

MID SUSSEX DISTRICT COUNCIL

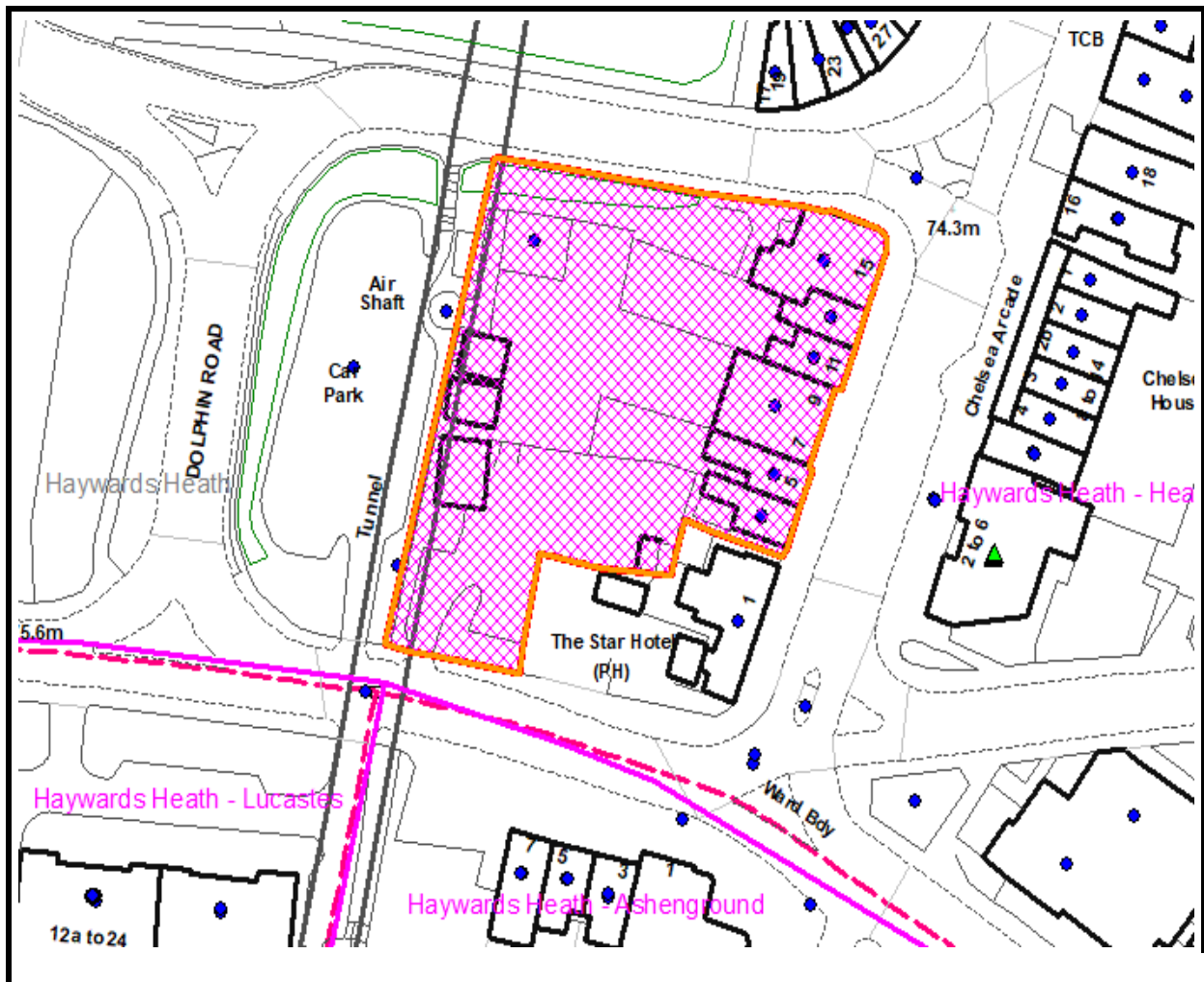
Planning Committee

9 FEB 2023

RECOMMENDED FOR REFUSAL

Haywards Heath

DM/21/3898



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**3 - 15 THE BROADWAY HAYWARDS HEATH WEST SUSSEX RH16 3AQ
DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT TO
PROVIDE MIXED USE DEVELOPMENT OF CLASS E COMMERCIAL
UNITS AND 37 NO. UNITS OF RETIREMENT LIVING ACCOMMODATION
WITH ASSOCIATED COMMUNAL FACILITIES, PARKING AND
LANDSCAPING. (AMENDED PLANS RECEIVED 17TH OCTOBER 2022
SHOWING A REVISED DESIGN AND ADDITIONAL SUPPORTING**

**INFORMATION). (AMENDED LOCATION PLAN AND CERTIFICATE OF OWNERSHIP RECEIVED 17TH NOVEMBER 2022).
MCCARTHY AND STONE RETIREMENT LIFESTYLES LTD**

POLICY: Area of Special Control of Adverts / Built Up Areas / Conservation Area / Post 1974 Conservation Area Boundary / Classified Roads - 20m buffer / Aerodrome Safeguarding (CAA) / Railway Safeguarding Area / Tree Preservation Order Points / Trees subject to a planning condition /

ODPM CODE: Smallscale Major Retail

8 WEEK DATE: 16th February 2023

WARD MEMBERS: Cllr Sandy Ellis / Cllr Clive Laband /

CASE OFFICER: Steven King

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

This application seeks full planning permission for the demolition of the existing buildings at The Broadway in Haywards Heath and the erection of a replacement building to provide a mixed use development of Class E commercial units and 37 no. units of Retirement Living Accommodation with associated communal facilities, parking and landscaping on behalf of McCarthy and Stone.

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Haywards Heath Neighbourhood Plan.

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

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.

It is considered that the principle of development is acceptable. This is a sustainable

town centre site and the mix of commercial uses on the ground floor with residential above is appropriate for a town centre site. There are no policies in the development plan that preclude specialist accommodation for older people within the town centre.

It is a stated aim of government policy in the NPPF to significantly boost the supply of homes. In relation to older people, the PPG goes further and states *'The need to provide housing for older people is critical.'* This is the only category of accommodation where the need is described in these terms. The consultation on the Levelling-up and Regeneration Bill: reforms to national planning policy, which was published on 22nd December 2022 states that *'This government is committed to further improving the diversity of housing options available to older people and boosting the supply of specialist elderly accommodation.'* It is clear therefore that national planning policy attaches significant importance to the need to provide accommodation for elderly persons and that the intention is to carry forward this commitment when the NPPF is updated.

This clear need for additional accommodation for the elderly is an important factor that weighs in favour of the scheme.

It is considered that the site could be satisfactorily drained and that there would be no adverse impact on trees or ecology that would warrant refusal of the application. It is considered that the vehicular access to the site will be satisfactory and that the proposal would not have a severe impact on the local highway network. It is felt that the impact of the development on the existing businesses around the site would be acceptable. As such these matters are neutral in the planning balance.

If the application were to be found acceptable in other respects, a legal agreement would secure the required infrastructure contributions and affordable housing contribution.

A key consideration in this case is the design of the proposed development and its impact on heritage assets. Both development plan policy and national planning policy guidance seek a high standard of design in new development.

It is considered that the design of the development does not have sufficient articulation to break down the scale of the building and as a consequence, it would appear as a bland and monolithic structure that would detract from the character of the area. It is not felt that the corner elevation on northeast corner of the building satisfactorily addresses this prominent elevation. It is considered that the building is bland and ubiquitous.

The proposed development is within the setting of the Muster Green Conservation Area. It is considered that the proposed development would have a harmful impact on the setting of this Conservation Area and that in terms of the NPPF, this would fall into the category of less than substantial harm. The scheme would therefore conflict with policy DP35 in the District Plan. Under paragraph 202 of the NPPF this harm would need to be weighed against the public benefits of the scheme. It is also considered that the scheme is within the setting of the Star Public House, which is a non-designated heritage asset, and would cause harm to this non-designated heritage asset. The scheme would therefore also conflict with policy DP34 in the

District Plan. Paragraph 203 of the NPPF requires a balanced judgement to be made having regard to the scale of any harm or loss and the significance of the heritage asset.

As the NPPF requires under paragraph 202 that the harm should be weighed against the public benefits of the proposal (in the case of designated heritage assets) and a balanced judgement to be made in the case of harm or loss to a non-designated heritage asset (paragraph 203), there would need to be significant public benefits that outweighed the harm to the designated and non-designated heritage assets, for this material planning consideration to outweigh the harm to the heritage assets.

Therefore, it would be possible for the loss of the existing parade of shops to be accepted if there were public benefits that outweighed the harm to the heritage assets. In this case there would be a public benefit arising from the provision of specialised older persons accommodation, for which there is strong support in planning policy. There would also be public benefits arising during the construction phase of the project and from the operational phase from employment and the additional spending in the local economy from the residents of the units. These are all positive matters that weigh in favour of the scheme in the planning balance.

However, it is not felt that the design of the scheme is of a high quality. As such it is not felt that there are public benefits in this case that would outweigh the harm to the designated and non-designated heritage assets.

Therefore to summarise, it is considered that the proposed design of the development is not of the high quality that is sought by development plan policy and national guidance and there would be an adverse impact on the setting of the Muster Green Conservation Area. The public benefits of the development would not outweigh this harm. The proposal therefore conflicts with policies DP26, DP34 and DP35 of the District Plan and policies E9 and H8 of the Haywards Heath Neighbourhood Plan.

The impact on infrastructure could be mitigated by the contributions required under the section 106 legal agreement. However as there is not a completed legal agreement in place to secure the required infrastructure contributions or affordable housing, there would be a conflict with policies DP20 and DP30 of the District Plan.

The conflicts are significant and therefore the development is felt to conflict with the development plan when read as a whole.

The provision of specialist accommodation for elderly people is an important material consideration and it is recognised in national policy that the need for housing for older people is critical. However it is not considered that this material consideration outweighs the conflict with the development plan. Therefore the application is recommended for refusal.

RECOMMENDATION

It is recommended that planning permission is refused for the reasons set out in appendix A.

SUMMARY OF REPRESENTATIONS

Original plans:

147 letters of objection,

- the site is a poor location for this use as it is the centre of Haywards Heath night time economy
- future occupiers would be disturbed by the existing uses around the site
- proposal could result in complaints about existing businesses and impose new restrictions on them
- location is not suitable for elderly residents as it is on a busy traffic junction, including a one way system and multiple pedestrian crossings
- elderly drivers may feel overwhelmed by the junction layout
- there is no need for further retirement accommodation in Haywards Heath as there are numerous other sites in close proximity
- the town should focus more on attracting young people who want to innovate and contribute to its culture and economy
- there is already too much accommodation for the elderly in the area
- there will be a poor quality environment for future residents because of poor air quality at this busy junction
- car parking is inadequate
- the existing buildings contribute to the character and history of Haywards Heath and should be retained
- the proposed development is a bland design with no character and would harm the area
- consultation has been inadequate and hasn't taken account of the local opposition to the application
- very little attempt to improve the public realm such as widening the pavement or tree planting
- would be significant disruption during building works
- elderly people will not want to live in this noisy location
- existing period buildings should be retained and improved
- will be inadequate infrastructure to serve the development, including health care facilities
- conflicts with Haywards Heath Master Plan

Amended plans received 17th October 2022

11 letters received raising the same points as above and additional comments:

- green walls would conflict with building regulations
- inadequate sun lighting for new units that will not be offset by balconies

Amended location plan received 17th November 2022

7 letters received raising the same points as above and additional comments:

- application has already been in for far too long and need to be determined
- the continuing decay of the area serves the interests of the applicant

- a reduction in the number of letters received is not an indication that residents are now happy with the proposal but is evidence that the tactics of the applicant to grind down those opposing the development are proving successful
- what parking spaces should pizza delivery drivers use if they cannot park diagonally on the footway
- statement that external balcony spaces will offset the lack of sunlight in some properties seems contradictory to your notion that double glazing and internal air system means residents won't need to open the windows/doors
- the proposed layby will reduce the width of footway from its current width and the scheme should be redesigned with all servicing taking place within the site
- the pedestrian access to the site through the car park will not be safe and the alternative access between the bin store and The Star would not be legible, attractive or safe

SUMMARY OF CONSULTEES

County Planning Officer

Requires infrastructure contributions towards libraries (£8,856) and Total Access Demand (£50,133)

Highway Authority

No objection subject to conditions. A Traffic Regulation Order would be required to ensure the loading bay is used for loading and unloading only.

West Sussex County Lead Local Flood Authority

Site is at low risk from surface water flooding, ground water flooding and we do not have any records of historic surface flooding within the confines of the proposed site.

West Sussex County Water and Access Officer

Evidence will be required to show that all parts of all units are within 45 metres of a fire appliance. Any areas not within the 45 metre distance will need to be mitigated by the installation of domestic sprinkler or water mist system

Network Rail

Due to the close proximity of the proposed works to the railway tunnel which supports the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team prior to works commencing.

Southern Water

Additional foul flows may lead to an increased risk of foul flooding from the sewer network. Requests a condition regarding the phased delivery of the development to align with the delivery by Southern Water of any sewerage network reinforcement required.

Environment Agency

No objection subject to conditions

Sussex Police

No objection to the proposed development as submitted from a crime prevention perspective.

Environmental Protection Officer

Recommends conditions regarding noise

Contaminated Land Officer

Recommend approval with conditions

Drainage Engineer

The proposed surface water drainage strategy is acceptable in principle. The principle of foul water drainage is considered acceptable.

Conservation Officer

The proposal is likely to cause a moderate level of less than substantial harm to the setting of the Muster Green Conservation Area which would need under paragraph 202 of the NPPF to be weighed against the public benefits, if any of the scheme.

In terms of the impact on the Non-Designated Heritage Asset (The Star) under paragraph 203 of the NPPF I would consider the harm to this asset of a moderate to high degree of significance in the local context to be high, given the loss of the existing shop parade which contributes positively to its setting, the proximity of the site and the overbearing nature of the development.

This will also be contrary to the requirements of District Plan Policies DP34 and DP35.

Urban Designer

The scheme does not accord with principles DG32, DG38 and DG39 of the Mid Sussex Design Guide and DP26 of the District Plan. I also question whether it meets DG37 and DG47 of the MSDG. I therefore object to this planning application.

Housing Officer

Requires a financial contribution for offsite affordable housing of £716,000

Community Facilities Project Officer

Requires infrastructure contributions towards formal sport (£14,198) and community buildings (£15,444)

Waste Contracts Monitoring Officer

After reviewing the upper floor plan it seems like this is fine and will have correct capacity to serve the residents. I cannot see any further issue from a waste perspective.

Tree Officer

To be reported

TOWN COUNCIL OBSERVATIONS

Comments: The Town Council notes the submission of amended plans and additional supporting information (received by Mid Sussex District Council on 23/05/2022) and reiterates its response submitted on 20/12/2021 as follows:

On balance, the Town Council supports this application as it believes that it delivers Policies E8, E11, E13, B2 and B3 of the Haywards Heath Neighbourhood Plan. Furthermore, the Town Council believes this is the first step in delivering the Haywards Heath Town Centre Masterplan. However, it does have significant concerns relating to existing and increasing traffic flows, and flooding/drainage on the highway perimeter of the site, particularly in Dolphin Road, The Broadway and Muster Green South. These must be addressed as part of the overall development plan for the site in order for it to be viable, fit for purpose and suitable for 'retirement living' accommodation.

If the application is approved, the Town Council requests that it be subject to the following conditions:

1. a very clear Site/Construction Management Plan, incorporating wheel washing facilities,
2. construction hours restricted to 08:00 to 18:00 hours Mondays to Fridays, 09:00 to 13:00 hours Saturdays, and no works on Sundays or Bank/Public Holidays,
3. no movement of goods into or out of the site before 07:00 hours or after 18:00 hours,
4. adequate provision must be made on site to accommodate all plant and machinery and the parking of contractors' and visitors' vehicles. There should be no parking of construction-related vehicles in the surrounding vicinity on account of this being an extremely busy town centre location which cannot afford to become clogged up with construction traffic.'

