

MID SUSSEX DISTRICT COUNCIL

DISTRICT WIDE PLANNING COMMITTEE

10 MAR 2016

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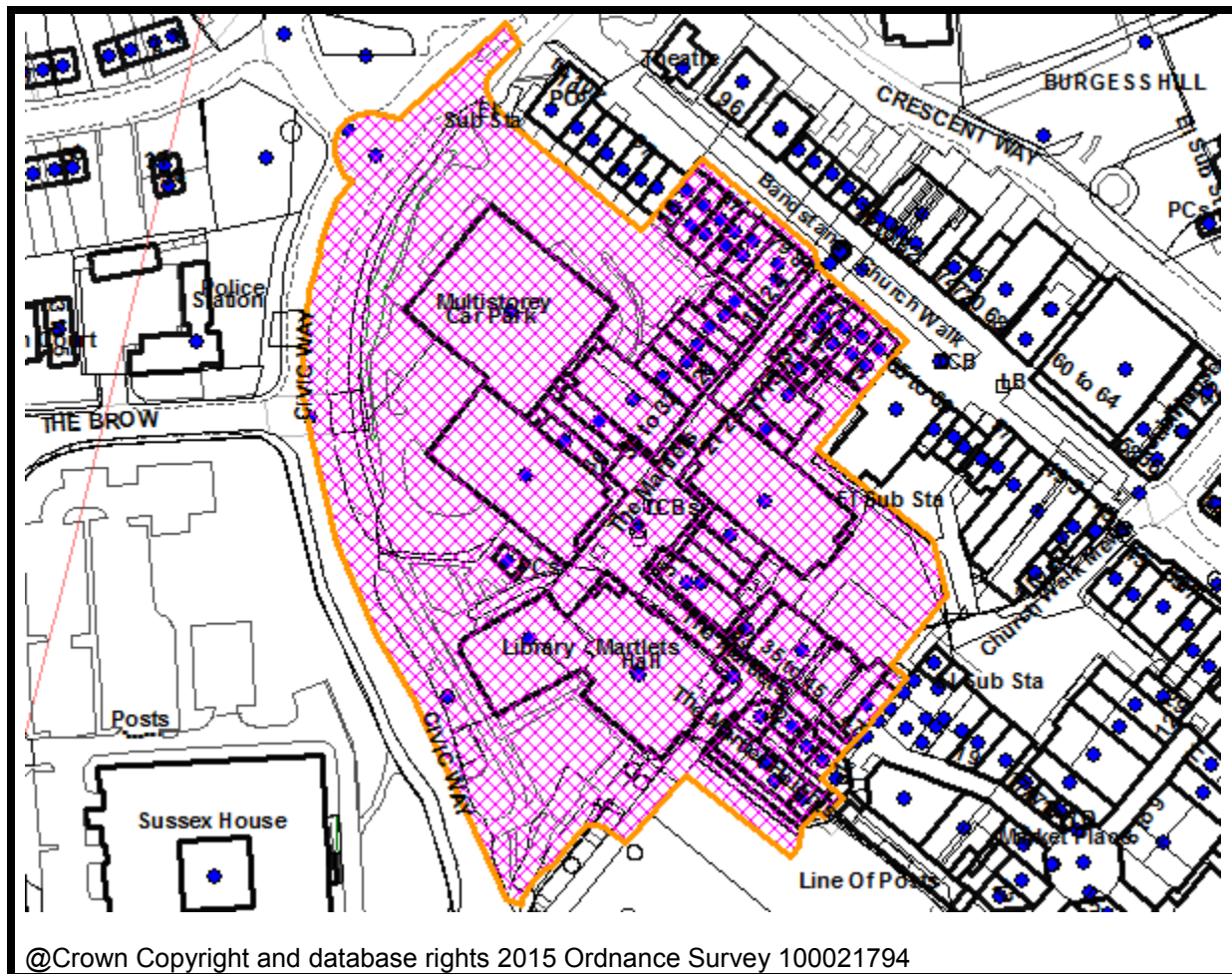
MID SUSSEX DISTRICT COUNCIL

DISTRICT WIDE PLANNING COMMITTEE

10 MAR 2016

PART I - RECOMMENDED FOR APPROVAL

1. DM/15/3858



**THE MARTLETS SHOPPING CENTRE BURGESS HILL WEST SUSSEX
DEMOLITION OF MULTI-STOREY CAR PARK, PUBLIC LIBRARY, COMMUNITY
BUILDING AND OFFICES. PROVISION OF ADDITIONAL RETAIL FLOOR SPACE
(CLASS A1-A5), RESIDENTIAL UNITS (CLASS C3), A MULTI-SCREEN CINEMA
(CLASS D1), PUBLIC LIBRARY (CLASS D2), A HOTEL (CLASS C1), THE
RECONFIGURATION AND EXPANSION OF EXISTING CAR PARK, AMENDMENTS TO
THE SITE ACCESS, PUBLIC REALM IMPROVEMENTS INCLUDING LANDSCAPING
AND OTHER ASSOCIATED WORKS.
NEW RIVER RETAIL**

POLICY: Built Up Areas / Classified Roads - 20m buffer / Planning Agreement / Planning Obligation / Radon Gas Safeguarding Zone / Highways Agreement (WSCC) /

ODPM CODE: Largescale Major Other

13 WEEK DATE: 14th January 2016

WARD MEMBERS: Cllr Richard Cherry / Cllr Anne Jones /

CASE OFFICER: Mr Stephen Ashdown

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

Full planning permission is sought for the redevelopment of the Martlets Shopping Centre which will require the demolition of existing commercial units, including Martlets Heights, Martlets Hall as well as the existing multi-storey car park. The proposal will provide for additional retail and other town centre uses, a new cinema, hotel, 142 residential apartments and a new library facility.

Section 38(6) Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. As the proposed scheme does not comply with certain aspects of the Development Plan, other material considerations need to be considered in determining the application, including the NPPF.

Whilst the primary purpose of the proposed development is to provide enhanced town centre facilities, it also includes 142 new residential units which are an important component of the scheme. As the Council is unable to currently demonstrate a five year supply of deliverable housing land it follows that the relevant policies for the supply of housing are not up to date (paragraph 49 NPPF). In these circumstances paragraph 14 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

Having concluded that the development does represent a sustainable form of development, the Council's consideration of matters do not end there and there is still a need to go through the weighing up process between the positive benefits of the scheme against any harm that may be caused.

The proposal provides for a significant and substantial improvement to the offer of the town centre, as well as its physical and visual environment. The enlarged retail offer, the hotel and cinema are matters that will attract additional visitors to the town centre and increase the vitality and viability of the town centre's daytime and night time economies. The proposal will result in the creation of significant number of permanent jobs, as well as temporary jobs during the construction phase. The principle of the proposed redevelopment and the uses proposed are supported by the development plan, which includes the newly made Burgess Hill Neighbourhood Plan. These are matters that attract significant weight in support of scheme. The proposed 142 residential units will make a significant contribution towards the housing supply and should this also attracts significant weight in support of the scheme, along with the addition economic benefits associated with the new homes bonus and the increased business rates revenue.

It has been identified that the proposal would lead to less than substantial harm to the significance of St Johns Church as a Heritage Asset, which carries 'considerable importance and weight' in accordance with 66(1) of the Listed Buildings Act. The guidance in paragraph 134 of the NPPF is that the harm should be weighed against the proposal's public benefits. In this instance the proposed commercial uses as part of the application will provide a significant boost to both the daytime and night time economies of the town and the additional provision of 142 residential units will make a significant boost to the districts housing supply. The church is located within a town centre location and it will still retain its focal point at the western end of the town and it is not considered on this point alone that harm caused outweighs the significant public benefits of the scheme.

Additionally, against the proposal, the scheme does not make provision for the like-for-like replacement of Martlets Hall and while there is capacity for the majority of users to be accommodated in other facilities across the town, the application does not comply with development plan policies on this issue.

While it has been demonstrated that there is sufficient spare capacity within the town centre car parks, the proposed level of parking associated with the residential element of the scheme does not comply with the standards set out in the Neighbourhood Plan.

There is the potential for certain users of the link through the development to Church Walk to be affected by wind funnelling impacts, although mitigation can be secured through conditions and a proportion of the new residential units will suffer from a lack of sunlight/daylight.

A significant impact on the residential amenities of two residential properties has been identified. It is for the decision maker to consider the weight that should be attached to these issues, individually and collectively.

In weighing up these issues, when taken together, it is not considered that the adverse impacts of the development would significantly or demonstrably outweigh the clear and substantial benefits of the proposal.

In these circumstances the NPPF states that permission should be granted and this is a material consideration of sufficient weight to overcome the proposal's conflict with the local development plan. There are no other material considerations that would alter the above planning balance.

It is therefore considered that the application complies with Mid Sussex District Plan Policies G1, G2, B1, B10, S1, S2, T4, T5, T6, CS13, CS22 and BH13 Neighbourhood Plan policies TC2, TC3, TC4, TC6 and G6 and the principles and policies of the NPPF.

RECOMMENDATION

Permission is approved subject to the conditions set in Appendix A.

SUMMARY OF REPRESENTATIONS

A total of 156 letters of representation have been received making the following objections and comments:

- Insufficient parking being provided to meet the increased commercial activities and increased populations being proposed;
- Design utilitarian with regard to the town's existing character;
- New shopping area should be enclosed;
- Too big and bland;
- Library not in a central location and at a different level to the car park making disabled access difficult;
- No provision being made for the re-provision of the Martlets Hall;
- Proposal not making any S106 contributions to benefit the community;
- Too overpowering;
- Size of cinema is not sustainable for the town of Burgess Hill's size;
- This is not a good deal for Burgess Hill;
- Parts of the scheme do not comply with the Burgess Hill Neighbourhood Plan;
- Given height of new buildings and prevailing winds the new public space will become a wind tunnel;
- Removal of existing canopies removes any shelter for shoppers;
- Martlets Hall is the focal point of the town which will be lost;
- The centre of town location for community groups is very important;
- Case has not been made for the demolition of the Martlets Hall;
- No increase in public car parking;
- Over loss of public parking spaces as a result of the development;
- Viability of town centre businesses threatened by lack of parking spaces;
- No affordable housing being provided;

- Flexible uses should not be allowed as control over town centre uses should be maintained;
- Highway capacity issues;
- No internal link to Market Place;
- Loss of Lidl to outside of town centre will detract from attractiveness of town centre;
- Doesn't appear to be any provision for public toilets;
- Railway station needs to revamped as well;
- Town centre already has empty shops, risk that the new units won't be filled;
- Council's dealing with NNR not transparent;
- The building will clash with the style of St Johns church;
- Proposed library smaller than existing;
- No provision to enhance public transport or to encourage travelling to town by foot or cycle;
- No evidence to suggest that proposals will regenerate the town;
- What benefits will the Council provide for the community out of their monies generated from the scheme;
- Burgess Hill will lose independent traders;
- Inadequate service areas are being provided;
- Cinema and hotel both in an area designated for 'retail' within the Neighbourhood Plan;
- Proposed public space worse than existing provision;
- Proposals will increase air pollution - more sustainable measures should be considered;
- Local community do not want a 10 screen cinema;
- Proposals contrary to development plan policies;
- Proposals will be less engaging as a public space due to its design;
- Private car spaces are to be lost but no replacements provided;
- Given population of town is expanding the Martlets Hall should be re-provided;
- Buildings should be red brick to match existing buildings in town centre;
- Proposed shop sizes are not big enough for major retailers;
- Transport assessment inadequate - grossly under estimate trip rates for the cinema users;
- Two thirds of cinema screenings will be during the day, not at night time;
- Seems unnecessary to expand retail space when there is already so many empty shops in the town;
- Facilities in the Martlets Hall are better than those at the Clare Hall;
- Legal rights of access are being impinged;

LaSalle Investment Management (Manages the Market Place Shopping Centre)

LSIM supports the principle of development which will help to maintain and enhance vitality and viability of Burgess Hill town centre, however it has substantial concerns with the current scheme, which it in its present form fears falls short of what is needed to deliver a beneficial scheme for the town centre as whole. These fundamental concerns are:

- Little consideration given to movement between the scheme and the rest of the town centre. Town's circular retail route is lost to the detriment of pedestrians, contrary to the objectives of the Neighbourhood Plan.
- Interface with Market Place will involve blocking up of existing route between the centres with a featureless façade. Scheme essentially turns its back on the Market Place shopping centre which risks creating a low level of design amenity.
- Transport issues; Use of town centre will increase with increased length of stay in car parks, insufficient parking to meet the demand. Under assessment of increased traffic mean junction capacity assessment can't be relied upon. No provision for off-site improvements in relating to non-vehicular modes of transport. No overall travel plan for the development.

4 letters of representation have been received that are either supportive or generally supportive of the proposed development, in which they all recognise that the town centre is in need of redevelopment.

SUMMARY OF CONSULTATIONS

MSDC Urban Designer

The improved retail offer together with the addition of a substantial residential/hotel component, and a 10-screen cinema potentially provides a vibrant mix of uses that should regenerate the town centre. While I am supportive in principle to these aims, it is unfortunate the developers have not been able to realise the Burgess Hill Masterplan vision that envisaged a more comprehensive urban design intervention to stitch together the town's urban fabric. However I understand that land ownership divisions have made this impossible, so my observations are tailored accordingly. As a result of this limitation, the car parking will remain a dominant feature on the main southern approach. Nevertheless the scheme, addresses current deficiencies especially in terms of creating outward-looking buildings that now announces the town centre and should help to attract people in.

On the western side, the scheme succeeds in defining this part of Civic Way while the proposed planting of Plane trees along the street boundary should provide an attractive formal approach to the town centre that will offset the parking and soften the development, but this will need to be coordinated with the underground services.

The building design has been revised since the pre-application stage with one residential floor being taken off the larger building, which now also incorporates a set-back top floor; this has given it a more modelled / less monolithic appearance. However the phase 2 and 3 buildings are still substantial buildings and their prominence is reinforced by the extended car park occupying their front threshold. While the similar sized Sussex House does at least provide some context for the proposal, the buildings will feel significantly bigger than the modest scale of the surrounding built form especially in relation to the adjoining Market Place.

Following the concerns raised by the Design Panel and myself in respect of the submitted application drawings, further information/revised drawings have been

received. On these I agree with all the Design Panel comments (refer to their 25th January meeting notes). In conclusion, I would raise no objections subject to:

- The outcome of a full Wind Impact Assessment study that looks in detail at the conditions in the new square.
- The measured Visual Impact Assessment's being consistent with the information supplied in the draft photomontage images.

MSDC Design Review Panel

The Panel considered Corstophine and Wright Architects' response to their previous comments. The result of the desk-top Wind Impact Assessment was unconvincing. The key area for investigation, the proposed square, was not included in the study as previously requested. The most relevant area under consideration was the pedestrian link, which registers as "unacceptable conditions for intended use", where remedial measures are necessary (in figure 8.1 summary). Given that the pedestrian link and square are the key new public spaces, it was felt that the Panel has not been reassured by the findings of the report. It was therefore agreed that further investigation was required in the form of a full study.

The visual impact assessment supplied was not the final measured version, so the comments must be caveated on this basis. The longer view silhouettes did not seem to be problematic (although it should also be noted that some of the images showed trees in leaf that would not give the full impact at winter time). The closer views from the front (looking from Station Road environs) confirmed to the Panel, that the design was flawed. There were particular concerns about the monolithic appearance of the cinema building and its junction/juxtaposition with Market Place. This would be a particular issue at day time when there is no back lit lighting of the mesh screen. More effort needs to be invested in articulating this long façade (possibly by varying the screen) and treating the return flank and set back roof section.

The Panel nevertheless agreed that the re-organised car park and the widening of the footway by 1.5m between Market Place and the new square were improvements; however the skeletal framed walkway across the car park appeared inconsistently illustrated.

The changes to the elevations of the phase 2 buildings (residential block) represented a marginal improvement, although there was concern that the heavier treatment of the top floor of the residential block on the western side, would increase the considerable scale of the Civic Way elevation.

Recommendation

Accept subject to the above changes and the outcome of the full Wind Assessment study.

MSDC Environmental Health

No objection subject to conditions

MSDC Contaminated Land Officer

No objection subject to conditions

MSDC Drainage Officer

No objections subject to conditions

West Sussex County Council

The County Council as local highway authority (LHA) has considered the proposed highway layout for the entrance to the residential car park, shown on Connect drawing 14901 008 A. The authority does not object in principle to the proposed layout, details to be resolved at the detailed design stage.

Connect Consultants have largely addressed in a note dated 19 February 2016 the points raised in the County Council's response of 12 February 2016. The LHA therefore does not object to the development based on its estimated transport impacts as indicated by the applicant.

The authority continues to consider that opportunities have been missed to enhance sustainable transport provision to the town centre, including bus stop enhancements. However, a condition has been suggested requiring implementation of the transport consultants' proposals in their Accessibility Audit dated 5 February 2016. These will go some way to enhancing pedestrian facilities.

No objection subject to conditions.

Local Lead Flood Authority

No objection

Historic England

We do not object to the principle of re-developing the Martlet's Shopping Centre as this is undeniably a poor piece of design and we recognise the wider benefits this could bring to the town as a whole. The increase scale of the proposed development, particularly Block A, means St John's would no longer be such a prominent feature on the townscape. There would be some harm to its significance and if your Council is satisfied that the harm has been minimised we suggest that you must weigh the public benefits of this proposal against the harm entailed as required by Paragraph 134 of the NPPF.

Sussex Police

Having viewed the proposals in this application I am encouraged to note that every effort has been made to create outward facing active frontages and to maximise the potential for activity, movement and surveillance. The residential units, together with their allocated basement level car parking, have been afforded a good level of security through appropriate access control measures. The Design and Access Statement includes detail of additional measures considered in the design, using the principles of Secured by Design and the seven attributes of safe, sustainable places and I am satisfied that these will help to promote a safe and secure environment for future residents, occupiers and visitors.

Southern Water

There is currently inadequate capacity in the local network to provide foul and surface water sewage disposal to service the proposed development. Additional-off site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Condition proposed.

Records show sewers crossing the application site. It may be possible to divert them as long as this would not result in unacceptable loss of hydraulic capacity and that the work is carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

The Theatres Trust

The trust strongly objects to this application as it will result in the loss of a valued community and cultural facility without the provision of a replacement facility. The loss of a valued community and cultural asset without a suitable replacement is contrary to the NPPF, the development plan and Neighbourhood Plan.

BURGESS HILL TOWN COUNCIL

Concerns Expressed: - the Town Council welcomed the application, the investment in the town, the cinema and green spaces. Concerns were expressed that:

- There appeared to be insufficient parking, and a breakdown of the deficit is attached at Appendix 1. It was appreciated that the application site was limited in size and it was hoped that additional parking could be provided elsewhere in the town centre and/or other solutions found, such as an holistic transport policy;
- It was not clear that the disabled access was adequate;
- There were no public conveniences;
- The design of the cinema was stark and it was requested that this be improved;
- The library seemed to be on the periphery of the development and could consideration be given to making it more accessible for people to use; and,
- Pavements between the new development and town centre need to be improved as many were uneven

Members should note that parking appendix referred to above is set out in Appendix B of this report and highlights that an additional 283 car parking spaces are required.

Introduction

Planning permission is sought for the redevelopment of the Martlets Shopping Centre in the centre of Burgess Hill (including the Martlets Hall) to provide additional retail and other town centre uses (A1-A5), 142 residential apartments, a multi-screen cinema, public library and a hotel, along with infrastructure works. The application represents a significant part of the town centre.

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

RELEVANT PLANNING HISTORY

The Martlets Shopping Centre dates back to the 1970's, with a second phase approved in the late 1980's, which now forms the Market Place Shopping Centre. There are previous proposals of little relevance to the application site itself, although an extension was approved and completed for the adjacent Waitrose store, including car park alterations, under application ref's 11/02256/OUT and 13/00577/REM.

SITE AND SURROUNDINGS

The site consists of approximately 2.46 ha of land in the middle of Burgess Hill town centre and consists of a number of buildings and structures incorporating existing A1 retail and other A2-A5 uses, community uses (Martlets Hall), office space and car parking, including a multi storey car park.

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

The Martlets is an open air shopping centre comprising relatively small single storey units fronting the open air pedestrian arcades (albeit that there are canopies that provide some cover) with a mix of commercial, leisure and residential units above. At its southern end is the Martlets Hall, a two storey building, incorporating the town library as well as community meeting spaces and a main hall with a stage that can be used for live performances.

The largest building on the application site is Martlets Height, an 8 storey office building that is now only partially occupied, the remainder of the site is of a much lower scale, although the multi-storey car park is equivalent to 4 storeys (including a lower ground floor). Due to the fall in levels across the site the apparent scale of the existing built

form is masked to a degree, although it is more noticeable when viewed from Civic Way.

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

APPLICATION DETAILS

Full planning permission is sought for the redevelopment of the Martlets Shopping Centre which will require the demolition of existing commercial units, including Martlets Heights, Martlets Hall as well as the existing multi-storey car park.

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

- 14, 562 SQM of A1 retail floor space;
- 2, 261 SQM of flexible A2/A3/A4/A5 floor space;
- 10 screen cinema;
- 63 bed hotel;
- 142 residential units comprising 58 x 1 bed and 84 x 2 bed apartments;
- A replacement library of 715 SQM;
- Reconfigured surface car park providing 163 spaces;
- A 120 car parking spaces for the new residential units.

