

MID SUSSEX DISTRICT COUNCIL

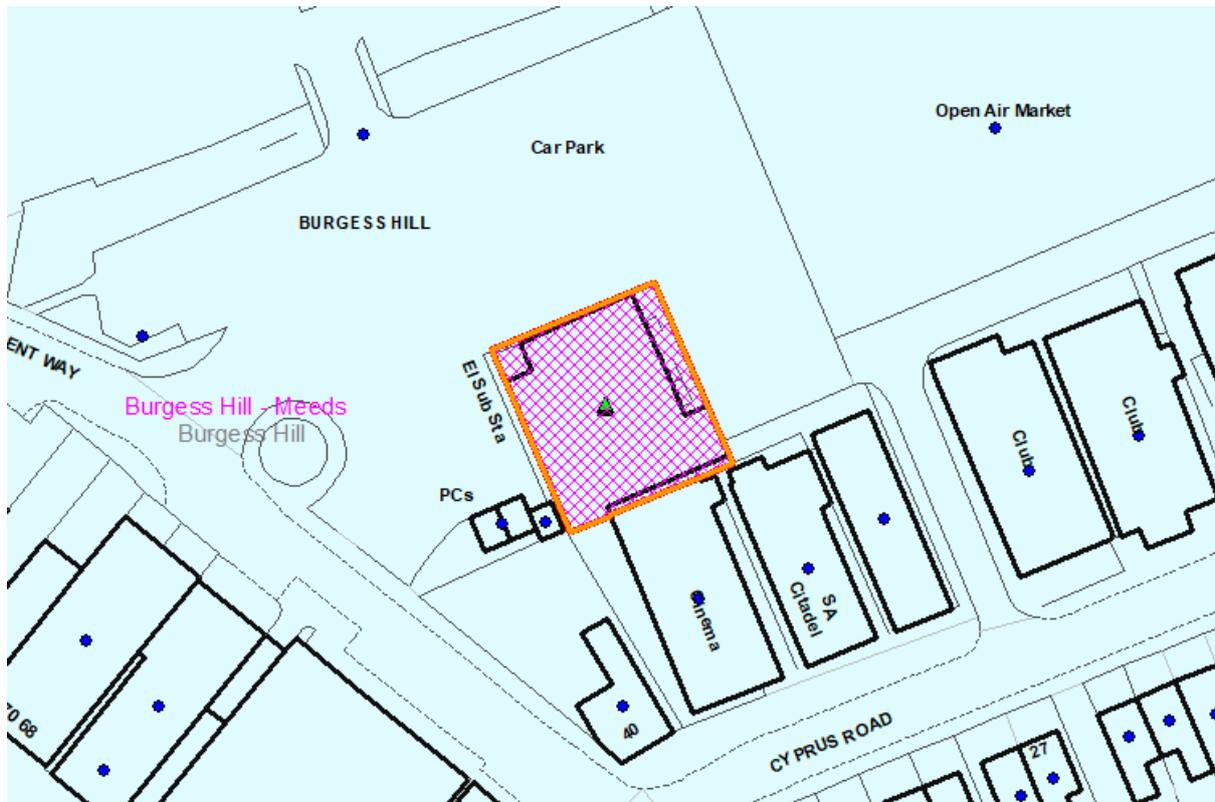
Planning Committee

21 JAN 2021

RECOMMENDED FOR PERMISSION

Burgess Hill

DM/20/2740



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THE EMPEROR RESTAURANT 1 CYPRUS ROAD BURGESS HILL WEST SUSSEX

PROPOSED AMENDMENT TO APPLICATION DM/17/4575 TO REDISTRIBUTE PROPORTION OF COMMERCIAL SPACE WHILST RETAINING 10 FLATS.

MR D MARTIN

POLICY: Brownfield Land / Built Up Areas / Planning Agreement / Planning Obligation / Aerodrome Safeguarding (CAA) / Radon Gas Safeguarding Zone /

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 25th January 2021

WARD MEMBERS: Cllr Robert Eggleston / Cllr Tofojjul Hussain /

CASE OFFICER: Joseph Swift

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

Planning permission is sought for the proposed amendment to application DM/17/4575 to redistribute proportion of commercial space whilst retaining 10 flats.

DM/17/4575 granted planning permission on the 20th July 2018 for:

'Demolition of existing restaurant and ancillary staff accommodation. Creation of 10 new flats with a new restaurant and retail space on the ground floor. (Amended plans 05/04/2018 reducing number of units at third floor)'.

The main changes proposed to that permission include providing commercial space on the first floor and reconfiguring the layout of the flats on the 3 floors in order to still provide 10 flats, although now all 2 bedroom instead of two flats which were previously 3 bedroom. Externally the only change is a slight enlargement of the east and west facing dormer windows and two additional windows to the southern elevation.

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. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The application site lies in the built up area of Burgess Hill, the proposal will maintain the commercial use of the ground floor with a net additional increase in 10 residential units on the three floors above. The proposal is considered to be sensitive to the character of the area and will not detract from the street scene. In addition, the site is within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development.

The proposal would provide a mixed use scheme of residential and commercial,

while also providing contributions towards community facilities, while supporting the regeneration of Burgess Hill Town centre.