Furthermore, Members now ask that the following (fifth) condition be added:

5. regarding egress from the proposed parking court and in order to protect all road users, an exit design should be engineered to prevent accidental left-hand turns on to the one-way system.

INTRODUCTION

This application seeks full planning permission for the demolition of the existing buildings at The Broadway in Haywards Heath and the erection of a replacement building to provide a mixed use development of Class E commercial units and 37 no. units of Retirement Living Accommodation with associated communal facilities, parking and landscaping on behalf of McCarthy and Stone.

RELEVANT PLANNING HISTORY

There have been various applications for works to the buildings that comprise the application site but none are of direct relevance to this planning application.

SITE AND SURROUNDINGS

The application site consists of a parade of two storey retail units on the west side of The Broadway and the car parking and servicing area to the rear (west) of these buildings. There is a fall in levels through the site from south to north, with a fairly substantial difference in levels from the northern boundary of the site down to the road.

Vehicular access to the rear servicing areas is provided by a crossover in the southwestern corner of the site. The site is enclosed by the one way gyratory system that directs traffic in a clockwise direction.

The site excludes the Star Public House which is located to the south eastern corner of the block.

To the north of the site there is a steep tree lined bank down to the footway. To the north eastern corner opposite the site are three storey buildings that curve round the corner. These are in commercial use on the ground floor with flats above. To the northwest on the opposite side of the road there are trees and beyond this is a very sharp fall in levels down to the London to Brighton railway line.

To the east is Chelsea House, a four storey brick building in commercial use on the ground floor with offices above. On the corner of The Broadway and Church Road, a development that was approved under reference number DM/20/1388 is being constructed. This will be a contemporary designed building with a mansard roof, which would be 5 storeys high on The Broadway frontage and four storeys on the Church Road frontage due to the difference in site levels. It will contain commercial uses on the ground floor and 19 apartments above.

To the south of the site is a three storey brick building with commercial uses on the ground floor and offices above. There is also an area of surface car parking. Further to the southwest is a block of four storey flats at Muster Court.

To the west of the site is a Council public car park. The access to this is directly to the west of the access that serves the servicing area to the rear of the application site. There is a line of trees between the service area and the car park.

In terms of planning policy the site is within the built up area of Haywards Heath as defined in the District Plan and is designated as being within the secondary shopping frontage. The boundary of the Muster Green Conservation Area abuts the western side of the site (the Council car park is within the Conservation Area). The site is within the Town Centre Boundary as defined in the Haywards Heath Masterplan SPD and is identified in this document as an 'aspiration site with development potential'.

APPLICATION DETAILS

This application seeks full planning permission for the demolition of the existing buildings at 3-15 The Broadway Haywards Heath and the erection of a single building to provide a mix of Class E commercial units on the ground floor and 37 units of retirement living accommodation with associated communal facilities, parking and landscaping.

The building would be arranged in a broadly T shaped footprint. The proposed commercial units on the ground floor would front onto The Broadway. The building would be set back between 4.8m and 10m from Muster Green North with a landscaped area between the building and the road, which would be at a substantially lower level.

There would be an external amenity space located to the southern side of the building. Vehicular access to the site would be located at the southwest corner of the site on the one way system. This would provide access to a car parking area with 28 spaces.

Internally, the ground floor of the building facing onto The Broadway would contain the commercial units. The southern end of this part of the building would contain the bin store for the commercial units. The east/west part of the building on the ground floor would contain five flats, together with a club lounge, reception area, refuse store and mobility scooter/cycle store and lifts.

The remaining upper floor would contain the remainder of the flats (37 in total). The third floor would also contain a roof terrace garden that would be positioned at the north eastern end of the building. The flats on the third floor would have balconies. Nine of the twelve flats on the second floor would have balconies. There would also be a guest unit on this floor.

The proposed building would have mainly brick elevations, with the upper floor set back and with grey cladding. When viewed from The Broadway, the building would be four storeys in height at its tallest point, with the upper floor being set back. The building would step down towards the north as there is a fall in levels through The Broadway from south to north. On the north eastern corner of the site, the building would step down to two storeys.

The southern elevation of the building facing Muster Green South would be four storeys in height, with the upper floor being set back.

The applicants describe key parts of their scheme as follows:

'The proposed development provides 5 commercial units along The Broadway street frontage, to maintain the prominence of retail uses in the area. There would be potential for these to be let independently or as a grouping.

Later Living retirement housing is a proven option for older people who wish to move into accommodation that provides comfort, security and the ability to manage independently to a greater extent. It enables older people to remain living in the community and out of institutions whilst enjoying peace of mind and receiving the care and support that they need.

Later Living developments, as proposed here, are designed for the more independent older person with development of one and two bedroom apartments around a central core of communal facilities. The communal facilities typically include residents lounge landscape gardens, refuse room, mobility scooter store and house managers office. All apartments have level access and careline facilities, whilst all floors are accessed by lift. The developments are supervised by a house manager and occupation of the apartments is controlled through the lease.

Since 2010 McCarthy and Stone now manage their own developments and a House Manager is based on-site, supported by the company's management services team. This allows for the maintenance and management of the development and its grounds in line with best practice and all legal lease management requirements that apply.

While anyone may purchase an apartment, the apartments are sold (where not rented) based on a 999 year lease requiring the accommodation, except for the house manager's office accommodation, to be occupied by persons over 60 years. In the case of a couple, that part of the lease shall be satisfied where one of the occupants is over the age of 60 years and the other is over the age of 55 years.

Between 70-80per cent of occupants are aged 78 years or over with about 30per cent aged 80 years or over. The majority of McCarthy Stone residents (some 85-90per cent) are widowed or single, with 75per cent of apartments comprising single, female households.'

LEGAL FRAMEWORK AND LIST OF POLICIES

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

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

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

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

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

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

The requirement to determine applications 'in accordance with the plan' does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which

may be mutually irreconcilable so that in a particular case one must give way to another.

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 for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Haywards Heath Neighbourhood Plan.

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

Mid Sussex District Plan

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

Relevant policies:

Policy DP2: Town Centre Development

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 DP35: Conservation Areas

Policy DP37: Trees, Woodland and Hedgerows

Policy DP38: Biodiversity

Policy DP39: Sustainable Design and Construction

Policy DP41: Flood Risk and Drainage

Policy DP42: Water Infrastructure and the Water Environment

Mid Sussex District Plan 2021-2039 Consultation Draft

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

Site Allocations DPD

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

Policy SA39: Specialist Accommodation for Older People and Care Homes

Neighbourhood Plan

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:

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 (SPD)

Affordable Housing Supplementary Planning Document (SPD)

Development Viability Supplementary Planning Document (SPD)

Mid Sussex Design Guide Supplementary Planning Document (SPD)

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

Haywards Heath Town Centre Masterplan SPD 2021

The Masterplan was adopted as a Supplementary Planning Document (SPD) at Full Council on 31st March 2021. It will be used to help make decisions on planning applications. The Masterplan covers the plan period to 2031 and sets a framework for projects both short-term and long-term within this period.

National Planning Policy Framework (NPPF) (July 2021)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraphs 8,

11, 12, 38, 47, 111, 124, 126, 130 and 194 to 202 are considered to be relevant to this application.

National Planning Policy Guidance

National Design Guide

Ministerial Statement and Design Guide

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

The National Design Guide provides guidance on what the Government considers to be good design and provides examples of good practice. It notes that social, economic and environmental change will influence the planning, design and construction of new homes and places.

Technical Housing Standards

Planning (Listed Buildings and Conservation Areas) Act 1990

ASSESSMENT

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

- The principle of development,
- Design matters and impact on Heritage Assets,
- The impact on neighbouring amenity and amenities of future occupiers,
- Transport matters,
- Drainage,
- Land contamination,
- The impact on trees,
- Biodiversity,
- Habitats Regulations,
- Infrastructure contributions,
- Affordable housing,
- Housing mix,
- Planning Balance and Conclusion

Principle of development

The District Plan is up to date and the Council can demonstrate a 5 year supply of deliverable housing land. The planning 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 (DP) and Haywards Heath Neighbourhood Plan (HHNP).

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 in a sustainable location and there is no objection in principle to residential development within the town centre. Therefore, the proposed residential element 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 it is considered that the proposal also meets the criteria within this policy.

Policy SA39 in the Site Allocations DPD states:

'There is an identified need for specialist accommodation for older people comprising at least 665 additional extra care units (Use Class C2) by 2030, of which at least 570 should be leasehold.'

'The Housing and Economic Development Needs Assessment Addendum (August 2016) identified forecast demand for care homes (Use Class C2) at 2031 as 2,442 bedspaces.'

'The Council will support proposals that will contribute to meeting these types of specialist accommodation.'

'Proposals for specialist accommodation for older people and care homes will be supported where:'

- a) *It is allocated for such use within the District Plan, Site Allocations DPD or Neighbourhood Plan, or*
- b) *It forms part of a strategic allocation, or*
- c) *It is located within the Built-Up Area Boundary as defined on the Policies Map, or*
- d) *Where the site is outside the Built-Up Area, it is contiguous with the Built-Up Area Boundary as defined on the Policies Map and the development is demonstrated to be sustainable, including by reference to the settlement hierarchy (policy DP4).*

In all circumstances, the site must be accessible by foot or public transport to local shops, services, community facilities and the wider public transport network. Proposals must demonstrate how reliance on the private car will be reduced and be accompanied by a Travel Plan which sets out how the proposal would seek to limit the need to travel and how it offers a genuine choice of transport modes, recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.'

As the site is within the built up area of Haywards Heath, the development accords with part c) of policy SA39.

Some concerns have been raised by those who have commented on the application regarding whether there is a need for this type of residential accommodation and whether this town centre site is a suitable location for such accommodation.

With regards to the first point, it is a stated aim of government policy in the NPPF to significantly boost the supply of homes. In relation to older people, the PPG goes further and states *'The need to provide housing for older people is critical.'* This is the only category of accommodation where the need is described in these terms. The consultation on the Levelling-up and Regeneration Bill: reforms to national planning policy, which was published on 22nd December 2022 states that *'This government is committed to further improving the diversity of housing options available to older people and boosting the supply of specialist elderly accommodation.'* It is clear therefore that national planning policy attaches significant importance to the need to provide accommodation for elderly persons and that the intention is to carry forward this commitment when the NPPF is updated.

Given these points it is considered that there is a need for this type of accommodation. It is considered that the applicants must believe that there is a clear need for this type of accommodation, otherwise they would not be seeking to invest in Haywards Heath to provide it.

With regards to the second point, there will be an assessment later in this report regarding the prospective environment for future occupiers of the proposed flats, having regard to the existing uses that are adjacent to the site. As a broad brush principle however, there is nothing within the development plan or within national policy that precludes residential accommodation for the elderly in town centre sites as a matter of principle.

With regards to the proposed commercial element of the scheme, the site is within the town centre as defined in the District Plan, with the ground floor being defined as Secondary Shopping Frontage. Policy DP2 in the District Plan states in part:

'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.*

Primary Shopping Frontages

Primary shopping frontages are areas considered to be the principal shopping areas, predominantly for retailing. Proposals should enhance the shopping facilities available and not undermine the retail function of the area. Within primary shopping frontages as defined on the Policies Map change of use will be permitted where:

- A clear predominance of Class A1 shop uses would be maintained,*
- The nature of the proposed use would sustain and enhance the vitality and viability of the centre, and*
- The location and prominence of the proposed use would not lead to a significant break in the continuity of the shopping facilities.*

Changes of use to B1a offices or residential use at ground floor level will be resisted.

Secondary Shopping Frontages

Secondary shopping frontages are the smaller areas on the edge of, or beyond, the primary shopping frontages. A high proportion of Class A1 - A5 uses appropriate to a shopping area, which contribute to the pedestrian flow and attractiveness of the area, should be retained. Within secondary shopping frontages as defined on the Policies Map change of use will be permitted where:

- The proposal would sustain and enhance the vitality and viability of the shopping area,*
- The cumulative effect of non-Class A1 - A5 shop uses is not so great as to undermine the attractiveness of the shopping area.*
- In exceptional circumstances change of use to B1a office, health or medical use or residential use, at ground floor level, will be permitted where:*
- It can be shown that an A1 - A5 use is no longer viable,*
- An unacceptable break in the frontage of A1 - A5 uses would not occur, and*
- The cumulative effect of the proposal would not be so great as to undermine the vitality and viability of the shopping area.*

The town centre boundaries and Primary and Secondary Shopping frontages in the three towns are shown on the Policies Map. These may be revised through Neighbourhood Plans for those areas.'

Since the District Plan was adopted, the Use Classes Order has been amended and the old use class of A1 (retail), A2 (financial and professional services), A3 (restaurants) and B1 (Office/light industrial) have all been incorporated together with a range of other uses into the new Class E, Commercial, Business and Service.

The applicants have clarified that the proposed ground floor units would be available for the following uses within the new E Class,

Class E (a) Display or retail sale of goods, other than hot food

Class E (b) Sale of food and drink for consumption (mostly) on the premises

Class E (c) Provision of:

E(c)(i) Financial services,

E(c)(ii) Professional services (other than health or medical services), or

E(c)(iii) Other appropriate services in a commercial, business or service locality

Class E (d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)

Class E (e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)

Class E (g) Uses which can be carried out in a residential area without detriment to its amenity:

E(g)(i) Offices to carry out any operational or administrative functions,

The proposal would allow the ground floor units to be occupied by retail units in the same way as the current buildings on the site are retail on the ground floor. The Use Classes Order was amended on 1st September 2020 to provide greater flexibility to allow a variety of commercial uses to take place without a planning application being required for a change of use. Given these points, it is considered that the principle of the proposed commercial uses on the ground floor would not conflict with policy DP2 in the District Plan.

In light of all the above, it is considered that the principle of this development is acceptable in line with the above development plan policies and the NPPF.

Design and visual impact on the character of the area

Design

Policy DP26 of the Mid Sussex 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.'*

Policies E9 and H8 in the Neighbourhood Plan have similar aims.

Policy E9 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.'

Policy H8 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.'

National policy is also strongly supportive of good design. Paragraph 126 of the NPPF states in part that *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

In terms of further guidance, the following is relevant. The Haywards Heath Masterplan SPD states:

'M. Muster Green/Broadway site

Opportunity exists for a redevelopment of the western terrace of The Broadway, north of The Star pub. A taller development, that helped frame the street and bring ground floor activity, could assist in bringing further life to The Broadway. Mixed use development, could also bring people directly into the centre, and help to bridge the gap between South Road and this part of the town centre.'

The Design Guide SPD identifies the character type of the site as being within an Urban Area (fine grain). This SPD notes *'There are valued townscapes in Haywards Heath where there is less scope for new development. Within the town centre, this includes the areas defined as fine grained'* and advises that most opportunities for redevelopment lie in the coarse grained areas. The SPD notes that the Conservation Areas including the areas surrounding the key open spaces of Muster Green and the Heath are especially sensitive to development.

Therefore it is important to note at the outset that the existing Victorian parade contributes positively to the street scene and character of The Broadway. As such, any proposal that seeks to replace the existing parade of buildings would need to be of a high standard of design to justify the loss of the existing buildings.

The comments of the Councils Urban Designer are summarised at the start of the report and are set out in full in the appendix. With regard to the frontage onto The Broadway, the Urban Designer states the *'...elevation still does not have sufficient variety/architectural interest and reads too singularly as one long monotonous building frontage.'* He goes on to state *'The introduction of green wall panels is an attempt to soften the frontage in the absence of street trees. Unfortunately for all the reasons given by the Design Review Panel, the green panels risk looking like afterthoughts, and not something that is fully integrated with the rest of the facade.'*

The lack of greenery is also likely to exacerbate the shortcomings of the Broadway façade.'