Block A will provide for two-storey A1 retail units facing onto the surface car park, with single storey A3 units along the return elevation to the junction with Church Walk. The new library will be provided at lower ground floor level facing onto Civic Way, with an external elevator proposed to help access from the surface car park at higher level. The upper elements of this block will be made up of the residential units, located either side of the proposed hotel. Each will gain access via private lobby areas at ground floor level, with a basement car park provided to serve the residential units. At its highest the block will be 7-storeys tall, reducing down to 6 and then 5 as the building line follows the topography of Civic Way and towards Church Walk

Block B will again comprise of 2 floors of A1 retail floor space with the multi-screen provided above. The cinema foyer will be provided at ground floor level and face out onto the new public space that will provide the link between the surface car park to the south and Church Walk to the north. The height of this block will slightly higher than the highest part of Block A opposite.

The 163 public car parking spaces being proposed as a replacement for the multi-storey car park will be provided at surface level as an extension to the existing car park that serves the Waitrose/ Market Place Shopping Centre. Within the car park, planting is proposed to help soften the extent of the hardsurfacing.

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

It is proposed that the development will not provide for any affordable housing, with all the 142 apartments being open market units. To support their case the applicants have submitted a full viability assessment.

The supporting documentation outlines that the scheme will be delivered in the following three phases;

Phase 1

- Re-elevation of existing units
- Removal of existing overhanging canopy
- Demolition of 3 existing units to allow for construction of new unit (the first phase allows for the relocation of Argos)

Phase 2

- Demolition of western part of the town centre, including the multi-storey car park and Martlets Hall
 - Reconfiguration and extension of the surface car parking
 - Improvements to the public realm
 - Reconfiguration and re-elevation of existing New Look unit
 - Construction of Block A
- (this second phase will require the relocation of the Lidl store)

Phase 3

- Demolition of the remainder of the eastern part of the existing town centre, including Martlets Height
- Construction of Block B, including the cinema

LIST OF POLICIES

Mid Sussex Local Plan

G2 (Sustainable Development)
G3 (Infrastructure Requirements)
C5 (Nature Conservation)
B3 (Residential Amenities)
B4 (Energy and Water Conservation)
B7 (Trees and Development)
B10 (Listed Buildings)
B23 (Noise Pollution)
H2 (Density and Dwelling Mix)

S1 (Town Centre Shopping Developments)
S2 (Requirements for New Retail Developments)
T4 (Transport Requirements in New Developments)
T5 (Parking)
T6 (Cycle Parking)
CS6 (Loss of Community Facilities)
CS8 (Development of New Facilities)
CS13 (Land Drainage)
CS22 (Pollution)
BH13 (The Martlets Shopping Centre)

Development and Infrastructure Supplementary Planning Document (Feb 2006)

Burgess Hill Neighbourhood Plan

The site falls within the Burgess Hill Neighbourhood Plan area. The Plan was 'made' by the Council on the 27th January 2016 and now forms part of the 'development plan' for the District. It is a material consideration that should be given full weight.

The following policies are relevant.

TC2 - The Leisure and Entertainment Quarter
TC3 - The Brow Quarter
TC4 - The Retail Quarter
TC6 - Urban Realm and Access in the Town Centre
S3 - Protect and Enhance Existing Community and Medical Facilities
S4 - Parking Standards for New Development
G6 - Footpath and Cycle Links

District Plan

The Pre - Submission District Plan 2014 - 2031 was published on the 12th June 2015. Representations have been considered and the Council has proposed to make focused amendments to the Plan. The 'Focused Amendments to the Pre-Submission Draft District Plan' was issued for consultation on the 19th November and this period has now expired. It is anticipated that the Pre-Submission District Plan and the Focused Amendments will be submitted for Examination in February 2016. The Plan is a material planning consideration. Weight will be given to relevant policies in accordance with paragraph 216 of the NPPF.

Relevant policies include:-

DP1 - Sustainable Development
DP2 - Sustainable Economic Development
DP3 - Town Centre Development
DP18 - Securing Infrastructure
DP19 - Transport
DP22 - Leisure and Cultural Facilities and Activities

DP23 - Community Facilities and Local Services
DP24 - Character and Design
DP24A - Housing Density
DP25 - Dwelling Space Standards
DP27 - Noise, Air and Light Pollution
DP28 - Housing Mix
DP29 - Affordable Housing
DP32 - Listed Buildings and Other Buildings of Merit
DP39 - Sustainable Design and Construction
DP41 - Flood Risk and Drainage

National Policy

National Planning Policy Framework (Mar 2012)

The National Planning Policy Framework sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently.

With specific reference to decision-taking the document provides the following advice:

Para 183 -185. Refers to Neighbourhood Plans and the plan making process

Para187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Para 197. States that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Para 198. States that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

ASSESSMENT (Consideration of Key Issues)

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;
- Highway Network / Accessibility;
- Parking;
- Impact on Vitality and Viability of Town Centre;

- Loss of Community Facilities;
- Design;
- Impact on Heritage Assets;
- Impact on Residential Amenities;
- Affordable Housing and Infrastructure;
- Air Quality and Noise;
- Ecology;
- Loss of Office Space

Principle of Development

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

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

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

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

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

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

Using this as the starting point the development plan in Mid Sussex consists of the Small Scale Housing Allocations Document (2008), the Mid Sussex Local Plan (MSLP) (2004) and the Burgess Hill Neighbourhood Plan.

In the event of conflicts between policies in these plans it is the most recent policy which takes precedence

The NPPF, which was issued in March 2012, is a material consideration which shall be afforded significant weight.

The National Planning Policy Framework (NPPF) is a material consideration. Para 49 of the NPPF states:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites."

This Council cannot currently demonstrate a five-year housing land supply for the District. The housing requirement set out in the now revoked South East Plan is no longer relevant. However, the objectively assessed housing need figure for the district is yet to be tested through the District Plan examination. As such the Council is unable at present to demonstrate the five year supply of deliverable sites, since it does not have an agreed requirement to calculate this supply against. This is of relevance as the application does contain a significant element of housing.

In those circumstances paragraph 14 of the NPPF applies which states in part:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted"*

Policy BH13 of the MSLP allocates part of the site (including the multi-storey car park) for development including retail, leisure/entertainment and residential uses.

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

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

The above demonstrates that a flexible approach needs to be taken when considering the redevelopment proposals across the 'Quarters' as a whole and given that the proposed uses consistent with those identified for the town centre, the principle of the proposed development should be supported.

Detailed consideration of the proposed development needs to be given in the context of the development plan and other material considerations, including the NPPF. The net effect of paragraphs 197 and 49 of the NPPF mean that the application should be determined in the context of paragraph 14 and the following sections of the report will

consider the relevant matters associated with the development in order to undertake the necessary assessment.

Highway Network / Accessibility

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

Paragraph 32 of the NPPF states in respect of transport matters;

Plans and decisions should take account of whether:

- *The opportunities for sustainable transport modes have been taken up depending on the nature of the site, to reduce the need for major transport infrastructure;*
- *Safe and suitable to the site can be achieved for all people; and*
- *Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'*

This is reflected within Policy T4 of the MSLP where new development proposals should not cause an unacceptable impact on the local environment in terms of road safety and increased traffic. Amongst other things, new development should provide convenient and safe pedestrian access which should link to the wider footway network. It should be noted that the NPPF test of a 'severe' impact is of a higher order than the policy T4 test of 'unacceptable'. Given that the NPPF post-dates the Local Plan it is considered that the relevant test in this case is of 'severe' impact, and in these circumstances the Local Plan Policy has diminished weight in this respect.

Access Arrangements

It is proposed that access to the service yards, to the rear of Church Walk and off Church Road will remain as existing, along with the entrance to the expanded Market Place/Waitrose car park. Access to the proposed basement car park to serve the residential units in Block A will be taken of a slightly reconfigured Civic Way/Church Lane mini roundabout, which will involve adding an additional arm to make it a four arm mini roundabout.

The Road Safety Audit submitted in relation to the mini roundabout works has identified two issues that the applicants state already apply to the existing junction layout and the road collision statistics do not identify any collisions at this junction within a 5 year study period. In addition, the applicants state that the alignment of Civic Way provides a slowing effect which is akin to the requirement needed to meet the identified issue.

In response to the issues with the mini roundabout, the applicants have agreed with the Local Highway Authority that the approach roads to roundabout be narrowed and that the painted island be replaced with a slightly raised one to encourage drivers to go

round it, while allowing large vehicles to overrun it. The Local Highway Authority does not object in principle to the proposed layout and any details can be resolved at the detailed design stage under a Highways Agreement between Local Highway Authority and the developer.

Impact on surrounding network

In addition to the Transport Assessment submitted with the application, the applicants have submitted further additional notes in response to queries raised by the Local Highway Authority, particularly regarding the traffic distribution sensitivity and future year's assessments. The information considered as part of this application takes into account the predicted traffic movements generated by the proposed development and their impact on the key junctions within the local highway network at a future year point (2020), having already taken into natural growth without the proposed development.

The overall conclusion from the applicant's assessment on these matters states;

"Overall, the capacity assessment indicate that the B2113 Station Road /Civic Way roundabout junction and the Civic Way / Waitrose / Martlets Car Park egress priority junction will function within capacity during the 2020 with development scenarios and that the proposed development will have near enough a negligible effect on the operation of the remaining assessed study area junctions."

The Local Highway Authority is satisfied that the traffic demonstrates that, in the future year assessment of 2020, the proposed development would not have a severe impact on the operation of the local highway network.

Accessibility

As the site is located within a town centre location it already benefits from good links to the wider town and to support their application the applicant has undertaken a sustainable access audit.

While the proposed development is aiming to attract additional visits to the town centre, the applicant is not proposing any improvements to existing public transport links, which they considered to be acceptable. Improvements to the pedestrian infrastructure along Civic Way are proposed, including the provision of tactile paving and dropped kerbs to facilitate improved pedestrian access adjacent to The Brow across Civic Way.

The Local Highway Authority has considered these element of the proposals and has stated the following;

"It is accepted that the wider provision of infrastructure across Burgess Hill, such as the Green Circle Network, is an existing need and that the proposed development itself does not require the introduction of this infrastructure to make the development "acceptable in planning terms" (CIL Reg. 122). It is also accepted that the proposed pedestrian infrastructure adjacent to Civic Way is an improvement in terms of the aesthetic quality of the journey and by reducing the number of times pedestrians are

required to cross junctions. However, as expressed in the meeting, it is disappointing that the opportunity has not been taken to take the proposed design a step further and link into emerging infrastructure proposals. For example, a dedicated cycle route could be provided directly into the site from the cycle route that will extend from Civic Way, as opposed to requiring cyclists to dismount at the pedestrian access. Any additional infrastructure required to facilitate the emerging infrastructure proposals may therefore require retrofitting later."

The Local Highway Authority is satisfied that the proposal is acceptable with regard to the issue of accessibility.

Policy T6 of the MSLP seeks to ensure that provision is made for cycle parking in connection with new developments. As part of the application the applicants are proposing to provide an additional 30 cycle parking spaces in relation to the commercial elements of the scheme and a total of 150 cycle parking spaces associated with the residential element. It is considered that level of provision is acceptable and compliant with the development plan policy.

In conclusion on the above matters, while some minor alterations proposed to the Civic Way / Church Lane mini roundabout are subject to a satisfactory Stage One Road Safety Audit, the development will not result in any significant impact with regard to highway safety, impact on the local road network or in relation to accessibility and therefore the scheme would not result in a severe impact for purposes of paragraph 32 of the NPPF. The application complies with the relevant Development Plan policies with regard to this issue.

Parking

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

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

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

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

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

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

Having regard for the above, the total public provision associated with the 'public' element of the scheme is an overall reduction of 62 car parking spaces.

In respect of the private provision, the applicant proposes a total of 120 parking spaces at basement/lower ground level accessed off Civic Way (below proposed block A).

Taking into account all of the above, the application proposal includes provision for a total of 283 parking spaces, split between the public and private provision.

While not part of this current planning application, but considered a material consideration nevertheless, the Council are in the process of creating 100 extra spaces, as well as completely resurfacing, the Cyprus Road car park. This will obviously provide significant additional capacity within the town centre.

Policy T5 of the MSLP deals with parking standards for developments and states a lower level may be sought for developments within a town centre and other areas accessible by other means of transport. A list of criteria is set to assess the extent of any reduction. Policy S4 of the Neighbourhood Plan makes references to Burgess Hill parking standards and states that all housing developments must comply with these new standards.

As part of the Transport Assessment (TA) the applicants have undertaken surveys of the existing town centre car parks profiling their occupancy rates for a Friday and a Saturday. As currently exists, the TA sets out that there are currently a total of 927 spaces within the town centre, spread across six different car parks.

The results of the survey show that all the town centre car parks have some capacity, with occupancy rates ranging from 25 per cent (Queens Crescent on a Friday peak (observed at 11:00) and Saturday peak (observed at 16:00) to 84 per cent (Waitrose Saturday peak (observed at 12:00)). It should be noted that the Waitrose/Market Place car park was the most popular, not unsurprising given its central location, with the Friday peak occupancy rate of 80 per cent (observed at 12:00). Overall, for all car parks combined, the town centre peak (observed at 12:30) Friday occupancy was surveyed at 56 per cent, with the Saturday peak (observed at 12:30) at 68 per cent.

Furthermore, the TA sets out that the calculated car parking demand associated with the redevelopment, based upon TRICS datasets, can be accommodated within the proposed total town centre car parking provision (as set out in the application). It also provides a calculation for Friday and Saturday occupancy of the extended Waitrose/Market Place car park, with the proposed new uses, that shows the car park would operate within capacity, albeit Saturday would very close to capacity at calculated peak occupancy times.

A number of representations received have challenged the figures used to calculate the parking demand for the proposed development. The information provided is based upon accepted TRICS database and the local highway authority has considered the TA's content and has not raised an objection to methodology or datasets used.

It is clear the proposed development will result in additional use of the town centre car parks and given its location, the extended Waitrose/Market Place car park will potentially be under the greatest pressure, although this would be the case even without the development and the associated car park expansion.

In terms of the proposed commercial uses, it is not uncommon for hotels to be provided within central locations without any specific parking provision and this Council has approved a scheme involving the provision of a 72 bed hotel, from the same end user of this proposed hotel, within East Grinstead town centre (14/03838/FUL refers), without specific allocated parking. It is a material consideration that there is, in some cases, significant spare capacity within the town centre car parks that can cater for the demands of the proposed hotel. The proximity of the railway station is also of relevance. It should be noted that there are no conferencing or restaurant facilities provided and as such the demand generated for parking will likely fall outside the main retail opening hours as arrivals would typically be early/late evening, with departures early morning.

In terms of the proposed cinema, this does have the potential to generate a significant parking demand. Screenings are typically spread across the day and it can be reasonably expected that within any given 'normal' week the greatest demand for parking will occur late in the afternoon/evening for weekdays and perhaps early afternoon/evening at weekends. This of course would depend upon the proposed number of screenings and screen times which are not known at this stage and it would be reasonable to assume that during school holiday period's peak demand times will fluctuate.

While no specific dedicated parking facilities are being provided for this facility it needs to be remembered that across the town centre there will be, post development, approximately 925 public car parking spaces, and with the Council work on the expansion of the Cypress Road car park for an additional 100 spaces, this will take overall provision to approximately 1025 spaces. It has already been demonstrated that there is a significant spare capacity across all the car parks and this would be more than sufficient to meet demand. It should not be a question of requiring this development to provide more parking, but trying to ensure that there is better use of the spaces that currently exist (and will exist). In this regard, the 163 space expansion of the Waitrose/Market Place car park will provide attractive surface level parking in-lieu of the un-welcoming multi-storey spaces of the Martlets car park, which despite its central location, is significantly under used. Given the observed occupancy rates of the Waitrose/Market Place car park, then these 163 will see a significant increase in use, making more efficient use of the overall number of spaces available across the town.

In terms of residential provision, there are two separate standards that could be applied to the site. The Local Highway Authority use their Parking Demand Calculator as

means of determining the level of demand to be generated by a development and in this instance they accept, following the applicants analysis of Burgess Hill Town Centre census data, that a car ownership level of 0.75 can be applied. Having regard for this, the 120 spaces proposed would exceed the anticipated demand of the proposed development. In contrast to this, policy S4 of the Neighbourhood Plan states that new residential developments should comply with the standards set out within the plan and officers have calculated that the development, to comply with this policy, should provide 154 spaces. As already set out the proposal provides 120 spaces for the 142 apartments that form the residential element of the scheme. While regard should be given the existing spare capacity within the town centre car parks that could potentially be used by residents for overnight parking, the scheme before members does not comply with this policy within the Neighbourhood Plan.

In conclusion on this matter, there is no objection from the Local Highway Authority with regard to the level of proposed parking being provided as part of this application. The applicants have demonstrated that there is significant spare capacity across the town centre car parks and it is a material consideration that that Council is in the process of adding an additional 100 spaces to the Cypress Road car park. The demolition of the Martlets multi-storey and expansion of the Market Place car park will provide more attractive parking arrangements and help make more efficient use (in terms of occupancy) of the spaces available within the town. While in the main it is considered that the application in this respect complies with Local Plan policies and the aims and objectives of the NPPF, it should be recognised that the residential element of the scheme is contrary to policy S4 of the Neighbourhood Plan.

Impact on Vitality and Viability of Town Centre

In policy terms, policy S1 of the MSLP supports developments that will sustain and enhance the vitality and viability of the town centres and policy S2 of the MSLP states that new retail development over 500 sqm will be permitted subject to a number of criteria, including accessibility, external access for the mobility impaired and adequate serving arrangements. Site specific policy BH13 allocates land adjacent to the Martlets (including the multi-storey car park) for redevelopment including retail, leisure and residential uses.

Neighbourhood Plan policies TC2, TC3, TC4 promote development within three of the five 'Quarters' identified within the town centre, that are covered in whole or in part, by the application site, supporting uses such a hotel, retail, residential and cinema uses.

The NPPF promotes a town centre first approach and seeks to promote economic growth, choice and competition and seeking competitive town centres which are attractive to the whole community as places to work, shop and visit. Paragraph 23 recognises the need for a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development in town centres.

As part of the evidence base for the District Plan the Council commissioned a Retail Study that was completed in November 2014. The study includes high level health

check updates for the each of the main centres in Mid Sussex. Health checks are recognised as important planning 'tools' for appraising the overall vitality and viability of town centres, and informing both plan-making and decision- taking at the local level.

In summary the health check shows that while Burgess Hill has a compact centre, which benefits from good accessibility and a relatively good mix of retailers and service businesses, a number of the towns key performance indicators point to underlying weaknesses in, and potential threats to, its overall vitality and viability. These include:

- A significant fall in the number of comparison goods outlets since 2008 and an under-provision compared with the national average.
- An under-representation of clothing and footwear retailers.
- No major department and/or larger format variety stores to help anchor the town's retail offer and attraction.
- An increase in the number of vacant units in town centre. The current vacancy level (13.2 per cent) is above the national average (11.5 per cent).
- A long term deterioration and lack of investment in The Martlets, which is detracting from the town's overall shopping environment and offer.
- A decline in shopping trips and frequency of trips to the centre since 2005.

It concludes by stating *"there is a clear need for new investment in the town's shopping offer and physical environment to help maintain and strengthen its competitive position"*.

Many comments within the representations question the need for additional retail development within the town centre and the impact it will have on existing traders. In addition, it is stated that that there is no need for a hotel or a cinema containing 10 screens.

It is evident that the current Martlets Shopping Centre is in need of redevelopment and this is recognised within the development plan policies, where both the MSLP and the Neighbourhood Plan have policies positively supporting redevelopment of the town centre for uses incorporated within the application.

The Council need to determine the scheme that has been submitted and it is not for your officers to make assumptions on whether there is need for a uses such as a hotel or a 10 screen cinema. It is recognised with the Neighbourhood Plan at paragraph 5.4 that *"many of the proposals within the study area will be market led"* and that is the situation in this case. Furthermore, the Retail Study commissioned by the Council made the following comments with regard to the then potential scheme for redevelopment of the Martlets;

"The proposed scheme will significantly strengthen the scale and quality of the town's retail and commercial leisure offer. The provision of new larger format shop units will appeal to modern national multiple fashion and non-food retailers not currently represented in the town centre, and a new multiplex cinema in the heart of the town centre will also significantly strengthen the town's daytime and evening offer. In turn the scheme should help to boost the overall market share and trading performance of the

town centre in the face of increased competition from higher order centres, such as Crawley and Brighton, and the forecast growth of internet shopping."

The development would result in the loss of the Lidl's store from the town centre and an application for their relocation to the former gasholder station site on Leylands Road is currently being considered under DM/15/5108 and will be reported to committee for determination in due course.

In conclusion on this matter, and having regard for the above, it is considered that the proposed development will sustain and enhance the vitality and viability of the town centre and in this regard the application complies with relevant development plan policies and the aims and objectives of the NPPF.

Loss of Community Facilities

As part of the proposal, the development requires the demolition of the Martlets Hall and existing adjacent public toilets. The Martlets Hall has a floor area of approximately 2,606 sqm, of which 633 sqm is used as a public library, with the remainder a community facility including the a large main hall with stage which is used for live performances. While the application is not proposing to replace the Martlets Hall on a like-for-like basis, re-provision of the library is proposed.

With regard to the development plan;

Policy CS6 of the MSLP states;

"Proposals for the change of use of redevelopment of health, social service, library or other community facilities will only be permitted where the community use is relocating, or improved facilities are to be provided in the locality."

Policy S3 of the Neighbourhood Plan states;

"The existing community facilities within Burgess Hill are important resources for the local community and should be retained. Support will be given to allocating new facilities or improving existing ones. The Town Council will consider registering some of the existing community buildings as Assets of Community Value. Proposals involving the loss of community facilities for which there continues to be an established need will be resisted unless adequate alternative provision is or will be made available in a location supported by the local community within an appropriate and agreed timescale."

