have been missed.

To ensure better information is available to support a reserved matters application, then if MSDC is minded to grant outline consent, I would recommend that this is subject to the following condition:

"The reserved matters application must be supported by full bat survey data and a report prepared in accordance with current best practice guidelines published by the Bat Conservation Trust and BS4220: 2013 Biodiversity Code of practice for planning and development. Details must also be provided of mitigation and compensatory roost provision (both temporary to cover the demolition phase and long-term to provide replacement roosts within the new building, which in accordance with the district plan and NPPF policies should aim to provide an overall enhancement of roosting opportunities. The approved details shall be implemented in full and the appropriate licence obtained from Natural England prior to demolition.

Reason: To ensure that the proposals avoid adverse impacts on protected and priority species and contribute to a net gain in biodiversity, in accordance with DP38 of the District Plan and 175 of the NPPF."

#### **Haywards Heath Town Council:**

Acknowledging that previous applications have set a precedent for the development of this site, the Town Council supports this latest application in principle, subject to compliance with the following conditions:

1. the development must deliver a 30% affordable housing element, i.e. a minimum of 4 units. This is perfectly feasible, given the sustainable location of the site where there is already a well-established mix of open market/affordable housing dwellings. For the avoidance of doubt, failure to comply with this condition would conflict with the objectives of the Haywards Heath Neighbourhood Plan and would be contrary to Policy DP31 of the Mid Sussex District Plan 2014-2031, and would result in the Town Council objecting to the application in the strongest terms possible;

2. no development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to and approved by the local planning authority. Thereafter, the approved CMP shall be implemented and adhered to throughout the construction period. The CMP shall include and give details for, but not be limited to, the following:

- the method for handling deliveries associated with demolition/construction. Vehicles must be prohibited from stacking in the vicinity of the site;
- the provision of high standard and effective wheel washing facilities required to mitigate the impact of construction upon the public highway;
- the provision of parking for site operatives' and visitors' vehicles. Given the location of the site, in an area of relatively high density residential development where unallocated parking facilities are limited, contractors must be prohibited from parking their vehicles en masse in the immediate vicinity of the site. Suitable alternative arrangements must be made;
- a scheme to protect neighbouring properties from dust and noise emissions, particularly during the demolition phase. Residents of properties that have elevations which face the site, notably those in Bennetts Rise, The Elms and the Busy Bees Nursery School (housed in the Chapel), must be given the option of having their properties professionally cleaned at the developers' expense and at an appropriate juncture. Furthermore, in order to safeguard the well-being of the children attending the Busy Bees Nursery School, the developers shall liaise with the Nursery Manager and agree, in writing, the exact dates when demolition works will take place;
- a requirement for all vehicles carrying loose materials, e.g. earth-moving lorries, to have tonneau covers. This will prevent the materials from being accidentally jettisoned whilst in transit;

3. demolition or construction works, including any associated deliveries, shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0900 hours to 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays or Public Holidays. Furthermore and for the avoidance of doubt, demolition works shall not take place on Saturdays, and scaffolding shall not be erected or taken down outside the permitted hours;

4. if the development is to be serviced by larger, Eurobin facilities - which will be collected by a commercial operator - no collections shall be permitted before 0700 hours, in order to protect resident amenity;

5. in order to future-proof the development, trunking shall be laid to enable all 14 units to have their own electric car charging point.

The Town Council notes and shares the concerns raised by local residents relating to the minimal parking provision, i.e. 1 space per unit and no designated visitor spaces. In the event that the application is approved, the Town Council requests that developer Section 106 contributions for local community infrastructure - estimated at between £7,126 and £7,850 - are allocated towards improvements to Commercial Square Roundabouts as included in the West Sussex County Council Atkins Study.

#### **Contaminated Land Officer:**

The application looks to create 14 residential apartments.

As part of the application a Preliminary Contamination Risk Assessment has been undertaken by Environmental Assessment Services Limited, revised May 2018, and has been submitted as part of the application.

This report has been assessed and has been found to meet current standards. It agreed that given the past uses and current uses of the site that further testing is required at the application site, with regards to gas, if it is to be used for residential apartments.

Therefore a phased contaminated land condition should be attached to ensure the site is safely developed for its end use.

