

Report to:	PLANNING COMMITTEE
Date:	24 May 2017
Report from:	Assistant Director of Housing and Built Environment
Application Address:	35 Tower Road, St Leonards-on-sea, TN37 6JE
Proposal:	Construction of thirteen apartments comprising 3 x 1, 8 x 2 and 2 x 3 bedrooms
Application No:	HS/FA/16/00857
Recommendation:	Grant Full Planning Permission
Ward:	GENSING
File No:	TO45035
Applicant:	<u>Magdalen and Lasher Charity</u> per John D Clarke Architects 2 West Terrace Eastbourne East Sussex BN21 4QX
Interest:	Freeholder
Existing Use:	Mixed uses including retail, residential, upholstery, car sales and car repairs
Policies	
Conservation Area:	No
Listed Building:	No
Public Consultation	
Adj. Properties:	Yes
Advertisement:	Yes - General Interest
Letters of Objection:	18
Petitions Received:	1
Letters of Support:	1
Application Status:	Not delegated - Petition received

Site and Surrounding Area

The application site relates to 35 Tower Road, St. Leonards-On-Sea. The site is situated at the junction of Tower Road, Cornfield Terrace and St. Peters Road. The site is wedge-shaped being wider at its southeast boundary (adjacent to 30 St Peters Road) and narrowing towards the northwestern boundary with Tower Road.

There are a mixture of buildings on site and a mixture of uses. These uses include an existing shop unit, some flatted accommodation, a small former car sales yard, a car repair centre and an upholsterers.

The site is surrounded by mostly residential development (as a mix of houses and flats) in the form of terraced buildings ranging in height from two to three and half storeys. There is a school to the southwest and a public house to the north. Other commercial uses can be found at either end of Tower Road with Bohemia Road being designated as a local shopping area.

Constraints

Surface Water Flooding Area - 1 in 30, 1 in 100 and 1 in 1000 risk

SSSI Impact Risk Zone

Within 600m of a playground

Proposed development

This is an application for the demolition of the existing buildings on site and the erection of a flatted block of 13 units as a mix of 3 x 1, 6 x 2 and 3 x 3 bedrooms. The proposed building is a modern flat roof design that is part three and part four-storeys tall (at its tallest point the building is approximately 12.6m). The proposal includes a mixture of facing materials including timber cladding, a composite rain-screen panel on the third floor and a buff white-grey brick for the main elevations with contrasting brick face to the section of the building adjoining 30 St Peters Road. The proposal includes 13 undercroft parking spaces (two of which are disabled parking bays).

This proposal follows an application for 14 flats, under reference HS/FA/14/00968, which was recommended for approval to the Planning Committee in 2015. The application was deferred due to concerns raised about parking but the applicant also took this opportunity to review the concerns that had been raised by local residents. The applicant ultimately withdrew that application to concentrate on making comprehensive changes to the scheme. This new application includes those changes in an attempt to overcome the previous concerns. The applicant describes the main changes as:

- removal of one residential unit from the ground floor to allow for revised parking, refuse storage and cycle storage;
- the lowering of the proposed building by 1m (compared with the previous application);
- changes to the layout of some flats;
- the reduction in the size of the building adjacent to 30 St Peters Road; and
- various elevational changes including the substitution of the mostly rendered facade for a buff white-grey brick.

The application is supported by the following documents:

- Drawings
- Design and access statement
- Sunlight study
- Parking report
- Heritage Statement
- Loss of employment statement
- Affordable housing statement

- Unit floor area schedule
- Flood risk assessment
- Drainage strategy

Relevant Planning History

HS/FA/14/00968 Construction of fourteen apartments comprising 5 x 1, 6 x 2 and 3 x 3 bedrooms.
Withdrawn 26 July 2016

Prior to the submission of the 2014 application the applicant engaged in pre-application discussions and this was generally positive. The redevelopment of the site was supported in principle and the applicant was given advice in respect of parking, design and affordable housing before making the application submission.