The northeast corner of the site is prominent within the street scene. The Urban Designer states *'Curving the façade at the junction of the Broadway/Muster Green North is an attempt to address the corner. Unfortunately, this single storey element appears to be bolted-on at the end of the Broadway elevation and therefore poorly integrated with the rest of the façade.'*

The Urban Designer is also critical of the Muster Green North elevation. He considers *'The revised design though is inferior to the originally submitted application drawing as there is less vertical subdivision and it no longer steps down to 3 storeys towards the Muster Green Conservation Area to the west, instead extending to 4-storeys along the whole facade. Furthermore, the height of this building is exaggerated when viewed from the street it sits on raised ground. Consequently, this elevation would be unduly monolithic and imposing upon the modest scale of Muster Green particularly during the winter months when trees are not in leaf.'*

Whilst the Urban Designer notes there have been improvements to the rear/south elevation, this does not overcome his overall objections to the scheme.

Your Planning Officer agrees with the conclusions of both the Design Review Panel (DRP) and the Council's Urban Designer about the design quality of the proposed building. It is considered that the design of the development does not have sufficient articulation to break down the scale of the building and as a consequence, it would appear as a bland and monolithic structure that would detract from the character of the area. It is not felt that the corner elevation on northeast corner of the building satisfactorily addresses this prominent elevation. In your Officer's view, the single storey projection is not well integrated with the remainder of the building and the small chamfer does not adequately address the corner.

Principle DP32 in the Design Guide SPD states that any development that promotes a scale, height and massing that is greater than the existing context must also demonstrate that it does not:

- *'Cause significant harm to the amenity of adjacent properties (refer to chapter 8),*
- *Adversely impact on views of the wider townscape and landscape,*
- *Adversely impact on the quality of the streets and spaces, and / or*
- *Generate parking that dominates or adversely impacts on the public realm.'*

Principle DG38 in the Design Guide SPD advises that *'Good architecture involves the successful co-ordination of proportions, materials, colour and detail.'* Principle DP39 in the Design Guide SPD notes that *'Subdividing a street frontage into a series of vertically proportioned bays helps avoid larger buildings, and extended frontages, appearing monolithic and provides them with a more human scale.'*

It is not felt that the proposed design has achieved these aims. The modest change to the cill heights of the ground floor commercial units do not break up the monolithic front elevation in a substantive way. Your Planning Officer agrees with the criticism of the DRP that the design is bland and ubiquitous.

Given the contribution that the current buildings make to the character of the area, it is considered that this makes it even more important that if the existing buildings are to be removed, they need to be replaced with a high quality design that makes a positive contribution to the character of the area.

Overall, your Planning Officer agrees with the assessment of the DRP and Urban Designer that the quality of the design is not satisfactory and therefore the scheme does not comply with policy DP26 of the DP and policies E8 and H9 of the HHNP.

In addition to the above matters, it is not felt that the layout of site is ideal in relation to the pedestrian access arrangements for prospective residents of the development. Level pedestrian access would be from either a walkway from The Broadway or would require people to walk through the car park within the development. The access way onto The Broadway is quite narrow (some 1.9m) and would not be a particularly inviting route into the development. The alternative level access would require residents to walk through the car park access. There is no separation between pedestrians and the cars in this area and again this would not be ideal. It is therefore felt that this is a further aspect of the scheme that is not satisfactory in relation to the design of the development.

Policy E13 in the Neighbourhood Plan states:

'Proposals for new residential development should provide good quality private outdoor space which is appropriate to the development proposed. The amount of land used for garden or amenity space should be commensurate with the size and type of dwelling(s) and the character of the area, and should be of appropriate quality having regard to topography, shadowing (from buildings and landscape features) and privacy.'

There would be an open area to the south side of the building, adjacent to the club lounge that would be available to residents. Private amenity space within the site would be limited to the balconies of the proposed flats. Given the type of accommodation proposed and its town centre location, it is considered that this level of private outdoor amenity space is sufficient.

Sustainable Design

Policy DP39 of the District Plan states:

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

- *Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation,*
- *Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible,*
- *Use renewable sources of energy,*

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

Policy E8 of the Neighbourhood Plan has similar aims.

The developer has specified that they will be implementing a fabric first approach to reducing energy demand. This involves making the building energy efficient by way of energy efficient insulation, energy efficient heating and lighting. The applicants have referred to a 14per cent reduction in CO2 emissions from the 2013 Building Regulations baseline for the residential element and a 22.5per cent reduction for the commercial element.

The developer has also referred to a number of renewable technologies that have been considered. Of these air source heat pumps and solar panels are said to be potential options. The applicants planning statement refers to the installation of 1.9 kWp Photovoltaic array to each residential property and the provision of EV charging points.

It is considered the applicants have had regard to the requirements of policy DP39 in the DP and E8 in the HHNP, the details of which could be secured by a planning condition were planning permission to be granted for the development..

Impact on Heritage Assets

Policy DP35 of the Mid Sussex District Plan states:

'Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:

- *New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials,*
- *Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character,*
- *Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not result in the loss of a traditional shopfront and the new design is sympathetic to the character of the existing building and street scene in which it is located,*
- *Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area,*

- *Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported,*
- *New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.*

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

New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area.'

Policy DP34 in the DP states in part:

'Other Heritage Assets

Development that retains buildings which are not listed but are of architectural or historic merit, or which make a significant and positive contribution to the street scene will be permitted in preference to their demolition and redevelopment.

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

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

The following paragraphs in the NPPF are of particular relevance:

'197. 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.*

199. 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.

200. 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.*

202. 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.'

203. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The site is not within the Muster Green Conservation Area, which lies to the west, but is directly adjacent to it, and would be considered to be within its setting. There are no listed buildings within the site, a short distance to the north west is the Old House, which is a Grade II listed building dating from the late 16th century, but due to the distance between the two and the amount of screening around the boundary of the Old House, the proposed development is not considered to affect its setting. The Star Public House, which as above is adjacent to the site, would in the Conservation Officers opinion, be regarded as a non-designated heritage asset (NDHA), due to its age, architectural quality (with good survival of original features), and communal value.

The full comments of the Councils Conservation Officer are set out in the appendix. She makes the following points in her response:

'I would consider that at present the site makes a positive contribution to the setting of the Conservation Area. The 19th century shopping parade has some character and is similar in date to many of the buildings within the Area. This contribution is enhanced by the group value which the parade has with the adjacent Star public house, a building which, as above, I would regard as a non-designated heritage asset (NDHA) of a moderate to high degree of significance in the local context, having historical, aesthetic and communal value. These buildings collectively make a particularly strong contribution to the approaches to the Conservation Area from the east.'

I would consider that the existing buildings on the site make a positive contribution to the setting of an approach to the Muster Green Conservation Area, which is enhanced by their group value with The Star, which I would regard as a NDHA. I would consequently consider that their demolition will be harmful to the setting of the Conservation Area and the manner in which its special significance is appreciated. It would also be harmful to the setting of the Star.

Under the relevant Historic England guidance on development within the setting of heritage assets (GPA Note 3 'The Setting of Heritage Assets'), it will be necessary to consider ways in which this harm, which I would consider to be less than substantial, can be mitigated. In this instance I would consider the primary way in which this

could be achieved was by a new development on the site which was of such a high quality of contextual design as to make the same or a greater positive contribution to the setting of the affected heritage assets. Although it would be beyond my remit in this case to comment in detail on the architectural quality of the current scheme I agree with the Council's Urban Design Officer and the DRP that at present it does not respond entirely successfully to the context and as such in my opinion it would not in its present form mitigate for the loss of the existing shopping parade.'

She concludes by saying 'For the above reasons I am therefore of the opinion that the proposal is likely to cause a moderate level of less than substantial harm to the setting of the Muster Green Conservation Area which would need under paragraph 202 of the NPPF to be weighed against the public benefits, if any of the scheme.

In terms of the impact on the NDHA (The Star) under paragraph 203 of the NPPF I would consider the harm to this asset of a moderate to high degree of significance in the local context to be high, given the loss of the existing shop parade which contributes positively to its setting, the proximity of the site and the overbearing nature of the development.

This will also be contrary to the requirements of District Plan Policies DP34 and DP35.'

Your Planning Officer agrees with this general assessment. It is considered that the existing parade of shops does make a positive contribution to the setting of the Conservation Area and that there would be some harm arising from its loss. The same point applies to the setting of the public house. Therefore there is some conflict with policies DP34 and DP35 in the District Plan.

In such circumstances the NPPF requires under paragraph 202 that the harm should be weighed against the public benefits of the proposal (in the case of designated heritage assets) and a balanced judgement to be made in the case of harm or loss to a non-designated heritage asset (paragraph 203). Therefore, were there to be significant public benefits that outweighed the harm to the designated and non-designated heritage assets, this would be a material planning consideration that could lead to an acceptance of the proposal, despite the harm to the heritage assets.

As such, it would be possible for the loss of the existing parade of shops to be accepted if there were public benefits that outweighed the harm to the heritage assets. In this case there would be a public benefit arising from the provision of specialised older persons accommodation, for which there is strong support in planning policy. There would also be public benefits arising during the construction phase of the project and from the operational phase from employment and the additional spending in the local economy from the residents of the units. These are all positive matters that weigh in favour of the scheme in the planning balance.

However, for the reasons that have been outlined above, it is not felt that the design of the scheme is of a high quality. As such it is not felt that there are public benefits in this case that would outweigh the harm to the designated and non-designated heritage assets.

Impact on neighbouring amenity and amenities of future occupiers

Light levels

Policy DP26 requires a high standard of design in new development and that significant harm is not caused to the future occupants of new buildings, taking account of daylight and sunlight. The applicants have provided an Internal Daylight and Sunlight Report. This refers to the Building Research Establishment's Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022), which is a nationally recognised document relating to lighting standards. In summary, the applicants report concludes that:

- *Of the 98 habitable rooms analysed 74 (76per cent) meet the illuminance levels recommended, of those that do not meet 17 are combined Living/Kitchen/ Dining Rooms and seven are bedrooms. The 7 bedrooms achieve on average 84per cent of their target values with all achieving at least 76per cent of the target.*
- *When the living room areas are analysed without the kitchens to the rear, on average these areas will achieve the lux levels recommended, although 7 remaining below. This demonstrates that the main living areas of these LKDs are predominantly well daylight.*
- *Furthermore, these LKDs are all provided with external amenity space with external balconies, these balconies inevitably restrict the daylight and sunlight that is available within these rooms but provides an alternative source of well daylight amenity for residents. There is a trade-off between providing this private amenity and the daylight to the living rooms under balconies*

It is considered that it is not ideal that there are rooms within the development (mainly north facing) that would not meet the target levels for illuminance. However, policy DP26 refers to a test of significant harm, stating all applicants will be required to demonstrate that development '*does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.*'

It is recognised that there is a trade-off between providing balconies and the daylight to the living rooms under these balconies. Having regard to this point, the fact that the majority of rooms do meet the target illuminance levels in the BRE guidance and the high policy test in DP26 of 'significant harm', on balance, it is considered that the levels of light provided to the development will be satisfactory.

Quality of Environment for Future Occupiers (noise)

The site is within a town centre location, in close proximity to existing business, including the Star Public House, which adjoins the site to the south. As such assessing the quality of environment for future occupiers of the proposed development is an important consideration. It will also be important to assess the impact of the proposal on the existing businesses around the site.

The proposed flats would all meet the national dwelling space standards, thereby complying with policy DP27 in the District Plan.

In respect of noise and light pollution, policy DP29 states in part:

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

Noise pollution:

- *It is designed, located and controlled to minimise the impact of noise on health and quality of life, neighbouring properties and the surrounding area,*
- *If it is likely to generate significant levels of noise it incorporates appropriate noise attenuation measures,*
- *Noise sensitive development, such as residential, will not be permitted in close proximity to existing or proposed development generating high levels of noise unless adequate sound insulation measures, as supported by a noise assessment are incorporated within the development.*
- *In appropriate circumstances, the applicant will be required to provide:*
- *an assessment of the impact of noise generated by a proposed development, or*
- *an assessment of the effect of noise by an existing noise source upon a proposed development,*
- *Light pollution:*
- *The impact on local amenity, intrinsically dark landscapes and nature conservation areas of artificial lighting proposals (including floodlighting) is minimised, in terms of intensity and number of fittings,*
- *The applicant can demonstrate good design including fittings to restrict emissions from proposed lighting schemes'*

The application is accompanied by an Acoustic Assessment which has been assessed by the Councils Environmental Health Officer (EHO). During the course of the application the EHO requested additional evidence from the applicants regarding noise, which has been provided.

The EHO is content that a planning condition could be used to protect future residents of the development from noise produced by the proposed commercial units on the ground floor of the development. As the level of noise that could be generated from these units will vary depending on what type of use within Class E would be taking place, it has been recommended by the EHO that two separate conditions would be applied that would require details of sound attenuation for each of the commercial units prior to them being occupied or brought into use. It is considered that such conditions would comply with the tests in the PPG regarding the use of planning conditions.

The second issue relating to future residents will be the impact of noise from the existing uses around this town centre site, including the adjacent public house. The EHO notes that this is a complex site with noise sources on all sides, and the report does recommend that protection will need to be put in place, in the form of acoustic

glazing and ventilation. The full comments of the EHO are set out in the appendix. In relation to the public house, the EHO states:

'It's clear when looking at noise sources from the pub that they would not be considered to have significant impact on new residents when compared to the new background level being used.

I would note that the report takes the representative background for the time after the garden has closed to be 45dB, based on the average. I do think it would be more appropriate to use L90 taken from the mode of 42dB, or the median of 43dB. While 3dB may not seem significant, it does take us to the point where the noise from the outside areas of The Star could be 6dB above background, and start to have a low observed effect on proposed residents. Music, and noise from inside the pub would still be below the background.

At this level planning guidance suggests that action should be taken to mitigate and reduce the noise from the pub garden as much as possible, and it could be argued that the proposed has already done that via the proposed glazing and ventilation. To that end, I do not believe we have grounds to object to the application.

I would however make it clear to the planner that proposed residents will likely hear the noise from customers in The Star garden if they choose to have their windows open, and may have to make small changes at that point such as raising the volume of the television or using the other means of ventilation provided. While the proposed residents will have alternative means of ventilation, some may choose to have their windows open despite that. Contrastingly, we do have to take into account the character of the area, and the fact that the proposed residents should be aware they are moving into the town centre and near to a pub garden, and therefore may reasonably expect to hear some noise from a pub garden if they choose to have their window open, despite other means of ventilation available.

To that end, we may still get complaints from proposed residents about the noise from the pub garden if they choose to have their window open, but from the information in the report it is unlikely to be at level where we would consider action.

On this basis I would recommend that the proposed application be approved, with conditions regarding implementing the glazing and ventilation measures outlined in the Cass Allen report, in order to protect future residents from high noise levels in the area.'

The PPG notes that noise is a material planning consideration and provides guidance on how the planning system should address the issue. It states:

'As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.'

Having taken account of the consultation response from the EHO and the advice in the PPG, it is your Planning Officers view that noise from the public house is not likely to cross what the PPG refers to as the 'significant observed adverse effect', which the PPG advises should be avoided. It is considered that with conditions in place regarding glazing and ventilation measures, future residents of the proposed flats would be protected from unacceptable levels of noise, thereby complying with policy DP29 of the District Plan.

Impact on existing businesses

National policy recognises that new developments can have an impact on existing businesses. Paragraph 187 of the NPPF states:

'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.'

An important issue in this case is whether the proposed development is compatible with the adjacent public house or whether it is likely that as a result of this development, there is the potential for complaints from future residents of the development about the public house (noise for example), that would have an adverse effect on the operation of the business at the public house.

In light of the comments in the preceding section of this report, it is not considered that the proposal would result in a development that would be incompatible with the public house. On this basis it is not felt that there would be unacceptable restrictions that could arise to the operators of the public house from this proposal.

Impact on existing residents

There are flats on the opposite side of the road to the north of Chelsea House. It is not considered that the development would have a significant effect on their

amenities. There will also be flats opposite the site in the new development on the corner of The Broadway and Church Road. Again it is not considered that there would be any loss of amenity to future occupiers of these new flats.