Additionally a discovery strategy should also be attached, so that in the event that contamination not already identified through the desktop study is found, that works stop until such time that a further assessment has been made, and further remediation methods put in place if needed.

Recommendation: Approve with conditions

1) Construction shall not commence until there has been submitted to and approved in writing by the Local Planning Authority:

- a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013; and unless otherwise agreed in writing by the local planning authority,
- b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013 - Investigation of potentially contaminated sites - Code of Practise; and, unless otherwise agreed in writing by the local planning authority,
- c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

Please note: section a) of this condition has been purposely stricken through, as Preliminary Contamination Risk Assessment has been undertaken by Environmental Assessment Services Limited, revised May 2018 is deemed to have met this requirement.

2) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:

- a) built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (1) c."

3) 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 not be completed other than in accordance with the approved details.

**Leisure Officer:**

Thank you for the opportunity to comment on the plans for the development of 14 residential dwellings on Linden House Southdowns Park Haywards Heath West Sussex RH16 4SL on behalf of the Head of Corporate Resources. 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 over 5 units.

**CHILDRENS PLAYING SPACE**

Sandy Vale, owned and managed by the Council, is the nearest locally equipped play area approximately 400m from the development site. This facility will face increased demand from the new development and a contribution of £16,485 is required to make improvements to play equipment (£12,845) and kickabout provision (£3,640). These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

**FORMAL SPORT**

In the case of this development, a financial contribution of £15,470 is required toward formal sport facilities at the St Francis Sports Ground.

**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 £6,720 is required to make improvements to Ashenground Community Centre. In terms of the scale of contribution required, these figures are calculated on a per head formulae based upon the total number of units proposed and an average occupancy of 2.5 persons per unit (as laid out in the Council's Development and Infrastructure SPD) and therefore is commensurate in scale to the development.

The Council maintains that the contributions sought as set out are in full accordance with the requirements set out in Circular 05/2005 and in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

**Street Naming and Numbering:**

Please could I ask you to ensure that the following informative is added to any decision notice granting approval:

Informative: Info29

The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming & Numbering Officer before work starts on site. Details of fees and advice for developers can be found at [www.midsussex.gov.uk/streetnaming](http://www.midsussex.gov.uk/streetnaming) or by phone on 01444 477175.

**Urban Designer:**

Summary and Overall Assessment



While this is an outline application, only access is reserved with approval being sought for appearance, landscaping, layout and scale. The proposed building is an unconvincing pastiche that unsatisfactorily articulates this substantial building and lacks the finesse and architectural interest of the existing building. At 4 rather than 3 storeys it is substantially larger than the existing building and will inappropriately impose upon its surrounds including the adjacent listed buildings and the modest 2 storey houses opposite. I therefore object to this planning application.

#### Proposed Demolition of the Existing Building

The existing building is a fine arts and crafts style building dating from the early 20th Century featuring well sculpted brick chimneys and elegant timber windows in addition to a rich variety of facing materials that animate the facades. While there have been the odd unsympathetic addition, it has largely retained its original detailing and charm, and I agree with Emily Wade's assessment that it contributes positively to the setting of the adjacent listed buildings.

#### Proposed Development

The scale of the building is significantly greater than the existing building. While the overall ridge height is shown no higher, the overall measurements of the elevations are significantly greater:

The elevations including the roof are 1.5m higher with the removal of the raised grass embankment that the current building sits on.

The proposal features much more vertical facing; not only is the eaves line higher (rising to 10.3m compared to 8.7m), but the building also features gabled bays that rise vertically 14.2m from the new ground level (by comparison the apex of the gabled dormers are 11.5m high from the existing ground level).

The proposal is 4 storeys compared to the existing 3 storeys.

The differences in the overall dimensions are further exacerbated by the weak articulation of the proposed building that does not successfully breakdown its greater massing resulting in monolithic and bland frontages. In particular, the windows are overly repetitive and the fake chimneys are weak features. The windows have shallow window reveals and not the deep windows that are a feature of Victorian-era houses (but are rarely achieved on contemporary buildings because of modern insulation requirements), and without them the elevations will also lack depth. The highly visible south elevation has a high proportion of blank façade and unlike the existing building does not satisfactorily address its road frontage position.

The proposed neo-classical language is a poor pastiche and lacks the strong order associated with this style, with inconsistently proportioned windows that are weakly graduated. The 3rd floor windows are more crudely designed with flat window heads that is at odds with the other arched windows; and the dormers will generate a plethora of downpipes (not shown on the drawing) that will clutter these parts of the façade.