It is considered that the proposed development will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In the short term the proposal would also deliver a number of construction jobs.

There will be a neutral impact in respect of highway safety and parking provision, space standards, impact on neighbouring amenities, drainage, contamination and the impact on the Ashdown Forest.

A New Homes Bonus would be received.

The application is thereby considered to comply with policies DP1, DP2, DP4, DP6, DP17, DP20, DP21, DP26, DP27, DP39 and DP41 of the District Plan, policy TC1 of the Burgess Hill Neighbourhood Plan and the broader requirements of the NPPF.

RECOMMENDATION

Recommendation A: It is recommended that planning permission be approved subject to the completion of a S106 Legal Agreement to secure affordable housing and infrastructure contributions and the conditions set in Appendix A.

Recommendation B: It is recommended that if the applicants have not submitted a satisfactory signed planning obligation securing the necessary infrastructure requirements by the 21st March 2021, then it is recommended that permission be refused at the discretion of the Divisional Lead for Planning and Economy, for the following reasons:

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

SUMMARY OF REPRESENTATIONS

No third party letters of representation have been received in regards to this application.

SUMMARY OF CONSULTATIONS

WSSC Highways

No objection.

WSSC S106 Contributions

Contributions required:

Education - Primary: £12,590
Education - Secondary: £13,551
Education - 6th Form: £3,174
Libraries: £3,163
TAD: £13,756

MSDC Drainage

No objection subject to conditions

MSDC Environmental Protection Officer

No objection to this application, subject to the conditions.

MSDC Contaminated Land Officer

No objections subject to conditions.

MSDC Environmental Health Officer

Advice on minimum standards required.

WSCC Flood Risk Management

No Objection

WSCC Minerals and Waste

No Objection

Urban Designer

No objections

MSDC Community Leisure Officer

Contributions required:

Formal Sports: £16,606
Community Buildings £5,928

MSDC Street Naming and Numbering Officer

Recommend Informative.

Water and Access Manager

Any areas not within 45 metres distance of fire appliances will need to be mitigated by fitting domestic sprinklers.

TOWN COUNCIL OBSERVATIONS

Any Section 106 monies should go towards Community Infrastructure.

INTRODUCTION

Planning permission is sought for the proposed amendment to application DM/17/4575 to redistribute proportion of commercial space whilst retaining 10 flats at 1 Cyprus Road, Burgess Hill.

RELEVANT PLANNING HISTORY

05/01704/COU: Change of Use from Class D2 Assembly and Leisure to mixed use comprising: D2 (Assembly and Leisure), A3 (Restaurant) and A4 (Bar). REFUSED

05/01825/FUL: Change of use to restaurant and windows in south elevation. PERMISSION

05/02502/COU: Change of use of 1st floor office to staff accommodation. PERMISSION

05/02503/COU: Supplementary A5 use (take-away) as well as approved restaurant use, and change of operating hours to 12pm - 11:30 pm Sunday to Thursdays and 12 pm to midnight Friday to Saturdays. PERMISSION

BH/200/87: Proposed new shop front. PERMISSION

DM/17/4575: Demolition of the existing restaurant and ancillary staff accommodation. Creation of 10 new flats with a new restaurant and retail space on the ground floor. PERMISSION

DM/20/1181: Discharge of conditions 3, 4, 5, 6, 7/8, 9, 10, 15 and 18 in relation to DM/17/4575. PERMISSION

SITE AND SURROUNDINGS

The application site comprises of a large single storey restaurant (The Emperor Chinese), with a small first floor addition used for staff accommodation. The site is located within the Cyprus Road Car Park, which surrounds the building on three sides with the Orion cinema to the south eastern (rear) elevation. The building share the Cyprus Road car park access off Crescent Way.

The existing building has been constructed of facing brickwork, with a flat roof, and contains a glazed entrance canopy and a mono pitched front addition. At first floor, the staff accommodation is constructed of timber clad walls and a flat roof.

In terms of planning policy the site falls within the built up area of Burgess Hill as defined by the District and Neighbourhood Plans.

APPLICATION DETAILS

The existing building to be demolished measures a maximum of 24.4 metres in depth, by a maximum of 22 metres in width, with a maximum height of 8.4 metres.

Planning permission was previously granted for a replacement building consisting of commercial on the ground floor and residential above under application DM/17/4575. However this application seeks to change the internal layout to include commercial at ground and first floors.

The proposed replacement building would measure a maximum of 21.7 metres in depth, by a maximum of 21.2 metres in width, with an eaves height of 9 metres and an overall height of 11.3 metres. At ground floor the proposal would form:

- 157metres square retail unit
- 138 metres squared retail unit
- Commercial bin store
- Residential bin store
- Residential bike store; and
- Residential access.

At first floor the proposal would form:

- 1x2 bedroom flat with an internal floor area of 71 square metres
- 1x2 bedroom flat with an internal floor area of 77 square metres; and
- 156 square metres of commercial floor space

At second floor the proposal would form:

- 1x2 bedroom flat with an internal floor area of 71 square metres
- 1x2 bedroom flat with an internal floor area of 75 square metres; and
- 2x2 bedroom flats with an internal floor area of 77 square metres.