Transport matters

Policy DP21 in the District Plan states:

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

- *A high quality transport network that promotes a competitive and prosperous economy,*
- *A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time,*
- *Access to services, employment and housing, and*
- *A transport network that feels, and is, safer and healthier to use.*
- *To meet these objectives, decisions on development proposals will take account of whether:*
- *The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy),*
- *Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up,*
- *The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages,*
- *The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport, and with the relevant Neighbourhood Plan where applicable,*
- *Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded, o*
- *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 severe impacts reflects paragraph 111 in 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.*'

Vehicular access

This will be created slightly further to the east of the existing the location of the car wash access, on Muster Green South, a one way gyratory. The existing crossover will be closed and re-instated and a new bell mouth access created, with a 6m width and a 2.5m kerb radii. The Highway Authority has no objection to this arrangement.

As there is a possibility of this road opening to two-way traffic in the future as part of the Haywards Heath Town Centre Masterplan, the Highway Authority requested plans showing visibility splays on both sides of the proposed access, for a 20mph speed limit. These have been provided and the Highway Authority are content that the vehicular access would be 'future proofed' in the event that this section of road does become two way.

Within the site, the applicants have stated that the refuse vehicle to serve the flats would be able to enter the site and turn so that it could exit in a forward gear. The refuse for the commercial units would be served from the highway. The Highway Authority have raised no objections to these proposed arrangements.

The number of vehicular trips generated by the residential element of the scheme is low. For example the TRICS data finds 1 movements every 10 minutes in the AM peak and 1 every 15 minutes in the PM peak hour. As such this would not be considered to cause any significant highway safety or capacity issues.

The commercial element forms part of the application site and will replace the existing shops. Any trips associated with these uses are already occurring, and it is not expected to create any additional issues.

The proposed access arrangements would not prejudice the implementation of amendments to the gyratory system should these be brought forward in the future by the Highway Authority.

The applicants have amended the red line that denotes the site of their planning application so that now includes an area of land to the front (east) of the proposed

building. The layout plan shows a new layby being formed on the west side of The Broadway, in front of the new commercial units.

The applicants have stated that there is an area of land to the east of their proposed building that is not within their ownership and is not within the highway boundary. As part of the process of amending the red line on the site plan the applicants have placed a notice in the local press as required in situations where there are areas of land within the site of a planning application and it is not known who the owner of the land is. No representations have been received following this site notice which claim ownership of the land.

The Highway Authority have not raised an objection to this element of the application. In highway terms it is considered that the proposed layby will be satisfactory for the servicing of the new commercial units. The applicants plan shows that the footway measures 2.25m adjacent to the layby. The Department for Transport document, 'a guide to best practice on access to pedestrian and transport infrastructure inclusive mobility' calls for at least 2m for a wheel chair user and ambulant person to use side by side. On this basis the Highway Authority have no objection to this.

The provision of the loading bay and details of the public footway could be secured via planning conditions. A suitable mechanism would also be required to ensure the replacement footway remains unobstructed and available for public use (this could include the footway being offered for adoption as public highway or the public being granted permissive rights over the land on which the replacement footway lies).

A Traffic Regulation Order (TRO) would be required to ensure that the loading bay is used for loading and unloading only. This is a separate legal process that for which West Sussex County Council are the determining authority.

Overall it is felt that all of these matters could be addressed through either planning conditions, TRO or section 38 agreement with the Highway Authority.

Parking

Policy T3 in the Neighbourhood Plan states in part that '*Development outside the defined town centre boundary should provide on-site parking in accordance with the standards adopted by MSDC.*'

The car parking standards applied by WSCC relate to general dwelling houses. This application is seeking consent for more specialist age restricted accommodation and as such, these car parking standards are not applicable for this type of development, which must be assessed on an individual basis. McCarthy and Stone have carried out their own research that indicates that on average 0.43 spaces per apartment are required and 0.1 spaces for visitors. The Highway Authority are therefore satisfied that the 28 car parking spaces to be provided are sufficient for both residents and visitors. Your Planning Officer has no grounds to dispute this. The applicants are providing a specialist product and have evidence on how this operates nationally and it is reasonable to conclude that the level of car parking that is being proposed is

suitable for this site based on the evidence from other sites that the applicants operate.

It should also be noted that this is a town centre site where there are public car parks within walking distance and there is good public transport. Whilst the 34 spaces at Muster Green are open only to the public on Saturday (it provides parking for businesses during the week), there are other public car parks within walking distance of the site.

A mobility scooter buggy store, for 7 buggies, will also be provided. This has been based on McCarthy Stones own research at other retirement developments which indicates that mobility scooter ownership equates to 0.079 per apartment, which indicates that 3 scooter spaces are required. . This is considered to be acceptable. The plans also show that this store would also be used for cycle storage although the applicant states that the demand for cycle storage is limited.

The Highway Authority have advised that some cycle storage (5-6 spaces) should be shown for the proposed commercial units. This could be provided adjacent to the proposed layby and secured by a planning condition.

Sustainable transport

The site is in the town centre where there is good access to public transport. Therefore in sustainability terms in relation to transport, the proposal is in an acceptable location.

Policy T2 in the Neighbourhood Plan states:

'Planning applications for new major development proposals will be required to contribute towards the funding of cycle routes to Haywards Heath Railway Station and the town centre in accordance with the proposed Mid Sussex Infrastructure Delivery Plan, Mid Sussex Community Infrastructure Levy Charging Schedule and any S106 Obligations document or equivalent in place at the time.'

The County Council have advised that the TAD contribution should be spent on the South Road pedestrian improvement scheme. Whilst the content of policy T2 is noted, this is not a project that the County Council have put forward for TAD money to be spent on. Infrastructure contributions have to be genuinely required to make a development acceptable and to be related to the development. South Road is in close proximity to the site and it is considered that it can be justified that the TAD monies are spent on this project. In light of the above, whilst the scheme does not include a contribution to the funding of cycle routes to Haywards Heath Railway Station and the town centre, it is not felt that this would be a reason to resist the application.

Conclusion on transport matters

To conclude on transport matters, the site is in a sustainable location in the town centre where public transport options are available for future residents. The proposed vehicular access for the development is acceptable and would not raise highway safety concerns. The impact of trip generation on the highway network

would not be severe, which is the test in policy DP21 and national policy. There are no objections from the Highway Authority to the level of car parking proposed. Parking restrictions exist on the roads around the site to prevent unauthorised parking in areas that might cause highway safety concerns.

As set out in the design section, pedestrian access into the building is not felt to be ideal. Whilst the pedestrian ramp from The Broadway would be safe it is not felt to be a particularly attractive route to the development as it would feel quite enclosed. It is therefore felt that this is a design drawback to the scheme rather than a pedestrian safety issue

Overall, notwithstanding the issue about the pedestrian access onto The Broadway, it is considered that policy DP21 is met and it would not be sustainable to resist the application based on transport matters.

Drainage

Policy DP41 in the DP seeks to ensure that developments are satisfactorily drained and do not increase the risk of flooding off site. Policy E7 in the Neighbourhood Plan has similar aims.

With regards to surface water, it is proposed that the development will attenuate surface water before releasing it via gravity at the Greenfield QBar rate (1.9l/s) into the public sewer system for all events up to and including the 1 in 100-year event, plus 40per cent allowance for climate change. Attenuation shall be provided within permeable paving subbase and attenuation tanks.

The Councils Drainage Engineer acknowledges that the proposed drainage strategy is acceptable in principle and has advised that a planning condition should be imposed to control the detailed design. It should also be noted that the Environment Agency has said that infiltration drainage on the site should not be provided.

The applicants propose to connect to the mains sewer for foul water disposal.

It is considered that the detail of both foul and surface water disposal can be controlled by a planning condition, thereby ensuring compliance with policy DP41 of the DP and policy E7 of the HHNP.

Land Contamination

The application is accompanied by Site Investigations reports, which have been assessed by the Councils Contaminated Land Officer. The report notes the potential for metals and polyaromatic hydrocarbons (PAHs) at site due to the potential for historical coal fires at the site.

The NPPF advises that *'Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.'*

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

Biodiversity

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.'

The application is accompanied by a Preliminary Ecological Appraisal (PEA). The PEA notes that in addition to the buildings, the site contains hard standing, amenity grassland, scrub/ruderal vegetation and scattered trees. None of the plants recorded during the survey are protected/notable species and they do not constitute habitats that are of conservation concern.

As the proposal involves the demolition of all the existing buildings on site, the PEA assessed these buildings externally for evidence of bats. The PEA concludes that the commercial/residential buildings to the east of the site all have slate-tiled, pitched roofs with no significant potential for use by bats. In addition, the trees around the edge of the site were assessed as having negligible/low potential for roosting bats due to their immaturity and/or lack of suitable roost features.

The PEA recommends the following enhancement measures for the development:

- the soft landscaping scheme should specify at least 70 per cent native species of plant, or non-native species with a known benefit to wildlife.
- The development should incorporate at least 4 no. wall-integrated bat boxes
- The new building should incorporate at least 8 no. wall-integrated bird nesting boxes
- Consideration should also be given to the use of green/brown roofs/walls within the development (if suitable for the construction type),

Your Planning Officer has no reasons to dispute the contents of the PEA. It is considered that with appropriate conditions to secure a suitable soft landscaping scheme, bat and bird boxes, the scheme would comply with policy DP38 in the District Plan.

With regards to Trees, the Councils Tree Officer had concerns about the original plans. Updated comments are awaited and will be reported to Members at the planning committee.

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 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 scheme such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment 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 provision

Policy DP20 of the District Plan seeks to ensure that development is accompanied by the necessary infrastructure. This includes securing affordable housing which is dealt with under Policy 31 of the District Plan. Policy DP20 sets out that infrastructure will be secured through the use of planning obligations.

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

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

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

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

and:

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

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

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

The additional population from this development will impose additional burdens on existing infrastructure and the monies identified above will mitigate these impacts. As Members will know, developers are not required to address any existing deficiencies in infrastructure, it is only lawful for contributions to be sought to mitigate the additional impacts of a particular development.

County Council Contributions

Library £8,856

Total Access Demand £50,133

District Council Contributions

Formal Sport £14,198 toward formal sport facilities in Victoria Park, Haywards Heath.
Community buildings £15,444 to make improvements to the Age UK, Lamb House and / or the Clair Hall redevelopment site

Local community infrastructure £18,301 (based on 5 x 1 bed affordable, 15 x 1 bed market, 7 x 1 bed affordable, 10 x 2 bed market)

As there is no legal agreement in place to secure these infrastructure contributions, the application conflicts with policy DP20 of the District Plan. As such a reason for refusal on this issue is necessary to safeguard the Councils position at any subsequent appeal.

Affordable housing

Policy DP31 of the Mid Sussex District Plan states:

'The Council will seek:

- 1. the provision of a minimum of 30per cent on-site affordable housing for all residential developments providing 11 dwellings or more, or a maximum combined gross floorspace of more than 1,000m2,*

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 30per cent 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 75per cent social or affordable rented homes, with the remaining 25per cent 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.'

The applicant has stated that the nature of this form of accommodation brings about several complications to the simple application of Affordable Housing Policy, these relates to matters that do not apply to unrestricted, open market developments, such as additional levels of non-saleable floorspace (communal areas and facilities), development viability, and implications of service charges. They state that these matters mean that an off-site financial contribution in lieu of on-site affordable provision is more appropriate.

The Councils Housing Officer has accepted these submissions and has agreed to accepting a commuted payment of £716,000 towards off site provision. As there is no legal agreement in place to secure this sum, the application does not comply with policy DP30 of the District Plan and a reason for refusal on this issue is necessary to safeguard the Councils position at any subsequent appeal.

Housing mix

Policy DP31 in the DP seeks to provide a mix of dwelling types and sizes from new development (including affordable housing) that reflects current and future local housing needs.

The proposal would provide 20 x 1 bed flats and 17 x 2 bed flats. It is considered that this mix of age restricted accommodation complies with policy DP31.

Water Infrastructure

Policy DP42 in the DP states in part '*Development proposals which increase the demand for off-site service infrastructure will be permitted where the applicant can demonstrate,*

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

South East Water are the water supply company for this area. It is considered that there is every likelihood that the applicants will be able to demonstrate that there is adequate water supply to serve the development and address this policy. It should also be noted that there is existing development on the site which will already have a water supply.

Equality Act 2010

Local authorities are under a duty not to discriminate as both service providers and exercisers of public functions under the Equality Act 2010. They are also subject to the public sector equality duty (section 149 of the Equality Act 2010). This imposes a procedural requirement when the authority exercises its functions, including meetings, to have due regard to the need to: eliminate discrimination, advance equality of opportunity between those with protected characteristics and those without and foster good relations between those with protected characteristics and those without when carrying out their activities.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics,
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people, including steps to take account of disabled persons' disabilities,
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The Act also states that meeting different needs involves taking steps to take account of disabled people's disabilities.

The duty is personal to the decision maker who must direct their mind to the obligations. There must be a proper and conscious focus on the statutory criteria and appreciation of the potential impact of the decision on equality. The substance and reasoning must be examined. A properly informed rational view must be taken on the extent of the likely impact. There does not however need to be a formal impact assessment. The absence of it will not make the decision unlawful. But there has to

be collection and consideration of information to enable the Council to assess whether the decision would amount to unlawful discrimination or impact on the promotion of equality of opportunity or impact on the promotion of good relations and if so, the extent, nature and duration of that impact.

In this case there would be a loss of retail units when the existing buildings on the site are demolished. Given the size of the proposed development and its location in the centre of Haywards Heath, it is not considered that the loss of these retail units in the short term would unlawfully discriminate against any protected groups. There will still be a substantial retail offer in the locality. Post the development, it would be possible for retail to return on the site, as well as other uses that are within Class E of the Use Classes Order.

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.

It is considered that the principle of development is acceptable. This is a sustainable town centre site and the mix of commercial uses on the ground floor with residential above is appropriate for a town centre site. There are no policies in the development plan that preclude specialist accommodation for older people within the town centre.

It is a stated aim of government policy in the NPPF to significantly boost the supply of homes. In relation to older people, the PPG goes further and states '*The need to provide housing for older people is critical.*' This is the only category of accommodation where the need is described in these terms. The consultation on the Levelling-up and Regeneration Bill: reforms to national planning policy, which was published on 22nd December 2022 states that '*This government is committed to further improving the diversity of housing options available to older people and boosting the supply of specialist elderly accommodation.*' It is clear therefore that national planning policy attaches significant importance to the need to provide accommodation for elderly persons and that the intention is to carry forward this commitment when the NPPF is updated.

This clear need for additional accommodation for the elderly is an important factor that weighs in favour of the scheme.

It is considered that the site could be satisfactorily drained and that there would be no adverse impact on trees or ecology that would warrant refusal of the application. It is considered that the vehicular access to the site will be satisfactory and that the

proposal would not have a severe impact on the local highway network. As such these matters are neutral in the planning balance.

If the application were to be found acceptable in other respects, a legal agreement would secure the required infrastructure contributions and affordable housing contribution.

A key consideration in this case is the design of the proposed development and its impact on heritage assets. Both development plan policy and national planning policy guidance seek a high standard of design in new development.

For all the reasons set out earlier in this report, it is considered that the design of the development does not have sufficient articulation to break down the scale of the building and as a consequence, it would appear as a bland and monolithic structure that would detract from the character of the area. It is not felt that the corner elevation on northeast corner of the building satisfactorily addresses this prominent elevation. It is considered that the building is bland and ubiquitous.

The proposed development is within the setting of the Muster Green Conservation Area. It is considered that the proposed development would have a harmful impact on the setting of this Conservation Area and that in terms of the NPPF, this would fall into the category of less than substantial harm. The scheme would therefore conflict with policy DP35 in the District Plan. Under paragraph 202 of the NPPF this would need to be weighed against the public benefits of the scheme. It is also considered that the scheme is within the setting of the Star Public House, which is a non-designated heritage asset, and would cause harm to this non-designated heritage asset. The scheme would therefore also conflict with policy DP34 in the District Plan. Paragraph 203 of the NPPF requires a balanced judgement to be made having regard to the scale of any harm or loss and the significance of the heritage asset.