Policy DP23 of the Pre-Submission Draft District Plan deals with community facilities and local services and sets out the need to evidence the loss of a community facility that demonstrates, amongst other things that there is an existing duplicate facility in the locality which can accommodate the impact of the loss of the facility.

Within the NPPF, it was recognised that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. In terms of taking decisions, then paragraph 70 states local planning authorities should *"guard*

against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs."

To support their proposal, the applicants have made reference to a report commissioned by the Council, as land owner of Martlets Hall, to carry a needs analysis of the hall, which was published as part of the Cabinet papers for the meeting held on the 8th September 2015. The report makes the following key findings;

- Based on the Arts Council of England recommended guidelines for arts and cultural space (45 sqm per 1000 population), Burgess Hill requires 1400 sqm of provision to serve its needs of the current population. The estimates show that, without Martlets Hall, there remains 2400 sqm of provision with a further 920 sqm potentially available from three school sites.
- Even with the expected increase in population to 45,000 by 2031, Burgess Hill would still have sufficient supply to meet expected demand.
- Utilisation rates at the main hall are low with only 43 per cent of the available times being taken used by customers. Utilisation rates in the other rooms vary between 8 per cent and 28 per cent.
- Martlets Hall is hired mainly for general purpose meeting space attracting audiences of up to 150 persons.
- Other than MSDC's in house programme of events, the demand for stage performances attracting over 300 persons is limited to a small number of one off or annual events.

The report indicates that there are sufficient alternative facilities within a short distance from the town and that it is feasible to transfer the majority of current bookings to these other venues and that MSDC's programme of staged events and concerts would need to be reworked with the programmes either run in collaboration with other providers or incorporated into the schedule at Clair Hall. It is recognised in paragraph 7.2 of the report that the *"analysis suggest that the Martlets is relatively lightly used although the smaller number of users groups would likely consider any loss of the service to have a high impact on their perception of the town and what it has to offer."*

One of the overwhelming concerns regarding the proposed applications evident from the representation received is regarding the loss of Martlets Hall.

The proposal includes the provision of a new library facility that will have a floor space of approximately 715 sqm, which contrary to views expressed is slightly bigger than the one currently contained within Martlets Hall. The new facility will be located at the lower ground floor of block A facing directly onto Civic Way and while it is appreciated that its position is not as central as it currently enjoys, a balance needs to be struck between competing town centre uses. In response to concerns regarding the suitability of access arrangements to the library from the new extended car park (which is at ground level i.e. a higher level) the applicants have included an external lift adjacent to the proposed stairs, linking the car park with Civic Way, which will add users with push chairs/mobility issues. No objections have been received from WSCC, who are the end user and provider of the library service, to the proposal as it is currently presented. On

this matter alone, the application complies with the above development policies regarding re-provision of community facilities.

The proposal does result in the demolition of the existing public toilets immediately adjacent to Martlets Hall, which can also be considered as a community facility. It is recognised that there is a limited amount of publically accessible public toilets within the town centre and while no dedicated re-provision has been made, the applicants have confirmed that facilities will be available for the public to use in the restaurant facilities (A3 uses) that are to be provided in the scheme. The Council operates a 'Community Toilet Scheme' that operators will be expected to sign up to. On this basis, it is considered that the public toilet facilities have re-provided and this element of the scheme complies with relevant development plan policies above.

As has already been noted, the proposal does not include a like-for-like replacement of Martlets Hall and apart from the re-provision of the library, as outlined above, no other community uses are proposed within the scheme. The Council commissioned report highlights that the facility is relatively lightly used and that there are sufficient alternative facilities that could potentially accommodate the majority of current bookings, although it is noted that the annual shows like the pantomime would be more difficult to re-accommodate. Furthermore, it is noted that some of the potential alternative venues have voiced concern over their ability to accommodate some of the displaced users.

The applicants in their planning statement state that *"the scheme would be rendered commercially unviable if it were required to provide for the retention of Martlets Hall on a like-for-like basis"* and that *"the redevelopment of the town centre has numerous tangible long term benefits for Burgess Hill which should be balanced against the need to demolish Martlets Hall."*

The proposal loss of the hall facilities is contrary to current development plan policies CS6 of the MSLP and S3 of the Neighbourhood Plan. This is an issue that should attract significant weight in planning balancing exercise required. However there are mitigating circumstances regard the commercial viability of the scheme should Martlets Hall be re-provided and there are existing facilities within the local area that may be able to accommodate the majority of the impact of the loss of the facility and these are also matters that should be given appropriate weight when considering this matter.

Loss of Office Space

The proposed development will require the demolition of Martlets Heights, an eight storey office building, which is largely vacant, with a gym and retail uses utilising the ground floor and part of the first floor.

Policy E2 of the MSLP deals with the retention of land for business purposes and states;

"Other than in exceptional circumstances, such as where an existing business use is inappropriately located, or where new development will bring about wider community

benefit, proposals for redevelopment or changes of use which would result in the loss of existing business floorspace will not be permitted."

While it could not be argued that the existing office space is inappropriately located, there are clear grounds to support the loss of the building in respect of the wider community benefit generated by the development, which is one of the exceptional circumstances set out in the above policy.

The wider community benefit derives from the improved retail and leisure offer proposed by the development that will help the long term viability and vitality of the town centre and the provision of 142 residential units that will make a positive contribution to the meeting the housing needs of the town and the district as a whole.

In addition, the applicant has set out in their planning statement that the condition of the offices are below current modern standards and the floorplates do not meet market requirements and while supporting evidence relating to these additional arguments is limited, these factors are material, albeit not determinative.

It is considered the loss of the business space within Martlets Height is acceptable based upon the exceptional circumstances derived from the wider community benefits the proposed development will deliver and the application can be considered to be acceptable having regard to policy E2 of the MSLP.

Design

There are several elements in respect of this issue that need to be considered including layout, massing and appearance. In addition public realm and landscaping are also important considerations that will be addressed in this section of this report.

Policy B1 of the MSLP requires a high standard of design, construction and layout in new developments with a sensitive approach to urban design to demonstrate and show, amongst other things, that adequate consideration has been given to the spaces between and around buildings. There are no specific design policies within the Neighbourhood Plan however policy TC6 expects developments to provide or contribute towards, amongst other things, pedestrian friendly schemes and the creation of a network of linked new public spaces and pedestrian routes.

The NPPF advocates high quality design (paragraph 17) and goes on to states that planning decision should not attempt to impose architectural styles (paragraph 60). Furthermore, paragraph 61 states *"although visual appearance and architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the considerations between people and places and the integration of new development into natural, built and historic environment"*.

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

In layout terms, the proposal provides an outward looking scheme with development addressing its frontage with Civic Way, creating a street enclosure and surveillance that does not currently exist. The constraint of the Waitrose/Market Place car park, and its expansion, limit the ability for the southern edge of the scheme to create any street enclosure although it is acknowledged that proposed landscaping will soften the expanse of car parking, along with the partially covered pathway from the bus stop on Civic Way to the new 'square'. As noted by your Urban Designer, the widened area of street along the pedestrian link does not convincingly read as a 'square', due in part to its linear shape, lack of connecting routes and because of the limited enclosure on the north and south sides. Notwithstanding the above, the proposal does provide an enlarged public realm that has the ability to form an important role in the overall function of the town centre.

With regard to the new public realm and the link through the proposal to the Church Walk, the concerns expressed in the representations regarding the potential for this to be a wind tunnel are noted and also picked up by the Urban Designer and Design Review Panel. In response, the applicants have submitted a desk top study regarding wind effect around the proposed development. In terms of the crucial area, the report identifies that the pedestrian link to Church Walk through the development fails to meet the minimum standard required for pedestrians sitting under canopies, by a small margin. The report highlights the significance of this as 'minor adverse' and suggests that measures be taken to mitigate against cross-winds in canopied areas (for example screens or small scale vegetation). It is important that this area functions properly and given that outside eating areas are proposed within this area, mitigation should be incorporated to limit the effects highlighted. It is considered that a holistic approach should be adopted and designed into the scheme and not left to individual occupiers and to this end a suitably worded condition is proposed. The concerns of the Urban Designer and Design Review Panel on this matter are noted.

The concerns regarding the lack of connection with the Market Place Shopping Centre are noted, however the applicants are providing a 5m wide walkway along the southern frontage of their scheme that will help shoppers to move between the two. It needs to be remembered that it is the scheme that is before committee that needs to be determined and on this matter alone the relationship shown is not unacceptable.

With regard to massing then the proposal is of significant size however the applicant has taken measures to reduce the overall bulk of the proposals by stepping down the heights on Block A and setting back the back the roof on Block B. While the difference in height between the new development and the Market Place Shopping Place will be apparent, this does not make the scheme unacceptable in its own right. The visuals provided demonstrate that the scheme will fit comfortably behind Church Walk and from wider views it is not considered that the proposal would be overpowering or overly dominant.

Turning to elevational treatment, then the development is a non-traditional design and while the views expressed in the representations are again noted, this in its own right does not make the scheme unacceptable. It should be remembered that the NPPF, paragraph 60, states that planning decisions should not attempt to impose architectural

styles. The proposed development, on the whole, provides a strong rhythm and discipline to it with elevations in Block A utilising a mix of glazing, stone and brick work in its elevations treatment, while Block B' s upper elevations will feature a mesh that wraps around the primary elevations.

It is considered that the scheme proposed is of a scale and form appropriate to Burgess Hill and its town centre location and while it is appreciated that there will be differing views regarding the design approach, it is your officers' view that the proposal would make a positive contribution to the overall character and appearance of the town and help contribute towards the visions set out on the Neighbourhood Plan. Conditions are suggested to cover points of detail raised by your Urban Designer. While the issue regarding the tunnelling effect should not be underestimated, the impact can be mitigated through a condition and in overall conclusion on this matter it is considered that the proposal complies with relevant development plan policies and aims and objectives on the NPPF on this issue.

Impact on Heritage Asset

St John's Church is located approximately 115m to the northeast of the proposed development and is a Grade II* listed building. The wall to the west and south of the churchyard is Grade II listed in its own right. The church occupies a prominent position on slightly elevated ground at the southern end of Church Walk and is an integral feature within this part of the town centre and the wall to the churchyard is an integral part of this.

The setting of the church is defined by the townscape and its prominence in it. As noted by Historic England, over time Victorian terraced housing grow up around the church as the town of Burgess Hill evolved. St John's remains a focal point in town despite the later 20th development of the Martlets Shopping Centre, as the scale and massing of these buildings do not compromise, to any great degree, an understanding or appreciation of its prominence in the townscape. The proposal will affect the church's setting.

It is considered that the proposal has the potential to impact upon the setting of this building.

As the application affects the setting of a listed building, the statutory requirement to have special regard to the desirability of preserving the building, its setting and any features of special interest (ss.16, 62, 1990 Act) must be complied with when making any decision. In addition, considerable importance and weight must be given to any harm caused to heritage assets when the decision taker carries out the balancing exercise, thus properly reflecting the statutory presumption against the grant of permission for development that harms a heritage asset. Policy B10 states that special regard will be given to protecting the setting of a listed building.

The NPPF sets out the government's policies for sustainable development. A core planning principle of this framework is to conserve heritage assets in a manner appropriate to their significance (para.17). When considering the impact of a proposed

development on the significance of a designated heritage asset the NPPF requires that great weight should be given to its conservation. The more important the asset, the greater the weight should be. It explains that the significance of a heritage asset can be harmed or lost through development within its setting and as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (Para. 132). Paragraphs 133 and 134 explain that any harm would have to be justified by public benefits that clearly outweigh that harm.

NPPF paragraph 129 advises that the effect of a proposal on the particular significance of a heritage asset must be assessed "including by development affecting the setting of a heritage asset". The NPPF encourages local authorities to seek opportunities for new development to enhance or better reveal their significance (Para. 137).

It is clear that the proposed development would have an impact on the setting of these heritage assets. While located in a town centre, given the overall scale of the surrounding development, the church is very much a focal point at the western end of Church Walk and surrounding approaches. The proposed development introduces a new scale of development within the town centre and while it will have some impact on the prominence and significance of the church from Civic Way to the south, the important western and northern approaches will, in the opinion of your officer, remain largely unaffected, albeit you would be aware of the proposed development and its relationship with the church.

Historic England, while not objecting to the principle of development, state that the increased scale and proximity of the development will cause some harm to the significance of the church and suggest that the Council should satisfy themselves that it is not possible to deliver the public benefits associated with the proposal in a less harmful way, i.e. reducing the scale of the proposals closest to the church. In the event that the Council are satisfied that the harm has been minimised, the application should be considered in the context of Paragraph 134 of the NPPF where the public benefits must be weighed against the harm. The proposal has been subject to detailed consideration and the scheme has evolved over time and this includes the reduction in the scale of the building closest to the church, Block A. As such officers accept that the applicants have done all they can to minimise the impact of this element of the scheme. It can be concluded that the proposed development will cause some harm to the setting (and therefore its significance) of the church and in the context of the NPPF this harm can be considered to be less than substantial. It is therefore necessary, in accordance with paragraph 134 of the NPPF, to weigh the harm caused against the public benefits of the proposal. This is considered in the Planning balance section of the report.

Impact of Residential Amenities

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

Policy B3 of the MSLP outlines that new developments should not be permitted if significant harm to the amenities of nearby residents is likely to be created by noise and disturbance, loss of sunlight/daylight and loss of privacy, amongst other things. Furthermore, one of the core planning principles identified within paragraph 17 of the NPPF states that planning should *"a good standard of amenity for all existing and future occupants of land and buildings."*

Existing Residential Amenity

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

In support of their application the applicants have submitted a daylight and sunlight report, based upon BRE (Building Research Establishment) Guidelines for VSC (vertical Sky Component) and daylight distribution to consider the impact of the proposal on the adjacent existing properties.

The report highlights that the majority of windows and rooms serving habitable residential properties around the development meet the BRE Guidelines for VSC and daylight distribution with the proposal in place or come sufficiently close to be considered acceptable. The report highlights that there are three windows that experience reductions beyond the recommendations in the BRE Guidelines and these serve the two ground floor units at the rear of 105/107 Church Walk. As these two properties were established as a result of planning permission 13/00123/FUL it is the report's opinion (applicant's consultant) that the windows have created a 'bad neighbour' position with the Martlets Shopping Centre and that the proposed scheme is in accordance with local planning policy.

It is clear that in respect of the physical massing of the proposed development then there will be an impact on the residential amenities of those existing properties in Church Walk, both in terms of daylight/sunlight and a greater sense of enclosure. In majority of instances it is not considered that such harm could be considered as significant in relation to policy B3 of MSLP however, the impact on the two ground floor units to the rear of 105/107 Church Walk will be much greater and while it is recognised that these units were created in the knowledge of their proximity to the Martlets Shopping Centre, its servicing area and car park, the impact must be taken into account. The proposed development is likely to have a significant impact on the residential amenities of the occupiers of these two units.

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

It is considered appropriate that conditions are placed upon the development to restrict the timings of deliveries to ensure that residential amenities are protected as much as possible, while it is accepted that a balance needs to be struck to ensure that timings are not so restrictive as to affect the operation of the new commercial units. The suggested condition in relation to delivery hours is the same as that approved in association with change of use of 49-51 Church Walk from A1 to A4, however the applicants have made the following comment and request;

'Given this is a town centre site for town centre uses the proposed hours for loading/unloading from a delivery/collection vehicle will prove extremely difficult for the operational requirements of future A3 tenants given the proposed hours of opening for this type of use, some of which will be 11:00 to 23:30 hours Monday to Sunday. Therefore, we suggest the hours should be restricted between 06:30 - 22:30 hours Monday to Saturday and 07:00 - 21:30 hours on Sundays and Bank Holidays'

While officers note the above, they consider the delivery hours condition as set out in Appendix A is reasonable and provides the necessary balance between commercial activities and protection of residential amenities.

In support of the application a 'Service and Waste Management Plan' has been submitted and while short on details it does highlight that a waiting bay is to be set-aside immediately to the rear of 105/107 Church Walk and the two ground floor residential units. While options for created a waiting area for delivery lorries are limited, it would be unacceptable to allocate them a parking area to the rear of these residential units, which would further compound the impacts described above with which is likely to give rise to significant levels of noise and disturbance to their occupiers. A suitable condition is suggested to address this issue.

Future Residential Amenity

The main concern about future residential amenity is the quality of the environment created by the development, particularly given the height and depth of the proposed residential elements and the relationship with the courtyard. This has been highlighted as an issue given the proposed court yard is north facing.

The applicants' 'Daylight and Sunlight' report also seeks to address the issues relating to the proposed residential units. It concludes that the majority of habitable spaces analysed (84 per cent) meets or come sufficiently close to the BRE Guidelines, indicating (in their view) that nearly all proposed units will be receive adequate daylight and sunlight within the proposal. Furthermore, a sunlight amenity analysis of the courtyard spaces shows that 52 per cent of the amenity spaces will receive at least 2 hours of sunlight on the March 21st, again indicating that the scheme is compliant with the BRE Guidelines for sunlight amenity. It should be noted that given the design of the block protects the amenity space from the prevailing south westerly wind.

There is no evidence in front of officers to challenge the above conclusions. It is a fact that the proposed courtyard is north facing and given the flanking heights of the residential blocks and the overall depth of the proposal, some of the proposed units,

particularly at the lower level, will have levels of sunlight/daylight levels below BRE Guidelines and it should be recognised that the amenity levels for those future occupiers would not comply with current development plan policy.

In conclusion on all the above matters, the proposal will have an impact on the amenities of existing residential amenities however, in the main it is not considered that these impacts would constitute significant harm. The main exception to this is the potential impact on the two ground floor properties to the rear of 105/107 Church Walk where significant harm in respect of loss of sunlight/daylight and increased sense of enclosure is likely to occur. Furthermore, a proportion of the proposed new units will have daylight/sunlight levels below the BRE Guidelines creating unsatisfactory living environments for future occupiers. In respect of these specific points then the proposal does not comply with the relevant development plan policy, or the NPPF. However, regard should be given to the fact that this is a town centre location where compromises to the overall living environment are often needed and it is for the decision maker to place appropriate weight to this issue in overall planning balancing exercise that is required.

Affordable Housing and Infrastructure

While the proposed development will provide for a total of 142 residential apartments, the applicants have outlined that the scheme is not economically viable to provide any affordable housing provision or other Section 106 financial contributions, as detailed within the Council's SDP 'Development and Infrastructure'. To support their case, the applicants have submitted a viability assessment that the Council have had tested independently by the District Valuer (DV).

Policy H4 of the MSLP sets out the council would normally seek to secure 30 per cent affordable housing from schemes of 15 units or more or on sites over 0.5 hectares. There are a number caveats to the policy in respect of determining the appropriate, including situations where there is a demonstrated viability issue. Policy G3 requires infrastructure to be secured to mitigate against the impacts of a development.

Paragraph 176 of the NPPF state that *"where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation), the development should not be approved if the measures required cannot be secured through appropriate conditions or agreements."* It does however go on to state that *"the options for keeping such cost to a minimum should be fully explored, so that development is not inhibited unnecessarily"*. The NPPG (National Planning Policy Guidance) states that *"where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations."*

A policy compliant scheme in this case would deliver 30 per cent affordable housing with financial contributions towards infrastructure matters such as education and formal sport totalling £936,684.

The DV assessment of the scheme has concluded that taking account of viability the scheme currently cannot provide for any affordable housing or other Section 106 financial contributions and officer's accept and agree with the findings of the DV assessment of the scheme.

In such circumstances both development plan policies and national guidance, in the form of the NPPF and NPPG, advocate that flexibility should be adopted in order to ensure that developments can be brought forward and as such it would not be appropriate, or consistent with policy, to pursue this matter further with regard to the current scheme.

Air quality and Noise

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

Policy B23 of the MSLP deals with noise pollution and states that new developments should be designed, located and controlled to minimise the impact of noise on neighbouring properties and the surrounding environment. Policy C22 deals states that development will only be permitted where it does not cause unacceptable levels of pollution to, amongst other things, air. Paragraph 120 of the NPPF states that decisions should ensure that new development is appropriate for its location, taking into account the effects of pollution on general amenity.

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

The assessment also considers the impact in relation to roads and it determines that there will be a low/imperceptible impact on air quality within the Stonepound Crossroads AQMA as a result of both construction and operational traffic.

In terms of cooking extract systems, while a strategy has been submitted it lacks details of the relationship of the flue termini to residential units and the nature of the odour abatement techniques to be employed is unclear. Given that the end user of the identified A3 units has not been clarified, the applicant has been unable to submit more detailed information. There are options to deal with this matter on site and a condition is suggested that can control this element of the scheme to ensure that amenities can be protected.

The issue of applying for a flexible use on the identified A3 units does offer some difficulties in assessing the overall impact of the scheme with regard to noise, as the different uses would generate different issues. The greatest concern would be an A4 use, which covers bars/pubs, where the greatest impacts arise from clientele noise and noise breakout through an open frontage or through the structure of the building, all of

which could impact upon the amenity of residential units above. However, a condition is suggested that will enable the Council to control these matters. It should be pointed out the flexible uses only apply to first occupation in order to offer flexibility to the applicant in the initial leasing phase of the development and this is covered by a suitably worded condition.

Matters regarding the control of plant noise and the protection of residential amenities from external noise sources can be controlled via condition and in overall conclusion on these issues no objections have been received from your Environmental Protection Officers and it is considered that the application complies with the relevant development plan policies and aims and objectives of the NPPF on this matter.