At third floor the proposal would form:

- 1x2 bedroom flat with an internal floor area of 63 square metres
- 1x2 bedroom flat with an internal floor area of 67 square metres; and
- 2x2 bedroom flats with an internal floor area of 77 square metres.

The proposed building has been shown to be constructed of facing brickwork walls, with corbelled and perforated brick detailing, grey aluminium framed windows, and zinc standing seam roof and bike/bin store.

LIST OF POLICIES

District Plan

The District Plan was adopted in March 2018.

DP1: Sustainable Economic Development

DP2: Town Centre Development

DP4 - Housing

DP6 - Settlement Hierarchy

DP17 - Ashdown Forest
DP20 - Securing Infrastructure
DP21 - Transport
DP26 - Character and Design
DP27- Dwelling Space Standards
DP39 - Sustainable design and construction.
DP41 - Flood Risk and Drainage

Neighbourhood Plan

The Neighbourhood Plan for Burgess Hill was 'made' in January 2016. It forms part of the development plan with full weight.

Relevant policies:

Policy TC1: The civic and cultural quarter:

"This Quarter is focused on the Cyprus Road car park area with links through to Church Walk. Development that provides new, high quality and accessible community resources such as a new library, arts centre/theatre, civic offices and police station will be supported. Any development proposals will be required to provide public realm space including green areas, seating and outdoor space to create a focus for the community activities. New housing development will be acceptable in principle as part of a mixed use scheme only where it will facilitate the provision of the aforementioned community facilities. The existing level of car parking will be maintained within the area and the quality improved. A heritage centre is to be provided within one of the proposed civic buildings and the façade of the Orion Cinema will be retained."

National Policy

National Planning Policy Framework (NPPF)

National Planning Policy Guidance

Technical Housing Standards

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

ASSESSMENT

The main issues for consideration are:

- the principle of the development:

- the impact to the character of the area;
- District Plan spatial strategy
- the impact to the amenities of surrounding occupiers,
- access and parking;
- sustainability;
- dwelling space standards;
- infrastructure;
- Ashdown Forest;
- Other material considerations; 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) 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 District Plan and the Burgess Hill Neighbourhood Plan (2016).

The District Plan is up to date and the Council can demonstrate a 5 year supply of deliverable housing land.

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

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

In addition Policy TC1 of the 'made' Burgess Hill Neighbourhood Plan states in part:

'New housing development will be acceptable in principle as part of a mixed use scheme only where it will facilitate the provision of the aforementioned community facilities. The existing level of car parking will be maintained within the area and the quality improved. A heritage centre is to be provided within one of the proposed civic buildings and the façade of the Orion Cinema will be retained.'

Details of the community facilities provision is contained within the Infrastructure of this report.

Furthermore, DP1 of the District Plan states effective use of employment land will be made by:

'Permitting appropriate intensification, conversion, redevelopment and/ or extension for employment uses providing it is in accordance with other policies in the Plan;'

While DP2 goes on to state:

'Town Centres

These are defined as the town centres of Burgess Hill, East Grinstead and Haywards Heath which meet the needs of their communities and those of the surrounding large and small villages and countryside areas.

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

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

Impact to the character of the area

The application site is located within the built up area boundary of Burgess Hill and is surrounded on three sides by the Cyprus Road carpark. The existing building to be demolished is not considered to be of any particular merit, being of flat roofed design, with signs of additions and alterations that are not considered to add any interest to the building. Therefore, the demolition of the building would not be resisted.

Policy DP26 of the District Plan relates to character and design and states:

'All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the

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

- is of high quality design and layout and includes appropriate landscaping and greenspace;*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with 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 DP27);*
- 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.'*

Council's Design Guide was adopted on the 4th November 2020 and thus is a material consideration in the determination of the application. This document seeks to inform and guide the quality of design for all development across Mid Sussex District. It sets out a number of design principles to deliver high quality, new development that responds appropriately to its context and is inclusive and sustainable. Within the Design Guide there is support high quality buildings that minimise their environmental impact under principle DG37. Principle DG38 requires architectural integrity and a sense of place where 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. In addition, design principle DG39 requires the scale of new buildings to relate to their context.

The Council's Urban Designer has been consulted on this application and following some revisions to the plans has raised no objections to the proposal. Full details of these comments are available to view within Appendix B.

The proposed replacement building is larger than the existing building it is to replace, however, it is considered to be in-keeping with the surrounding dwellings, including the Orion Cinema to the south east elevation, which is higher than the proposal, while also being a significant improvement over the design of the existing building it

is to replace. As such the proposal is considered to be of an appropriate design, size and scale that is in-keeping with the character of the wider street scene.

In addition the proposal is very similar to the extant approved scheme DM/17/4575. The proposal thereby complies with policy DP26 of the District Plan and the requirements of the Mid Sussex Design Guide SPD.