As the NPPF requires under paragraph 202 that the harm should be weighed against the public benefits of the proposal (in the case of designated heritage assets) and a balanced judgement to be made in the case of harm or loss to a non-designated heritage asset (paragraph 203), there would need to be significant public benefits that outweighed the harm to the designated and non-designated heritage assets, for this material planning consideration to outweigh the harm to the heritage assets.

Therefore, it would be possible for the loss of the existing parade of shops to be accepted if there were public benefits that outweighed the harm to the heritage assets. In this case there would be a public benefit arising from the provision of specialised older persons accommodation, for which there is strong support in planning policy. There would also be public benefits arising during the construction phase of the project and from the operational phase from employment and the additional spending in the local economy from the residents of the units. These are all positive matters that weigh in favour of the scheme in the planning balance.

However, for the reasons that have been outlined earlier in this report, it is not felt that the design of the scheme is of a high quality. As such it is not felt that there are public benefits in this case that would outweigh the harm to the designated and non-designated heritage assets.

Therefore to summarise, it is considered that the proposed design of the development is not of the high quality that is sought by development plan policy and national guidance and there would be an adverse impact on the setting of the Muster Green Conservation Area. The public benefits of the development would not outweigh this harm. The proposal therefore conflicts with policies DP26, DP34 and DP35 of the District Plan and policies E9 and H8 of the Haywards Heath Neighbourhood Plan.

The impact on infrastructure could be mitigated by the contributions required under the section 106 legal agreement. However as there is not a completed legal agreement in place to secure the required infrastructure contributions or affordable housing, there would be a conflict with policies DP20 and DP30 of the District Plan.

The conflicts are significant and therefore the development is felt to conflict with the development plan when read as a whole.

The provision of specialist accommodation for elderly people is an important material consideration and it is recognised in national policy that the need for housing for older people is critical. However it is not considered that this material consideration outweighs the conflict with the development plan. Therefore the application is recommended for refusal.

APPENDIX A – REASONS FOR REFUSAL

1. The proposal fails to provide the required infrastructure or affordable housing. The scheme therefore conflicts with policies DP20 and DP31 in the District Plan 2014-2031.
2. The proposed development is not of a high quality design and would have a harmful impact upon the character of the area. The proposed development lacks architectural interest and reads as one monolithic building. The proposal would result in the loss of the existing Victoria buildings on the site, which make a positive contribution to the setting of the Muster Green Conservation area and the setting of the Star Public House. As such the proposal would have a harmful impact on the setting of these designated and non-designated heritage assets. The proposal therefore conflicts with policies DP26, DP34 and DP35 of the District Plan and policies E9 and H8 of the Haywards Heath Neighbourhood Plan.

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
Existing Elevations	PP/4020/THE	-	23.11.2021

	BROADWAY/F 2		
Existing Floor Plans	PP/4020/THE BROADWAY/F	-	23.11.2021
	3		
Existing Floor Plans	PP/4020/THE BROCS2338A	-	23.11.2021
	DWAY/F4		
Landscaping Details	MCS23386	-	09.11.2021
Visibility Plans	047.0080.001	-	09.11.2021
Transport Assessment/Travel Plan	047.0080.002	-	09.11.2021
Tree Survey	1539-KC-XX- YTREE- TCP01	0	09.11.2021
Proposed Site Plan	SE-2738-03- AC-0000	E	23.05.2022
Location Plan	SE-2738-03- AC-50	A	17.11.2022
Site Plan	SE-2738-03- AC-90	-	09.11.2021
Proposed Floor Plans	SE-2738-03- AC-1000	B	23.05.2022
Proposed Floor Plans	SE-2738-03- AC-1001	B	23.05.2022
Proposed Floor Plans	SE-2738-03- AC-1002	B	23.05.2022
Proposed Floor Plans	SE-2738-03- AC-1003	C	23.05.2022
Proposed Floor Plans	SE-2738-03- AC-1004	D	23.05.2022
Proposed Roof Plan	SE-2738-03- AC-1005	C	23.05.2022
Proposed Elevations	SE-2738-03- AC-2000	D	23.05.2022
Proposed Elevations	SE-2738-03- AC-2001	D	23.05.2022

APPENDIX B – CONSULTATIONS

County Planning Officer

Summary of Contributions

Education			
School Planning Area	0		
Population Adjustment	53.2		
	Primary	Secondary	6th Form
Child Product	0.0000	0.0000	0.0000
Total Places Required	0.0000	0.0000	0.0000
Library			
Locality	Haywards Heath		
Contribution towards Hassocks/ Hurstpierpoint/Steyping	£0		
Contribution towards Burgess Hill	£0		
Contribution towards East Grinstead/Haywards Heath	£8,856		
Population Adjustment	53.2		
Sqm per population	30/35		
Waste			
Adjusted Net. Households	34		
Fire			
No. Hydrants	TBC		
Population Adjustment	N/A		
£/head of additional population	N/A		
TAD- Transport			
Net Population Increase	53.2		
Net Parking Spaces	16		
Net Commercial Floor Space sqm	0		
Total Access (commercial only)	0.0000		

Summary of Contributions

S106 type	Monies Due
Education - Primary	No contribution
Education - Secondary	No contribution
Education - 6th Form	No contribution
Libraries	£8,856
Waste	No contribution
Fire & Rescue	No contribution
No. of Hydrants	secured under Condition
TAD	£50,133
Total Contribution	£58,989

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 34 net dwellings, and an additional 16 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 2022. This may include revised occupancy rates if payment is made after new data is available from the 2021 Census.
- d) 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 providing additional facilities at Haywards Heath Library.

The contributions generated by this proposal shall be spent on the South Road pedestrian improvement scheme.

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).

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

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 2021/2022, 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 2021/2022 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 2021/2022 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.

Highway Authority

Comments received 20th December 2021

This proposal is for 38 retirement living apartments, and an element of E class commercial, business and service units facing out onto The Broadway. WSCC raise no objection but please can a revised access plan be submitted to the LPA for approval, showing visibility at the access in both directions.

Access

This will be created slightly further to the east of the existing the location of the car wash access, on Muster Green South, a one way gyratory. The existing crossover will be closed and re-instated and a new bell mouth access created, with a 6m width and a 2.5m kerb radii. Visibility splays at this access have been provided in plan 047.0080.001 and are in line with the 30mph speed limit, although it is acknowledged speeds may be lower than this due to the nature of the road gyratory.

Plans show visibility splays set back 2.4m x 40.7m to the junction, and 2.4m x 43m to the edge of the kerb on the other side of the road, where traffic would be travelling in a westbound direction. Details have not been provided showing visibility to the west.

Whilst this is currently a one way gyratory and therefore all traffic is travelling westbound, consideration still needs to be given to pedestrians and the pay and display car park access which is 10 meters away from the proposed access.

WSCC has also considered the possibility of this road opening to two-way traffic in the future as part of the Haywards Heath Town Centre Masterplan. If plans to pedestrianised parts of The Broadway are realised this will create a two-way road on Muster Green South.

Therefore, WSCC would like to see revised plans showing visibility splays on both sides of the proposed access, for a 20mph speed limit. This will ensure this is future proofed against any changes as part of this longer-term vision for the town centre.

Pedestrian access

Given the sites current location in the middle of a gyratory pedestrian access points are proposed from the north via steps, to the east via an alleyway, and from the proposed new access on the southern boundary. It is noticed that these provide a good permeable walking network through the site.

Steps located on the Muster Green North side of the development will need to be designed sensitively to consider the needs of older people who may have changing mobility. Alternatives which are inclusive for all should be considered if there is a possibility these can be accommodated. i.e., ramped walkways, railings etc. Looking to the future this would also be the most direct route from the site to a future bus stop location, so access for all here should be a main consideration.

The pedestrian access to the east via a ramped alleyway linking to The Broadway will need to be of good width to be useable by someone on a mobility scooter. Inclusive mobility guidance should be sought but it is suggested that 1500mm, would allow for a wheelchair user and ambulant person to walk side by side. The gradient of this ramped access will also need to comply with guidance which is currently an 8% (1 in 12) slope, as the maximum that may be used.

Car parking, buggy, and cycle storage.

27 parking spaces are provided which is based on McCarthy Stones own research of 0.43 spaces per apartment, and 0.1 spaces for visitors: creating a total of 0.55 spaces per apartment. This equates to 21 spaces ($0.55 \times 37 = 21$). Therefore, the proposed 28 spaces allow for an additional 6 spaces for visitors to the site. WSCC are satisfied with this standard.

Parking space dimensions have also been provided slightly larger to the Mfs recommendations at 2.5m x 5m, and a 6m aisle width has been maintained throughout the car parking area to ensure turning in and out of the spaces is easily achieved.

A mobility scooter buggy store, for 7 buggies, will also be provided. This has been based on McCarthy Stones own research at other retirement developments. They have applied a rate of 0.079 per apartment ($38 \times 0.079 = 7$).

1 cycle storage space has been provided for which is based on current cycle storage use at other McCarthy Stone sites. Whilst this seems low WSCC wonder if the location of the cycle storage should be provided with room to expand should demand rise. Electric bikes are becoming more popular for the older generation and should not be discouraged by a lack of storage. Therefore, any area provided for the storage of cycles should also have space around it, to expand if necessary.

EVC charging points

As per WSCC EVC policy a minimum of 37% (10) spaces should be provided with EVC charging points. Given this is a car parking court these tend to be posts set back at the end of the parking space. All other spaces should be provided in a passive capacity to be linked to the network later.

Swept Paths

Tracking has been provided for a Skoda Octavia and refuse collection vehicle which shows the proposed car park layout allows for a large vehicle to enter, turn, and exit in forward gear. WSCC raise no issues with the car parking layout.

Stage 1 Road Safety Audit

A Stage 1 Road Safety Audit was undertaken by Paul Basham Associates in October this year, and was carried out in line with GG119, including a signed designer's response. Details are provided below and show that there were 3 problems identified, and all the auditor's comments were considered and agreed by all interested parties.

RSA Problem	RSA recommendation	Design Organisation response	Overseeing Organisation Response	Agreed RSA action
<p>3.4.1 Location Proposed access</p> <p>Summary Restricted visibility could lead to vehicle pedestrian collisions. The western visibility splay is obstructed vegetation and signage, see figure 1 below. Restricted visibility could lead to pedestrian collisions as vehicles leave the car park.</p>	<p>It is recommended that the visibility splay should be free from obstruction; additionally, that a regular maintenance program to maintain the vegetation should be employed</p>	<p>This appears to relate to the eastern (primary direction) visibility splay. Given the road is one-way. The signage shown in figure 1 is to be removed to facilitate the re-located access and so will not present an obstacle to visibility.</p>	<p>It is agreed this signage will be removed as part of the re-located access and will not obstruct visibility.</p>	<p>The current signage will be removed and will not obstruct visibility here, and the applicant shall maintain all vegetation in the demise of the site, to ensure the visibility splay is protected.</p> <p>To be delivered as part of the s278 highway access works.</p>
<p>3.4.2 Location. Proposed access.</p> <p>Summary. Lack of pedestrian facilities could compromise pedestrian safety. There is no pedestrian crossing point across the junction mouth, where it is likely that this will be the pedestrian desire line. This may present difficulties particularly for the blind, and the visually and mobility impaired pedestrians and may lead to pedestrian trips and falls.</p>	<p>It is recommended that a pedestrian crossing point including drop kerbs and tactile paving should be provided across the access.</p>	<p>This will be provided at detail design.</p>	<p>It is agreed dropped kerbs and tactile paving need to be provided at the access to the bell mouth on both sides to connect with the existing footway.</p>	<p>An updated plan should be submitted to the LPA for approval. This plan will show the locations of the tactile paving across the bell mouth access.</p> <p>To be delivered as part of the s278 highway access works.</p>

<p>3.5.1 Location. Access with South Road.</p> <p>Summary. Lack of appropriate signage may lead to head on collisions.</p> <p>This section of south road is part of a one-way system, where exiting traffic should turn to the west. However, the exit from the car park does not have the 'proceed in the direction indicated' sign to diagram 606 opposite the exist. This could lead to vehicles turning in the direction opposite to the direction of the flow, which may lead to head on collisions</p>	<p>It is recommended that a sign 'proceed in the direction indicated' to diagram 606R should be installed opposite the car park exit.</p>	<p>This will be provided at detail design.</p>	<p>WSCC agree. The 'proceed in the direction indicated' to diagram 606R should be installed opposite the car park exit.</p>	<p>Plans should be submitted to the LPA to show the proposed location of the sign: 'proceed in the direction indicated' to diagram 606R.</p> <p>To be delivered as part of the S278 agreement.</p>
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Trip generation

The application is supported by a Transport Statement this looks at the accident data around the site which has shown 2 incidents in the last 2 years which were not related to any highway defects. The trips generated by the site has been checked using TRICS data and verified by McCarthy and Stones own trip generation data.

A comparison of the two sets of data, based on 38 residential dwellings, is shown in the table below.

	TRICS	Independent
AM	6	2
PM	4	3
Daily	61	59

These numbers equate to very low trip rates, for example the TRICS data finds 1 movements every 10 minutes in the AM peak and 1 every 15 minutes in the PM peak hour. As such this would not be considered to cause any significant highway safety or capacity issues.

Commercial Element

This forms part of the application site and will replace the existing shops. Any trips associated with these uses are already occurring; and it is not expected to create any additional issues. Servicing the commercial units, will continue from the existing service bay. If this section of The Broadway is pedestrianised, as part of the Haywards Heath Town Centre Masterplan, this will provide a designated servicing area within the design. As such this element of the proposal is not seen as an additional use, but an upgrade to what already exists.

Construction

During the construction phase a Construction Management Plan should be provided to ensure the sites transport needs do not impact the highway for safety and capacity reasons. The LPA is advised to include a construction management plan condition at the end of this response to ensure all construction traffic is managed effectively.

TAD

"In addition to these comments on behalf of West Sussex County Council (WSCC) as Highway Authority a separate consultation response shall be sent from WSCC detailing all of the S106 contributions that the authority is seeking as a result of this planning application. This may include a S106 financial contribution towards transport infrastructure to mitigate any severe or unacceptable impacts of this development as required by paragraph 111 of the NPPF. This consultation shall set out the Total Access Demand (TAD) which is the methodology that has been adopted to calculate the necessary transport contribution. Further details of this methodology can be found here <https://www.westsussex.gov.uk/roads-and-travel/information-for-developers/section-106-planningobligations/#services-requiring-contributions>."

Summary

To summarise as per paragraph 109 of the NPPF the development proposal does not create an unacceptable impact on highway safety, and the residual cumulative impact on the road network would not be severe.

Access closure (Access Closure)

No part of the development shall be first occupied until such time as the existing vehicular access onto Muster Green South has been physically closed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety.

Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

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

Cycle parking

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

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

Car parking space (details approved)

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

Works within the Highway - Implementation Team

The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

Comments received 16th June 2022

WSSCC Highways have previously issued formal comments on this proposal.

These comments were dated 20th December 2021. No particular issues were raised although further information was sought regarding the visibility splays. This point has been separately addressed by the applicant.

The latest consultation relates to revised details. This includes a new loading bay for the retail units on The Broadway. It's noted that the red edging showing the extent of the application has not been adjusted to include the loading bay, this is still detailed and understood to form part of the current application.

Whilst there's no in principle issues with the proposed provision, the applicant should note the existing public highway within the which the bay is proposed is narrow (the footway is approximately 2 metres wide). The construction of the loading bay (which is 3 metres wide) would consequently encroach into the private land between the back edge of the bay and the proposed shop fronts. It is presumed that the applicant has sufficient land ownership to enable the loading bay to be extended beyond the existing public highway.

The applicant should note also that the loading bay would remove all of the existing public footway. Pedestrians would effectively have to trespass on private land to pass the loading bay. It would consequently be necessary for the applicant to provide a suitable width replacement footway (2 metres ideally) between the loading bay and proposed retail units. A suitable mechanism would also be required to ensure the replacement footway remains unobstructed and available for public use (this could include the footway being offered for adoption as public highway or the public being granted permissive rights over the land on which the replacement footway lies).