National and Local Policies

Hastings Local Plan – Planning Strategy (2014) (HPS)

Policy FA2 - Strategic Policy for Central Area
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy SC2 - Design and Access Statements
Policy SC3 - Promoting Sustainable and Green Design
Policy SC4 - Working Towards Zero Carbon Development
Policy SC7 - Flood Risk
Policy EN1 - Built and Historic Environment
Policy H1 - Housing Density
Policy H2 - Housing Mix
Policy H3 - Provision of Affordable Housing
Policy E1 - Existing Employment Land and Premises
Policy CI3 - Children's Play Provision
Policy T3 - Sustainable Transport

Hastings Local Plan – Development Management Plan (2015) (DMP)

Policy LP1 - Considering Planning Applications
Policy DM1 - Design Principles
Policy DM3 - General Amenity
Policy DM4 - General Access
Policy DM5 - Ground Conditions
Policy DM6 - Pollution and Hazards
Policy HN4 - Development affecting Heritage Assets with Archaeological and Historic Interest or Potential Interest
Policy HN5 - Non-Designated Heritage Assets

Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013
Technical housing standards – nationally described space standard
Supplementary Planning Document - Employment Land Retention

National Planning Policy Framework (NPPF)

The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Consultations comments

Highways - **No Objection**. Recommends a number of conditions.

Environmental Health - Contaminated Land - **No Objection**. Requires condition for Phase 2 contaminated land survey.

Southern Water - **No Objection**. Recommends a condition in order to protect/divert sewer crossing the site, an informative regarding connection to the public sewerage system and provides advice on surface water disposal.

ESCC Flood Risk Management - **No Objection**. Requested additional drainage information from the applicant, which following submission, was followed up with a recommendation of approval subject to conditions.

County Archaeologist - **No Objection**. Recommends a condition requiring a programme of archaeological works.

Representations

25 no of representations received from 18 different properties.

24 letters of objection have been received raising the following concerns:

- Development too large and out of scale with surroundings
- Highway safety, traffic and parking problems
- Impact on vitality of Bohemia Road Shopping Area
- Loss of existing employment uses
- Land contamination
- Drainage and flooding concerns
- Loss of light
- Noise and pollution
- Overdevelopment
- Development out of character
- Poor use of materials
- Problems during demolition and construction
- Loss of privacy/overlooking
- Subsidence and impact of piling
- Breach of human rights
- Impact on outlook
- Impact of SuDS drainage on neighbouring properties
- Maintenance and management of SuDS drainage

The following other concerns have been raised but are not considered to be material to the determination of the application:

- Lack of consultation by applicant - this is not a legal requirement.
- A survey of green space and land around St Leonards Warrior Square Railway Station - this does not relate to the development proposals.
- Relocation of existing businesses on site - Whether the businesses are relocated or not is a matter for the businesses and the owner of the land.
- Value of properties - impact of development on property values has long been held not to be a material planning considerations as it is a matter of personal finance and not in the public interest.
- Loss of views - the loss of views from individual properties is not protected as it is not in the public interest.
- Construction details of building and impact on neighbouring properties - this is a matter of building control and/or a party wall issue.

One letter of support has been received raising the following:

- Proposal provides for affordable homes with positives outweighing the negatives

Petition signed by 98 people received raising concerns about the following:

- Problems during demolition and construction
- Road safety and parking
- Drainage and sewerage
- Loss of light and privacy
- Design and overdevelopment
- Loss of jobs

Determining Issues

The proposal includes the demolition of all buildings on site and its redevelopment for a flatted block. On this basis, the main issues to consider are the principle of the development and the loss of existing employment uses, the impact upon the character and appearance of the area, the standard of accommodation proposed, the impact upon neighbouring residential amenities, land contamination, impact on heritage assets, drainage, highway safety and parking matters.

Principle and loss of employment uses

Policy LP1 of the Hastings Local Plan - Development Management Plan (2015), paragraph 4.3 of the Hastings Local Plan – Planning Strategy (2014) and paragraph 14 of the NPPF set out a presumption in favour of sustainable development. The site is within a sustainable location with reasonable/good access to public transport, shops, services and facilities and as such the development is considered acceptable in principle subject to other local plan policies.

Further to this general principle it is necessary to firstly consider the loss of employment uses on site as, until this is justified, any redevelopment proposals cannot be assessed. In this respect policy E1 of the HPS applies. The existing site includes various buildings and the following commercial uses - a shop unit, a car sales area, a car repair centre and an upholsterer's.

There are no policies resisting the loss of retail uses in this area (i.e. the shop and car sales area) so the loss of these uses is considered acceptable. Policy E1 of the HPS resists the loss of employment uses - specifically those within Use Classes B1 (offices, workshops), B2 (general industrial) and B8 (storage and distribution) or similar - unless it can be proven that there is no reasonable prospect of the continued use of the site for employment purposes or the use is incompatible with neighbouring residential properties.