Ecology

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

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act, in addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Part 3 of the Conservation of Habitats and Species Regulations 2010..

In respect of the policy context, para 109 of the NPPF highlights that the planning system should contribute to and enhance the natural and local environment by, amongst other things protecting and enhancing valued landscapes and minimising impacts on biodiversity and providing net gains where possible. In determining planning applications, para 118 sets out a number of principles that local planning authorities should apply in trying to conserve and enhance biodiversity, which include the following;

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- Opportunities to incorporate biodiversity in and around developments should be encouraged.

Policy C5 of the Mid Sussex Local Plan, states development will only be permitted where the proposals minimises the impact on features of nature conservation importance and that the weight attached to nature conservation interests will reflect the relative significance of the designation.

The submitted report indicates that a number of the buildings are suitable to support nesting birds, which are a protected species group and therefore mitigation will be required to ensure compliance with legislation. This would normally require the demolition of buildings outside of the bird breeding season and where this is not possible, precautions should be taken to limit the likelihood of nesting birds, namely

installation of bird netting to flat roofs. The report recommends that bird boxes are installed to compensate for the loss of habitat.

With regard to roosting bats, then six buildings were assessed as having low potential to support them and four as having negligible potential. Due to limited availability of features and urban context of the site, the report considers that any roosting that takes place would most likely be infrequent and casual by individual bats. The site is not considered suitable for hibernation.

The submitted ecology report sets out a number of precautionary mitigation recommendations, along with the provision of bird boxes. A suitable condition is suggested to ensure that the proposed development complies with the recommendation so of the report.

Having regard for the above, there are no overriding ecology issues that would prevent the site from being brought forward and the proposal's impact on the limited ecology of the site can be adequately mitigated and controlled through a condition. The proposal complies with all relevant development plan policies and the aims and objectives of the NPPF with regard to this issue.

Other Matters

In terms of drainage, no objections have been received from any statutory consultee or your drainage engineer with regard to flooding, surface water drainage or foul water drainage. The comments of Southern Water are noted and suitable conditions are suggested that adequately deals with these matters. The application complies with the relevant development plan and aims and objectives of the NPPF on these matters.

The proposed residential units have been designed with the Governments technical housing standards in mind, with both the one and two beds units provided sufficient space to meet them.

The Council have undertaken an Equality Impact Assessment for the purposes of the Equality Act 2010 and duties directed to the Council under paragraph 149 that concludes that there will be no negative equality impacts on protected groups arising from the current application. The full report is available to view on the planning file.

A request was received within the representations for the provision of a Changing Places toilet, which is a facility that is different from standard accessible toilets (or 'disabled toilets') as they have extra features and more space to meet the needs of people who use them (people with profound and multiple learning disabilities, as well as people with other physical disabilities). Unfortunately it has not been possible to include one within the final scheme and while this is regrettable, it should be remembered that there is not currently one within the town so there is no loss of a similar facility as a result of the proposed development, and there is no policy within the Development Plan to require one.

Whether the proposal would be sustainable development

As outlined above, the NPPF describes sustainable development as the golden thread running through both plan making and decision taking. It sets out the three dimensions to sustainable development: economic, social and environmental. Paragraph 6 states that the policies in paragraphs 18 - 219, taken as a whole, constitute the government's view as to what sustainable development means for the planning system. In this part of the report the main factors that inform the judgement as to whether the proposal would be a sustainable form of development are summarised. In reaching that view all matters referred to in the report have been taken into account.

THE ECONOMIC ROLE

Part 6 of the Localism Act was enacted on the 16th January 2012. This requires the LPA to have regard to local finance considerations (as far as material to the application) as well as the provision of the Development Plan and any other material considerations. The New Homes Bonus commenced in April 2011, and will match fund the additional council tax raised for new homes and empty properties brought back into use, with an additional amount for affordable homes, for the following six years. The New Homes Bonus is now a material planning consideration and if permitted the local planning authority would receive a New Homes Bonus for of the units proposed. In addition, the Council would receive additional business rates revenue. These are factors that would weigh in favour of the scheme.

The proposal would have direct economic benefits with the creation of a significant number of new jobs as well as increased spend in the local economy by additional visitors to the town centre, as well as from the new residents. There would also be a direct boost to the local economy during the construction phase. These are all factors that weigh in favour of the development.

SOCIAL ROLE

The NPPF seeks to promote a "strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports it health, social and cultural well-being." The provision of 142 new units will make a positive contribution to the district's housing supply and will help meet the identified need for housing including. While the loss of Martlets Hall will remove a community facility from the town centre, the library is being re-provided and there are opportunities for the majority of the existing users of the facility to be accommodated in other facilities across the town.

ENVIRONMENTAL ROLE

The proposal will result in the removal of existing dated and unsightly buildings and structures and their replacement with modern, purpose built, buildings capable of meeting the demands of wide range of town centre uses. The proposal will provide for public realm improvements, including the additional tree planting to reinforce the

existing townscape and approaches to the town centre. While the proposal is of a larger scale than the existing town centre it will make a contribution to the overall character and appearance of the town centre.

The proposal would result in less than substantial harm to the setting of St John's Church. Considerable importance and weight has been given to this less than substantial harm. There is the potential for certain users of the link through the development to Church Walk to be affected by wind funnelling impacts. In addition, a significant impact on the residential amenities of two residential properties has been identified and a proportion of the new residential units will suffer from a lack of sunlight/daylight.

Having regard for all of the above, it is considered that the application can be considered to represent a sustainable form of development.

PLANNING BALANCE AND CONCLUSION

Section 38(6) Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise.

A detailed assessment has been undertaken of all the relevant key issues that can be summarised as follows;

Highways

Having carefully considered the proposal no significant impact with regard to highway safety, impact on the local road network or in relation to accessibility has been identified and therefore the scheme would not result in a severe impact for purposes of paragraph 32 of the NPPF. The application complies with Development Plan policies with regard to this matter.

Parking

It is considered that the proposed level of parking within Burgess Hill town centre is sufficient to meet the demands of commercial elements of the proposal. While the Local Highway Authority are content with the level of parking proposed for the residential element of the scheme, the proposal does not comply with the standards set out in Policy S4 of the Neighbourhood Plan. In this regard, the proposal does not comply with the Development Plan.

Impact on Vitality and Viability of Town Centre

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

Loss of Community Facilities

The proposal does not include a replacement for the loss of the Martlets Hall and as such it is contrary to current Development Plan policies CS6 of the MSLP and S3 of the Neighbourhood Plan.

Loss of Office Space

It is considered that there are exceptional circumstances that justify the loss of the office space within Martlets Heights and in this regard the proposal complies with Development Plan policy.

Design

It is considered that the scale and form of the proposed development is acceptable and there are no objections to elevation treatment proposed in this instance. While there is a concern regarding the wind tunnelling effect along the link to Church Walk, mitigation can be secured through condition, and overall it is considered that the proposal complies with relevant Development Plan policies.

Impact on Heritage Asset

There will be some harm to the setting of St John's Church, a Grade II* listed building. This would be less than substantial. Considerable importance and weight has been given to this less than substantial harm and it is considered that special regard has been to protecting this setting and that the proposal complies with relevant Development Plan policies.

Impact of Residential Amenities

It has been identified that the proposal will have a likely significant impact on two existing flats to the rear of Church Walk and as such the proposal does not comply with policy B3 of Mid Sussex Local Plan.

On other matters relating to infrastructure air quality/noise and ecology, the proposal complies with relevant Development Plan policies.

Having regard for the above, there are some aspects of the scheme that do not comply with the Development Plan, when considered as a whole. Given this, it is appropriate to consider other material considerations in determining the application, including the NPPF.

Whilst the primary purpose of the proposed development is to provide enhanced town centre facilities, it also includes 142 new residential units which are an important component of the scheme. As the Council is unable to currently demonstrate a five year supply of deliverable housing land it follows that the relevant policies for the supply of housing are not up to date (paragraph 49 NPPF). In these circumstances paragraph 14 of the NPPF provides for a presumption in favour of sustainable development which

means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

Having concluded that the development does represent a sustainable form of development, the Council's consideration of matters do not end there and there is still a need to go through the weighing up process between the positive benefits of the scheme against any harm that may be caused.

The proposal provides for a significant improvement to the offer of the town centre, as well as its physical and visual environment. The enlarged retail offer, the hotel and cinema are matters that will attract additional visitors to the town centre and increase the vitality and viability of the town centres daytime and night time economies. The proposal will result in the creation of significant number of permanent jobs, as well as temporary jobs during the construction phase. The principle of the proposed redevelopment and the uses proposed are supported by the development plan, which includes the newly adopted Burgess Hill Neighbourhood Plan. These are matters that attract significant weight in support of scheme.

The proposed 142 residential units will make a significant contribution towards the housing supply and should this also attract significant weight in support of the scheme, along with the additional economic benefits associated with the new homes bonus and the increased business rates revenue.

It has been identified that the proposal would lead to less than substantial harm to the significance of St Johns Church as a Heritage Asset, which carries 'considerable importance and weight' in accordance with 66(1) of the Listed Buildings Act. The guidance in paragraph 134 of the NPPF is that the harm should be weighed against the proposal's public benefits. In this instance the proposed commercial uses as part of the application will provide a significant boost to both the daytime and night time economies of the town and the additional provision of 142 residential units will make a significant boost to the districts housing supply. The church is located within a town centre location and it will still retain its focal point at the western end of the town and it is not considered on this point alone that harm caused outweighs the significant public benefits of the scheme.

Against the proposal, the scheme does not make provision for the like-for-like replacement of Martlets Hall and while there is capacity for the majority of users to be accommodated in other facilities across the town, the application does not comply with development plan policies on this issue. While there it has been demonstrated that there is sufficient spare capacity within the town centre car parks, the proposed level of parking associated with the residential element of the scheme does not comply with the standards set out in the Neighbourhood Plan. There is the potential for certain users of the link through the development to Church Walk to be affected by wind funnelling impacts, although mitigation can be secured through conditions and a proportion of the new residential units will suffer from a lack of sunlight/daylight. A significant impact on the residential amenities of two residential properties has been identified. It is for the

decision maker to consider the weight that should be attached to this issue, individually and collectively.

In weighing up these issues, when taken together, it is not considered that the adverse impacts of the development would significantly or demonstrably outweigh the clear and substantial benefits of the proposal.

In these circumstances the NPPF states that permission should be granted and this is a material consideration of sufficient weight to overcome the proposal's conflict with the local development plan. There are no other material considerations that would alter the above planning balance.

It is therefore considered that the application complies with Mid Sussex District Plan Policies G1, G2, B1, B10, S1, S2, T4, T5, T6, CS13, CS22 and BH13 Neighbourhood Plan policies TC2, TC3, TC4, TC6 and G6 and the principles and policies of the NPPF.

APPENDIX A – RECOMMENDED CONDITIONS

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

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

Pre-commencement Conditions

2. No development shall take place, including any works of demolition, until Construction Management Plan(s) have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,
 - a) the anticipated number, frequency and types of vehicles used during construction;
 - b) the method of access and routing of vehicles during construction;
 - c) the parking of vehicles by site operatives and visitors;
 - d) the loading and unloading of plant, materials and waste;
 - e) the storage of plant and materials used in construction of the development;
 - f) the erection and maintenance of security hoarding;
 - g) 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);
 - h) measures to control the emission of dust and dirt during demolition and construction, lighting for construction and security;
 - i) details of public engagement both prior to and during construction works;

- j) Any temporary measures required in association with the continued operation of the library and the retained town centre uses.

Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety and to accord with Policies B3 and T4 of the Mid Sussex Local Plan and Policies DP19 and DP24 of the Pre-Submission District Plan.

3. No development shall commence on phase 2 until such time as a parking management plan has been submitted to and approved in writing by the Local Planning Authority. This plan shall consider all measures, impacts and mitigation/management required to facilitate this development during the construction phase, and once approved the development shall thereafter proceed in accordance with the plan.

Reason: To ensure vitality and viability of town centre is maintained by ensuring that visitors have sufficient access to parking spaces and to accord with Policies S3, T4 and T5 of the Mid Sussex Local Plan, Policy DP19 of the Pre-Submission Draft District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

4. No development, in respect of phase 2, shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include details of any existing trees on the land, and details of those to be retained, together with measures for their protection in the course of development. The submitted details shall include a strategy for the planting of the proposed line of plane trees along the Civic Way frontage and how they will be coordinated with the underground services. The development shall only be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission District Plan.

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

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

6. The development hereby permitted shall not proceed until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be

occupied until all approved drainage works have been carried out in accordance with such details.

Reason: To ensure that the proposed development is satisfactorily drained and to accord with Policies CS13 and CS14 of the Mid Sussex Local Plan and Policy DP41 of the Pre-Submission District Plan.

7. The development hereby permitted shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. 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 proposed development is satisfactorily drained and to accord with Policies CS13 and CS14 of the Mid Sussex Local Plan and Policy DP41 of the Pre-Submission District Plan.

8. Prior to the commencement of the respective phase of development the detailed 1:20 scale drawing vignettes of the full height elevation and section (including the plinth) of the following shall be submitted to and approved in writing with the Local Planning Authority:

- The cinema building
- The 5 storey residential building
- The hotel building
- The Civic Way elevation
- The Argos store
- The Pergola type structure used in the pedestrian link across the car park.

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

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

9. Prior to the commencement of the respective phase of development , details of the treatment of the north and east elevations of the cinema, including the set-back top floor, details of any lighting of the structure and the junction with the Market Place Shopping Centre shall be submitted to and approved in writing

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

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

10. Prior to the commencement of the respective phase of development, details of the proposed balustrading and dividing privacy screens for the residential balconies shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall only be implemented in accordance with the approved details.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

11. Prior to the commencement of development, details of the mitigation measures to address the issues raised within the Wind Microclimate Desktop Study Rev A by Hoare Lea, dated the 25th January 2016, shall be submitted to and approved in writing with the Local Planning Authority. The submission will be supported by a timetable for implementation and the scheme shall only be implemented in accordance with the approved details.

Reason: To ensure that an acceptable public environment is created and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

12. In addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the construction of the development (prior to any grounds works but post demolition works). The desk study, investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced.

The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of construction of the development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.

- adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(3) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the construction of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(4) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any construction of the development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

(5) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 2, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 3 are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

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

Reason: For the avoidance of doubt and to ensure that the development does not prejudice the appearance of the locality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission District Plan.

14. The development hereby shall only be implemented in accordance the recommendations contained in the Temple Ecological Appraisal Report dated the 22nd September 2015, and details shall be submitted to and approved in writing with the Local Planning Authority, prior to the respective phase of development, demonstrating how they have been incorporated into the scheme.

Reason: To protect the ecological value of the site and to accord with Policy C5 of the Mid Sussex Local Plan and DP37 of Pre-Submission Draft District Plan.

15. No development shall commence until a scheme for protecting any residential units within the development from noise generated by traffic or other external sources, has been submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be no greater than 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00).

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

16. Prior to the commencement of development a plan setting out the design and servicing arrangements for both service yards shall be submitted to and approved in writing with the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure suitable arrangements are in place to protect adjacent residential amenity and highway safety and to accord with Policies B3, B22 and T4 of the Mid Sussex Local Plan and Policies DP19 and DP24 of the Pre-Submission District Plan.

Pre - Occupation conditions

17. Prior to the first occupation of any premises with a use class including A3, A4 or A5, measures shall be implemented in accordance with an Odour Control Scheme submitted to, and approved in writing by, the Local Planning Authority, to prevent odour from cooking at the premises affecting neighbouring residential premises.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policy CS22 of the Mid Sussex Local Plan and Policy DP27 of the Pre-Submission Draft Mid Sussex District Plan.

18. Prior to the first occupation of any unit to operate within use class A4, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall assess the likely risks posed to residential amenity from the emission of noise from the intended use and shall include measures to protect residential amenity. The approved mitigation measures shall be implemented prior to the first use of the unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

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

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

20. No fixed plant or machinery shall be operated until measures have been implemented in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, to prevent air-borne noise from the operation of such fixed plant & machinery from adversely affecting neighbouring residential properties. The applicant shall submit evidence, in writing, and agreed by the Local Planning Authority to demonstrate that the noise from all such plant & machinery will obtain a daytime (07:00 hours to 23:00 hours) LAeq,1hour no greater than 36dBA and a night time (23:00 to 07:00 hours) LAeq,15 minute of no greater than 31BA measured or calculated one metre from the façade of any residential dwelling.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

21. In respect of units 4, 10 - 14, as shown on the approved drawing no's 10533/312 Rev B and ***, permitted first occupation shall fall within Use Classes Order A2, A3, A4 or A5 and written confirmation of the use shall be submitted to the Council in writing prior to the commencement of that use. Once commenced and subject to the provisions within the Use Classes Order, no further changes shall be permitted unless first agreed in writing with the Local Planning Authority.

Reason: To ensure the vitality and viability of the town centre is protected and to accord with Policy S3 of the Mid Sussex Local Plan, Policy DP3 of the Pre-Submission Draft Mid Sussex District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

22. Subject to the provisions with the Use Class Order, units 1-3, 5-8 and 15-21, as shown on approved drawing no's 10533/312 Rev B ****, shall only be used for the purposes falling within Use Class Order A1, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure the vitality and viability of the town centre is protected and to accord with Policy S3 of the Mid Sussex Local Plan, Policy DP3 of the Pre-Submission Draft Mid Sussex District Plan and Policy TC4 of the Burgess Hill Neighbourhood Plan.

23. Prior to first occupation of the residential development hereby approved vehicular access to Civic Way shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008 A. The final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The access junction shall then be permanently maintained to a specification to be agreed with the Local Planning Authority.

Reason: To ensure the safety of road users and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission District Plan.

24. Prior to first occupation of the retail and or any other development hereby approved the proposed modified vehicular access to Civic Way from the retail car park shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008 A. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The junction shall then be permanently maintained to a specification to be agreed with the Local Planning Authority, including the maintenance of visibility zones.

Reason: To ensure the safety of road users and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission District Plan.

25. Prior to first occupation of any development hereby approved, the proposed modifications to Civic Way, shown generally on drawing 14901 008 A shall be designed and constructed. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The modifications shall then be permanently maintained to a specification to be agreed with the Local Planning Authority.

Reason: To ensure the safety of road users and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission District Plan.

26. Prior to first occupation of any part of the development hereby approved, a scheme to improve pedestrian facilities, as described generally in the Accessibility Audit dated 5 February 2016, shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall then be implemented by the developer within six months of first occupation of the retail element of the development.

Reason: To improve pedestrian accessibility to the town centre and to accord with Policy T4 of the Mid Sussex Local Plan, Policy DP19 of the Pre-Submission District Plan and Policy TC6 of the Burgess Hill Neighbourhood Plan.

27. Prior to first occupation of any part of the development hereby permitted, a scheme to improve bus waiting facilities shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall then be implemented by the developer within six months of first occupation of the retail element of the development.

Reason: To ensure adequate provision for alternative modes of transport centre and to accord with Policy T4 of the Mid Sussex Local Plan, Policy DP19 of the Pre-Submission District Plan and Policy TC6 of the Burgess Hill Neighbourhood Plan

28. No residential unit hereby approved shall be occupied until such time as the parking spaces for car and bicycles, for that aspect of the development, have been provided in accordance with the details shown on the approved drawings, unless first agreed in writing with the Local Planning Authority.

Reason: To ensure adequate provision is made for parking clear of the highway and to accord with Policies T4, T5 and T6 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission District Plan.

29. Prior to first occupation of the development hereby approved, the applicant shall:

(a) Submit for the written approval of the Local Planning Authority Travel Plans for each major use class or group of use classes of the development in accordance with the aims and objectives of the National Planning Policy Framework and in general accordance with West Sussex County Council guidance on travel plans.

(b) The applicant shall then implement the approved travel plans within six months of the first occupation of the development. For each subsequent occupation of the development the applicant shall maintain and develop the travel plans to the satisfaction of the Local Planning Authority.

Reason: To ensure the adequate account is made of sustainable transport measures and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission District Plan.

Ongoing conditions

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

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

31. In respect of an A3, A4 or A5 use, no glass disposal or "bottling out" shall be carried out outside of the following hours: Monday to Friday 0800 to 2000; Saturday, Sunday and Bank Holidays 0900 to 1800.

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policies B3, B23 and CS22 of the Mid Sussex Local Plan and Policies DP24 and DP27 of the Pre-Submission Draft Mid Sussex District Plan.

32. In respect of an A3, A4 or A5 use, the premises shall be limited to the following hours of use:

Monday to Thursday: 0730 - 23.30 hrs
Friday and Saturday: 0730 - 0000 hrs
Sunday & Public/Bank holidays: 0800 - 23.30 hrs.

Reason: To safeguard the amenities of nearby residents and to accord with Policy B3 and B23 of the Mid Sussex Local Plan, Policy DP24 and DP27 of the Pre-Submission Draft District Plan.

33. Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the respective phase of development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission District Plan.

INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the 86 presumptions in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary infrastructure required to service this development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk.
3. You are advised that this planning permission requires compliance with a planning condition(s) before development commences. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <http://www.midsussex.gov.uk/9276.htm> (Fee of £97 will be payable). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.
4. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.

APPENDIX B – CONSULTATIONS

MSDC Urban Designer

Summary and Overall Assessment

The improved retail offer together with the addition of a substantial residential/hotel component, and a 10-screen cinema potentially provides a vibrant mix of uses that should regenerate the town centre. While I am supportive in principle to these aims, it is unfortunate the developers have not been able to realise the Burgess Hill Masterplan vision that envisaged a more comprehensive urban design intervention to stitch together the town's urban fabric. However I understand that land ownership divisions have made this impossible, so my observations are tailored accordingly. As a result of this limitation, the car parking will remain a dominant feature on the main southern approach. Nevertheless the scheme, addresses current deficiencies especially in terms

of creating outward-looking buildings that now announces the town centre and should help to attract people in.