District Plan Spatial Strategy

The NPPF sets out the principles of sustainable development. The District Plan spatial strategy sets out a settlement hierarchy to deliver development to support their economic, infrastructure and social needs. The scale of growth at these settlements will be guided by the Settlement Hierarchy at DP6 of the District Plan. Burgess Hill is designated as a Category 1 settlement which is a settlement with a comprehensive range of employment, retail, health, education leisure services and facilities. These settlements benefit from good public transport provision and will act as a main service centre for the smaller settlements within the District.

The application site is thus, in principle, a suitable and sustainable location for a mixed residential and commercial development.

Neighbouring Amenity

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do *'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 to DP26 is found within Principles DG45, 46 47 and 48 of the Mid Sussex Design Guide.

As the site is surrounded on three sides by the existing car park and backing onto the Orion cinema, it is considered that the proposal would not cause a significant detrimental impact in terms of overlooking, loss of privacy, reduction in sunlight and daylight and a loss of outlook.

In regards to noise the application has been submitted with a noise survey and assessment, the Councils Environmental Protection Officer has raised no objections to the proposal subject to conditions on construction hours, odour, plant and machinery, internal and external soundproofing, hours of opening and deliveries. Your planning officer does not disagree with this assessment, as such subject to this conditions, the proposal is not considered to result in significant harm to the neighbouring amenities and is thereby considered to comply with the above mentioned policy.

Access and Parking

Policy DP21 of the District Plan seeks to ensure that schemes are sustainably located to minimise the need for travel, and protect the safety of road users and

pedestrians, and seeks to provide adequate parking in relation to development proposals.

Paragraph 108 of the NPPF is relevant in respect of transport matters and states that:

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

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

In addition, para 109 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.'

It is proposed that the proposal will use the existing vehicular access, which is shared with the Cyprus Road carpark. The proposal is not providing any off road parking provision, however 24 cycle spaces would be provided in the cycle store. In addition the site is only 0.3 miles from Burgess Hill railway station, together with a bus network within the town centre.

The Highways Authority has considered the application and raised no highway objection. They consider that *" The proposal appears to be for a reduction in the level of A3 restaurant space (this is not entirely clear in the new application). However, the change is minor the number of flats is to remain the same therefore the proposal is unlikely to have any impact on the public highway."*

As such it is considered that the development would not cause a 'severe' residual impact on the nearby road network and would therefore not be contrary to the National Planning Policy Framework. This is particularly the case given the existing planning permission for a very similar development.

Consequently the proposal is considered acceptable on highway safety and transport grounds, and complies with policy DP21 of the District Plan.

Space Standards

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan supports this.

The units would meet the National Dwelling Space Standards. The proposal would therefore provide a satisfactory standard of accommodation for future occupiers of each of the units proposed.

The Urban Designer has raised concerns over the windows, however all habitable rooms would have windows and rooflights as such this is considered acceptable for future occupiers.

Sustainability

Paragraph 148 of the NPPF states:

'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

Paragraph 153 states:

'In determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

While DP39 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 Sustainability Statement has been submitted with the application. It states that the proposal will achieve a thermal performance in excess on Part L1A 2013 guidelines, with potential for photovoltaics, solar hot water and air source heat pump, achieve 10% improvement of the dwelling emissions rate, high efficient class 5 boilers, efficient appliances installed, locally sourced building materials where possible, recycling facilities, water efficient taps, shower heads, dual flush toilets and low water use appliances.

In addition, the development is situated in a sustainable location close to the town centre as well as a bus stop.

Therefore, it is considered that the proposal complies with the relevant criteria policy DP39 of the District Plan and the requirements of the NPPF, consequently the proposal is considered to be acceptable in sustainability terms.

Drainage

Policy DP41 of the Mid Sussex District Plan states:

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

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

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

- *For the redevelopment of brownfield sites, any surface water draining to the foul sewer must be disconnected and managed through SuDS following the remediation of any previously contaminated land.*
- *SuDS should be sensitively designed and located to promote improved biodiversity, an enhanced landscape and good quality spaces that improve public amenities in the area, where possible.*

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

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

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

The MSDC Drainage Officer has raised no objections to the proposal subject to conditions. The planning officer does not disagree with these comments and therefore the proposal is deemed to comply with the above mentioned policies.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

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

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

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, and as detailed in 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 was modelled in the Mid Sussex Transport Study as a 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. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment 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

Contributions are requested in accordance with the councils adopted Supplementary Planning Document "Development and Infrastructure" and are requested in accordance with Policy DP20 of the District Plan and the NPPF.

The contributions also accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

The applicant has indicated a willingness to make these contributions. The payments that will be required are set out as follows:

Formal Sport: £10,336 (improvements towards pitch drainage at Fairfield Recreation Ground)

Playspace: £9,025 (improvements at Queens Crescent)

Kickabout: £7,581 (improvements at Queens Crescent)

Community Buildings £5,982 (Sydney West Community Centre)

Local Community £6,730 (towards CCTV at St Johns Park)

Education Primary: £ 12,590 (to be used towards additional equipment at Manor Field Primary School)

Education Secondary: £ 13,551 (to be used towards additional equipment at St Pauls Catholic College)

Education Sixth Form: £ 3,174 (to be used towards additional equipment at St Pauls Catholic College sixth-form department)

In accordance with the Recommendation it is recommended that permission not be granted until such time as these contributions have been secured within a signed legal agreement.