On the east elevation the "blank" windows disrupt the window pairings. If insulation requirements prohibit deep reveals (that is normally the case), they are likely to look especially unconvincing.

The front threshold parking at the front has provided insufficient space for soft landscaping and tree planting, and the right-angle configuration may cause vehicle headlight and noise nuisance for the ground floor flats.

I also question the internal plan. The kitchen-diners on flats G2 and G3 have no windows directly serving them. The bedrooms on flat G4 will have a poor outlook because of the proximity of the bi store. While the top floor flats are generous, they need to show the areas with height restrictions.

### **WSCC Flood Risk Management:**

#### Flood Risk Summary

Modelled surface water flood risk: Low risk

Comments: Current uFMfSW mapping shows that the proposed site is at low risk from surface water flooding. 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 must be maintained or appropriate mitigation strategies proposed.

Reason: NPPF paragraph 103 states - 'When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.'

Therefore, a wholesale site level rise via the spreading of excavated material should be avoided.

Modelled ground water flood risk susceptibility: Low risk

Comments: The majority of the proposed development is shown to be at low risk from ground water flooding based on the current mapping.

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.

Records of any flooding of the site: No

Comments: We do not have any records of historic 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. Records show that a location approximately 50m from the site has experienced surface water flooding.

Ordinary watercourses nearby: No

Comments: Current Ordnance Survey mapping shows no ordinary watercourses across the site although local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around 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.

### **Future development - Sustainable Drainage Systems (SuDs)**

The Drainage Assessment for this application proposes that sustainable drainage techniques (below-ground attenuation with possible permeable paving) would be used to control the surface water run-off from this development, with discharge to the main sewer at

Greenfield rates. This method would, in principle, meet the requirements of the NPPF and associated guidance documents.

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 1 in 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 Highways:**

It's noted that the site benefits from outline planning permission covering the redevelopment of the site as a whole for residential. A detailed application was submitted for the conversion of Linden House in 2011. This however was not determined. The current application seeks outline permission only with matters of layout, landscaping, and scale to be approved at this time. Although not to be approved, access is effectively achieved only via Bennetts Rise.

The development is served by way of series of privately maintained roads. As West Sussex County Council in its role as Local Highway Authority have no responsibility for any of these roads, the following comments are for the advice of the Local Planning Authority only.

In principle, there are no particular highway concerns. Access is indicated to be via Bennetts Rise, which is an existing road within the site. Parking is provided as one space per dwelling. It's not apparent upon what standards or guidance the number of parking spaces has been based upon. Typically it would be expected for the WSCC Parking Demand Calculator or other comparable information (i.e. Census car ownership data) to be used to forecast likely demands. In considering this application, the Local Planning Authority may wish to request additional supporting information covering such matters.

### **PLANNING SERVICES DIVISION: SECTION 106 CONSULTATION RESPONSE**

**DATE: 18<sup>th</sup> August 2020**

**FROM: Naomi Hoyland**

**DISTRICT/BOROUGH COUNCIL: Mid Sussex**

**Application Number: DM/18/0421**

**The Provision of Service Infrastructure Related to Linden House, Southdowns Park, Haywards Heath, West Sussex**

**Planning Application details – Demolish existing vacant building and erect 14 unit apartment block.**

**Summary of Contributions**

<b>Education</b>			
School Planning Area	0		
Population Adjustment	30.0		
	Primary	Secondary	6th Form
Child Product	0.1500	0.1500	0.0000
Total Places Required	1.0500	0.7500	0.0000
<b>Library</b>			
Locality	Haywards Heath		
Contribution towards Hassocks/Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£0		
Contribution towards East Grinstead/Haywards Heath	£4,994		
Population Adjustment	30.0		
Sqm per population	30/35		
<b>Waste</b>			
Adjusted Net. Households	15		
<b>Fire</b>			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
<b>TAD- Transport</b>			
Net Population Increase	30.0		
Net Parking Spaces	14		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

**Summary of Contributions**

<b>S106 type</b>	<b>Monies Due</b>
<b>Education - Primary</b>	£19,880
<b>Education - Secondary</b>	£21,396
<b>Education - 6<sup>th</sup> Form</b>	No contribution
<b>Libraries</b>	£4,994
<b>Waste</b>	No contribution
<b>Fire &amp; Rescue</b>	No contribution
<b>No. of Hydrants</b>	secured under Condition
<b>TAD</b>	£31,884
<b>Total Contribution</b>	<b>£78,154</b>

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

The above contributions are required pursuant to s106 of the Town and Country planning Act 1990 to mitigate the impacts of the subject proposal with the provision of additional County Council

service infrastructure, highways and public transport that would arise in relation to the proposed development.