On the western side, the scheme succeeds in defining this part of Civic Way while the proposed planting of Plane trees along the street boundary should provide an attractive formal approach to the town centre that will offset the parking and soften the development, but this will need to be coordinated with the underground services.

The building design has been revised since the pre-application stage with one residential floor being taken off the larger building, which now also incorporates a set-back top floor; this has given it a more modelled / less monolithic appearance. However the phase 2 and 3 buildings are still substantial buildings and their prominence is reinforced by the extended car park occupying their front threshold. While the similar sized Sussex House does at least provide some context for the proposal, the buildings will feel significantly bigger than the modest scale of the surrounding built form especially in relation to the adjoining Market Place.

Following the concerns raised by the Design Panel and myself in respect of the submitted application drawings, further information/revised drawings have been received. On these I agree with all the Design Panel comments (refer to their 25th January meeting notes). In conclusion, I would raise no objections subject to:

- The outcome of a full Wind Impact Assessment study that looks in detail at the conditions in the new square.
- The measured Visual Impact Assessment's being consistent with the information supplied in the draft photomontage images.

In addition to the facing materials and a detailed landscape plan, I would also like conditions requiring further agreement of the following:

- The design of the cinema elevations. They will need to demonstrate their acceptability both at night and day, and show the junction with Market Place as well as the treatment of the east / north elevations, and the set-back top floor.
- The design of the balustrading and the dividing privacy screens.
- The design of the top floor and south west on the southern elevation of the 4 storey residential block.
- Detailed 1:20 scale drawings vignettes of the full height elevation and section of the following (including the plinth):
 - The cinema building
 - The 5 storey residential building
 - The hotel building
 - The Civic Way elevation
 - The Argos store
 - The Pergola type structure used in the pedestrian link across the car park.
- A plan/strategy that demonstrates how the planting of the proposed line of plane trees along the Civic Way frontage will be coordinated with the underground services and is acceptable to the utility companies.

- The incorporation of windows in the north / end elevation of the hotel building.

The Demolition of the Existing Buildings

The existing circa 1970's shopping centre is designed in the ubiquitous "International style" of its time, and looks architecturally tired. The Martlets Hall and library are more recent buildings, but their "Post-Modern" design already has a dated appearance. While the central square has a comfortable scale, the shops and café's around it do not seem to attract a level of activity associated with its central location. The worst aspect though is the back-to-front layout of the existing centre with the dead rear face of the buildings facing south and west towards the surface car park and Civic Way. I therefore have no objection to the demolition of the existing buildings.

Proposed Layout

Overall

While the Burgess Hill Masterplan dates back to November 2006, the urban design analysis is still relevant, and paragraph 3.11 in particular; it describes Civic Way "as a vehicular dominated environment onto which the development of the town centre effectively turns its back, with surface car parking and service areas... Levels of enclosure and surveillance are poor and the spaces that abut the road are unattractive and have been known to be associated with anti-social behaviour."

The current proposal addresses some of these existing shortcomings:

- The re-orientation of shops, cafes and incorporation of residential facing southwards towards Civic Way, will provide an outward-looking scheme and level of surveillance that is currently missing.
- The replacement of the existing set-back multi-storey car park with the library building and retail / residential above will introduce a strongly defined edge and outward-looking frontage along this presently dead-faced section of Civic Way introducing street enclosure that does not presently exist. It will also screen the presently open service yard and the rear side of the Church Walk buildings.
- The incorporation of undercroft parking in place of the multi storey hides the parking on this part of Civic Way.

Unfortunately, the proposal does not address the lack of street enclosure on the highly visible southern side which will become a more vehicular dominated environment as a result of the overall increase in surface parking in place of the existing Martlets Hall and library. From this southern side the proposal risks giving the impression that this could be an out-of-town shopping mall; although the scale and mix of development does offset this to some extent.

The Square

The widened area of street along the pedestrian link does not convincingly read as a square. This is not only because of its linear shape and lack of interconnecting routes,

but also because of the limited enclosure on the north and south sides of the space, and the lack of a central feature to give it some focus. The box shaped trees on the south side do not convincingly address the enclosure issue on the south side; with the short run of trees potentially looking rather fragmented and isolated; similarly the irregular configuration of the return face at the bottleneck point on the north side also provides weak definition. Nevertheless the revised drawings now incorporate a couple of windows in one of these flanks that at least provides some animation.

While the south-west orientation of the square may be awkward in terms of the prevailing wind direction, it should bring sunlight in to this space during the afternoon especially.

Market Place Link

The loss of the internal link is unfortunate, however the revised drawings show a widened external footway to 5m (approx.) in front of the phase 2/cinema building that should now feel sufficiently generous.

Landscaping

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

The recently revised layout of the surface car park is an improvement; by grouping the central part of the parking in to two triangular shaped islands, it allows space for soft landscaping and tree planting including a bund that should help to break up this otherwise large hard-surfaced area. It is nevertheless disappointing that more trees are not shown immediately in front of the shopping parade as this would help to provide pedestrians and the retail environment with some sense of separation from the car park.

A partially covered pathway is proposed between the bus stop on Civic Way and the new "square" which should also help to visually break up the large car park. The drawings are sketchy, and more detail of the pergola-type structure is needed.

Internal Layout

The north facing single aspect flats on the lower floors still do not appear as if they will benefit from much sunlight. The street entrances serving the flats are now better announced.

Elevations

Phase 1 - Retail

The all-glazed Argos frontage is elegantly conceived and sits comfortably in its context. The continuous feature surround employed here has been utilised in the adjacent new shopfront albeit with a deeper face and solid rendered first floor. This variation on a theme allow these frontages to work harmoniously together, and their intermediary scale and design helps to marry the existing 3 storey shops on Church Walk and the significantly greater scale of the phase 2 and 3 buildings.

The existing retail frontages on the Church Walk corners (and this also applies to unit 8 of phase 2) appears to involve the loss of the inelegant heavy blue canopies and a rationalised shop frontage/signage with stone pilasters and fascia that appropriately dovetails with the new-build elements.

Phase 2 - Retail / Residential

The residential element generally benefits from a formal vertically proportioned frontages with replicated window bays punctuated by larger bays with balconies and terminated at roof level by a set-back all-glazed top floor. This overall arrangement provides a reasonably well articulated frontage that successfully helps to break-down the scale of the building.

The revised drawings have also addressed some of my previous concerns:

- The previously clumsy-looking south-west Civic Way corner has been improved. The irregular series of staggers and the bolted-on appearance of the corner balconies have been omitted in favour of a more rationalised and integrated design that features a heavier roof on the set-back top floor. This feature also helps to aesthetically differentiate the lower residential block from the higher one, and provide more overall modulation which is also helped by the hotel building which also breaks up the southern elevation by its different height and treatment. The down-side of this strategy is that the heavier roof treatment marginally increases the scale of the building particularly along Civic Way. In addition to this the floorplates incorporating the terraces on the south west corner of the southern elevation are excessively extruded with a 2.8m cantilever that extends beyond the balustrading.
- On the southeast corner, the reduced balustrade and open-glazed front elevation is welcomed as it delivers a better balanced façade which allows the vertical rhythm to extend across the frontage.

However the following concerns still remain:

- The double height shopfronts are elegant in their own terms, and the consistent repetition of the bays provides a strong underlying rhythm with this discipline matched in the signage strategy (this assessment also applies to the phase 3

shopfronts). However the phase 2 shopfronts are less integrated with the residential façade than the earlier pre-application proposal. The substantial size and expressed projection of the shopfronts together with the different alignment of the bays on the southern elevation acts to dislocate them from the residential façade above. While there is an argument that this approach helps to break down the massing, unfortunately it has been at the cost of harmony (NB: on the west elevation the staggered rectilinear configuration of the residential façade with the curved library / retail frontage, is less of an issue as the two volumes are more distinctly distinguished from each other).

- The all-glazed balustrading will need to be well-detailed to avoid it looking clumsy; this is particularly so on the prominent top floor.
- The photomontages show that the north flank of the hotel building is visible from the north side and needs some fenestration to animate it as well as bring daylight into the long corridors and stairwell.

Phase 3 - Cinema Multiplex

The cinema building is improved upon the pre-application proposal; with the deeply punctuated corner and entrance windows, together with the perforated aluminium cladding providing an interesting architectural form that also opens up a naturally introverted building. The recessed shopfronts are vertically aligned with the upper floors resulting in greater architectural integrity than phase 2. However the long squat proportions of this building combined with its significant size still looks monolithic. I also have concerns about the appearance of the junction with Market Place and the treatment of the return north and east elevations plus the design of the set-back roof section. For these reasons, I believe the external design of the cinema building needs to be subject to further agreement.

MSDC Design Review Panel

The Panel considered Corstophine and Wright Architects response to their previous comments. The result of the desk-top Wind Impact Assessment was unconvincing. The key area for investigation, the proposed square, was not included in the study as previously requested. The most relevant area under consideration was the pedestrian link, which registers as "unacceptable conditions or intended use", where remedial measures are necessary (in figure 8.1 summary). Given that the pedestrian link and square are the key new public spaces, it was felt that the Panel has not been reassured by the findings of the report. It was therefore agreed that further investigation was required in the form of a full study.

The visual impact assessment supplied was not the final measured version, so the comments must be caveated on this basis. The longer view silhouettes did not seem to be problematic (although it should also be noted that some of the images showed trees in leaf that would not give the full impact at winter time). The closer views from the front (looking from Station Road environs) confirmed to the Panel, that the design was flawed. There were particular concerns about the monolithic appearance of the cinema

building and its junction/juxtaposition with Market Place. This would be a particular issue at day time when there is no back lit lighting of the mesh screen. More effort needs to be invested in articulating this long façade (possibly by varying the screen) and treating the return flank and set back roof section.

The Panel nevertheless agreed that the re-organised car park and the widening of the footway by 1.5m between Market Place and the new square were improvements; however the skeletal framed walkway across the car park appeared inconsistently illustrated.

The changes to the elevations of the phase 2 buildings (residential block) represented a marginal improvement, although there was concern that the heavier treatment of the top floor of the residential block on the western side, would increase the considerable scale of the Civic Way elevation.

Recommendation

Accept subject to the above changes and the outcome of the full Wind Assessment study

MSDC Environmental Protection

Environmental Protection recommends that any consent should be subject to the following conditions:

Conditions:

- 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.

Informative: We normally expect that works of construction or demolition, including the use of plant and machinery, that would be audible at existing sensitive uses are limited to the following times:

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

- No development shall commence until a scheme for protecting any residential units within the development from noise generated by traffic or other external sources, has been submitted to, and approved in writing by, the local planning

authority. All works that form part of the scheme shall be completed before any part of the noise sensitive development is occupied. Unless otherwise agreed in writing, the submitted scheme shall demonstrate that the maximum internal noise levels in bedrooms and living rooms in residential properties post construction will be no greater than 30 dB LAeq T (where T is 23:00 - 07:00) and 35 dB LAeq T (where T is 07:00 - 23:00).

- No fixed plant or machinery shall be operated until measures have been implemented in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, to prevent air-borne noise from the operation of such fixed plant & machinery from adversely affecting neighbouring residential properties. The applicant shall submit evidence, in writing, and agreed by the Local Planning Authority to demonstrate that the noise from all such plant & machinery will obtain a daytime (07:00 hours to 23:00 hours) LAeq,1hour no greater than 36dBA and a nighttime (23:00 to 07:00 hours) LAeq,15 minute of no greater than 31BA measured or calculated one metre from the façade of any residential dwelling.
- Prior to the occupation of any premises with a use class including A3, A4 or A5, measures shall be implemented in accordance with an Odour Control Scheme submitted to, and approved in writing by, the Local Planning Authority, to prevent odour from cooking at the premises affecting neighbouring residential premises.

Informative: The submitted Odour Control Scheme should follow the DEFRA 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

- Prior to the occupation of any unit to operate within use class A4, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall assess the likely risks posed to residential amenity from the emission of noise from the intended use and shall include measures to protect residential amenity. The approved mitigation measures shall be implemented prior to the first use of the unit and thereafter maintained unless any variations are approved in writing by the Local Planning Authority
- No commercial goods or commercial waste shall be loaded or unloaded onto or from a delivery or collection vehicle and no such vehicles shall arrive or depart, within the application site except between the hours of 08:00 - 20:00 hours Monday to Saturday (excluding bank holidays).

I have attached a list of recommended conditions should you be minded to grant consent. To round up our earlier conversations, my comments on impact and the response from the developers, I would comment as follows:

1. Flexible use classes A1 to A5

I note that you are minded to accept a flexible use class for Units 4, and 10-14. The most significant risks to amenity are probably posed by A4 uses. Of particular concern will be the potential impact of clientele noise, noise breakout through the open frontage

or dependant on noise levels, through the structure of the building all with impact upon the amenity of residential units above. Without more detail, I cannot give more advice on the significance of this risk, but have suggested a condition requiring a noise management plan for the A4 uses. This should allow the Council to ensure that the intended uses are suitable for the building design and sensitive to the close relationship to proposed residential uses.

2. Plant noise

I accept the Agent's comments that a -10dB rating for plant noise is too precautionary, although I do not fully accept the justification given. I now accept the proposal in the Temple report T3121 (22/9/15) and have drafted a condition accordingly.

3. Cooking Extract system

Full details of the extract systems have not been submitted as requested and as such, the relationship of the flue termini to residential units and the nature of the odour abatement techniques to be employed is still unclear. I have attached a condition, in case you are now minded to control this matter by condition.

4. Suggested Draft Conditions

I have not received feedback on the draft conditions that we previously submitted to the Agent. Except as referred above, I have therefore assumed that these are acceptable to the developer and have repeated these in the attached conditions.

5. Air Quality

I am satisfied with the submitted report, which concluded that the impact of the development upon air quality during the operational phase is low. The report does identify potential risks during the construction phase, particularly from dust soiling. A condition has been suggested to ensure that suitable mitigation is taken.

MSDC Contaminated Land Officer

The application is supported by the report by BJB Consulting Phase 1 Desk Top Study report reference 2092/DS01 revision D: 16/09/15.

In addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The desk study, investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

- (ii) an assessment of the potential risks to:
- human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes.
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying or the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to comply with policy CS20 of the Mid Sussex Local Plan.

MSDC Drainage

This submitted application is suitable to be dealt with by condition.

We understand the existing flood risks associated with this proposed development to be:

1. No known recorded flooding to the site.
2. Flood risk identified as 'Low'.

We would expect the flood risk to change post development in the following way:

1. Constructed impermeable area creating or exacerbating local flood risk.

The proposed development has shown the following in mitigation of the flood risk:

1. Flood risk assessment has evaluated flood risk. Methods identified will likely include SuDS attenuation with permeable structures. There is also scope for green roofs and rainwater harvesting. Final disposal is suggested as the public sewer systems for foul and surface water.

Suitable conditions for this proposed development:

1. The development hereby permitted shall not proceed until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all approved drainage works have been carried out in accordance with such details.
2. The development hereby permitted shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. 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.

West Sussex County Council

The County Council as local highway authority (LHA) has considered the proposed highway layout for the entrance to the residential car park, shown on Connect drawing 14901 008 A. The authority does not object in principle to the proposed layout, details to be resolved at the detailed design stage.

Connect Consultants have largely addressed in a note dated 19 February 2016 the points raised in the County Council's response of 12 February 2016. The LHA therefore does not object to the development based on its estimated transport impacts as indicated by the applicant.

The authority continues to consider that opportunities have been missed to enhance sustainable transport provision to the town centre, including bus stop enhancements. However, a condition has been suggested requiring implementation of the transport consultants' proposals in their Accessibility Audit dated 5 February 2016. These will go some way to enhancing pedestrian facilities.

Conditions

NEW ACCESS

Before first occupation of the residential development the proposed vehicular access to Civic Way shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008 A. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The access junction shall then be permanently maintained to a specification to be agreed with the Local Planning Authority.

MODIFIED ACCESS

Before first occupation of the retail and any other development the proposed modified vehicular access to Civic Way from the retail car park shall be designed/constructed and provided with visibility zones, in general accordance with drawing 14901 008 A. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The junction shall then be permanently maintained to a specification to be agreed with the Local Planning Authority, including the maintenance of visibility zones.

MODIFICATIONS TO CIVIC WAY

Before first occupation of any development the proposed modifications to Civic Way, shown generally on drawing 14901 008 A shall be designed and constructed. A final scheme design shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The modifications shall then be permanently maintained to a specification to be agreed with the Local Planning Authority.

PEDESTRIAN IMPROVEMENTS

Before occupation of the development, a scheme to improve pedestrian facilities, as described generally in the Accessibility Audit dated 5 February 2016, shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall then be implemented by the developer within six months of first occupation of the retail element of the development.

BUS WAITING FACILITIES

Before occupation of the development, a scheme to improve bus waiting facilities shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall then be implemented by the developer within six months of first occupation of the retail element of the development.

CONSTRUCTION MANAGEMENT PLAN

No development shall start until a Construction Management Plan, to include details of:

- Element 1: Public Safety, Amenity and Site Security
- Element 2: Operating Hours, Noise and Vibration Controls
- Element 3: Air and Dust Management
- Element 4: Stormwater and Sediment Control
- Element 5: Waste and Materials Re-use
- Element 6: Traffic Management

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.

SCREENING OF ILLUMINATION

Any proposed lighting scheme for the site shall not be brought into use until measures to avoid unacceptable glare to users of the public highway have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented and then retained in perpetuity.

PARKING AND TURNING

No new development shall be occupied until space has been laid out within the site for cars and bicycles to be parked, for the loading and unloading vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. The space shall be laid out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The parking/turning areas shall be used and retained exclusively for their designated purpose.

DRAINAGE

The development hereby permitted shall not be implemented until the surface water drainage of the site has been designed to prevent the discharge of water onto the public highway. Details will be submitted to and approved in writing by the Local Planning Authority.

Reason: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to highway users.

TRAVEL PLAN

Prior to first occupation of the development, the applicant shall:

(a) Submit for the written approval of the Local Planning Authority Travel Plans for each major use class or group of use classes of the development in accordance with the aims and objectives of the National Planning Policy Framework and in general accordance with West Sussex County Council guidance on travel plans.

(b) The applicant shall then implement the approved travel plans within six months of the first occupation of the development. For each subsequent occupation of the development the applicant shall maintain and develop the travel plans to the satisfaction of the Local Planning Authority.

Reason: The above condition is required in recognition of the National Planning Policy Framework.

Comments dated 12th February 2016

Connect Consultants, on behalf of New River Retail; have submitted additional information on the 5th February in relation to the points raised through the WSCC Strategic Planning response dated 29th January 2016. Whilst matters of access remain unresolved and are subject to continued correspondence between the Applicant and WSCC in its capacity as the local highway authority, this report provides an interim position statement on a number of matters resolved by the additional information. For convenience, the report replicates the structure of the submission by Connect.

WSCC Comment 1 - Traffic Distribution Sensitivity

This matter is now resolved and the LHA are satisfied that the data provided is satisfactory.

WSCC Comment 2 & 3 - Design and Road Safety Audit & Civic Way Mini-Roundabout

These matters are not resolved and there is on-going correspondence between the Applicant and the LHA regarding design solutions. The LHA looks forward to receiving revised proposals on this issue with a view to early resolution of the outstanding matters.

WSCC Comment 4 - Residential Car Parking

The proposed residential car parking provision does not accord with WSCC Parking Demand Calculator (PDC). However, the PDC relies on data taken from a ward level; Burgess Hill Town Centre is part of the ward that extends to the northern settlement boundary of Burgess Hill, where the more remote location results in a greater level of car ownership.

The Applicant has undertaken a detailed analysis of Burgess Hill Town Centre census data to ascertain whether the car parking will be sufficient for the demand generated at this location. A car ownership level of 0.75 is identified in comparison to 1.5 at ward level. Therefore, the 120 spaces proposed actually exceed the anticipated demand of the proposed development and the LHA are satisfied this point has been adequately addressed.

WSCC Comment 5 - Retail Car Park Design, Police Parking and Carriageway Marking
Further consideration has been given to the proposed pedestrian route to the site through the car park. It is recognised that this route caters for a direct pedestrian line, particularly for users of the bus stops situated on Civic Way. It is understood that the MSDC Urban Design consultee is satisfied with the appearance of the link and that its appearance provides clarity of the pedestrian priority at this location. The LHA are satisfied that the provision is appropriate.

Further internal consultation has concluded that parking for Police vehicles is not required.

Carriageway markings and signage are matters to be considered further through detailed design and should be appropriately conditioned should permission be granted. Similarly, there may be the requirement to amend Traffic Regulation Orders as part of the detailed design; the Applicant would be required to fund (£5,800 2014/15) these orders and the promotion, advertisement and legal activities associated with this process would be undertaken by WSCC.

The LHA is checking the proposed provision of trees within the boundary of the public highway in conjunction with the MSDC Urban Design consultee. The critical element is available rooting volume and how that relates to drainage proposals as well as existing below-surface services. Discussion continues on these matters.

WSCC Comment 6 - Traffic Assessment

The LHA are satisfied that the traffic assessment demonstrates that, in the future year assessment of 2020, the proposed development will not have a severe impact on the operation of the network

WSCC Comment 7 - Site Servicing

Whilst the access designs are a matter of on-going correspondence in order to identify a suitable design solution, it is accepted that the detail of servicing arrangements (i.e. timings, delivery area etc.) themselves can be conditioned for further consideration with end-occupiers of the site.