A Traffic Regulation Order would be required to ensure the loading bay is used for loading and unloading only. This would need to be applied for through the detailed design.

Whilst the applicant should note the above points, the loading bay and details of the footway can be secured via conditions.

Loading Bay

No retail unit shall be first occupied until the loading bay as shown on drawing number SE-2788-03-AC-0000 Revision E or such drawing that as may be agreed with the Local Planning Authority has been constructed.

Reason: In order to provide safe and suitable servicing arrangements for the proposed retail units.

Replacement Footway

No retail unit shall be first occupied until a replacement length of footway has been provided on The Broadway in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The footway once provided shall thereafter be kept free from obstructions.

Reason: To compensate for the land required to provide the proposed loading bay and to provide a safe route for pedestrians.

Comments received 9th January 2023

Drawing SE-2738-03-AC-0010, was submitted to WSCC for approval. The drawing shows the location of the lay-by and the width of the footway; which has been checked using the Department for Transport document, 'a guide to best practice on access to pedestrian and transport infrastructure inclusive mobility'.

Guidance calls for at least 2m for a wheel chair user and ambulant person to use side by side. The footway here measures 2250m, therefore WSCC raise no objection to the width provided.

West Sussex County Lead Local Flood Authority

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

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

TO:	Mid Sussex District Council FAO: Steven King
FROM:	WSCC – Lead Local Flood Authority
DATE:	20 th December 2021
LOCATION:	3 - 15 The Broadway Haywards Heath West Sussex RH16 3AQ
SUBJECT:	DM/21/3898 Demolition of existing buildings and redevelopment to provide mixed use development of Class E commercial units and 37no. units of Retirement Living Accommodation with associated communal facilities, parking and landscaping
RECOMMENDATION:	Advice - No Objection

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
<p>Comments:</p> <p>Current surface water mapping shows that the site is at low risk from surface water flooding. Higher risk exists along the carriageway, adjacent to the site.</p> <p>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.</p> <p>Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas at high risk.</p> <p>Reason: NPPF paragraph 163 states – ‘When determining any planning application, local planning authorities should ensure flood risk is not increased elsewhere.’</p>	
Modelled groundwater flood hazard classification	Low risk
<p>Comments:</p> <p>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.</p> <p>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.</p>	
Ordinary Watercourses nearby?	No
<p>Comments:</p> <p>Current Ordnance Survey mapping shows no ordinary watercourses running near to the site.</p> <p>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.</p> <p>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.</p>	
Records of any historic flooding within the site?	No

Comments:

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

Other locations in close proximity to the site, on The Broadway and Dolphin Road, have experienced surface water flooding.

Future development - Sustainable Drainage Systems (SuDS)

The Drainage Strategy Plan included with this application state that permeable paving and below ground attenuation with a restricted discharge to the main sewer would be used to control the surface water runoff from the site.

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

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.

West Sussex County Water and Access Officer

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.

'Having viewed the plans for the planning application no. DM/21/3898 for the address given above, evidence will be required to show that all parts of all units are within 45 metres of a fire appliance in accordance with Approved Document B Volume 1 2019 Edition B5 section 13. This distance is to be measured along the hose laying route and not in a direct line / arc measurement as this can rarely be achieved.

Any areas not within the 45 metre distance will need to be mitigated by the installation of domestic sprinkler or water mist system complying with BS9251 or BS4854 standards.

Regards

Ian Stocks

Water & Access manager

Network Rail

Thank you for consulting Network Rail on the above planning application, please see our formal comments below.

Network Rail is the statutory undertaker for maintaining and operating railway infrastructure of England, Scotland and Wales. As statutory undertaker, NR is under license from the Department for Transport (DfT) and Transport Scotland (TS) and regulated by the Office of Rail and Road (ORR) to maintain and enhance the operational railway and its assets, ensuring the provision of a safe operational railway.

Due to the close proximity of the proposed works to the railway tunnel which supports the operational railway, Network Rail requests the applicant / developer engages Network Rail's Asset Protection and Optimisation (ASPRO) team via AssetProtectionLondonSouthEast@networkrail.co.uk prior to works commencing. This will allow our ASPRO team to review the details of the proposal to ensure that the works can be completed without any risk to the operational railway.

The applicant / developer may be required to enter into an Asset Protection Agreement to get the required resource and expertise on-board to enable approval of detailed works. More information can also be obtained from our website <https://www.networkrail.co.uk/running-the-railway/looking-after-the-railway/asset-protection-and-optimisation/>.

Where applicable, the applicant / developer must also follow the attached Asset Protection informatives which are issued to all proposals within close proximity to the railway (compliance with the informatives does not remove the need to engage with our ASPRO team).

I trust the above is clear, however, if you require any additional information from Network Rail, please do not hesitate to contact me.

Asset Protection Informatives for works in close proximity to Network Rail's infrastructure

The developer must ensure that their proposal, both during construction and after completion does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Network Rail strongly recommends the developer complies with the following comments and requirements to maintain the safe operation of the railway and protect Network Rail's infrastructure.

Future maintenance

The applicant must ensure that any construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of/or encroaching upon Network Rail's adjacent land and air-space. Therefore, any buildings are required to be situated at least **2 metres (3m for overhead lines and third rail)** from Network Rail's boundary.

This requirement will allow for the construction and future maintenance of a building without the need to access the operational railway environment. Any less than **2m (3m for overhead lines and third rail)** and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works as well as adversely impact upon Network Rail's maintenance teams' ability to maintain our boundary fencing and boundary treatments. Access to Network Rail's land may not always be granted and if granted may be subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant.

As mentioned above, any works within Network Rail's land would need approval from the Network Rail Asset Protection Engineer. This request should be submitted at least 20 weeks before any works are due to commence on site and the applicant is liable for all associated costs (e.g. all possession, site safety, asset protection presence costs). However, Network Rail is not required to grant permission for any third-party access to its land.

Plant and Materials

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no plant or materials are capable of falling within 3.0m of the boundary with Network Rail.

Drainage

Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Proper provision must be made to accept and continue drainage discharging from Network Rail's property; full details to be submitted for approval to the Network Rail Asset Protection Engineer. Suitable foul drainage must be provided separate from Network Rail's existing drainage. Soakaways, as a means of storm/surface water disposal must not be constructed within **20 metres** of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property. After the completion and occupation of the development, any new or exacerbated problems attributable to the new development shall be investigated and remedied at the applicants' expense.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant/applicant's contractor must consider if they can undertake the works and associated scaffold/access for working at height within the footprint of their property boundary.

Piling

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Fencing

In view of the nature of the development, it is essential that the developer provide (at their own expense) and thereafter maintain a substantial, trespass proof fence along the development side of the existing boundary fence, to a minimum height of 1.8 metres. The 1.8m fencing should be adjacent to the railway boundary and the developer/applicant should make provision for its future maintenance and renewal without encroachment upon Network

Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point during or post construction should the foundations of the fencing or wall or any embankment therein, be damaged, undermined or compromised in any way. Any vegetation within Network Rail's land boundary must not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Lighting

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers' vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The developers should obtain Network Rail's Asset Protection Engineer's approval of their detailed proposals regarding lighting.

Noise and Vibration

The potential for any noise/vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which hold relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Vehicle Incursion

Where a proposal calls for hard standing area/parking of vehicles area near the boundary with the operational railway, Network Rail would recommend the installation of a highways approved vehicle incursion barrier or high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing.

Landscaping

Any trees/shrubs to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. Network Rail wish to be involved in the approval of any landscaping scheme adjacent to the railway. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. If required, Network Rail's Asset Protection team are able to provide more details on which trees/shrubs are permitted within close proximity to the railway.

Existing Rights

The applicant must identify and comply with all existing rights on the land. Network Rail request all existing rights, covenants and easements are retained unless agreed otherwise with Network Rail.

Property Rights

notwithstanding the above, if any property rights are required from NRIL in order to deliver the development, NRIL's Property team will need to be contacted'
If you would like to discuss any of the above, please contact your local Network Rail's Asset Protection team:

Anglia: AssetProtectionAnglia@Networkrail.co.uk

Kent and Sussex: AssetProtectionLondonSouthEast@NetworkRail.co.uk

Wessex: AssetProtectionWessex@NetworkRail.co.uk

To identify your route, please use the link: <https://www.networkrail.co.uk/running-the-railway/our-routes>

Southern Water

Southern Water has undertaken a desktop study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that these additional flows may lead to an increased risk of foul flooding from the sewer network. Any network reinforcement that is deemed necessary to mitigate this will be provided by Southern Water.

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

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

Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.

Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the timescales needed will require an allowance for the following which may result in an extension of the 24 month period:

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

Southern Water hence requests the following condition to be applied: Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate wastewater network capacity is available to adequately drain the development.

Our investigations indicate that Southern Water can facilitate surface water runoff disposal to service the proposed development. Southern Water requires a formal application for a connection to the public surface water sewer to be made by the applicant or developer.

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

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments.

- Reuse
- Infiltration
- Watercourse

- Storm Sewer
- Combined Sewer

Guidance on Building Regulations is here:

gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

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

water.org.uk/sewerage-sector-guidance-approved-documents/

ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

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

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

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

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

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

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

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

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with the Design and Construction Guidance will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

It is possible that a sewer now deemed to be public could be crossing the development site.

Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

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

Website: southernwater.co.uk or by email at: SouthernWaterPlanning@southernwater.co.uk

Environment Agency

Thank you for consulting the Environment Agency on the above application.

We have reviewed the information as submitted and set out our position below.

Environment Agency position

We have no objection to the proposal provided that the following conditions be attached to any planning permission granted, and that the details in relation to these conditions be submitted and approved by the Local Planning Authority.

Condition 1 - Remediation Strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

1. A site investigation scheme, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority.

The scheme shall be implemented as approved.

Reasons for Condition 1

The previous use of the proposed development site for retail presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary A aquifer.

The application's Desk Study Appraisal (dated November 2020) and Site Investigation Report (dated February 2021) demonstrates that it will be possible to manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the Local Planning Authority.

The Site Investigation (Feb 2021) recommends supplementary ground investigations are carried out once suitable access is available, therefore this condition is required to ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution in line with paragraph 174 of the NPPF.

Condition 2 - Verification report

Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reasons for Condition 2

To ensure that the site does not pose any further risk to the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the NPPF.

Condition 3 - Previously Unidentified Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reasons for Condition 3

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the NPPF.

Condition 4 - SuDS Infiltration of surface water into ground

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reasons for Condition 4

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the NPPF.

The previous use of the proposed development site for retail presents a medium risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary A aquifer.

Condition 5 - Piling

Piling and using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reasons for Condition 5

The Site Investigation report (Feb 2021) proposes the use of piled foundations. Therefore, this condition is required to ensure that the proposed development does not harm groundwater resources in line with paragraph 174 of the NPPF.

Please do not hesitate to contact me using the contact details shown below should you have any queries regarding the above information.

Sussex Police

Thank you for your correspondence of 27th May 2022, advising me of an amended planning application for the demolition of existing buildings and redevelopment to provide mixed use development of Class E commercial units and 37no units of Retirement Living Accommodation with associated communal facilities, parking and landscaping. (Amended plans received 23 May 2022 showing a revised design and additional supporting information) at the above location, for which you seek advice from a crime prevention viewpoint.

I have had the opportunity to examine the detail within the application and in an attempt to reduce the opportunity for crime and the fear of crime I offer the following comments using Crime Prevention Through Environmental Design (CPTED) principles and from a Secured by Design (SBD) perspective. SBD is owned by the UK Police service and supported by the Home Office and Building Control Departments in England (Part Q Security - Dwellings), that recommends a minimum standard of security using proven, tested, and accredited products. Further details can be found at www.securedbydesign.com

The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion - for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas.

With the level of crime and anti-social behaviour in the Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should always be considered.

The following extract is from a noise assessment submitted in support of this application. *A Noise Assessment has been completed and submitted with the planning application. The report confirms that Transportation noise affecting the development has been assessed in accordance with the ProPG guidance. The design of the development is acceptable subject to the adoption of acoustically upgraded glazing and ventilation and acoustic screening as described; and Noise levels from The Star public house have been assessed based on guidance given in BS4142 and BS8233. The assessment shows that with the implementation of the proposed mitigation measures, noise levels in external amenity areas are reduced as far as practicable and external levels can be reduced to acceptable levels in habitable areas using acoustically upgraded glazing and ventilation.*

Should the above mitigation measures be implemented into the development to reduce noise levels to acceptable levels for the amenity of the residents, this would remove my previous concerns regarding the noise levels due to the development's close proximity to the adjacent public house and busy night-time economy.

Apart from the noise concerns raised within my previous comments within my correspondence of PE/MID/21/13/A dated 20/11/2021 from a crime prevention perspective remain extant.

Sussex Police would have no objection to the proposed development as submitted from a crime prevention perspective subject to my above observations, concerns and recommendations being given due consideration.

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

Environmental Protection Officer

Comments received 31st October 2022

Comments: I have seen the applicant comments regarding my original recommendations.

I apologise for the incorrect date in my recommended conditions.

I can see that the applicant would like to agree sound insulation measures between the residential and commercial units once it is known precisely what type of commercial activity is taking place.

I would therefore recommend that Condition 3 from my previous comments is changed for the following two conditions, the first of which would look to agree the level of protection needed, and the second of which would look to ensure it has been achieved.

- 1) Each commercial unit hereby permitted as part of the development shall not be occupied or brought into use until there has been submitted in writing to, and agreed by the local planning authority a report by a competent person demonstrating what level of sound attenuation measures will be required between the commercial unit and residential parts of this development.
- 2) Each commercial unit hereby permitted as part of the development shall not be occupied or brought into use until post completion testing by a competent person has shown that the agreed sound attenuation measures have been achieved. This shall be submitted to the LPA and approved in writing.

Comments received 15th July 2022

Comments: I have read the updated acoustic assessment by Cass Allen, ref RP01-21392-R1, dated 3rd May 2022.

This is a complex site with noise sources on all sides, and the report does recommend that protection will need to be put in place, in the form of acoustic glazing and ventilation.

One issue raised in my original comments was that it appeared complaints were likely regarding The Star from proposed residents, based on the noise levels of the pub, when compared against the night time background.

The updated report looks to assess the pub noise against the background levels for the hour and half after the pub garden closes, rather than against the background from 23:00 to 07:00 hours, and I can see the merit to this approach. The report shows that the general background at this time is much louder, being 45dB, due to other activities that are going on in the town at this time. This is opposed to the 33dB background for the hours of 23:00 to 07:00 hours, which takes in much quieter hours during the early morning. It's clear when looking at noise sources from the pub that they would not be considered to have significant impact on new residents when compared to the new background level being used.

I would note that the report takes the representative background for the time after the garden has closed to be 45dB, based on the average. I do think it would be more appropriate to use L90 taken from the mode of 42dB, or the median of 43dB. While 3dB may not seem significant, it does take us to the point where the noise from the outside areas of The Star could be 6dB above background, and start to have a low observed effect on proposed residents. Music, and noise from inside the pub would still be below the background.

At this level planning guidance suggests that action should be taken to mitigate and reduce the noise from the pub garden as much as possible, and it could be argued that the proposed has already done that via the proposed glazing and ventilation. To that end, I do not believe we have grounds to object to the application.

I would however make it clear to the planner that proposed residents will likely hear the noise from customers in The Star garden if they choose to have their windows open, and may have to make small changes at that point such as raising the volume of the television or using the other means of ventilation provided. While the proposed residents will have alternative means of ventilation, some may choose to have their windows open despite that. Contrastingly, we do have to take into account the character of the area, and the fact that the proposed residents should be aware they are moving into the town centre and near to a pub garden, and therefore may reasonably expect to hear some noise from a pub garden if they choose to have their window open, despite other means of ventilation available.

To that end, we may still get complaints from proposed residents about the noise from the pub garden if they choose to have their window open, but from the information in the report it is unlikely to be at level where we would consider action.