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. The Council has a recently adopted District Plan and is able to demonstrate that it has a five year housing land supply. Planning decisions should therefore be in accordance with the development plan unless material considerations indicate otherwise.

The application site lies in the built up area of Burgess Hill, the proposal will maintain the commercial use of the ground floor with a net additional increase in 10 residential units on the three floors above. The proposal is considered to be sensitive to the character of the area and will not detract from the street scene. In addition, the site is within a Settlement 1 Category and is therefore considered to be a suitable and sustainable location for residential development.

The proposal would provide a mixed use scheme of residential and commercial, while also providing contributions towards community facilities, while supporting the regeneration of Burgess Hill Town centre.

It is considered that the proposed development will deliver positive social and economic benefits through the delivery of housing which reflects one of the key objectives of the NPPF. In the short term the proposal would also deliver a number of construction jobs and employment in the commercial units.

There will be a neutral impact in respect of highway safety and parking provision, space standards, impact on neighbouring amenities, drainage, contamination and the impact on the Ashdown Forest.

The application is thereby considered to comply with policies DP1, DP2, DP4, DP6, DP17, DP20, DP21, DP26, DP27, DP39 and DP41 of the District Plan, policy TC1 of the Burgess Hill Neighbourhood Plan and the broader requirements of the NPPF.

APPENDIX A – RECOMMENDED CONDITIONS

1. **Approved Plans**

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

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

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

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

3. The development shall be carried out in accordance with the approved materials and finishes as approved under reference DM/20/1181 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.

4. The development shall be carried out in accordance with the design of the roof and roof structures with a section drawing of the roof supplied to show the skylights, lift overrun, plant and any other roof structure as approved under reference DM/20/1181 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.

5. The development shall be carried out in accordance with the detailed 1:20 section and elevation drawings of the eaves and rainwater hopper / downpipe of one of the northern corners of the proposed building as approved under reference DM/20/1181 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.

6. The development shall be carried out in accordance with the detailed 1:20 section and elevation drawings of the brick pattering detail of the proposed building as approved under reference DM/20/1181 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.

7. The development shall be carried out in accordance with the Phase 1: Preliminary Risk Assessment (dated 29th

January 2020, reference: GPS-2020-1673-1 Final.) as approved under reference DM/20/1181 unless otherwise agreed with the Local Planning Authority.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants and to accord with Policy DP29 of the District Plan.

8. 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: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants and to accord with Policy DP29 of the District Plan.

9. The development shall be carried out in accordance with the Construction Environment Management Plan as approved under reference DM/20/1181 unless otherwise agreed with the Local Planning Authority.

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

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

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

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

11. Odour: The development hereby permitted shall not be brought into use as a Class A3 establishment until a scheme for the installation of equipment to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the Local Planning Authority, and the scheme as approved has been implemented. The submitted odour control scheme shall be in accordance with best practice eg the principles of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a Risk Assessment for Odour eg Annex C of the DEFRA guidance as well as a maintenance and monitoring schedule for the odour control system, to ensure adequate control of odours, to align with the manufacturer's instructions.

Reason: To protect the amenity of local residents and to comply with Policies DP26 and DP29 of the District Plan.

12. Plant & Machinery: Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (eg extract fans, condenser units etc) shall be no higher than 46 dBA Leq during the daytime hours (07:00 - 23:00) and 27dBA Leq

during night time (23:00 - 07:00) when measured in at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details.

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

13. Soundproofing (internal): The development hereby permitted shall not be brought into use as a Class A/business establishment until a soundproofing scheme, for the protection of the residential unit/s above the commercial use has been implemented and post installation testing documentation has been submitted and approved in writing by the LPA. The testing shall demonstrate that the Floors between the ground floor units and the first floor residential units achieve a sound insulation value of 5dB better than Building Regulations Approved Document E - resistance to the passage of sound performance standard (i.e. a minimum of 50 DnT,w + Ctr dB for airborne sound insulation) for purpose built dwelling-houses and flats (Table 0.1a).

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

14. Soundproofing (external): No development shall take place until a scheme for protecting the residential units from noise generated by traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate cooling of the occupants with the windows closed. (NOTE - Standard double glazing will achieve the soundproofing part of this condition. The ventilation scheme will require either MEV or MVHR systems, passive ventilation will not be sufficient. The ventilation system should also comply with the noise requirements of the condition to ensure residents are not disturbed by noise from the ventilation).

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

15. Opening Hours: The business shall not operate outside of the following hours:

Mon to Thurs - 07:30 to 00:00 hrs
Fri and Sat - 07:30 to 01:00 hrs
Sunday - 09:00 to 00:00 hrs

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

16. Deliveries and collections: No deliveries or collections of commercial goods or waste outside the following hours:
- Mon to Fri 07:00 to 19:00 hours
Sat 08:00 to 13:00 hours
- Reason: To protect the amenity of local residents and to comply with Policy DP26 of the District Plan.
17. 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).
18. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.
- Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies and to accord with Policy DP21 of the District Plan.
19. The residential and commercial units hereby permitted shall not be occupied until provision for bin and recycling storage has been made within the site in accordance with the approved plans unless otherwise agreed in writing by the local planning authority. Such provision shall thereafter be retained permanently.
- Reason: In the interests of sustainability and visual amenity and to accord Policy DP26 of the District Plan.