WSSC Comment 8 - Sustainable Access

The Applicant has undertaken a sustainable access audit and identified locations for minor improvements, i.e. the provision of tactile paving and dropped kerbs to facilitate improved pedestrian access adjacent to The Brow across Civic Way.

It is accepted that the wider provision of infrastructure across Burgess Hill, such as the Green Circle Network, is an existing need and that the proposed development itself does not require the introduction of this infrastructure to make the development "acceptable in planning terms" (CIL Reg. 122). It is also accepted that the proposed pedestrian infrastructure adjacent to Civic Way is in improvement in terms of the aesthetic quality of the journey and by reducing the number of times pedestrians are required to cross junctions. However, as expressed in the meeting, it is disappointing that the opportunity has not been taken to take the proposed design a step further and link into emerging infrastructure proposals. For example, a dedicated cycle route could be provided directly into the site from the cycle route that will extend from Civic Way, as opposed to requiring cyclists to dismount at the pedestrian access. Any additional infrastructure required to facilitate the emerging infrastructure proposals may therefore require retrofitting later. The Applicant has stated that they wish to make no further alterations to the sustainable access arrangements.

The LHA consider that this comment has been addressed sufficiently to make it acceptable in planning terms, but that improvements could be made to enhance sustainable access opportunities.

WSSC Comment 9 - Signing Strategy

The LHA are satisfied that a signing strategy can be suitably conditioned and considered as part of the detailed design/S278.

WSSC Comment 10 - Library

Whilst most of the comment in this section relates to Library Service considerations, the disabled parking arrangements are being considered as part of the access matters.

Comments received dated 29th January 2016

In summary WSSC supported the principle of the town centre redevelopment proposals however outlined a number of areas where they required the further clarification.

WSSC Local Lead Flood Authority

West Sussex County Council (WSSC), 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 detailed comments of LLFA relating to surface water drainage and flood risk for the proposed development and any associated observations, advice and conditions.

Flood Risk Summary

Modelled surface water flood risk - Low risk.

Comments: Current uFMfSW mapping shows the proposed site is at 'Low' risk from surface water flooding.

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

Any existing surface water flow paths across the site should be maintained or appropriate mitigation strategies proposed.

Modelled ground water flood risk susceptibility - Negligible risk

Comments: The area of the proposed development is shown to be at 'negligible risk' from ground flooding based on the current mapping. This risk and appropriate mitigation should be considered in any future designs especially with regard to underground structures and utilities.

Where the intention is to dispose of surface water via infiltration/soakaway, these should be shown to be suitable through an appropriate assessment carried out under the methodology set out in BRE Digest 365 or equivalent.

Ground water contamination and Source Protection Zones.

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

Records of any historic local flooding? No

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

Future development - Sustainable Drainage Systems (SuDs)

The Flood Risk Assessment/Drainage Strategy indicates the use of two attenuated systems with discharge restricted for the disposal of surface water from the site. Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SuDs approach beginning with infiltration where possible e.g. soakaways or infiltration trenches.

Development should not commence until finalised surface water drainage designs for the site, based on sustainable drainage principles and an assessment of hydrological and hydro geological context of the development have been submitted to and approved in writing by the Local Planning Authority.

SuDs offer significant advantages over conventional piped drainage systems in reducing flood risk by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge, and

improving water quality and amenity. The range of SuDs techniques available means that a SuDs approach in some form will be applicable to almost any development.

Where SuDs are used, it must be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems. For example, using soakaways or other infiltration methods on contaminated land carries groundwater pollution risks and may not work in areas with a high water table.

Provision for long-term maintenance should be provided as part of any SuDs scheme submitted to the LPA. Future ownership and maintenance responsibilities should be clearly stated in any legal ownership documents i.e. deeds etc.

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.

Historic England

St John the Evangelist is a Grade II* listed building in Burgess Hill. Over time Victorian terraced housing grew up around the church as the town of Burgess Hill evolved into the settlement we find today. In purely townscape terms this means that historically the church was a prominent building owing to its size.

St John's remains a focal point in the town despite the substantial redevelopment of the site directly north in the later 20th century, (the Martlet's Shopping Centre) as the scale and massing of these buildings do not compromise, to any great degree, an understanding or appreciation of its prominence in the townscape.

We do not object to the principle of re-developing the Martlet's Shopping Centre as this is undeniably a poor quality piece of design and we recognise the wider benefits this could bring to the town as a whole. However, we think the increased scale of the proposed development as a whole and particularly the scale and proximity of Block A to the church of St John's means it would no longer be such a prominent feature in the townscape. We think this would result in some harm to significance.

Paragraph 129 of the NPPF highlights the need to minimise harm. As stated it is the increased scale and proximity of this development which causes some harm to the significance of the church. We suggest that your Council must therefore satisfy itself that it is not possible deliver the public benefits associated with this proposal in a less harmful way, for example, in a development where those elements closest to the church are lower in scale. If your Council is satisfied that the harm has been minimised we suggest that you must weigh the public benefits of this proposal against the harm entailed as required by Paragraph 134 of the NPPF.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

Sussex Police

The National Planning Policy Framework demonstrates the government's commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion, and with the level of crime and anti-social behaviour in Mid Sussex district being below average when compared with the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends may be required.

Having viewed the proposals in this application I am encouraged to note that every effort has been made to create outward facing active frontages and to maximise the potential for activity, movement and surveillance. The residential units, together with their allocated basement level car parking, have been afforded a good level of security through appropriate access control measures. The Design and Access Statement includes detail of additional measures considered in the design, using the principles of Secured by Design and the seven attributes of safe, sustainable places and I am satisfied that these will help to promote a safe and secure environment for future residents, occupiers and visitors.

Southern Water

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

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

Should the applicant wish to divert apparatus:

1. The 450mm diameter surface water sewer requires a clearance of 3.5 metre either side of the sewer to protect it from construction works and allow for future access for maintenance.
2. No development or new tree planting should be located within 3.5 metres either side of the centreline of the 450 mm surface water sewer.

3. The 225 mm and 150 mm diameter foul sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
4. No development or new tree planting should be located within 3 metres either side of the centreline of 225 mm and 150 mm foul sewer.
5. The 375mm, 300 mm, 225 mm diameter surface water sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
6. No development or new tree planting should be located within 3 metres either side of the centreline of the 225 mm, 300 mm and 375 mm foul sewer.
7. No new soakaways should be located within 5m of a public sewer.
8. All other existing infrastructure should be protected during the course of construction works.

Alternatively, the applicant may wish to amend the site layout, or combine a diversion with amendment of the site layout. If the applicant would prefer to advance these options, items (1) - (8) above also apply.

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

Following initial investigations, there is currently inadequate capacity in the local network to provide foul and surface water sewage disposal to service the proposed development. The proposed development would increase flows to the public sewerage system, and existing properties and land may be subject to greater risk of flooding as a result. Addition off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location.

Should this application receive planning approval, please include, as an informative to the permission, the following requirement:

"The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary infrastructure required to service this development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688), or www.southernwater.co.uk."

The detailed design for the proposed basement should take into account the possibility of the surcharging of the public sewers. We request that should this application receive planning approval, the following informative is attached to the consent:

"Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding."

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

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

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

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme
- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

We request that should this application receive planning approval, the following condition is attached to the consent:

"Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

The Theatres Trust

The Theatres Trust is the National Advisory Body Public Body for Theatres, established to 'promote the better protection of theatres' through the Theatres Act 1976. It also delivers statutory planning advice on theatre buildings and theatre use in England through The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), that requires the Trust to be consulted by local authorities on planning applications 'involving any land on which there is a theatre.' This applies to all theatre buildings. Our main objective is to safeguard theatre use, or the potential for such use, but we also seek to provide impartial expert advice to establish the most viable and effective solutions at the earliest possible stages of development.

Comment: The Trust objects to this application as it will result in the loss of a valued community and cultural facility without the provision of a replacement facility.

The Martlets Hall is part of a multi-functional cultural complex providing a wide range of cultural and social opportunities to the residents of Burgess Hill. It has a stage and an auditorium with a seating capacity of c.360 which, together with backstage facilities, means that it is sole technically equipped venue in Burgess Hill capable of presenting live performances. It is used for a range of events, including theatre, dance, live music, an annual pantomime, and classical music concerts. Such venues are an important part of the cultural provision in local communities, as they offer opportunities to people of all ages to not only attend live performances, but to participate in it. They also have much to offer the local economy, as audiences particularly benefit the night-time economy, by attending local restaurants and bars prior and after evening performances.

The role of The Martlets Hall was recognised in the Burgess Hill Neighbourhood Plan, which has been subject to an examination and will now be determined at a local referendum on 10 December 2015. Whilst the Plan accepted that The Martlets Hall could be redeveloped, it supported the creation of a new arts/theatre facility on a different site and advocated that be built before The Martlets Hall was demolished, so that there was continuity in cultural provision in the town. We support this, as part of our support for the Neighbourhood Plan.

When an existing theatre or cultural facility is to be demolished or converted to another use, the Trust always advises the local authority that it must be satisfied that either an adequate replacement has been provided, or that the building is surplus to the cultural needs and requirements of the local community before granting the new use.

ODPM CODE: Smallscale Major Dwellings

13 WEEK DATE: 3rd February 2016

WARD MEMBERS: Cllr Colin Holden / Cllr Kirsty Page /

CASE OFFICER: Mrs Joanne Fisher

PURPOSE OF REPORT

To consider the recommendation of the Head of Economic Promotion and Planning on the application for planning permission as detailed above.

EXECUTIVE SUMMARY

Outline planning permission is sought for up to 64 dwellings (including 19 affordable homes) together with public open space and natural green space with all matters reserved except the means of access.

Section 38(6) of the 2004 Act holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. The application is contrary to policy C1 of the Local Plan in that it is proposing housing development outside of the defined built up area of Burgess Hill but the NPPF is an important material consideration.

As the Council is unable to currently demonstrate a five year supply of deliverable housing land it follows that the relevant policies for the supply of housing are not up to date (paragraph 49 National Planning Policy Framework (NPPF)). In these circumstances paragraph 14 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

The development of 64 dwellings (including 19 affordable homes) would make a useful contribution to the Council's housing stock. The economic benefits that the development generates, including the new homes bonus, job creation during the construction phase and additional spend within the local economy post construction, are matters that should also attract significant weight.

Due to the location of the site, close to the existing settlement boundary of Burgess Hill, it is considered that the site is in a sustainable location close to local services. In addition, the development is well screened from wider views of the area and would not result in a significant visual impact to the wider area of Burgess Hill. The development would be well related to the existing housing development to the north, west and south of the site.

It is acknowledged that a small amount of ancient woodland would be removed along the bridleway to provide access into the site. However, it is considered that the benefits of providing 64 dwellings (30% affordable), on the edge of Burgess Hill within a sustainable location outweighs this harm.

In these circumstances the NPPF states that permission should be granted and this is a material consideration of significant weight. There are no other material considerations that would alter the above planning balance.

Taking all of the above into account it is considered that the adverse impacts of granting consent in this case would not significantly and demonstrably outweigh the benefits. It is therefore considered that the application complies with policies C1, B1, B3, B4, B7, H2, H4, T4, T5, T6 and CS13 of the Mid Sussex Local Plan, policies DP1, DP5, DP10, DP19, DP24, DP29, DP36, DP39 and DP41 of the draft District Plan, and the aims of the NPPF.

RECOMMENDATION

Recommendation A

It is recommended that, subject to the completion of a satisfactory S106 planning obligation to secure Infrastructure contributions, planning permission be granted subject to the conditions set out in Appendix A.

Recommendation B

If by 17th March 2016, the applicants have not submitted a satisfactory signed planning obligation securing the necessary financial contributions, then it is recommended that planning permission be refused at the discretion of the Head of Economic Promotion and Planning for the following reason:

In the absence of a signed and dated S106 Agreement the proposal does not satisfy the requirements of Policies G3, R3 and H4 of the Mid Sussex Local Plan, Policies DP18, DP22, and DP29 of the Pre-Submission Draft District Plan in respect of infrastructure requirements to service development and affordable housing as supplemented by the Council's Supplementary Planning Document 'Development and Infrastructure' dated February 2006.

SUMMARY OF REPRESENTATIONS

9 letters objection concerning the following points:

- have a severe impact on the local area as area currently inundated with planning proposals;
- increase car and foot traffic along Kings Way;
- further congestion along Cants lane;

- no provision for a park, green space or a school on the development;
- not enough provision for car parking;
- will have a negative impact on the wildlife in the local area;
- detrimental to neighbouring amenities of properties backing onto the development;
- unclear whether public footpath running along the back of Gerald Way will remain;
- loss of views over countryside;
- over-development;
- loss of agricultural land;
- no social or economic justification for proposed properties;
- increase surface water run-off and risk of flooding;
- no new medical facilities, existing Doctors surgeries full and stretched;
- disruption during construction works including noise;
- access into site across bridle path would be dangerous and detrimental to users;
- loss of trees.

SUMMARY OF CONSULTATIONS

(Full responses from Consultees are included at the end of this report as Appendix B)

MSDC Leisure

Contributions requested:

CHILDRENS PLAYING SPACE: £52,967

FORMAL SPORT: £63,792

COMMUNITY BUILDINGS: £27,710

MSDC Housing

No objection.

MSDC Drainage

No objection. Suggested conditions.

MSDC Environmental Protection

No objection.

MSDC Contaminated Land Officer

No objection.

MSDC Street Name and Numbering Officer

Informative should permission be granted.

WSCC Highways Authority including Infrastructure

No objection subject to conditions and contributions.

WSCC Flood Risk Management

No objection.

ESCC Highways

No objections subject to transport contribution of £75.82 per dwelling or £4852.48 for cycling provision and shared surfacing within Ditchling village.

Heritage - Archaeology

No objections subject to conditions.

Woodland Trust

Objection.

Ecologist

Objection.

Environment Agency

No comments.

Sussex Police

No objections.

TOWN COUNCIL OBSERVATIONS

Recommend Approval - concern was expressed about the impact on the trees with TPOs, the access road into The Croft development that would cross the bridle path and the additional traffic on to Kings Way.

Introduction

Outline planning permission is sought for up to 64 dwellings (including 19 affordable homes) together with public open space and natural green space with all matters reserved except the means of access on land off Kings Way, East of Gerald Close, Burgess Hill.

Relevant Planning History

There is no relevant planning history.

Site and Surroundings

The application site comprises of 127 Cants Lane which is a detached two-storey dwelling with various single storey outbuildings set on a large plot of land with an adjoining field to the south and east of the dwelling. The property is accessed off Kings Way by a single long access track.

To the north, south and east of the site are public rights of ways/bridleways.

To the north and east of the site is existing estate developments set off Kings Way comprising of a detached and semi-detached dwellings as well as flats.

The southern boundary of the site running along the bridleway is Ancient Woodland. Further to the south beyond the bridleway is The Croft housing development currently under construction.

On the boundaries of the application site are mature trees and vegetation providing screening of the site. However, there are views from the site to the bridleways to the south and east.

The application site is situated outside of the development boundary of Burgess Hill within the Countryside Area of Development Restraint.

Application Details

Outline planning permission is sought for up to 64 dwellings (including 19 affordable homes – 30%) together with public open space and natural green space with all matters reserved except the means of access on land off Kings Way, East of Gerald Close, Burgess Hill.

The application proposes residential development in the form of 64 dwellings comprising:

Market Housing

3 x 1-bed flats;
16 x 2-bed dwellings;
18 x 3-bed dwellings;
8 x 4-bed dwellings;

Affordable Housing

6 x 1-bed flats (for rent);
7 x 2-bed houses (for rent);

- 1 x 3-bed house (for rent);
- 4 x 2-bed houses (shared ownership)
- 1 x 3-bed house (shared ownership).

Access is to be achieved from the south through the Phase I Kings Way development (The Croft) which is currently under construction. This would allow for two vehicles to pass with a 2 metre tarmac footway. This access road would narrow down to a single point of vehicular access crossing over the existing bridleway. At the point of crossing of the bridleway, the access would have a continuous bound surface. There would be appropriate signage at the point of narrowing down the access warning drivers.

The existing single access which currently serves the existing dwelling would be designed for pedestrians and cyclists only.

Whilst appearance, landscaping, layout and scale forms part of reserved matters, indicative plans have been submitted showing the proposed layout of the site. This shows an estate layout with the integration of affordable units with the market dwellings. In addition, the units are to be set away from the boundary tree screening with a proposed swale to the east of the site and meadow planting to the west of the site.

List of Policies

Mid Sussex Local Plan

- G1 (Sustainable Development)
- G2 (Sustainable Development)
- G1 (Sustainable Development)
- G2 (Sustainable Development)
- G3 (Infrastructure Requirements)
- C1 (Protection of the countryside)
- B1 (Design)
- B3 (Neighbour amenity)
- B4 (Energy and Water Conservation)
- B7 (Trees and Development)
- B9 (Crime Prevention and Design)
- H2 (Density and Dwelling Mix)
- H4 (Affordable Housing)
- T4 (New Development)
- T5 (Parking Standards)
- T6 (Cycle Parking)
- CS13 (Land Drainage)

Development and Infrastructure SPD (2006)

Neighbourhood Plan

The site does not fall within the Burgess Hill Neighbourhood Plan. Therefore this plan and its policies are not considered relevant in the determination of this planning application

Draft District Plan

The Pre-Submission District Plan 2014-2031 was published on the 12th June 2015. Representations have been considered and the Council has proposed to make focused amendments to the Plan. The 'Focused Amendments to the Pre-Submission Draft District Plan' was issued for consultation on the 19th November. It is anticipated that the Pre-Submission District Plan and the Focused Amendments will be submitted for Examination in February 2016. The Plan is a material planning consideration. Weight will be given to relevant policies in accordance with paragraph 216 of the NPPF.

Relevant policies:

DP1 (Sustainable Development in Mid Sussex)
DP2 (Sustainable Economic Development)
DP5 (Housing)
DP10 (Protection and Enhancement of Countryside)
DP11 (Preventing Coalescence)
DP13 (New Homes in the Countryside)
DP19 (Transport)
DP24 (Character and Design)
DP25 (Dwelling Space Standards)
DP29 (Affordable Housing)
DP36 (Trees, Woodland and Hedgerows)
DP39 (Sustainable Design and Construction)
DP41 (Flood Risk and Drainage)

National Policy

National Planning Policy Framework (NPPF) (Mar 2012)

The National Planning Policy Framework sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development, such that the planning system needs to perform an economic role, a social role and an environmental role. This means ensuring sufficient land of the right type to support growth; providing a supply of housing and creating a high quality environment with accessible local services; and using natural resources prudently.

With specific reference to decision-taking the document provides the following advice:
"187. Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with

applicants to secure developments that improve the economic, social and environmental conditions of the area."

Paragraph 197 states that *"In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development."*

Planning Practice Guidance (Mar 2014)

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

Assessment (Consideration of Key Issues)

The main issues for consideration are:

- the principle of the development;
- the impact to the character of the area;
- the impact to highways safety and parking provision, including the crossing of the
bridleway;
- trees and Ancient Woodland;
- ecology;
- infrastructure;
- drainage; and
- sustainability.

Principle of development

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

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

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

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

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

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

Using this as the starting point the development plan in Mid Sussex consists of the Small Scale Housing Allocations Document (2008) and the Mid Sussex Local Plan (MSLP) (2004).

In the event of conflicts between policies in these plans it is the most recent policy which takes precedence. The NPPF, which was issued in March 2012, is a material consideration which shall be afforded significant weight.

The National Planning Policy Framework (NPPF) is a material consideration. Para 49 of the NPPF states:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites."

This Council cannot currently demonstrate a five-year housing land supply for the District. The housing requirement set out in the now revoked South East Plan is no longer relevant. However, the objectively assessed housing need figure for the district is yet to be tested through the District Plan examination. As such the Council is unable at present to demonstrate the five year supply of deliverable sites, since it does not have an agreed requirement to calculate this supply against. As such, the supply of housing element of policy C1 in the MSLP cannot be considered up to date.

In those circumstances paragraph 14 of the NPPF applies which states in part:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted"*

The second bullet point of the 'decision taking' section currently applies. Thus as policy C1 cannot be considered up to date (paragraph 49) the Council should be granting planning permission unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole...".

The following sections of the report will consider the relevant matters associated with the proposed development in the context of the development plan and other material considerations, including the NPPF. In order to undertake the necessary assessment outlined above.

Assessment of main issues

Impact to the character of the area

The site falls outside of the built up area of Burgess Hill (Policy C1) but adjoins the built up area to its northern and western sides with the 'Kings Way' development under construction to the south. However, as detailed above Policy C1 is out of date insofar it relates to housing land supply as the Council cannot demonstrate a five year land supply.

One of the core planning principles of the NPPF is to *"take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."* It is therefore necessary to consider the impact of the proposal in the local landscape in terms of the visual impact on the amenity of Burgess Hill as a settlement.

It is considered that the proposal would not have a significant adverse visual impact to the character of the area and would be well related to the existing development to the north and west, and that currently under construction to the south of the site. As such, it is considered that the development would be seen in context with the existing built form of Burgess Hill and would not result in an isolated form of development.

The application is in outline form with the principle of development and the means of access a matter of consideration. However, the indicative plans submitted show that the development would be of a suitable form to reflect the surrounding character of the area.

It is therefore considered that whilst the site is within the countryside, the principle of the formation of 64 dwellings on this site could be considered acceptable under the National Planning Policy Framework.