In this particular instance, the upholsterer's and the car repair centre would be considered employment uses in planning terms. The upholsterer's would be considered a B1 use (possibly a B2 use depending on levels of noise and disturbance or manufacturing techniques) and the car repair centre would be considered a B2 use.

The car repair centre as a B2 use would, by definition, be considered harmful to neighbouring residential amenities. It is noted from previous discussions with the operator and neighbouring residents that the premises appears to operate in a manner which is mutually acceptable to all parties but it is the use that is considered in planning terms, not the operator, and in this regard an uncontrolled B2 use adjacent to residential properties can be considered to cause harm. The loss of the car repair centre is, therefore, acceptable in accordance with policy E1 of the HPS. However, part (b) of Policy E1 of the HPS notes that other employment uses and mixed uses should be explored. In that respect the applicant has provided information regarding the cost of a mixed use and shown this not to be viable. This is further discussed below.

The upholsterer's, therefore, is the remaining loss that needs to be justified in accordance with policy E1 and the Council's Supplementary Planning Document: Employment Land Retention. This justification should be proportionate to the loss identified - in this instance 85sqm. To justify the loss, the applicant has provided a 'loss of employment statement' accompanied by correspondence from a local commercial property agent and a quantity surveyor.

It is not the intention of policy E1 to stop sites with employment uses being redeveloped but rather to ensure that, where there is an existing element of employment use on site, any redevelopment of that site should retain that use if viable. In this respect, it is acknowledged by the applicant that the upholsterer's has demonstrated a decent level of activity and long-term viability of the existing business. However, the applicant, as land owner, claims losses, indicating that although the business is healthy the premises operates at a loss due to maintenance costs and low rent. The viability of the existing use on site, not just the business, is therefore called into question but this isn't substantiated any further.

The applicant has explored retaining an element of employment space within the building but with build costs estimated to be in the region of £2,000 per sqm (provided by the chartered surveyor) and the value of the unit being between £75,000 and £81,000 (provided by the commercial agent) this is unlikely to be viable. Unit 1, the ground floor unit, is approximately 70sqm. The cost of this unit would therefore be in the region of £140,000. With a value just over half of the construction costs, the retention of employment space is not viable.

I note that the upholsterers have commented on the application and suggested that they could pay more rent and residents have queried the loss of the employment uses and the compliance with policy E1. Unfortunately, the statements do not in themselves provide evidence that the provision of the employment space within the redevelopment would be viable to counter the applicant's claim that this would be unviable. Therefore limited weight is given to these representations.

On the basis of the information submitted it is considered that a redevelopment of the site without employment uses is acceptable.

Although not a planning consideration the applicant has undertaken to help the existing businesses on site relocate to appropriate premises, but the representations against the application suggest otherwise. An informative note is recommended to the applicant to encourage them to help relocate the business premises on site.

Impact on character and appearance of area

The proposed building is a modern flat roof design that is part three and part four-storeys tall (at its tallest point the building is approximately 12.6m). The building is intended to adjoin 30 St Peters Road just below the parapet height of its end wall and will extend towards Tower Road where the end of the building will be similarly positioned to the existing property, 35 Tower Road.

The applicant proposes to match the depth of 30 St Peters Road (8.5m - excluding its rear projection) for the part of the building that is adjoining this property. The building would maintain this depth for approximately 5.4m before becoming deeper in staggered effect. The proposed building would then occupy the full depth of the site from the position of 48 Cornfield Terrace onwards toward Tower Road.

The proposal includes a mixture of facing materials including timber cladding, a composite rain-screen panel on the third floor, and a buff white-grey brick for the main elevations with contrasting brick face to the section of the building adjoining 30 St Peters Road. There are tall windows/Juliette balcony doors of varying widths on all elevations.

The proposal includes 13 undercroft parking spaces (two of which are disabled parking bays).

The proposed development is very similar to that shown previously in application HS/FA/14/00968, however, due to a reduction in units and to overcome concerns raised previously, the scheme has changed as follows:

- removal of two residential units from the ground floor to allow for revised parking, refuse storage and cycle storage;
- the lowering of the proposed building by 1m (compared with the previous application);
- changes to the layout of some flats;
- the reduction in the size of the building adjacent to 30 St Peters Road; and
- various elevational changes including the substitution of the mostly rendered facade for a buff white-grey brick and alterations to the style of some of the proposed windows.