INFORMATIVES

1. In accordance with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. 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 or by phone on 01444 477175.

Plans Referred to in Consideration of this Application

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

Plan Type	Reference	Version	Submitted Date
Proposed Floor Plans	D.001		20.11.2020
Proposed Floor Plans	D.02		20.11.2020
Proposed Floor Plans	D.03		20.11.2020
Proposed Floor Plans	D.04		20.11.2020
Proposed Roof Plan	D.05		20.11.2020
Sections	D.010		26.10.2020
Proposed Elevations	D.006		04.08.2020
Proposed Elevations	D.007		04.08.2020
Proposed Elevations	D.08		04.08.2020
Proposed Elevations	D.09		04.08.2020
Location and Block Plan	A.001		04.08.2020
Existing Floor Plans	LPS2076-2		28.07.2020
Existing Floor Plans	LPS2076-3		28.07.2020
Existing Elevations	LPS2076-4		28.07.2020
Existing Elevations	LPS2076-5		28.07.2020
Street Scene	LPS2076-6		28.07.2020
Street Scene	LPS2076-7		28.07.2020
Topographical Survey	LPS2076-1		28.07.2020

APPENDIX B – CONSULTATIONS

Burgess Hill Town Council

The Committee reiterated their previous comments from 2018.

INFRASTRUCTURE REQUIREMENTS: - Mid Sussex District Council welcome specific recommendations with regard to Section 106 needs associated with this development. The recommendations of the Planning Committee are as follow:

Any Section 106 monies should go towards Community Infrastructure.

WSCC Highways

The proposal appears to be for a reduction in the level of A3 restaurant space (this is not entirely clear in the new application). However, the change is minor the number of flats is to remain the same therefore the proposal is unlikely to have any impact on the public highway.

WSCC S106 Contributions

Summary of Contributions

Education			
School Planning Area	Burgess Hill		
Population Adjustment	19.0		
	Primary	Secondary	6th Form
Child Product	0.0950	0.0950	0.0513
Total Places Required	0.6650	0.4750	0.1026
Library			
Locality	Burgess Hill		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£3,163		
Contribution towards East Grinstead/Haywards Heath	£0		
Population Adjustment	19.0		
Sqm per population	30/35		
Waste			
Adjusted Net. Households	10		
Fire			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
TAD- Transport			
Net Population Increase	19.0		
Net Parking Spaces	0		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

Summary of Contributions

S106 type	Monies Due
Education - Primary	£12,590
Education - Secondary	£13,551
Education - 6 th Form	£3,174
Libraries	£3,163
Waste	No contribution
Fire & Rescue	No contribution
No. of Hydrants	secured under Condition
TAD	£13,756
Total Contribution	£46,235

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

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

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

The CIL Regulations 2010 (as amended by the CIL amendment Regulations 2019) came into force on 1st September 2019 and clarify that an authority collecting contributions through the use of S106 agreements may now lawfully charge a fee for monitoring the planning obligations they contain. From 1st April 2020 West Sussex County Council will implement a S106 monitoring fee of £200 per trigger, per year of monitoring. Financial triggers are monitored for an average of three years and will therefore produce a fee of £600

per trigger, with non-financial triggers taking around six years to fulfil and therefore costing £1200.

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

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

The calculations have been derived on the basis of an increase in 10 net dwellings.

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

5. Deed of Planning Obligations

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

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

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

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

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

The contributions generated by this proposal shall be spent on Public realm and connectivity improvements in Burgess Hill Town Centre.

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

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

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

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

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

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

Breakdown of Contribution Calculation Formulas:

1. School Infrastructure Contributions

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

School Contributions = TPR x cost multiplier

a) TPR- Total Places Required:

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

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

Year groups are as below:

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

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

Child Product = Adjusted Population x 14 / 1000

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

b) Cost multiplier- Education Services

The cost multiplier is a figure released by the Department for Education. It is a school building costs per pupil place as at 2020/2021, updated by Royal Institute of Chartered Surveyors' Building Cost Information Service All-In Tender Price Index. Each Cost multiplier is as below:

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

2. Library Infrastructure

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

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

Contributions = SQ M Demand x Cost Multiplier

a) Square Metre Demand

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

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

b) Cost Multiplier- Library Infrastructure

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

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.

WSCC Flood Risk Management Team Comments

Comments 23rd October 2020:

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA), has no objection to the above proposed development in respect of surface water drainage.

Comments 2nd October 2020:

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

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

Flood Risk Summary

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

Comments:

Current surface water 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 should be maintained and mitigation measures proposed for areas at high risk.

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

Modelled groundwater flood hazard classification Low risk

Comments:

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

Ground water contamination and Source Protection Zones.

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

Ordinary watercourses nearby? No

Comments:

Current Ordnance Survey mapping shows no ordinary watercourses running near to the site's boundaries.

Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around or across the site. If present these should be maintained and highlighted on future plans. Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.