Access, parking and impact on highway safety

Paragraph 32 of the National Planning Policy Framework states:

"All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."*

Policies T4 and T5 of the Local Plan outline the requirements for parking provision and access to new developments, in conjunction with the council's (maximum) parking standards, as set out in the Development and Infrastructure Supplementary Planning Document. Policy T6 requires provision of cycle storage facilities in new developments.

The proposal is to form a new access to the south of the site from the existing Phase I development, across an existing bridleway. The existing vehicular access is to be utilised for pedestrian and cyclists only. Where the proposed access is to cross the bridleway, the access is to be narrowed down so that vehicle speeds are slower.

The Highways Authority has considered the application and has raised no objection to the scheme. In addition the Public Rights of Way Officer has no objection to the scheme and provided the following comments:

"We provided pre planning application advice which has been incorporated into the proposed plans mainly around the access point where it crosses the existing bridleway and improvements to the bridleway surface. The plateau crossing at the bridleway crossing point allows for a level surface to be maintained at the crossing as well as slowing down approaching vehicles. The footpath to the north of the site is also unaffected by the development in terms of its legal route. Unless a temporary closure application is received and authorised the bridleway and footpath must remain open and free from obstructions at all times and any damage to the surface of either route will need to be rectified by the developers."

It is thereby considered that the proposal would provide a satisfactory means of access into the site and does not raise any highways safety concerns.

In terms of sustainability the site is well located to the town with a bus stop in close proximity to the site. In addition, there are to be footpath connections through the site into the Phase I development which will provide a local centre as well as to the north-west onto Kings Way.

Overall on this issue it is considered that the site is in a sustainable location for a residential development and safe and suitable access to the site can be achieved for all people. The proposal is thereby considered to comply with policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre-Submission Draft District Plan.

Trees including Ancient Woodland

Paragraph 118 of the National Planning Policy Framework states:

"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles [such as]:

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

- *opportunities to incorporate biodiversity in and around developments should be encouraged.*
- *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh its loss."*

The applicant has submitted an Ecological Assessment, Tree Report (Tree Survey and Constraints Advice) and an Arboricultural Impact Assessment and Method Statement, to accompany the application.

The Council's consultant ecologist (comments detailed in full in Appendix B), objects to the proposal due to the loss of irreplaceable ancient woodland through the formation of the access through a belt of woodland called Kings Way Shaw. He considers that this access would cause both direct loss of woodland and severing connectivity between the remaining sections either side which may result in deterioration.

He notes that *"unless MSDC is satisfied that the need for, and benefits of, this development in this location clearly outweigh the loss of irreplaceable ancient woodland (and that there is no other feasible access with less impact), planning consent should be refused."*

It is considered that whilst it is regrettable that there would be some loss to part of the Ancient Woodland through the formation of the access into the site, the proposed benefits of the formation of 64 dwellings to the District would provide significant benefits. As such, it needs to be considered whether the adverse impacts of the loss of the small part of Ancient Woodland to form an access into the site would significantly and demonstrably outweigh the benefits as set out under paras 14 and 118 of the NPPF.

The agent has advised that *"the vehicular access has been selected at the point of an existing overhead line which crosses the boundary and which requires regular tree reduction/maintenance. The proposal includes the undergrounding of the overhead line which will allow the retained mature trees either side to grow to their full potential and for the canopies to join."* In addition, he states that the *"removal of trees and the loss of ancient woodland has been kept to an absolute minimum by reducing the width of the access to a single carriageway with footpath."* The location of this access has been supported by West Sussex County Council Highways and the Rights of Way Officer.

In addition, para 4.7 of the Ecological Assessment submitted with the application confirms that no mature trees will be removed to accommodate the access and that it will pass through a lower value area of the tree line due to the presence of the existing overhead line. Therefore, the impact to the ancient woodland and trees on the boundaries of the site has been kept to a minimum.

Notwithstanding the loss of the small part of the Ancient Woodland, the scheme proposes 64 dwelling to the District and would deliver much needed housing for Mid Sussex which is unable to provide an up to date five year supply of housing land within

a sustainable location. It is considered that this is a significant benefit in the consideration of the scheme.

In light of para 118 (5) of the NPPF it is considered that the formation of 64 dwellings (comprising 30% affordable units) in this location would outweigh the loss of a small part of Ancient Woodland.

Ecology

Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Wildlife and Countryside Act 1981 (as amended), all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Wildlife and Countryside Act 1981 (as amended), certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).

In addition, para 118 of the NPPF is relevant. Details of this policy are set out above.

The submitted Ecological Assessment identifies that the most significant issues with respect to development of the site are the potential for adverse effects to great crested newts and bats. It states that *"The development has been designed to retain and enhance an albeit smaller area of much higher quality terrestrial habitat for newts on land closest to the newt breeding pond, including swales with wildlife benefits. These habitats, along with the retained boundary tree line will be managed and monitored to ensure that it is safeguarded and serves its desired purpose. A strategy to move newts from the built development area out of harm's way is also described within this report. In this way, the favourable conservation status of the population should be maintained."*

In addition, the assessment sets out the mitigation proposed to these species. These have been identified in the report to include integrated bat boxes to be incorporated into three buildings on the outskirts of the built development, bat boxes installed on suitable trees prior to works, and the retention of dark, unlit corridors around the tree line of the site to allow bats to continue to use the site.

It is thereby considered that the proposal complies with paras 109 and 118 of the NPPF.

Impact on amenities of adjacent residents

Policy B3 of the Local Plan aims to protect amenity.

As this application only seeks permission for the principle of the development and the means of access it is not possible to fully examine relationships with existing residents at this stage. The nearest residential properties are to the north, south and west where a number of rear windows of properties to the west of Gerald Close, and to the north of Kings Way face onto the site.

Indicative plans show that the proposed dwellings would be set away from these boundaries with boundary screening being retained. However, as this application is of an outline scheme with the appearance, layout and scale of the units not being considered, this would need to be fully assessed at any reserved matters stage.

Infrastructure

Contributions are requested in accordance with the councils adopted Supplementary Planning Document "Development and Infrastructure" and are requested in accordance with policies G3, R3 and R4 of the Mid Sussex Local Plan and the NPPF. The contributions also accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

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

Children's Play Equipment £52,967 (St Andrews Road - Play Equipment)
Formal Sport: £63,792 (Centre for Community Sport)
Community Buildings: £27,710 (towards a new community facility East of Kingsway)
Local Community Infrastructure Contribution: £33,578

As the housing mix is currently unknown at this stage, a formula is proposed into any legal Agreement in order that the school and library infrastructure contributions and the transport (TAD) contribution may be calculated at a later date.

In terms of affordable housing the applicant is proposing a development of 64 units with 19 (30%) of these to be affordable as required under Policy H4 of the Local Plan. This can be secured through the S106 legal agreement.

Drainage

The proposal falls within Flood Zone 1 which is an area of low risk of flooding. The Council's Drainage Engineer has been consulted on the scheme and has raised no objection subject to conditions.

The proposal is thereby considered to comply with policy CS13 of the Local Plan and policy DP41 of the Draft District Plan.

Sustainability

The submitted Planning Statement incorporates a Sustainability Statement and also the Design and Access Statement refers to sustainability within the document. These documents state that it is intended that the houses and neighbourhood buildings will incorporate a number of features including good solar orientations enabling optimisation of solar gain, thick insulation within the walls, floors and roof; low energy internal lighting throughout; and low water use sanitary appliances. However, as the application outline, further details would be submitted with any reserved matters application.

Notwithstanding this, it is considered that the site lies within a sustainable location. The site is in a reasonably accessible location in relation to services and facilities in the town of Burgess Hill.

It is considered that in principle the dwellings would be acceptable in sustainability terms and comply with policy B4 of the Local Plan, and paras 7, 14 and 17 of the NPPF. Full details would be required at Reserved Matters stage.

Whether the proposal would be sustainable development

As outlined above, the NPPF describes sustainable development as the golden thread running through both plan making and decision taking. It sets out the three dimensions to sustainable development: economic, social and environmental. Paragraph 6 states that the policies in paragraphs 18 - 219, taken as a whole, constitutes the government's view as to what sustainable development means for the planning system. In this part of the report the main factors that inform the judgement as to whether the proposal would be a sustainable form of development are summarised. In reaching that view all matters referred to in the report have been taken into account.

The economic role

The proposed development would result in the creation of construction jobs during the build period. The additional population could help generate more local spending in the local community, provision of infrastructure and services, and generate New Homes Bonus funding as well as additional Council Tax receipts. These are all material considerations that weigh in favour of the development. It is considered that the proposal would satisfy the economic role of sustainable development.

Social role

The provision of 64 additional new dwellings (including 19 affordable units) will make a useful contribution to the district's housing supply and will help meet the identified need for housing. The NPPF seeks to promote a *"strong, vibrant and healthy community by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and supports its health, social and cultural well-being."* It can be considered that the proposal satisfies the social dimension of sustainable development. Due to the location of the site close to the built-up edge of Burgess Hill where there are a number of services, it is considered that the location of the site is suitable.

Environmental role

The environmental role as set out in para 7 of the NPPF requires developments to contribute *"to protecting and enhancing our natural, built, and historic environment"*. The proposed development is on land that is free from national designations, i.e. Area of Outstanding Natural Beauty or National Park, which cover 60 per cent of the district.

There is an overriding need to ensure that the intrinsic character and beauty of the countryside is recognised and that development should contribute to protecting and enhancing the natural, built and historic environment.

The site lies adjacent to the development boundary. Whilst within the countryside, due to its relationship with the built up area, as well as the surrounding built form to the north, south and west, it is not considered that the proposed development would cause detriment to the character of the area.

As set out in the report, the development would result in the loss of a small part of Ancient Woodland through the formation of the access into the site. However, it is considered that the proposal would result in significant benefits which would outweigh the loss of the small part of Ancient Woodland.

It is thereby considered that the proposal satisfies the environmental dimension of sustainable development.

There is no overriding issue at this point that clearly and justifiably demonstrates that the proposal would not constitute sustainable development as defined by para 7 of the NPPF. It is considered that the presumption in favour sustainable development does apply in this case and consideration needs to be given to the application in the context of para 14, and should only be refused if any adverse impacts would significantly and demonstrably outweigh the benefits of the development, when assessed against the NPPF as a whole, or specific NPPF policies indicate development should be restricted.

Planning Balance and Conclusions

As the Council is unable to currently demonstrate a five year supply of deliverable housing land if follows that the relevant policies for the supply of housing are not up to date (paragraph 49 NPPF). In these circumstances paragraph 14 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, or specific polices in the NPPF indicate that development should be restricted.

The proposal would have benefits in terms of the social, economic and environmental roles of sustainable development, as envisaged by the NPPF and outlined above.

Whilst within the countryside, the proposal is considered to form a sustainable development on the edge of the boundary of Burgess Hill and is well related to existing residential development to the north, south and west of the application site. The proposal would therefore not cause significant harm to the character of the area.

The proposed access into the site crossing an existing bridleway is considered acceptable. The plateau crossing at the bridleway crossing point allows for a level surface to be maintained at the crossing as well as slowing down approaching vehicles. As such the proposal would not cause significant detriment to users of the bridleway.

The proposed development would result in harm to the existing Ancient Woodland to the south through the loss of a small part due to the formation of the access. This weighs against the granting of planning permission. Whilst this is regrettable, the proposed benefits of the formation of 64 dwellings to the District would provide significant benefits in light of the Council currently not being able to demonstrate a five year supply of deliverable housing. These benefits are considered to outweigh the loss of part of this habitat.

In these circumstances the NPPF states that permission should be granted and this is a material consideration of sufficient weight to overcome the proposal's conflict with the local development plan. Overall it is considered that the adverse effects of granting planning permission, including conflict with policy C1 of the Local Plan and some loss of Ancient Woodland, would not significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate that development should be restricted.

There are not considered to be any other material considerations that would alter the above planning balance.

APPENDIX A – RECOMMENDED CONDITIONS

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

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

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved

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

Pre-commencement conditions

2. 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 and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre Submission Draft District Plan.

3. No development shall take place unless and until a Construction Environmental Management Plan (or other as appropriate) has been submitted to and approved by the Local Planning Authority. The plan shall describe how the development construction will proceed to mitigate potential impact on local ecology.

Reason: In the interest of ecology and to comply with para 118 of the NPPF.

4. No development shall take place unless and until all ecological matters will be reviewed to ensure that all relevant surveys are complete and up to date to support the detailed application(s). Appropriate mitigation will be proposed and will be detailed in relevant supporting plans and reports (as required).

Reason: In the interest of biodiversity in accordance with NPPF [118] and Mid Sussex Submission District Plan DP36 and policy C5 of the Mid Sussex Local Plan

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

Reason: To safeguard the amenity of adjacent occupiers and to accord with Policy B3 of the Mid Sussex Local Plan and Policy DP24 of the Pre Submission Draft District Plan.

6. 1. Site Characterisation

No development shall take place until an investigation and risk assessment has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the

remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to comply with policy CS20 of the Mid Sussex Local Plan and Policy DP41 of the Pre Submission Draft District Plan.

7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority

Reason: The site is potentially of archaeological interest and to accord with the NPPF.

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

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve buildings of visual quality and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

9. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting etc.). Soft

landscaping details shall include identification of all existing trees and hedgerows on the land, with details of those that are to be retained, together with measures for their protection during the course of development, planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant sizes and proposed numbers/densities and an implementation programme.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy B1 of the Mid Sussex Local Plan, and Policy DP24 of the Pre-Submission Draft District Plan.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants other than those within small, privately owned, domestic gardens which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: In the interests of visual amenity and of the environment of the development and to accord with Policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

11. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings they enclose are first occupied. Development shall be carried out in accordance with the approved details and the boundary treatments retained thereafter.

Reason: In the interest of visual amenity of the locality in accordance with policy B1 of the Mid Sussex Local Plan and Policy DP24 of the Pre Submission Draft District Plan.

12. The development hereby permitted shall not proceed until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all approved drainage works have been carried out in accordance with such details.

Reason: To ensure that the site can be adequately drained in accordance with policy CS13 of the Mid Sussex Local Plan and Policy DP41 of the Pre Submission Draft District Plan.

13. The development hereby permitted shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. 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 site can be adequately drained in accordance with policy CS13 of the Mid Sussex Local Plan and Policy DP41 of the Pre Submission Draft District Plan.

Construction phase

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

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

Reason: To protect the amenity of local residents and to accord with Policy B3 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

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

Reason: To protect the amenity of local residents from smoke, ash, odour and fume and to accord with Policy B3 of the Mid Sussex Local Plan and Policy DP24 of the Pre-Submission Draft District Plan.

Pre-occupation conditions

16. No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.

Reason: In the interests of road safety and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre Submission Draft District Plan.

17. No part of the development shall be first occupied until the road(s), footways, and casual parking areas serving the development have been constructed,

surfaced and drained in accordance with plans and details to be submitted to and approved by the Local Planning Authority.

Reason: To secure satisfactory standards of access for the proposed development and to accord with Policy T4 of the Mid Sussex Local Plan and Policy DP19 of the Pre Submission Draft District Plan.

18. No dwelling shall be occupied until covered and secure cycle parking spaces have been provided in accordance with details submitted to and approved in writing by the local planning authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies T5 of the Mid Sussex Local Plan and Policy DP19 of the Pre Submission Draft District Plan.

19. No dwelling shall be occupied until parking spaces, garages and turning areas associated with it have been provided and those parking and turning areas shall not thereafter be used for any purpose other than for the parking and turning of vehicles.

Reason: In the interests of road safety and visual amenity in accordance with policies T4 and B1 of the Mid Sussex Local Plan and Policy DP19 of the Pre Submission Draft District Plan.

20. No dwelling shall be occupied until refuse and recycling storage facilities have been provided in accordance with details submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity of the area and in accordance with Policy B1 of the Local Plan and Policy DP24 of the Pre Submission Draft District Plan.

INFORMATIVES

1. Your attention is drawn to the requirements of the Environmental Protection Act 1990 with regard to your duty of care not to cause the neighbours of the site a nuisance.

Accordingly, you are requested that:

- Hours of construction/demolition on site are restricted only to:
Mondays to Fridays 0800 - 1800 hrs;
Saturdays 0900 - 1300 hrs;
No construction/demolition work on Sundays or Public Holidays.
- Measures shall be implemented to prevent dust generated on site from crossing the site boundary during the demolition/construction phase of the development.
- No burning of materials shall take place on site at any time.

If you require any further information on these issues, please contact Environmental Protection on 01444 477292.

2. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
3. The proposed development will require formal address allocation. You are advised to contact the Council's Street Naming and Numbering Officer before work starts on site. Details of fees and developers advice can be found at www.midsussex.gov.uk/streetnaming or by phone on 01444 477175.
4. The archaeological evaluation work should be completed, and the results submitted, prior to the submission of any reserved matters as it will be necessary to have the archaeological information available in order to make an archaeologically informed decision.
5. The bridleway and footpath must remain open and free from obstructions at all times and any damage to the surface of either route will need to be rectified by the developers.
6. You are advised that this planning permission requires compliance with a planning condition(s) before development commences. You are therefore advised to contact the case officer as soon as possible, or you can obtain further information from: <http://www.midsussex.gov.uk/9276.htm> (Fee of £97 will be payable). If you carry out works prior to a pre-development condition being discharged then a lawful start will not have been made and you will be liable to enforcement action.

APPENDIX B – CONSULTATIONS

MSDC Leisure

The following leisure contributions are required to enhance capacity and provision due to increased demand for facilities in accordance with the Local Plan policy and SPD which require contributions for developments of over 5 units.

CHILDRENS PLAYING SPACE

St Andrews Road, owned and managed by the Council, is currently the nearest locally equipped play area approximately 400m from the development site. This facility will face increased demand from the new development and a contribution of £52,967 is required to make improvements to play equipment. St Andrews LEAP is a not suitable site for kickabout provision. The development will be within a short distance of the new informally landscaped 'park' East of Kingsway, which will include unsupervised informal kickabout space, so a financial contribution toward kickabout is not required on this occasion. These facilities are within the distance thresholds for children's play outlined in the Development and Infrastructure SPD

FORMAL SPORT

In the case of this development, a financial contribution of £63,792 is required toward football pitches at the Centre for Community Sport.

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 £27,710 is required toward a new community facility East of Kingsway.

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

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

MSDC Housing

The applicant is proposing a development of up to 64 dwellings which will give rise to a requirement of 19 affordable housing units. These will be a mixture of 1 bed flats and 2 & 3 bed houses. We require the tenure split to be as follows: 6 x 1 bed flats, 7 x 2 bed houses and 1 x 3 bed house for rent and 4 x 2 bed houses and 1 x 3 bed house for shared ownership. The illustrative layout shows suitable integration of the affordable housing units.

MSDC Drainage

We do not object to the principle of the proposed development, and we will allow outstanding drainage and flood risk issues to be dealt with by reserved matters.

We understand the existing flood risks associated with this proposed development to be:

1. There is no recorded flooding on this site.
2. The Updated Flood Map for Surface Water suggests the possibility of 1 in 1000 year flooding a narrow strip through the site.

We would expect the flood risk to change post development in the following way:

1. Increased run-off from the impermeable areas of the proposed development creating and/or exacerbating flood risk downstream.

The proposed development has shown the following in mitigation of the flood risk:

1. Flood Risk Assessment has been submitted, which presents the following:
 - Site is located with Flood Zone 1.
 - Underlying geology is not appropriate for infiltration.
 - Gravity discharge to existing ditch on East boundary could provide suitable means of drainage.
 - Proposed for post-development discharge to be restricted to Qbar rates for up to the 1 in 100 year storm event plus 30% capacity for climate change.
 - Proposed for attenuation via an open water pond/swale feature.
 - Proposed for system to offer a reduction in peak run-off rates.
 - Foul water to utilise existing foul system of adjacent development, where provision is already made.
 - Proposed for no impediment to flood flow, no loss of floodplain and no detrimental flood risk to the site and beyond.

Suitable conditions for this proposed development:

1. The development hereby permitted shall not proceed until details of the proposed foul water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all approved drainage works have been carried out in accordance with such details.
2. The development hereby permitted shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all drainage works have been carried out in accordance with such details as approved by the Local Planning Authority. 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.

MSDC Environmental Protection

Environmental Protection has no objection to this application subject to:

Conditions:

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

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

Reason: To protect the amenity of local residents.

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

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

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

Reason: To safeguard the amenity of adjacent occupiers

MSDC Contaminated Land Officer

Looking at historical mapping part of the proposed development site has an area identified as having made ground.

This area of made ground lies to the west of the site and runs from the western boundary for some 95 metres to the east. The position of the western edge runs north south along the site boundary behind 22 to 24 Gerald Close. The north/south distance is approximately 45 metres.

The made ground covers an area of approximately one sixth of the total area.

It is recommended that the following condition would be appropriate for this site.

1. Site Characterisation

No development shall take place until an investigation and risk assessment has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately

to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason (common to all): To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to comply with policy CS20 of the Mid Sussex Local Plan.

MSDC Street Name and Numbering Officer

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

Informative: INF29

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

WSCC Highways Authority

Original

While the highway authority has no objection to the principle of development on the site, some further information is required regarding the proposed access.

Please confirm which drawing should be referred to for the highway design, SK001 C or D. The final plan should include any road markings proposed to draw drivers' attention to the proposed bridleway plateau. Please also provide a long section through the proposed bridleway plateau.