There has been a lot of objection to the design of the building and the impact the development will have on the character and appearance of the area. A lot of this objection is influenced by the prevalence of terraced Victorian architecture in the area. Although not a conservation area, the consistency in design is one of the area's key features. St Peters Road is an exceptional example of uniformity. Other roads have more variation but there are still rows of 4 or more units with similar features.

In very early discussions with the applicant it was agreed or noted that:

- There is strong rhythm and repetition in the area - this mostly relates to the strong repetitive rows of terraced housing - and this needs to be reflected in the design.
- The overall height of building needs to be reviewed especially so that the scale better

relates to building heights along St Peters Road and it doesn't dominate the properties on Cornfield Terrace.

- Make sure that all elevations have a consistency in elevation treatments - for example, more consistent window size and design throughout the building to create a strong identity based on repetition, rhythm, type of opening, etc.
- A contemporary design approach is supported.

As mentioned, the submitted proposal is a variation of that shown previously but it is clear that the applicant has attempted to maintain the general design concept of the earlier application which was found to be acceptable. It is considered that the proposal is one that makes reference to local character in a fresh and modern way.

Firstly, the scale of the building is comparable to local development. At the early pre-application stage the building's height and massing were exaggerated but the building is much more comparable with the properties on St Peters Road now, building up to an additional storey at the Junction of St Peters Road and Cornfield Terrace with Tower Road. The additional storey is set back from the main elevation on all sides and this helps to reduce the massing of the property. The overall scale of the building is comparable with properties in St Peters Road and Tower Road. These properties are 3 storeys with pitched roofs and this building is 3 storeys with a recessed fourth floor. As noted by the applicant, the proposal is now 1m lower than the previous application which aids with the development's relationship with existing built form.

In terms of its appearance, the building proposal uses windows, design features and changes in materials to break up the facade. The way this has been done also results in repetition which is an interpretation of the repetition of bays that can be found in properties in St Peters Road and surrounding roads. The use of tall windows and Juliette balconies to reflect the use of large Victorian windows is welcomed.

The applicant has changed the material of the main facades from render to a buff white-grey brick. The reason for this change is due to concerns about ongoing maintenance of the building but there are reservations about the use of the proposed brick which would look odd compared with the strong local vernacular of stucco or red brick buildings. To overcome these concerns it is considered that the applicant should revert to the use of render and such matter can be controlled by condition. This will ensure the development is compatible with the prevalent use of stucco in Victorian architecture.

The proposal otherwise includes some uncommon materials for the area - such as vertical timber cladding and aluminium panels - but this is deliberate to allow for an appropriate deviation from surrounding architecture and to prevent the building from being pastiche. The design and use of materials are considered acceptable as they give the proposal its modern twist and are used to break up the facade to help provide rhythm to the building or, as is the case with the use of aluminium panels for the recessed fourth floor, reduce the visual massing of the building.

Other design features have been incorporated for their practical solutions - such as angled windows which are used to avoid direct overlooking to properties on Cornfield Terrace or maximise sunlight - but all of these have been used to help make the overall appearance of the building compatible with its surroundings.

With regard to the use of the building, the proposed development includes a mixture of 1, 2 and 3 bedroom flats. The surrounding area is made up of a mixture of flats and single dwelling houses. The proposed development is compatible with this local mix and will add to the housing offer in the local area. The applicant proposes that the development could

provide for between 20% (the policy H3 requirement) and 100% affordable housing. Concentrations of affordable housing can have negative results but at this scale, amongst a mixture of property sizes and tenures, with good access to schools, shops and amenities, the proposed use is considered acceptable.

The proposed development will not harm the character and appearance of the area and is not considered contrary to policies SC1, H1, H2 and H3 of the HPS and policy DM1 of the DMP. The proposal is also not considered to conflict with design considerations in paragraphs 60, 64 and 65 of the NPPF, which state:

60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

- 1. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*
- 2. Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposals economic, social and environmental benefits).*

Heritage:

The proposals have been identified by the County Archaeologist as having some heritage significance but, only in terms of the buildings and not because of any below ground archaeological potential. The applicant concludes otherwise in their Heritage Statement stating that "there is no historic use nor architectural feature or setting of sufficient heritage value as to warrant any particular protection." The conclusion of the applicant appears more relevant, and is more thought out than the County Archaeologist's comments, but, nonetheless the consideration of the existing buildings on site as non-designated assets has been raised and the proposal should be considered in the context of policy HN5.

In this respect the existing buildings have been identified as Victorian but other than their age, there is no demonstrable evidence (statutory designation or detailed assessment of their significance) that suggests the comprehensive redevelopment of the site to provide much needed residential accommodation would be outweighed by the retention of the buildings.