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

The CIL Regulations 2010 (as amended by the CIL amendment Regulations 2019) came into force on 1<sup>st</sup> September 2019 and clarify that an authority collecting contributions through the use of S106 agreements may now lawfully charge a fee for monitoring the planning obligations they contain. From 1<sup>st</sup> April 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 14 net dwellings, and an additional 14 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 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 Warden Park Primary Academy.

The contributions generated by this proposal shall be spent on small scale improvements at Oathall Community College.

The contributions generated by this proposal shall be spent on additional stock at Haywards Heath Library.

The contributions generated by this proposal shall be spent on South Road Public Realm improvements.

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**

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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.

$$\text{TPR} = (\text{No of year groups}) \times (\text{child product})$$

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).

$$\text{Child Product} = \text{Adjusted Population} \times 14 / 1000$$

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:

$$\text{Contributions} = \text{SQ M Demand} \times \text{Cost Multiplier}$$

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.

$$\text{Square Metre Demand} = (\text{Adjusted Population} \times \text{LFD}) / 1000$$

b) Cost Multiplier- Library Infrastructure

WSCC 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

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

**TAD = Infrastructure contribution + Sustainable Transport contribution**

a) Infrastructure Contribution

Contributions for Infrastructure are determined by the new increase in car parking spaces, multiplied by WSCC's estimated cost of providing transport infrastructure per vehicle Infrastructure cost multiplier. The Infrastructure cost multiplier as at 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 WSCC.

cc: **Peter Sugden/Russell Allen, WSCC Library Services (via email)**  
**Vanessa Cummins, WSCC Children and Young People's Services (via email)**

Given the close proximity of existing neighbouring properties, in order to safeguard the amenity of residents, should approval be granted Environmental Protection recommends the following conditions. Given the proximity to a hospital, the proposed development is assessed as high risk with regard to potential dust effects. Mitigation and monitoring should therefore be secured by a suitable DCEMP (below):

Conditions:



Construction hours: Works of demolition and/or construction, 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.

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

Monday to Friday: 08:00 - 18:00 Hours

Saturday: 09:00 - 13:00 Hours

Sunday & Public/Bank holidays: None permitted

Reason: To protect the amenity of local residents.

Demolition and Construction Environmental Management Plan: Prior to the commencement of the development, a Demolition and Construction Environmental Management Plan (DCEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Environmental Management Plan shall include amongst other matters details of:

- measures to control noise affecting nearby residents (in accordance with BS5228:2014 Code of practice for noise and vibration control on construction and open sites - with particular regard to the noisiest activities, typically piling, earthmoving, concreting, vibrational rollers and concrete breaking);
- dust management plan in accordance with best practice for example as detailed in the IAQM Guidance on the assessment of dust from demolition and construction.
- artificial illumination
- complaints procedure and site contact details in case of complaints from nearby residents.
- The demolition and construction works shall thereafter be carried out at all times in accordance with the approved Demolition and 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 demolition and/or construction.

Burning: 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.

Informative:

Having planning permission in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should Environmental Protection at MSDC receive a complaint,

we are required to investigate under the provisions of the Environmental Protection Act 1990 and must take formal action where a statutory noise nuisance is in existence.

**Housing Officer:**

I am enclosing a copy of the final development appraisal for the scheme ( \*\*\* see comment below) which shows that although section 106 costs of £166,713 have been included in the assessment (and no affordable housing) the scheme is NOT VIABLE, allowing for profit at 17.5%, if any S106 costs are payable even if there is also no affordable housing. This is because the Residualised Price of £655,294 is still some £224,706 below the benchmark land value of £880,000 and the two figures must be equal for the scheme to be viable. Indeed even if no section 106 costs are payable and no affordable housing provided the scheme as it currently stands will not result in a 17.5% profit.