On this basis I would recommend that the proposed application be approved, with conditions regarding implementing the glazing and ventilation measures outlined in the Cass Allen report, in order to protect future residents from high noise levels in the area.

Additionally, I do have concerns about the potential impact that commercial units could have on the residential attached to them. While part E deals with sound insulation between residential dwelling, the noise from commercial activities are often louder and require higher levels of sound insulation. Without knowing what commercial activities are going in, it is difficult to gauge what level of sound insulation should be required. I would suggest a minimum airborne sound insulation value of 55dB (DnTw+Ctr dB) be required between the commercial units and residential. However, where there are particularly loud uses proposed, or premises wish to run late into the night, higher insulation level may be essential to protect the proposed business from complaints. If that is the case, that should be addressed in the commercial units noise management plan.

Also, rubbish and recycling collections, especially those involving glass, and commercial deliveries can cause disturbance. For that reason a condition for the times that collections and delivery can take place at the site has also been suggested.

As it is not known what commercial uses will be, it's unclear yet what plant and machinery, if any, will be required by the commercial units. To that end I would suggest that a condition is attached regarding the noise levels for plant and machinery, if any is installed.

Recommendation: approve with conditions:

- 1) Glazing installed within the build shall meet the requirements laid out in the Acoustic Assessment by Cass Allen (ref: RP01-21392-R1), dated the 4th July 2017. Specifically glazing installed within habitable rooms must achieve a Weighted Sound Reduction ($R_w + C_{tr}$) of at least 33dB.
- 2) No development shall take place until the applicant has submitted details of an alternative means of ventilation with sufficient capacity to ensure the thermal comfort and control overheating of the occupants with windows closed.
- 3) Unless otherwise agreed with the local planning authority, The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority a report by a competent person demonstrating that any sound attenuation measures between commercial and residential are effective and achieve a minimum airborne sound insulation value of 55dB ($D_{nTw} + C_{tr}$ dB). Post completion testing shall be required to show this has been achieved. This shall be submitted to the LPA and approved in writing.
- 4) None of the planned commercial units within the development shall be occupied until a Management Plan for the unit is question, including hours of operation, full details of loading/unloading arrangements, and any noise mitigation measures, has been submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be implemented in full on occupation of each commercial unit and complied with thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 5) No commercial goods or commercial waste shall be loaded, unloaded, stored or otherwise handled and no commercial vehicles shall arrive or depart, within the application site outside the hours
07:00 - 20:00 Hours Monday - Friday,
08:00 - 18:00 Hours, on Saturdays and Sundays
- 6) Unless otherwise agreed with the local planning authority, the use hereby permitted shall not come into use until a scheme has been submitted to the LPA demonstrating that the noise rating level ($L_{Ar, Tr}$) of plant and machinery within the build shall be at least 5dB below the background noise level ($L_{A90, T}$) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014+A1:2019. The assessment shall be carried out with the plant/machinery operating at its maximum setting. The approved measures shall be implemented before the development is brought into use and thereafter be maintained in accordance with the approved details.
- 7) Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction

works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

8) Prior to the commencement of any residential part of the development hereby permitted, the details of a scheme of mitigation measures to improve air quality relating to the development shall be submitted and approved in writing by the Local Planning Authority. The scheme be in accordance with, and to a value derived in accordance with, the Air quality and emissions mitigation guidance for Sussex which is current at the time of the reserved matters application. All works which form part of the approved scheme shall be completed before any part of the development is occupied and shall thereafter be maintained in accordance with the approved details.

Informative - In order to ensure approval, we strongly recommend that the above scheme is agreed in advance with the Council's Air Quality Officer.

Comments received 7th December 2021

Comments: I have read the acoustic report by Cass Allen, ref: RP01-21392-R0, dated 19th October 2021, and I largely agree with the methodology and the figures in the report.

However, I note the report states that under ProPG the site is considered a 'Medium' risk in relation to daytime noise levels and 'Medium-High' risk in relation to night-time noise levels. The report later states these levels will be dealt with via closed windows and alternative means of ventilation.

Under ProPG the LPA should be satisfied that any proposal for new housing has followed a good acoustic design process. This means that an Acoustic Design Statement should be submitted showing how the acoustic design process was conducted, and the how the plans and design for property evolved to deal with the noise issues.

While it is accepted there are some scenario where closed widows and alternative ventilation will be the only way to resolve matters, this should be a last resort. The developer should show what other methods of control where considered, as well as why they were rejected before settling on the less than desirable outcome for future residents of choosing between closed windows or high noise levels. The Acoustic Design Statement should include or refer to an explanatory statement detailing why this approach of closed windows and alternative ventilation has arisen, and why the use of layout, orientation, spatial design and non-building envelope mitigation could not be used to minimise the need for reliance upon closed windows.

In terms of analysing noise from the Star's pub garden, I appreciate that the report has tried to give a worst case scenario of 100 people in the garden speaking at 65dB at 1 metre. They have based the 65dB level on information from Building Bulletin 93, which states that conversational speech produces a sound pressure level of about 60 dB at 1 m. This then raises to 70 dB when raising a voice without straining, and 80dB when shouting. Given there will be multiple tables trying to talk over each other (the Lombard effect), and that patrons will be consuming alcohol, I would argue that 65dB maybe an underestimation of the noise level each customer will produce, and it is likely closer to 70dB for each patron when the garden is relatively full. I would state that the report is based on 100 people all talking on the same time, which is likely an overestimation. However, halving that estimation to 50 people would only reduce the overall noise level by 3dB.

Currently the report states that people noise from the garden could be 50 dB at 1 metre from the nearest façade, which is 17dB above background at night. Additionally, the report calculates that internal music from the Star will be 40dB to 45dB at 1 metre from the nearest

façade, which is 7dB to 13dB above background at night. Both of these noise levels would be considered to have a significant adverse impact, and should therefore be avoided.

I note that the report states, in line with BS4142, that the noise from the Star should be taken in context, and argues that essentially as the pub is already there, there is an element of buyer beware when purchasing the property. Further, the report implies that the noise from the pub should be taken as part of the existing ambient noise, and that therefore, provided mitigation is put in place to ensure it is below BS8233 requirements inside the proposed properties, it should be accepted.

I would argue that ensuring levels inside the proposed flats will not go above BS8233 standards does not demonstrate that the specific noises from the pub will not be noticeable and intrusive above the general background, or cause a statutory nuisance. BS8233 specifically deals with anonymous/steady background noise, not specific noise sources. In simple terms, the noise from people shouting in the pub garden, above the normal background, does not go unnoticed simply because the glazing now means it is below 30dB in a local residents bedroom. I would also make it clear that an LAeq is an average, and therefore the LAeq that would be achieved in bedroom would not accurately reflect the noise peaks from intermittent noise of people laughing and shouting. Additionally, providing enhanced glazing and alternative ventilation does not prevent future residents opening windows and making complaints to the council about the pub. Environmental Health will be duty bound to investigate such complaints and take action. This should be avoided, as the developer (as the agent of change) should be ensuring that existing business do not have to make alterations to how they currently operate because of this development.

I do agree with the report in terms of outside area. While balconies will experience noise level above what is recommended in BS8233, this is difficult to mitigate against in such urban locations, and in general residents would prefer to have a noisier balcony than no balcony at all.

At this stage, I am not convinced that providing enhanced glazing will protect the existing pub from potential complaints or potential future action. Nor do I think enough information has been provided to show what mitigation measures were considered prior to falling on the undesirable outcome of future residents either having closed windows and paying to run an alternate means of ventilation, overheating, or having noisy rooms. On this basis, the proposed does not in my opinion currently meet the NPPF aim of achieving sustainable development.

I would also note that at this stage we have very little information about the commercial units that will be included in this mixed use development. As such it is hard to know what impacts these may have. However, given they are attached it is likely any impacts could be controlled, provided appropriate mitigation was put in place. The level of mitigation needed would depend on what is proposed. As such, further information is required on the potential commercial uses envisioned as Class E covered a very broad spectrum.

If the proposed was to go ahead, then I would also recommend conditions are put in place in terms of construction, so as not to impact on existing local residents.

Lastly, I have read the Air Quality Assessment by RSK, ref: 444643-01 (00), Dated November 2021. The damage cost calculation of £16,788 is agreed, and should the application go ahead, a condition will be recommended which will require a scheme of mitigation measures to improve air quality be submitted. The value of these mitigation measures should be to that derived from the air quality assessment.

At this stage, further information is needed in the form of an Acoustic Design Statement, what commercial uses are expected, as well as what further mitigation can be put in place to prevent future residents being impacted by the existing Star pub.

Contaminated Land Officer

Comments:

I have read the following reports by Crossfield Consulting:

- Desk Study Appraisal, Ref: CCL03382.CM49, Dated November 2020
- Site Investigation Report, Ref: CCL03382.CM79, Dated February 2021

The desk study identified the potential for metals and polyaromatic hydrocarbons (PAHs) at site due to the potential for historical coal fires at the site. As such, it was recommended that an intrusive investigation be undertaken to establish if this was the case.

The intrusive investigation has identified lead and number of PAHs at the site to be above the generic assessment criteria (GAC) for human health. The report notes however, that the GAC is used for the preliminary assessment of human health risks, and is based on end users up to the age of 6 years old. Given the proposed development is for retirement homes, the GAC was considered to be conservative, and therefore a site specific assessment criteria (SSAC) was generated for lead and the PAHs in relation to proposed development. The maximum recorded concentration of lead and dibenzo(ah)anthracene recorded at the site remained above the SSAC.

Due to these results, the intrusive investigation has recommended remedial works, including a barrier/capping layer of imported topsoil/subsoil of at least 450 mm in proposed planted landscaping areas, and a thickness of at least 300 mm in proposed lawn landscaping areas.

In line with requirements of NHBC and the local planning authority, it will be necessary to provide a Remediation Strategy document, which details the specific controls associated with the above works. With that in mind I would note that while the investigation report has suggested that grassed areas have a capping layer of 300mm, I would argue that the minimum acceptable total depth for fill materials within areas of soft-landscaping for common areas should be 450 mm. This is a relaxation of the 600mm cover depth that I would normally recommend for private gardens, on the basis that there is a reduced risk in communal areas due to the lessened exposure of human receptors to potentially contaminated soils via direct contact (dermal, ingestion, inhalation).

Additionally a 450mm cover system is in line with BS 3882, and the recommendations for the total growth medium rooting depths for various vegetation types including grass. These rooting depths in this guidance are reproduced below:

Total Minimum Rooting Depth	Vegetation type
450mm	Grass
600mm	Plants
900mm	Shrubs Trees

I would ask that consultant writing the Remediation Strategy document be made aware of my comments.

Based on the above I would recommend that application be approved with appropriate conditions attached. I would note that these comments only relate to contaminated land, and I will be commenting separately on noise and air quality.

Recommendation: approve with the following conditions

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

o Based on the site investigation results and the detailed risk assessment within the Site Investigation Report by Crossfield Consulting, Ref: CCL03382.CM79, Dated February 2021; an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken

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

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

In addition, the following precautionary condition should be applied separately:

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

Drainage Engineer

Comments received 13th June 2022

Following our earlier consultation response (dated 2022-04-08) the applicant has submitted further plans and the Environment Agency have provided consultation response. The flood risk and drainage team have therefore reviewed the updated information and can provide the following comments.

The alterations to the plans do not impact the principle of the drainage strategy. However, we would advise that the detailed drainage design will need to reflect the finalised plans. In addition the Environment Agency have advised a condition is placed on the application which states infiltration drainage should not be provided on the site due to contamination risks. The flood risk and drainage team defer to this advice and advise the applicant that the detailed drainage design takes this into consideration.

Subject to the above additional comments / clarifications our previous (2022-04-08) consultation response and recommendations remain valid.

Comments received 8th April 2022

Following the flood risk and drainage team's previous consultation response, dated 20 December 2021, the applicant has submitted further information in support of the application. This flood risk and drainage team have reviewed the additional information and this response supersedes the December 2021 response.

FLOOD RISK

The site is in flood zone 1 and is at low fluvial flood risk (risk of flooding from Main Rivers). The site is shown to be at very low surface water flood risk

There are historic records of flooding occurring on this area surrounding the site. A lack of historic records of flooding at a particular location does not mean that flooding has never occurred, instead, that flooding has just never been reported.

The applicant has confirmed that the site is located within an area with low and very low probability of flooding from rivers, reservoirs and surface water.

SEWERS ON SITE

The Southern Water public sewer map does not show any public sewers located within the redline boundary of the site.

The flood risk and drainage team advise the applicant that there may be sewers located on the site not shown on the public sewer plan which, since the 2011 adoption of private sewers regulations, are now considered public sewers. Any drain which serves more than one property, or crosses into the site from a separate site is likely to now be considered a public sewer. Advice in relation to this situation can be found on the relevant water authority's website.

SURFACE WATER DRAINAGE

The BGS infiltration potential map shows the site to be in an area with high infiltration potential. Therefore, the use of infiltration drainage such as permeable paving or soakaways may be possible on site. The flood risk and drainage team understand that a desk-based investigation by the applicant suggested that infiltration drainage would not be feasible on site and as such an alternative means of surface water drainage has been considered. We advise the applicant that as part of the detailed drainage design infiltration testing should be undertaken to confirm whether infiltration is viable.

It is proposed that the development will attenuate surface water before releasing it via gravity at the Greenfield QBar rate (1.9l/s) into the public sewer system for all events up to and including the 1 in 100-year event, plus 40% allowance for climate change. Attenuation shall be provided within permeable paving subbase and attenuation tanks.

At this stage the flood risk and drainage team acknowledge that the proposed drainage strategy is acceptable in principle. Information into our general requirements for detailed surface water drainage design is included within the 'General Drainage Requirement Guidance' section.

FOUL WATER DRAINAGE

It is proposed that the development will discharge foul water drainage via gravity to the public foul sewer located to the north-east of the site (Muster Green North Road and The Broadway junction).

The principle of foul water drainage is considered acceptable. Information into our general requirements for detailed foul water drainage design is included within the 'General Drainage Requirement Guidance' section.

CONDITION RECOMMENDATION

C18F - MULTIPLE DWELLINGS/UNITS

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

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

GENERAL DRAINAGE REQUIREMENT GUIDANCE

Mid Sussex District Council's flood risk and drainage requirements are based on relevant national and local policies and guidance.

SURFACE WATER DRAINAGE

Finalised detailed surface water drainage design is required to be submitted and approved prior to construction starting on site. The design should be based on the Environment Agency's latest climate change allowances and follow the latest West Sussex Lead Local Flood Authority Policy for the Management of Surface Water (<https://www.westsussex.gov.uk/fire-emergencies-and-crime/dealing-with-extreme-weather/flooding/flood-risk-management/flood-reports-projects-and-policies/>).

The use of pumped surface water drainage is not considered to be sustainable and therefore would not be considered an appropriate means of managing surface water as part of a development.

The locating of attenuation, detention, or infiltration devices (including permeable surfacing) within flood extents is not acceptable.

Table 1 overleaf sets out a list of information the detailed surface water drainage design should include. Developers are encouraged to complete the table and provide as a cover page to future drainage design submissions.

FOUL WATER DRAINAGE

Finalised detailed foul water drainage design is required to be submitted and approved prior to construction starting on site. The use of public foul sewer connection should always be prioritised over non-mains drainage options.

The use of non-mains foul drainage should consider the latest Environment Agency's General Binding Rules (<https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-a-surface-water>).

The Environment Agency have advised that any existing septic tank foul drainage systems that are found to not comply with the latest Binding Rules will need to be replaced or upgraded.

Table 2 overleaf sets out a list of information the detailed foul water drainage design should include. Developers are encouraged to complete the table and provide as a cover page to future drainage design submissions.