The proposed loss of the existing buildings is therefore considered acceptable given the public benefit of providing more homes (including affordable housing).

Standard of accommodation proposed

The applicant has provided a schedule of accommodation with their proposal which shows that all flats either meet or exceed the minimum floor spaces required by the Government's 'Technical housing standards – nationally described space standard'. These standards supersede the floor spaces in policy DM3.

The properties otherwise have decent layouts with good levels of sunlight and daylight being achieved. There is dedicated cycle storage in the building; separate bin storage parking and the building would be served by two lifts improving accessibility.

The development is otherwise located well in terms of public transport and access to shops and services so overall a decent standard of accommodation is proposed. The development complies with policies SC1 and H2 of the HPS and policy DM3 of the DMP.

Impact on neighbouring residential amenities

Together with design and the impacts on parking, the impact on neighbouring residential amenities is one of the application's most contentious matters. Ultimately, it is considered that the proposal is considerate of neighbouring amenities but the main issues are as follows:

Firstly, the scale of the building is considered by some to be overly dominant. As explained above the scale and massing of the building has been reduced and is comparable with existing development along St Peters Road and Tower Road. The proposal is taller than the properties on Cornfield Terrace but the applicant has made a concerted effort on the Cornfield Terrace elevation to set the building back and reduce its height in parts to ensure the proximity and massing in relation to Cornfield Terrace is not harmful. The same can be said in terms of the developments relationship with 30 St Peters Road. Here the building does not protrude past the rear elevation for a width of approximately 5.4m.

Related to the dominance of the building is the impact on daylight and sunlight. It is accepted that the proposed development will change the way existing properties in the area benefit from daylight and sunlight - the new development covers more of the site when compared with the existing situation - but that being said the relationship of the proposed development with existing development is not uncommon for an urban area. The changes in sunlight and daylight are not considered harmful. This conclusion has been further informed by the applicant's sunlight study. This shows that the properties on Cornfield Terrace already experience poor levels of sunlight during the winter but that the new building will not make that much difference during the equinox periods or during the summer. The relationship with Cornfield Terrace has also been improved when compared with the previous submission as the proposal is, in part, set further in on its rear elevation.

There has been an objection from the residents at 30 St Peters Road, specifically about the loss of light to their property and courtyard area. The property already experiences overshadowing during the winter and equinox periods and whilst there would be some additional overshadowing during the summer months, the property still receives morning sunlight and benefits from the high sun during the summer. The front of the property is also southwest facing so overall the property receives a good level of light. The changes in light received would certainly not be detrimental to the amenity enjoyed at no.30 and is comparable to the other mid-terrace properties along St Peters Road as demonstrated by the sunlight study.

The relationship with 30 St Peters Road has also been improved in comparison to the previous submission with no built form now proposed beyond the rear elevation of the main house or along the garden boundary wall.

The scale of the building is appropriate. It is not considered overly dominant nor will it result in unacceptable losses of sunlight and daylight as noted above.

In terms of overlooking and privacy, the applicant has ensured that any windows which are close to the Cornfield Road properties are orientated so that either they do not directly face those properties or they are to be obscure glazed. Other windows are suitably distanced to cause no loss of privacy in planning terms. The windows in the northeast elevation are either obscure glazed or suitably positioned to cause no direct overlooking to the residents at 30 St

Peters Road.

Whilst the applicant has made a concerted effort to avoid overlooking in planning terms, it is noted that the windows in the new development will be visible to those in the surrounding area which may create the perception of being overlooked. It should be noted, however, that this is a densely built up area of the Borough where a degree of overlooking is common place. 30 St Peters Road, for example, benefits from being an end of terrace unit and whilst the addition of an adjoining 3-storey building changes the dynamic, this relationship is a similar relationship to other properties in the area. Again, it is not considered that a harmful degree of overlooking will occur as a result of this development.

The balcony areas proposed have been rationalised, when compared with the original pre-application proposals, and are restricted to areas where they will not directly overlook any neighbouring residential properties.

Due to the residential nature of the development, the proposal is otherwise not considered to cause any noise and disturbance that would cause harm to neighbouring residential amenities. Because of the loss of the car repair centre, there may be some benefits in terms of noise reduction.

The proposed development will not adversely harm neighbouring residential amenities. The proposal complies with policy DM3 of the DMP.

Highway Safety/Parking

The previous application was deferred by the Planning Committee so that the applicant could provide further justification in terms of parking and highway safety. The application was subsequently withdrawn but this proposal includes information on parking.