Records of any surface water flooding within the site? No

Comments:

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

Future development - Sustainable Drainage Systems (SuDS)

As per DM/17/4575, no FRA or Drainage Strategy has been included with this application. The application form states that a 'Main Sewer' will be used to dispose of the site's surface water.

There is not enough information contained within this application to comment further. Further information is required to help clarify as to whether Defra's Non Statutory Technical Standards for Sustainable Drainage Systems will be met.

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

Following the SuDS hierarchy and the spirit of SuDS implementation, betterment for surface water systems on the new developments should be sought. This could include retention at source through green roofs, permeable paving and swales prior to disposal to reduce peak flows. SuDS landscaping, could significantly improve the local green infrastructure provision and biodiversity impact of the developments whilst having surface water benefits too.

All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The maintenance and management of the SuDS system should be 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.

MSDC Drainage

With regards to the above application we would request that the same drainage condition is placed on this application as the previous DM/17/4575 application.

We would advise that a discharge of conditions application for the drainage condition would need to be submitted based on any approved updated plans for this development.

MSDC Environmental Protection Officer

DM.20.2740 Proposed Amendment to DM.17.4575 The Emperor Restaurant, 1 Cyprus Road, BH

Planning Officer: Joe Swift

Consultee: Environmental Protection

Response: Conditions recommended

This application has the potential to negatively impact the residential amenity of the future residents of the flats, due to noise and possibly odour, most likely from the following sources:

Noise from kitchen extract fan

Odour from kitchen extract fan

Noise from condenser/refrigeration unit

Noise from customers and car park users

Noise from waste bins being filled/emptied

Noise from commercial unit eg kitchen staff preparing food and clearing down at end of shift, stock being moved in storage area, bottling out, equipment/machinery being used etc

The applicants have submitted an acoustic report which recommends standard double glazing as being sufficient to protect residents from external noise but relies on the windows being closed in order to afford sufficient protection during the night time period due to the high levels of noise at this time. As a result of this the flats will require alternative means of ventilation (see recommended condition below) in order to avoid residents being forced to choose between being kept awake by noise or overheating. The report recommends a

number of alternatives, in my opinion MEV or MVHR systems will be required in order to provide adequate ventilation/cooling.

Regarding noise from the commercial unit/kitchen and preparation area affecting the flat above given the late hours applied for, Building Regulations Part E covers the soundproofing of Dwelling Houses and Flats formed by material change of use as well as construction of new buildings but does not deal with the situation here where a residential flat requires protection from potentially noisy commercial premises. I therefore recommend that a soundproofing condition be imposed in order to protect the residents, should this development receive approval (see soundproofing condition below).

I feel that areas where there is an interface between commercial and residential property will always present a difficult challenge in trying to find a balance between encouraging local business, with its attendant social and economic benefits, and protecting the quality of life of nearby residents

In the event that planning permission is granted, I would recommend that the following conditions are applied:

Conditions:

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

Monday - Friday 08:00 - 18:00 Hours

Saturday 09:00 - 13:00 Hours

Sundays and Bank/Public Holidays no work permitted

Odour: The development hereby permitted shall not be brought into use as a Class A3 establishment until a scheme for the installation of equipment to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the Local Planning Authority, and the scheme as approved has been implemented. The submitted odour control scheme shall be in accordance with best practice eg the principles of the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' and shall include a Risk Assessment for Odour eg Annex C of the DEFRA guidance as well as a maintenance and monitoring schedule for the odour control system, to ensure adequate control of odours, to align with the manufacturer's instructions.

Plant & Machinery: Unless otherwise agreed in writing, the noise rating level of any operational plant or machinery (eg extract fans, condenser units etc) shall be no higher than 46 dBA Leq during the daytime hours (07:00 - 23:00) and 27dBA Leq during night time (23:00 - 07:00) when measured or calculated at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. Details of any mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details.

Soundproofing (internal): The development hereby permitted shall not be brought into use as a Class A/business establishment until a soundproofing scheme, for the protection of the residential unit/s above the commercial use has been implemented and post installation testing documentation has been submitted and approved in writing by the LPA. The testing shall demonstrate that the Floors between the ground floor units and the first floor residential units achieve a sound insulation value of 5dB better than Building Regulations Approved Document E - resistance to the passage of sound performance standard (i.e. a minimum of

50 DnT,w + Ctr dB for airborne sound insulation) for purpose built dwelling-houses and flats (Table 0.1a).

Soundproofing (external): No development shall take place until a scheme for protecting the residential units from noise generated by traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. In the event that the required internal noise levels can only be achieved with windows closed, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure adequate cooling of the occupants with the windows closed. (NOTE - Standard double glazing will achieve the soundproofing part of this condition. The ventilation scheme will require either MEV or MVHR systems, passive ventilation will not be sufficient. The ventilation system should also comply with the noise requirements of the condition to ensure residents are not disturbed by noise from the ventilation).

Reasons for above: To safeguard the amenity of residents.