Table 1: Detailed drainage design requirements – surface water

Requirement	Location of information within submitted design
For all designs	
Greenfield runoff rate details for the area to be drained (using FEH or a similar approved method)	
On-site infiltration test results	
Plans / details of areas to be drained based on finalised development plans	
Calculations showing the system has been designed to cater for the 1 in 100-year storm event, plus appropriate allowance for climate change	
Detailed drainage plans, including invert levels and pipe diameters, showing entire drainage system	
Maintenance and management plan ¹	
For soakaways	
Sizing calculations (to cater for 1 in 100-year plus climate change event)	
Half drain time (<24 hours)	
Construction details	
For discharge to watercourse	
Discharge rate (1 in 1 or QBar Greenfield rate for drained area) ²	
Outfall location and construction details	
Attenuation sizing calculations (to cater for 1 in 100-year plus climate change event)	
For discharge to sewer	
Discharge rates (restricted to 1 in 1 or QBar Greenfield rate for drained area unless otherwise agreed with sewerage provider)	
Discharge location and manhole number	
Outline approval from sewerage provider in relation to connection, discharge rate and connection location ³	
Attenuation sizing calculations (to cater for 1 in 100-year plus climate change event)	

¹ The scale of this document should reflect the scale of the development and the complexity of the drainage system.

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² If the 1 in 1 or QBar Greenfield runoff rate cannot be achieved, then evidence into why a higher discharge rate has been proposed should be provided. Due to improvements in drainage systems the 2l/s minimum will not be accepted without justification.

³ Formal approval via S106 etc is not required.

¹ If the 1 in 1 or QBar Greenfield runoff rate cannot be achieved, then evidence into why a higher discharge rate has been proposed should be provided. Due to improvements in drainage systems the 2l/s minimum will not be accepted without justification.

¹ Formal approval via S106 etc is not required.

Table 2: Detailed drainage design requirements – foul water

Requirement	Location of information within submitted design
<i>For all designs</i>	
Plans showing entire drainage system, including invert levels, pipe diameters, falls and outfall/connection location	
Foul flow calculations and confirmation proposed system is sized appropriately	
<i>For connection to main foul sewer</i>	
Discharge location and manhole number	
Evidence of communication with Water Authority regarding connection ⁴	
<i>For non-mains system with drainage field</i>	
Evidence of permeability (infiltration) test results specific to treated effluent drainage fields	
Evidence that either: <ul style="list-style-type: none"> a) The system meets latest General Binding Rules b) An Environmental Permit application is to be submitted 	
<i>For non-mains system with discharge to open water</i>	
Evidence that either: <ul style="list-style-type: none"> a) The system meets latest General Binding Rules b) An Environmental Permit application is to be submitted 	
Outfall location and construction details	

Conservation Officer

The application site is at the southern end of the Broadway, and includes a 19th century shopping parade (originally built as houses, from historical map evidence, and converted to shops during the early 20th century) and a service area to the rear. Adjacent to the site but not included in it is the Star public house, which also dates from the 19th century, although apparently postdating the adjoining terrace. The site is not within the Muster Green Conservation Area, which lies to the west, but is directly adjacent to it, and would be considered to be within its setting. There are no listed buildings within the site; a short distance to the north west is the Old House, which is a Grade II listed building dating from the late 16th century, but due to the distance between the two and the amount of screening around the boundary of the Old House, the proposed development is not considered to affect its setting. The Star Public House, which as above is adjacent to the site, would in my opinion be regarded as a non-designated heritage asset (NDHA), due to its age, architectural quality (with good survival of original features), and communal value.

⁴ Formal approval via S106 etc is not required.

There is currently no appraisal for the Muster Green Conservation Area, although a brief character assessment is given in the document 'Conservation Areas in Mid Sussex.' This suggests that the special character of Muster Green is derived both from its distinctive appearance, especially when viewed from the western approach to the town, and from its historic connections. The area is characterised by substantial Victorian and Edwardian houses set in large mature gardens, to the north and south of a wedge of tree lined open space which retains the character of a village green. Among the features which is noted to in particular contribute to the character of the area is the important grouping of trees in the eastern section of the Conservation Area, which would be directly adjacent to the proposed development site.

I would consider that at present the site makes a positive contribution to the setting of the Conservation Area. The 19th century shopping parade has some character and is similar in date to many of the buildings within the Area. This contribution is enhanced by the group value which the parade has with the adjacent Star public house, a building which, as above, I would regard as a non-designated heritage asset (NDHA) of a moderate to high degree of significance in the local context, having historical, aesthetic and communal value. These buildings collectively make a particularly strong contribution to the approaches to the Conservation Area from the east.

The current proposal is for the demolition of the existing buildings on the site and the construction of a 4 storey mixed use development fronting onto the Broadway and the B2772 running east from Muster Green (Muster Green North).

The current proposal follows on from pre-application advice, and has been amended in scale and form as a consequence, as well as more minor amendments made during the course of the application itself. The proposal raises potential concerns in relation to the impact on the adjacent Conservation Area and the Star pub.

As above, I would consider that the existing buildings on the site make a positive contribution to the setting of an approach to the Muster Green Conservation Area, which is enhanced by their group value with The Star, which I would regard as a NDHA. I would consequently consider that their demolition will be harmful to the setting of the Conservation Area and the manner in which its special significance is appreciated. It would also be harmful to the setting of the Star.

Under the relevant Historic England guidance on development within the setting of heritage assets (GPA Note 3 'The Setting of Heritage Assets'), it will be necessary to consider ways in which this harm, which I would consider to be less than substantial, can be mitigated. In this instance I would consider the primary way in which this could be achieved was by a new development on the site which was of such a high quality of contextual design as to make the same or a greater positive contribution to the setting of the affected heritage assets. Although it would be beyond my remit in this case to comment in detail on the architectural quality of the current scheme I agree with the Council's Urban Design Officer and the DRP that at present it does not respond entirely successfully to the context and as such in my opinion it would not in its present form mitigate for the loss of the existing shopping parade.

The scheme has been revised in relation to the pre-application proposals- of particular note in relation to the impact on the setting of the Muster Green Conservation Area is a reduction in the height/bulk of the development to the rear (west) and at the northern end of the building where it faces onto Muster Green North. These factors will reduce the impact of the proposal on longer views towards the site from Muster Green and Muster Green North towards the heart of the Conservation Area, including views between or above the important group of trees mentioned above, although given the remaining height and bulk of the building it seems unlikely that this impact will be entirely removed, especially in winter (no

longer distance views have been submitted to clarify this). This will detract from the contribution which is currently made by the group of trees to the eastern edge of the Conservation Area (to the immediate west of the site) to the character of the Area, and the green backdrop they provide to views looking east across the Green, as well as the sense of separation they provide between the open and verdant Conservation Area and the denser development of Haywards Heath town centre.

For the above reasons I am therefore of the opinion that the proposal is likely to cause a moderate level of less than substantial harm to the setting of the Muster Green Conservation Area which would need under paragraph 202 of the NPPF to be weighed against the public benefits, if any of the scheme.

In terms of the impact on the NDHA (The Star) under paragraph 203 of the NPPF I would consider the harm to this asset of a moderate to high degree of significance in the local context to be high, given the loss of the existing shop parade which contributes positively to its setting, the proximity of the site and the overbearing nature of the development.

This will also be contrary to the requirements of District Plan Policies DP34 and DP35.

Urban Designer

The drawings are similar to the ones presented to the DRP in July 2022. The only significant external changes are the introduction of a door on the curved corner of the Muster Green North / Broadway junction and the introduction of railings above the three-storey brick façade (in place of a brick parapet) that in my view have little impact on the overall quality of the design.

Broadway Elevation

The existing Victorian parade contributes positively to the Broadway's streetscape and the Council's Design Guide identifies this part of the town centre as being an area which is characterised by its fine grain; it states (on p29) in these areas there may only be scope for some modest change and intensification depending upon the context and character of the area.

The proposed Broadway elevation has attempted to subdivide the frontage and address the slope by dropping the height in the middle. It also organises the individual bays so they approximately echo the widths of the existing shopfronts. Despite this the elevation still does not have sufficient variety/architectural interest and reads too singularly as one long monotonous building frontage; as the DRP have commented "the frontage still does not satisfactorily respond to the narrower building plots that characterises the Broadway frontages". The DRP also said that "the requirement for a single floorplate for the residential element is still creating problems that have not been sufficiently resolved". As previously advised, more modelling of the building is needed including varying the design of the windows, facing materials and detailing.

Because of the constraints along the footway (both because of underground services and because most of the threshold is within WSCC ownership/control), it looks unlikely there will be scope for tree planting on the Broadway frontage. The introduction of green wall panels is an attempt to soften the frontage in the absence of street trees. Unfortunately for all the reasons given by the DRP, the green panels risk looking like afterthoughts, and not something that is fully integrated with the rest of the facade. The lack of greenery is also likely to exacerbate the shortcomings of the Broadway façade.

Broadway/Muster Green North Corner

Curving the façade at the junction of the Broadway/Muster Green North is an attempt to address the corner. Unfortunately, this single storey element appears to be bolted-on at the end of the Broadway elevation and therefore poorly integrated with the rest of the façade.

Muster Green North

The Muster Green North elevation is now suitably set-back allowing a reasonably generous threshold that will accommodate trees and shrubs that will soften and screen this frontage. The revised design though is inferior to the originally submitted application drawing as there is less vertical subdivision and it no longer steps down to 3 storeys towards the Muster Green Conservation Area to the west, instead extending to 4-storeys along the whole facade. Furthermore, the height of this building is exaggerated when viewed from the street it sits on raised ground. Consequently, this elevation would be unduly monolithic and imposing upon the modest scale of Muster Green particularly during the winter months when trees are not in leaf.

The single aspect north facing flats will receive little or no direct sunlight, especially on the lower floors including flats 5 and 12 which are directly overshadowed by the Broadway wing; consideration therefore needs to be given as to whether they accord with BRE standards. The revised drawings have nevertheless improved the layout of these flats by locating the kitchens at the rear that allows more external wall and windows to be dedicated to the living rooms.

I have also noticed the position of the windows serving flat 34 on the third floor are inconsistent with the north elevation (and flat 31's windows are also inconsistent with the south elevation) and would disrupt the natural order.

Rear/South Elevation

The building's layout around the residential entrance on the upper ground floor has been improved in the revised drawings. The south facing ground floor flat (as well as the lounge) is now located a comfortable distance from the refuse store.

Sustainability

The roof plan indicates that the roof has been kept largely free for solar PV's; however, no indication has been given to how they are configured and their relationship with the roof parapet.

I could not find information on file that shows how the applicant's have responded to the DRP's overheating concerns.

Overall Assessment

For the above reasons, the scheme does not accord with principles DG32, DG38 and DG39 of the Mid Sussex Design Guide and DP26 of the District Plan. I also question whether it meets DG37 and DG47 of the MSDG. I therefore object to this planning application.

Housing Officer

The applicant is proposing a development of 37 retirement living units, which gives rise to a minimum onsite affordable housing requirement of 30% in line with District Plan Policy DP31. This represents 12 affordable housing units since the number of affordable units is rounded up to the next whole number. An affordable housing mix comprising 5 x 1B/2P flats and 7 x 2B/2P flats is required but in this instance, due to the nature of the scheme, we would be prepared to accept a commuted payment in the sum of £716,000 towards off site provision. This sum is calculated in accordance with the West Sussex Commuted Sum

Review of 1st January 2011 and is based on 5 x 1 bed flats @ £55,000 each and 7 x 2 bed flats at £63,000 each in Band D. It would be payable prior to the Commencement of the Development.

Community Facilities Project Officer

Thank you for the opportunity to comment on the plans for the demolition of existing buildings and redevelopment to provide mixed use development of Class E commercial units and 37no. units of Retirement Living Accommodation at 3 - 15 The Broadway Haywards Heath RH16 3AQ 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 five or more dwellings.

CHILDRENS PLAYING SPACE

Contributions toward children's playing space are not required in this instance as the development is retirement living apartments for older people only.

FORMAL SPORT

In the case of this development, a financial contribution of £14,198 is required toward formal sport facilities in Victoria Park, Haywards Heath.

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 £15,444 is required to make improvements to the Age UK, Lamb House and / or The Yews.

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.

Can you amend the Community Building contributions to read ' a financial contribution of £15,444 is required to make improvements to the Age UK, Lamb House and / or the Clair Hall redevelopment site.

Waste Contracts Monitoring Officer

After reviewing the upper floor plan it seems like this is fine and will have correct capacity to serve the residents. I cannot see any further issue from a waste perspective.

Tree Officer

Comments received 16th May 2022

I am concerned about the bulk and dominance of such a large building in this elevated site and the lack of opportunity for tree screening/softening due to the proximity of the building to the perimeter of the site. The bulk is not mitigated by the proposed planting.

I am also unclear as to the numbers of replacement trees due to differing illustrations in the plans.

The large TPO chestnut appears to be outside the site and therefore a separate application will be required for its felling. Please could this be clarified.

Reference is made to 'offsite provision' of trees. This is not acceptable and cannot be 'conditioned'.

CG1 -1 and CG1 - 2 appears to show street trees as part of the plan and other features, such as benches. No account appears to have been taken of the existing street light and there is no guarantee that this planting could/would take place as, again, this is outside the red line.

The existing pavement along Muster Green North is only around 1m wide, therefore I would question whether a bench could be placed here or whether the trees shown along The Broadway would have adequate rooting volume/space to develop as shown.

Also, on the Muster Green North side, the bank appears to be shown terraced and with new tree planting. There are a large number of trees on this bank and no account appears to have been taken of these or how terracing/levelling would take place. There appears to be inadequate space for what is proposed. If all the trees on the bank are to be removed, this should be clarified on the plans.

Furthermore, I am unclear as to how many trees are to be lost and how many planted? Please could this be clarified, including trees on this bank.

I consider that there would be significant pressure on retained trees, both in terms of shading to the apartments and the fact that a large number of trees hang over proposed car parking spaces, with associated problems.

Amenity space is limited and dark and there is limited scope for planting.

There is no method statement or planting plan, nor a certainty that the proposed planting could actually be accommodated within the site.

I consider that the building dominates the site almost to the perimeter with little opportunity for softening or mitigation in terms of landscaping.

Amended plans

To be reported

Design Review Panel

Comments on original version of scheme:

The panel were disappointed as the scheme had not sufficiently taken on board their previous comments. In particular, the Broadway elevation has only been minimally changed at the northern end and it consequently still suffers from a ubiquitous and bland design that contributes too little to the character of the area, and the change only plays lip service to addressing the northern corner. The continuous horizontal form of the long frontage needs to step down the slope more meaningfully while the façade also needs more vertical articulation. While the panel accept that the internal layout must incorporate continuous floor levels, there should be scope to vary the façade treatment including the height of the parapet and the height, level, and design of the windows. This is especially important as without street trees this elevation is likely to otherwise appear unacceptably stark and overbearing; as the planting of these trees is outside the applicant's control it cannot be assumed that it will happen.

The servicing of the proposed shops along the Broadway does not seem to be resolved. As servicing from the rear parking area was not proposed the only option available appeared was to service the shops from the Broadway. With no layby in this location, it will be necessary to park the service vehicles on the carriageway which may not be considered acceptable by WSCC Highways. The applicant's suggestion that the servicing arrangement can be incorporated in a proposed plan to pedestrianize the Broadway cannot be considered an option as it is only a future possibility.

It was also disappointing that no daylight/sunlight assessment had been provided. As previously advised, it was felt that the north-facing flats were especially likely to be deficient and this is not helped by the position of the kitchens at the front that results in deep/narrow living rooms.

The bin store is still unfortunately positioned in relation to the adjacent flat 5 and it particularly imposes on the patio area.

If the energy statement is correct the building will be compliant with the new Building Regulations. However, the suggested carbon savings were questioned given the likely high electrical load of the building. Even if they meet the minimum daylight/sunlight standards, the depth and orientation of the rooms are likely to necessitate the use of more artificial light than normal. The scheme is also likely to be reliant on a mechanical ventilation heat recovery system (MVHR) as residents will be disinclined to keep windows open because of the traffic noise from the busy gyratory system.

MVHR will also need louvres for the air intake and extraction that may disrupt/clutter the façades unless they are carefully planned/integrated.

Overall Assessment

The panel object to this scheme.