It is acknowledged that parking is the most contentious application issue and that there are obvious pressures in terms of on-street parking and highway safety. That said, many of the objections include anecdotes of parking problems and some submitted with the previous application included photographs showing periods of on-street parking pressures. Unfortunately, although the objections have been taken seriously, this information is a qualified picture of the problem as those objecting to the application have not undertaken an accurate parking study nor have they been able to quantify the extent of the problem. The Local Highway Authority acknowledge the issues with on-street parking in the area, however, the application has been accompanied by a parking report to justify the acceptability of the proposal in parking and highway safety terms.

Whilst the consultation with the LHA notes there is a shortfall in parking provision of one space - 13 spaces are provided whilst 14 unallocated spaces are required - the study identifies there are still opportunities for on-street parking in the vicinity of the area and this on-street parking can make up for the insignificant shortfall. There has been criticism of this study but it is the only quantitative evidence submitted and as such it is given sufficient weight.

In addition to the issue of parking spaces, it should be noted that the proposed development is in a sustainable location. There is very good access to public transport, shops and services, with Bohemia Road within a short walking distance and Silverhill providing a supermarket, banking and post office.

It is acknowledged that the development will also increase traffic movements in the area. Despite the strong concerns raised by some residents, the traffic movements are very small compared to the existing situation and it is not considered that the proposed development

will result in any additional highway safety concerns.

Given the above the proposed development is considered acceptable in terms of parking and highway safety. It complies with policy T3 of the HPS and policy DM4 of the DMP.

Land contamination

As flagged up by representations on the previous application, the historical uses of the site raise issues of land contamination. Because of this, the application has been accompanied by a Phase 1 contamination report. This report has identified the potential presence of contaminants such as volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs) and polycyclic aromatic hydrocarbon (PAH).

The Senior Environmental Health Officer (SEHO) has considered this information and has recommended, by condition, that a Phase 2 survey is carried out. This will require detailed investigation of the site for contaminants before development commences and, depending on the outcome of those investigations, a remediation strategy that will explain how the presence of any contaminants will be dealt with.

Although policy DM5 states that details of remediation/mitigation will be required at the application stage the SEHO has confirmed that a condition requesting this information prior to the commencement of development is acceptable.

Drainage

The proposed development is being built on land that is exclusively impermeable. That said, as this is redevelopment, relates to a major development (more than 10 units) and there is a high risk of surface water flooding, the ESCC Flood Risk Management Team required the applicant to submit more information in relation to flood risk at the site and how drainage will be dealt with. The applicant subsequently submitted a flood risk assessment and a drainage strategy for the site.

The flood risk assessment provides information on how flooding during an extreme rainfall event could be mitigated and this is mostly through raised flood levels. These raised floor levels are shown on amended drawings.

The Sustainable Drainage Advisor otherwise acknowledges that the submitted information is sufficient in explaining that any flood risk can be mitigated to an acceptable level but the submitted information does not meet all of their requirements. Therefore, it is recommended that full drainage details, including hydraulic calculations, flood resilience measures and a detailed maintenance and management plan for the site, are required by condition.

An objector directly contacted the Sustainable Drainage Advisor with their concerns about the drainage proposals and they responded that the provision of details by condition will ensure the matter of surface water drainage will be adequately dealt with.

With regard to foul drainage, Southern Water have raised no objection. A sewer crosses the site and Southern Water have requested a condition about protection or diversion of the sewer.

Subject to the recommended conditions the proposed development is not considered contrary to policy SC7.

Air Quality and Emissions

Having regard to guidance contained within 'Air Quality and Emission Mitigation' 2013 produced by Sussex Air Quality Partnership, the proposed development will not exceed

statutory guidelines for airborne pollutants and Environmental Health Officers have no objection in this respect. No external lighting is proposed and residential amenities are not harmfully affected. The development may give rise to ground or surface water pollutions and conditions are attached which require investigation, details of remediation and surface and foul water drainage to be submitted. The development is therefore in accordance with Policy DM6 of the Hastings Development Management Plan (2015).

Affordable Housing and other contributions

The applicant has stated that the proposed development can provide for at least the policy level of affordable housing (20%) and up to 100%. It is not clear that this has been investigated any further with no details about which Registered Provider is being used nor is there a draft legal agreement. The recommendation of this application is therefore subject to the completion of a legal agreement to secure affordable housing.