Opening Hours: The business shall not operate outside of the following hours:

Mon to Thurs - 07:30 to 00:00 hrs

Fri and Sat - 07:30 to 01:00 hrs

Sunday - 09:00 to 00:00 hrs

Deliveries and collections: No deliveries or collections of commercial goods or waste outside the following hours:

Mon to Fri 07:00 to 19:00 hours

Sat 08:00 to 13:00 hours

Reason: to protect the amenity of residents.

Noise Management Plan: The submitted noise management plan ref 4522_001m_1-0_ps shall be adhered to at all times. The plan shall be reviewed for suitability following the receipt of any noise complaint and any changes must be submitted to the LPA for approval in writing.

Urban Designer Comments

16.11.2020:

I will leave the assessment of the internal space to you as it is more of a DM issue.

When looked at in the round the double dormers do not justify an objection on this ground alone. Nevertheless, the dormers serving the bedrooms are inconsistently drawn in elevation and plan; as the latter suggests more solid face.

19.10.2020:

I feel they are squeezing in too much.

The top floor flats are constrained and the limited number of proper windows provides a poor outlook and cell-like internal environment. Unlike the DM/17/4575 drawing the 3rd floor plan does not clearly show the relationship of the roof and dormers that represents these

constraints more graphically. I consequently question the amount of usable space (section drawings would also be helpful).

I am also unhappy as I had previously negotiated single dormer windows in the last conditions applications. The double arrangement on the west and east elevations has squat proportions that are at odds with these otherwise vertically proportioned facades. The elevation drawing of these dormers also does not accommodate the clumsy internal dividing wall that will be necessary.

MSDC Street Naming and Numbering Officer

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 or by phone on 01444 477175.

Environmental Health Officer

I have been informed that you have applied for planning permission to carry out alterations to the above mentioned premises. I have examined your plans with respect to Housing Standards. Based on the plans submitted the following comments are made with specific reference to compliance with Housing Standards legislation. Please note that this may differ from planning legislation, but respective minimum standards must be followed.

I have attached the HMO Housing standard for Mid Sussex & Sussex wide authorities for your attention in relation to bedsit rooms and standards that are required.

Description:

Proposed amendment to application 17/4575 Redistribute proportion of commercial space whilst retaining 10 flats.

Comments:

Rooms sizes

Single bedroom: minimum size 6.5 square metres

Double bedroom minimum size 10 square metres

Please note specific requirements in the Technical Housing Standards - Nationally described space standard used by Planning Departments.

Means of escape

Means of escape in case of fire. 30 Minute fire doors to kitchen and living areas Suitable interlinked fire alarm systems installed in kitchens and living areas and hallways of all flats. The exit for the Ground Floor bedsit is past a high risk kitchen area.

Heating :

The system shall be capable of maintaining the following internal temperatures when the external temperature is -1degrees C
Living room and dining room 21degrees C
Bathroom 22degrees C
Elsewhere 18degrees C

All storage heaters shall have automatic charge control and thermostatically controlled damper outlet. Living rooms to be provided with a fan assisted combination storage heater with thermostatically controlled top up convector heater.

Gas Central heating systems should satisfy the design and installation requirements of British Standard 5449: 1990 in accordance with Part L of the current Building Regulations (as amended).

Ventilation

All kitchen/living areas must be provided with open-able windows of a suitable size to ensure sufficient ventilation without causing excessive draughts.

Lighting

Provision of adequate natural lighting via windows to kitchen, bedroom and living rooms to provide adequate natural lighting. BS8206 Code of practice Parts 1 & 2. Also BRE guidance on Natural Lighting.

Contaminated Land Officer Comments

I have no comment to make with regards to the proposed application provided condition 9 of application DM/17/4575 remains in place.

Community Facilities Project Officer

Thank you for the opportunity to comment on the proposed amendment to application DM/17/4575 to redistribute proportion of commercial space whilst retaining 10 flats.

Although the housing mix has not changed, the Council adopted a new Development and Infrastructure Supplementary Planning Document in July 2018, and on this basis the following financial contributions would be required.

CHILDRENS PLAYING SPACE

Queens Crescent, owned and managed by the Council, is the nearest locally equipped play area approximately 380m from the development site. This facility will face increased demand from the new development and a contribution of £16,606 is required to make improvements to play equipment (£9,025) and kickabout provision (£7,581). These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

FORMAL SPORT

In the case of this development, a financial contribution of £10,336 is required toward improvements to the football pitch and ancillary facilities at Fairfield Recreation 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 £5,928 is required to make improvements to the Sydney West community centre.

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

Water Access Manager

Having viewed the plans for the planning application no. DM/20/2740, evidence will be required that all areas of all domestic flats are within 45 metres of a fire appliance in accordance with Approved Document B Volume 1 2019 Edition para 13.1 (page 97); all points inside each dwelling is to be within 45 metres of a fire appliance. This is due to the minimum length of firefighting hose connected to the appliance used to fight fires.

Any areas not within the 45 metre distance will need to be mitigated by the fitting of domestic sprinklers.

WSCC Waste and Minerals

The MWPA would offer No Objection on the application as per subject line of this email.

We would not expect to be consulted on applications of this type as it is within brownfield land within the built up area.

There are no identified minerals or waste infrastructure located within close proximity of the proposed development area.

I would be grateful if this response could be distributed to the allocated case officer.