Annex 1 - Public Rights of Way (PROW) observations

PROW have no objections to the above planning application. We provided pre planning application advice which has been incorporated into the proposed plans mainly around the access point where it crosses the existing bridleway and improvements to the bridleway surface. The plateau crossing at the bridleway crossing point allows for a level surface to be maintained at the crossing as well as slowing down approaching vehicles. The footpath to the north of the site is also unaffected by the development in

terms of its legal route. Unless a temporary closure application is received and authorised the bridleway and footpath must remain open and free from obstructions at all times and any damage to the surface of either route will need to be rectified by the developers.

Annex 2 - Section 106 contributions

Provision of Service Infrastructure

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 and Infrastructure February 2006.

The planning obligation formulae below are understood to accord with the Secretary of State's policy tests outlined by the in the *National Planning Policy Framework, 2012*.

The advice is as follows:

1. School Infrastructure Contribution

1.1 The Director for Children and Young People's Services advises that it appears that at present primary schools within the catchment area of the proposal currently would not have spare capacity and would not be able to accommodate the children generated by the assumed potential residential development from this proposal. Accordingly, contributions would need to be requested. However, the situation will be monitored and further advice on all of the main education sectors, (i.e. Primary/Secondary/Further Secondary) should be sought if this planning application is to be progressed.

1.2 Financial Contribution

The financial contribution sought by the County Council would be based on: the estimated additional population that would be generated by the proposed development, reduced to reflect any affordable dwellings, with a 33% discount, for occupation by persons already residing in the education catchment area; the County Council's adopted floorspace standard for education provision; and the estimated costs of providing additional education floorspace. As the housing mix is not known at this stage, I propose the insertion of a formula into any legal Agreement in order that the school infrastructure contribution may be calculated at a later date. The formula should read as follows:

The Owner and the Developer covenant with the County Council that upon Commencement of Development the Owner and/or the Developer shall pay to the County Council the School Infrastructure Contribution as calculated by the County Council in accordance with the following formula:-

DfE Figure x ACP = School Infrastructure Contribution where:

Note: x = multiplied by.

ACP (Additional Child Product) = The estimated additional number of school age children likely to be generated by the development calculated by reference to the total number of dwellings, less any allowance for affordable dwellings, as approved by a subsequent reserve matters planning application. The following criteria are used to generate a child product:

	Dwelling Size		Occupancy
	House		Flat
1 bed	= 1.5		1.3
2 bed	= 1.9		1.9
3 bed	= 2.5		2.4
4+ bed	= 3.0		2.8

Using the above occupancy rates to determine an overall population increase the following factors are applied. According to 2001 census data, there are 14 persons per 1000 population in each school year group for houses and 5 persons per 1000 population in each school year group for flats. There are 7 year groups for primary (years R to 6) and 5 for secondary (years 7 to 11). For Sixth Form, a factor of 0.54 is applied to the Child Product figure as this is the average percentage of year 11 school leavers who continue into Sixth Form colleges in West Sussex.

DfE Figure = Department for Education (DfE) school building costs per pupil place (for pupils aged 4 to 16) as adjusted for the West Sussex area applicable at the date when the School Infrastructure Contribution is paid (which currently for the financial year 2014/2015 are - Primary £13,980, Secondary £21,064, Further Secondary £22,845), updated as necessary by the Royal Institute of Chartered Surveyors Building Cost Information Service All-In Tender Price Index.

2. Library Infrastructure Contribution

2.1 The County Librarian advises that the proposed development would be within the area served by Burgess Hill Library and that the library would not currently be able to adequately serve the additional needs that the development would generate.

However, a scheme is approved to provide additional floorspace at the library. In the circumstances, a financial contribution towards the approved scheme would be required in respect of the extra demands for library services that would be generated by the proposed development.

2.2 Financial Contribution

The financial contribution sought by the County Council would be based on: the estimated additional population that would be generated by the proposed development, reduced to reflect any affordable dwellings (by which we mean Social Rented dwellings, but NOT Shared Equity, Intermediate or Key Worker status dwellings) for occupation by persons already residing in the library's catchment area; the County Council's adopted

floorspace standard for library provision; and the estimated costs of providing additional library floorspace. As the housing mix is not known at this stage, I propose the insertion of a formula into any legal Agreement in order that the library contribution may be calculated at a later date. The formula should read as follows:

The Owner and the Developer covenant with the County Council that upon Commencement of Development the Owner and/or the Developer shall pay to the County Council the Libraries Infrastructure Contribution as calculated by the County Council in accordance with the following formula:-

$L \times AP =$ Libraries Infrastructure Contribution where:

Note: x = multiplied by.

AP (Additional Persons) = The estimated number of additional persons generated by the development calculated by reference to the total number of dwellings, less any allowance for affordable dwellings, as approved by a subsequent reserve matters planning application. The following figures are given as a guideline:

	Dwelling Size	Occupancy
	House	Flat
1 bed	= 1.5	1.3
2 bed	= 1.9	1.9
3 bed	= 2.5	2.4
4+ bed	= 3.0	2.8

L = Extra library space in sqm. per 1,000 population x the library cost multiplier (which currently for the financial year 2014/2015 are 30sq.m and £4,095 per sqm respectively).

3. Fire & Rescue Service Infrastructure

3.1 The County Fire Officer advises that the developer should install fire hydrants connected to a suitable main for the purpose of firefighting **at his own expense** in positions agreed between the Fire and Rescue Service and the Water Authority. Hydrants should be installed, tested and operational as each phase is available for occupation. The development should also include suitable access for fire brigade vehicles and equipment. For further information please contact: David Boarer - Fire & Rescue Services Tel: 01243 813667).

4. Transport (TAD) Contribution

4.1 The Total Access Demand Contribution will be calculated by the County Council in accordance with the following formula:

Total Access Demand Contribution = Sustainable Access Contribution + Infrastructure Contribution, where:

Sustainable Access Contribution = (C - D) x E, where:

C (Total Access) = (A (number of dwellings) x B (Occupancy per dwelling)) using the following figures as a guideline:

	Dwelling Size		Occupancy
	House		Flat
1 bed	= 1.5		1.3
2 bed	= 1.9		1.9
3 bed	= 2.5		2.4
4+ bed	= 3.0		2.8

D = Parking Spaces provided by the residential development element of the Proposed Development

E = Standard multiplier of £550

Infrastructure Contribution = D x F, where:

D = Parking Spaces provided by the residential development element of the Proposed Development

F = Standard multiplier of £1100

Where affordable dwellings are involved, the appropriate discount is applied to the population increase (A x B) before the TAD is formulated.

General points

Please ensure that the applicants and their agents are advised that any alteration to the housing mix, either size, nature or tenure, may generate a different population and 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.

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.

Review of the contribution towards the provision of additional County Council services should be by reference to an appropriate index, preferably RICS BCIS All-In TPI. This figure is subject to annual review.

Should you require further general information or assistance in relation to the requirements for contributions towards the provision of County Council service infrastructure please contact, in the first instance, the Planning Applications Team officer, named above.

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.

Additional Information Response

Additional information relating to the relationship between the access and Public Right of Way was requested; this has subsequently been supplied by the Applicant and the LHA are satisfied with the detail.

No objection is raised to the proposed development subject to conditions/S106 infrastructure contributions (as per previous calculations supplied).

Access

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.

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.

WSSC Flood Risk Management

West Sussex County Council (WSSC), 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 for the proposed development and any associated observations, advice and conditions.

Current surface water flood risk based on uFMfSW for 30year and 100year events:	Low risk.
<p>Comments: Current uFMfSW mapping shows the site to be at 'Low' risk from surface water.</p> <p>Any existing surface water flow paths across the site must be maintained.</p> <p>Reason: NPPF paragraph 103 states – 'When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere..'</p>	

Current ground water flood risk based on ESI Ground Water mapping:	Negligible risk.
<p>Comments: The proposed development is shown to be at 'Negligible risk' from ground water flooding based on the current ESI maps.</p> <p>Ground water contamination and Source Protection Zones.</p> <p>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>	

Records of any ordinary watercourses or culverted watercourses within the site:	Yes.
<p>Comments: Current Ordnance Survey mapping show an ordinary watercourse running within the eastern boundary of the development.</p>	

Records of any historic surface water flooding within the confines of the proposed site:	None.
<p>Comments: We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.</p>	

Future development - Sustainable Drainage Systems (SuDs)

The FRA/Drainage Strategy indicates that SuDS techniques (swales and pond) will be used to drain the surface water from site post development, using a hydrobrake to control the discharge to the adjacent ditch.

Development should not commence until finalised detailed surface water drainage designs for the site, based on sustainable drainage principles and an assessment of hydrological and hydro geological context of the development have been approved in writing by the Local Planning Authority.

Government policy set out in paragraph 103 of the NPPF expects LPAs to give priority to the use of SuDs in determining planning applications. Further support for SuDs is set out in chapter 5 of the flood risk Practice Guide.

Where SuDs are used, it must be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems.

Provision for long-term maintenance should be provided as part of any SuDs scheme submitted to the LPA.

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

ESCC Highways

Thank you for consulting ESCC Highways on the plans for the development of 64 residential dwellings on Land off Kingsway, Burgess Hill. Mid Sussex Planning Authority are aware of cross boundary impact on nearby roads to the development site that would be affected by the proposed development, in particular there is recognised impact in Ditchling Village. In light of recent development commitments for housing in the Haywards Heath/Burgess Hill area, and the gradual filtering of additional traffic from both these towns in a southerly direction towards Brighton and Lewes, there has been a notable increase in traffic in the peak periods that have had an adverse impact on the village of Ditchling in particular. A more detailed response from ESCC highways was provided for the 2012 planning application at Kings Way, Burgess Hill highlighting the same issues and has led to a secured financial contribution for mitigation measures the local area, thus establishing and recognising the need to address this issue. It is recommended that measures for mitigation are secured by financial contribution within a suitable legal agreement similar to that secured for Kings Way, Burgess Hill to enable a suitable scheme to be implemented. It should be noted that any new development in the east/southeast quadrants of both Burgess Hill and Haywards Heath are likely to contribute to additional vehicular trips filtering into the less major routes within East Sussex as opposed to the more desirable connections to the south coast via 'A' roads.

It is recommended that West Sussex County Highways impose appropriate highway conditions given that the impact of development would primarily be on their network, whilst ensuring that East Sussex Highways have Ditchling Village protection secured through appropriate legal agreement. The transport contribution for this development is recognised as £75.82 per dwelling or £4852.48 to be used on projects for cycling provision and shared surfacing within Ditchling village.

Heritage - Archaeology

I am pleased to note that the applicants have taken on board the archaeological implications of the proposal and submitted with the application an Archaeological Desk Based Assessment, produced by the applicants archaeological consultants, Archaeology South East (ASE). The Assessment is acceptable and highlights that whilst there are no known heritage assets on the site, there is the potential for previously unknown below ground heritage assets particularly in relation to post-medieval and possibly medieval periods, with a low to moderate potential for remains of prehistoric date. It concludes that despite some localized previous impacts the proposals do have the potential to impact upon archaeological horizons. I am satisfied that the assessment has covered the relevant issues adequately. Given the potential, and that the proposed development will lead to the destruction of any archaeological assets that may be present, in line with the National Planning Policy Framework, I would recommend further archaeological work is required. In the first instance, I agree with ASE that the archaeological work should comprise an archaeological evaluation trial trenching exercise. The evaluation will aim to establish rapidly what archaeological Heritage Assets are and may be present, and the results of the evaluation will enable suitable mitigation measures to be developed. Given that a proportion of the site has most likely been subject to a degree of impact, I do not recommend that it is necessary for the archaeological work to be undertaken in advance of any outline planning permission; but would recommend that securing the archaeological work as a condition of any planning permission is an acceptable and proportionate response.

To ensure the required archaeological work is secured satisfactorily, the following condition is appropriate and I would recommend that it be attached to any planning permission that may be granted: "No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority." An informative should be added stating that the archaeological evaluation work should be completed, and the results submitted, prior to the submission of any reserved matters as it will be necessary to have the archaeological information available in order to make an archaeologically informed decision.

Woodland Trust

Thank you for the opportunity to comment on this application. The Trust is the UK's leading woodland conservation charity. Our vision is a UK rich in native woods and trees enjoyed and valued by everyone. We own over 1,000 sites across the UK, covering around 20,000 hectares (50,000 acres) and we have 500,000 members and supporters.

The Trust objects to this outline planning application as it will result in the loss of ancient woodland.

The sliver of woodland to the south of the proposed development site is King's Way Shaw (grid ref: TQ329192), designated as ancient semi-natural woodland (ASNW) on

Natural England's Ancient Woodland Inventory (AWI). This outline application proposes to create an access road cutting straight through the designated ancient woodland.

Ancient woodland

Ancient woodland in England is defined as an area that has been wooded continuously since at least 1600 AD and is a nationally important and threatened habitat. A rich habitat for wildlife, it is home to more species of conservation concern than any other terrestrial habitat. Ancient woodland sites are irreplaceable - the continuity of woodland has preserved historical and ecological features in a unique way. It is essential that this habitat is protected from development.

Ancient woodland is divided into ancient semi-natural woodland and plantations on ancient woodland sites. Both types of stand are classed as ancient woods.

Planning policy

Guidance from central Government states 'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.' (Paragraph 118 point 5 National Planning Policy Framework)

The Natural England standing advice for Ancient Woodland and Veteran Trees (published April 2014) at paragraph 4.8.1 states: 'Ancient woodland is of prime ecological and landscape importance, providing a vital part of a rich and diverse countryside. In particular, ancient woodland:

- is exceptionally rich in wildlife, and supports many rare and threatened species;
- may contain surviving descendants and features from the original natural forests;
- acts as reservoirs from which wildlife can spread into new woodlands;
- has valuable soils due to their undisturbed nature;
- is an integral part of England's historic landscapes and the biological and visual functioning of a landscape;
- contains a wealth of features of historical and archaeological importance little altered by modern cultivation or disturbance;
- contributes to people's sense of place and imagination.'

The Mid Sussex Local Plan (May 2004) contains a number of relevant environmental policies. The policy aims for the countryside include the 'protect[ing] wildlife, their habitats and the special features of areas designated as being of ecological importance, having regard to the relevant significance of designations, in order to conserve their abundance and diversity.' (Mid Sussex Local Plan paragraph 3.20(f)). In relation to the protection of wildlife habitats, paragraph 3.45 notes: 'The Council is keen to assist in the preservation of wild plants and animals and to maintain and manage the diverse habitats upon which the wildlife depends. It is vital that steps are taken to prevent further destruction and deterioration of such habitats.' And at paragraph 3.46: 'The

successful conservation of wildlife depends upon the retention of key sites and a supporting network of varying types and grades of habitats throughout the countryside and many urban areas.'

Impact of this application on ancient woodland

This outline planning application relates to a proposed development for the construction of up to 64 residential dwellings on a site bounded to the south by ancient woodland. The proposal includes a plan for an access road cutting straight through ancient woodland.

A review of the applicant's Design and Access Statement shows no reference to the ancient status of the woodland. In fact, at page 20, the applicant states that the site has no landscape designations, and refers specifically to a 'section on the southern boundary where some trees will be removed to accommodate vehicular access' (paragraph 2.11). These trees are clearly located within ancient woodland. Mapping data from Magic and GISMO shows the designated ancient woodland area, marked as a narrow strip of woodland encompassing a track running from Kings Way parallel to Rolfe Drive and continuing along the southern boundary of the proposed site up to the south east corner of the site.

In addition, we note that the current plan involves two further issues likely to lead to the deterioration of ancient woodland. First, the change of use is likely to have a negative impact on the woodland; and second, the proposed access road will clearly result in the fragmentation of ancient woodland. This fragmentation will cause an increase in the isolation of habitats by creating a barrier to species movement.

Changing land use next to ancient woodland can have a large impact on that wood. Populations of plants and animals are exposed to the change in environmental conditions (e.g. humidity, temperature, soil pH) from the construction and the new development. Many species within ancient woodland are adapted to the relatively unchanging conditions within ancient woodland. They are slow to react to change and are not able to adapt to the new, enforced conditions within the woodland. This can lead to more generalist species dominating the specialist woodland species.

Creation of new areas of woodland or buffer zones around semi-natural habitats, and more particularly ancient woodland, will help to reduce and ameliorate the impact of damaging edge effects, serving to improve their sustainability. The size of the buffer is dependent on the intensity of land use adjacent to ancient woodland.

Natural England's standing advice for Ancient Woodland and Veteran Trees, paragraph 6.4, states:

"Development must be kept as far as possible from ancient woodland, with a buffer area maintained between the ancient woodland and any development boundary. An appropriate buffer area will depend on the local circumstances and the type of development. In a planning case in West Sussex the Secretary of State supported the

arguments for a 15m buffer around the affected ancient woodland, **but larger buffers may be required.**"

Conclusion

Ancient woodland is irreplaceable; once lost it is gone for good. The Trust finds that any loss or damage to ancient woodland is wholly unacceptable and should be avoided at all costs.

If permission is to be granted for this outline proposal, it is important to ensure that the adjacent ancient woodland is protected from the development. To this end, we recommend the following steps as a minimum:

- The proposed southern access road must be removed from the plan;
- Any revised plan for an access road must avoid disturbance or fragmentation of ancient woodland;
- The plan must include a buffer zone between the road/dwellings and the woodland. In a development of this size, and given the fragile nature of this ancient woodland, we recommend a buffer zone of 20m in depth. A buffer zone is created in order to protect the woodland from the effects of the development, and therefore it should comprise a semi-natural habitat strip, made up of at least 50% tree cover, planting this area if necessary. This will help to protect the ancient woodland from the effects of the construction and change of use, in line with the recommendations of the NPPF and local planning policies, as noted above. This will also increase the available habitat onsite helping to contribute to an increase in biodiversity locally as well as mitigating the impacts of this development.

In our view, it is clear that planning permission for this outline application ought to be refused as it will result in the loss of ancient woodland.

For the reasons set out above, we object to planning permission being granted due to the loss of and damage to ancient woodland. This outline planning application directly contravenes government guidance and local planning policies for ancient woodland and habitat protection.

Ecologist

Recommendation

The application will involve access through a belt of woodland called Kings Way Shaw, causing both direct loss of woodland and severing connectivity between the remaining sections either side which may result in deterioration. This feature is listed in the Natural England inventory of ancient woodland. There is very little detail provided on this feature within the accompanying ecological report but nothing to refute its classification as ancient woodland.

Para 118 of the NPPF states that "planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including

ancient woodland... unless the need for, and benefits of, the development in that location clearly outweigh the loss.

Therefore, unless MSDC is satisfied that the need for, and benefits of, this development in this location clearly outweigh the loss of irreplaceable ancient woodland (and that there is no other feasible access with less impact), planning consent should be refused.

There may also be landscape heritage reasons for refusal associated with the loss of ancient woodland, which are outside of the scope of this advice and further advice on this should be sought from the council's landscape / heritage advisors.

The submitted ecological assessment report by Tyler Grange, dated 25 September 2015 (ref 2440_R02_SC_SMC) indicates that the proposal will also impact on terrestrial great crested newt habitat and involve the loss of common pipistrelle bat roosts. As these are European protected species, the local planning authority is required to have regard to The Conservation of Habitats and Species Regulations 2010 in demining the application. Case law indicates that in order to discharge their duties in this respect, they should consider whether a derogation licence is likely to be granted by Natural England if implementing planning consent would otherwise result in an offence under the regulations. A licence can only be granted for development purposes where it is considered to be for an imperative reason of overriding public interest including those of a social or economic nature and where the following conditions are met:

- there is no satisfactory alternative; and
- the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Imperative reasons of overriding public interest may include meeting housing needs. If MSDC consider, having taken into account all other material considerations including impact on ancient woodland, that there is an overriding public interest in granting consent and accept that there is no satisfactory alternative then, taking into account the proposed mitigation and compensation measures in the ecological assessment report by Tyler Grange, I am of the opinion that the third test could be met. However, if MSDC are minded to refuse consent, the failure to meet all of the three tests should also form a reason for refusal.

I am satisfied that, subject to appropriate mitigation and compensation measures supported by updated survey information at reserved matters stages, all other ecological impacts could be satisfactorily addressed in accordance with relevant planning policies.

Environment Agency

Thank you for consulting us on the following planning application. DM/15/4379 Surface Water Amendments to the Development Management Procedure Order (DMPO) came into effect on 15th April 2015. As a result we are no longer a statutory consultee on 'development of land over 1 hectare' (Para zf of DMPO 2010, Schedule 5) and will therefore not be commenting on the surface water aspects of this proposal. Please be

aware that we are still statutory consultee on any development (other than minor development) in Flood Zones 2 and 3. West Sussex County Council as the Lead Local Flood Authority are now statutory consultee for 'Major development with Surface Water Drainage', we therefore recommend that you consult them. I trust the above comments are satisfactory but if you require any further information please contact me.

Sussex Police

Letter received from Dennis Donovan, Crime Prevention Design Advisor, dated 18th Nov. 2015

“Thank you for your letter of 9th November 2015, advising me of an outline application for residential development at the above location, for which you seek comment from a crime prevention viewpoint.

The Nation Planning Policy Framework demonstrates the government’s commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion, and with the level of crime and anti social behaviour in Mid Sussex district being below average when compared to the rest of Sussex, I have no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends may be required.

In general terms I support the proposed design and layout of this development which, being a single vehicular access road leading to a series of small cul de sacs with no through route, will give residents a sense of ownership and community and will deter trespass. At this stage, I have no detailed comment to make, however, I am encouraged to note that the Design and Access Statement includes reference to community safety and crime prevention using the principles of Secured by Design and the seven attributes of safe, sustainable places.

I thank you for allowing me the opportunity to comment and look forward to being further consulted at the reserved matters stage.”