Sustainable Construction

The applicant confirms that the proposed development will meet the requirements of Part L of the building regulations, which would satisfy the Local Plan objectives. However, the applicant has not submitted how this compliance will be achieved in accordance with the hierarchy of policy SC4 nor have specific measures in accordance with policy SC3 been provided.

Green and sustainable design information is requested by condition.

Other

The impacts of construction on neighbouring residents can be controlled by conditions restricting hours of working and managing construction traffic.

There are no known issues relating to land instability, therefore, concerns raised about subsidence and piling are either a matter for building regulations or a private issue. The building regulations process will ensure that the development and its construction occur in a way which is safe and structurally sound but, if residents have concerns about the potential impact on their houses, they are advised to seek advice on party wall matters or private legal advice.

The site is within 600m of a play area so does not conflict with policy C13.

The site is within a SSSI Impact Risk Zone but does not exceed any of the thresholds that require consultation with Natural England. It is therefore not considered that there will be any harm to SSSIs.

Evidence of Community Involvement

The application is not accompanied by a statement of community involvement but there is no policy or statutory requirement for this and consultation with local residents is not material to the determination of the application. There are various references to discussions with the local community by the applicant. These claims are disputed in some of the representations against the proposals so it is difficult to understand the extent to which community involvement has been undertaken. That said, there are obvious changes to the scheme, when compared with the previous proposal, addressing previously raised concerns so some engagement is apparent.

Conclusion

These proposals, subject to conditions and a legal agreement, comply with the development plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

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

The Human Rights considerations have been taken into account fully in balancing the planning issues.

Recommendation

A) That the Planning Services Manager be authorised to issue planning permission upon completion of a S106 Agreement to secure affordable housing unless it has been conclusively shown that the development would not be viable and it would still be acceptable in planning terms with a reduced provision or without the affordable housing. In the event that the Agreement is not completed or the viability issue not resolved by 24 November 2017 that permission be refused on the grounds that the application does not comply with Policy H3 of the Hastings Local Plan, The Hastings Planning Strategy 2011-2028 unless an extension of time has been agreed in writing by the Planning Services Manager in consultation with the Chair and Vice Chair of the Planning Committee.

B) Subject to A) above:

Recommendation

Grant Full Planning Permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

9729/00, 2A, 03I, 04E, 06D, 07F, 08B and 09
3. No development shall take place above ground until sample of the materials to be used and details of their location in the construction of the external surfaces of the flats hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Notwithstanding that shown on the approved drawings a sample of render shall be submitted in place the white-grey buff brick. Development shall be carried out in accordance with the approved details.

4. No development above ground shall take place until full details of the hard 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 proposed finished levels or contours; means of enclosure; hard surfacing materials; and connection to surface water drainage.
5. All hard landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
6. All planting, seeding or turfing for the approved garden and planting areas, as shown on drawing no.9729/03I, shall be carried out prior to the occupation of any part of the development, or with the written agreement of the Local Planning Authority, in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner. 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.
7. Before they are installed details of the balcony and roof terrace balustrades shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
8. Before the development hereby approved is commenced details of appropriate climate change mitigation and adaptation measures as required by policy SC3 and in accordance with the hierarchy of policy SC4 of the Hastings Local Plan, The Hastings Planning Strategy 2011-2028 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
9. Before the development hereby approved is occupied provision shall be made for the ability to connect to fibre-based broadband.
10. Prior to the commencement of development, including any demolition, a Traffic Management Scheme shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. This shall include the size of vehicles, routing of vehicles and hours of operation. Given the restrictions of the access and/or the approach road the hours of delivery/collection should avoid peak flow times and the size of vehicles should be restricted. The development shall be carried out in accordance with the approved scheme.
11. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

08.00 - 18.00 Monday to Friday

08.00 - 13.00 on Saturdays

No working on Sundays or Public Holidays.

12. The new accesses shall be in the positions shown on the approved drawing no. 9729/03I and laid out and constructed in accordance with the attached HT407 form/diagram and all works undertaken shall be executed and completed by the applicant to the satisfaction of the Local Planning Authority prior to occupation of the development hereby permitted.
13. The development shall not be occupied until the parking areas have been provided in accordance the approved drawing no. 9729/03I. The areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles. The parking areas shall also remain unallocated.
14. The building shall not be occupied until the existing accesses shown on submitted drawing no. 9729/03I have been stopped up and the kerb and footway reinstated in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
15. Prior to any form of earthworks and/or excavations that are carried out as part of the development, suitable vehicle wheel washing equipment should be provided within the site, to the approval of the Local Planning Authority, to prevent contamination and damage to the adjacent roads. The development shall be carried out in accordance with the approved details.
16.
 - (i) Construction of the development, including demolition, shall not commence until details of the proposed means of foul sewerage and surface water disposal/management have been submitted to and approved in writing by the Local Planning Authority.
 - (ii) Development shall be carried out in accordance with the details approved under (i) and no occupation of any of the dwellings or flats hereby approved shall occur until those works have been completed.
 - (iii) No occupation of any of the dwellings or flats hereby approved shall occur until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.
17. The details required by condition 16 above shall include measures which will be undertaken to divert/protect the public sewers and water mains.
18. The details required by condition 16 above shall:
 - be based on the principle of surface water management outlined on Monson's drawing no. 8282K-01A included in their document 'Drainage strategy & sustainable drainage, management and maintenance plan', dated 01 March 2017 (Issue A);
 - ensure surface water runoff from the proposed development should be limited to 3.5 l/s for all rainfall events, including those with a 1 in 100 (plus climate change) annual probability of occurrence;
 - evidence the runoff rates in the form of hydraulic calculations on the detailed drainage drawings; and
 - ensure that the hydraulic calculations take into account the connectivity of the different surface water drainage features.

19. Prior to the commencement of development details of flood resilient measures to the ground floor shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved measures.
20. Prior to the commencement of development a maintenance and management plan for the entire drainage system should be submitted to and approved in writing by the Local Planning Authority. The plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and evidence should be provided that these plans will remain in place in perpetuity.
21. All windows shown on the approved drawings as obscure glazed shall remain obscure glazed and non-opening at all times.
22. No development, including demolition, shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
23.
 - i) Prior to the commencement of development, including any demolition, a detailed Phase 2 (intrusive) contaminated land report shall be submitted to and approved in writing by the Local Planning Authority. The report should follow the recommendations listed in the Phase 1 Desk Study and Reconnaissance Report by Leap Environmental Ltd (Ref LP1171, dated 25 May 2016).
 - ii) Should any contaminant pathways be identified in the Phase 2 report, prior to the commencement of development, a Phase 3 (remediation) report shall be submitted to and approved in writing by the Local Planning Authority.
 - iii) The development shall be carried out in accordance with any approved remediation and mitigation of the phase 3 report.
 - iv) Prior to the occupation of the development a verification report must be submitted to and approved in writing by the Local Planning Authority. The verification report shall include photographs of the works undertaken and demonstrate that the works have been carried out satisfactorily and the remediation targets have been achieved.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of the visual amenity of the area.
4. To ensure a satisfactory form of development in the interests of the visual amenity.
5. To ensure a satisfactory form of development in the interests of the visual amenity.
6. To ensure a satisfactory form of development in the interests of the visual amenity.
7. In the interests of the visual amenity of the area.
8. To ensure the development complies with policy SC3 of the Hastings Local Plan: The Hastings Planning Strategy.
9. To ensure the development complies with policy SC1 of the Hastings Local Plan: The Hastings Planning Strategy.
10. In the interests of vehicular and pedestrian safety.
11. To safeguard the amenity of adjoining residents.
12. In the interests of the safety of persons and vehicles entering and leaving the access and proceeding along the highway.
13. In the interests of the safety of persons and vehicles entering and leaving the access and proceeding along the highway.
14. In the interests of the safety of persons and vehicles entering and leaving the access and proceeding along the highway.
15. In the interests of highway safety and for the benefit and convenience of the public at large.
16. To prevent increased risk of flooding.
17. To prevent increased risk of flooding.
18. To prevent increased risk of flooding.
19. To prevent increased risk of flooding.
20. To prevent increased risk of flooding.
21. In the interests of the amenity of the neighbouring residential occupiers.

22. To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.
23. To protect those redeveloping the site and any future occupants from potential landfill gases and soil contamination.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.
3. This permission is the subject of an obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).
4. A formal application for connection to the public foul sewerage system is required in order to service this development and should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. For more advice or to make the application for connection please contact Southern Water: Developer Services, Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW. Tel: 0330 303 0119. E-mail: developerservices@southernwater.co.uk.
5. The applicant is encouraged to help the existing businesses on site relocate to alternative premises.

Officer to Contact

Mr S Batchelor, Telephone 01424 783254

Background Papers

Application No: HS/FA/16/00857 including all letters and documents