

**Agenda Item 8
Report PC77/17**

Report to **Planning Committee**

Date **14 December 2017**

By **Director of Planning**

Local Authority **Lewes District Council**

Application Number **SDNP/17/03100/FUL**

Applicant **Cross Stone Regeneration Ltd.**

Application **Construction of three blocks with 41 residential units (C3), new business floorspace (B1a/B1c) together with associated parking, external amenity space and landscaping.**

Address **Land at Units 6-8 Brooks Road, Lewes, East Sussex**

Recommendation: That planning permission be refused for the reasons set out at section 10.1 below

Executive Summary

This proposal is for mixed business and residential development comprising 13 business units of varied sizes on the ground floor and 41 no. one and two bedroom flats above. The site was granted planning permission along with other land at the adjoining Tesco store, for a retail extension with a new service yard and extended car park on the site, but no building work has taken place. The site has remained vacant following demolition of older B class buildings. The applicant has undertaken a viability assessment which indicates that commercial development alone is unlikely to be viable - but with a scheme including the proposed flats this will facilitate a deliverable development.

The 3no. three and four storey buildings propose a high standard of design and internal layout, potentially adding to the vitality of the area and well-supported needs for small and medium local business, including a three year subsidy for the Lewes Phoenix Rising arts and artisanal business group.

However, there are two drawbacks. Firstly adjoining commercial premises undertake loading and deliveries from their sites at night. Future residents may find these activities to be a source of nuisance, if they choose not to keep their windows closed at night. Secondly, access routes to the site are through commercial areas offering a poor standard of amenity and bringing the risk of conflict between pedestrians and traffic. Two frontages would be dominated by car parking. Communal space also lacks privacy and tranquillity.

For viability reasons, affordable housing was not proposed initially, in accordance with the normal 40% requirement. However three flats are now proposed for affordable private rental for ten years at a favourable 75% of market value. Further discussion is needed with the housing officer and applicant regarding these details.

Amended highway plans include footways and a car club. The highway officer objected initially and comments on the amendments are awaited and this is a relatively sustainable location within the national park. Arrangements for the provision of car club vehicles need clarification. Adequacy of sustainable drainage proposals awaits the response of the drainage officer but the Environment Agency has no objection.

The scheme has important merits but the risks and their potential consequences for existing commercial premises associated with noise nuisance is, on balance, given greater weight in accordance with policies. The poor quality access and concerns for quality of the open space lead to a recommendation of refusal.

1. Site Description

- 1.1 The application site is approximately 0.39ha of which around 0.35ha is the developable space, with 0.4ha being the steeply sided, vegetated bank of a stream adjoining its northern end. The site is roughly rectangular but slightly tapering. One of its long sides, around 100m, faces the rear of the Homebase retail warehouse and loading area to the east, along with a community church. The site access is here. The long western frontage is with the car park and servicing yard to the Tesco retail store, there is a pedestrian pass gate here. Beyond the Tesco site is the River Ouse.
- 1.2 Currently the site is vacant, surrounded by hoardings and is overgrown. It has a broken concrete surface, following demolition of previous office/industrial buildings. To the south are two storey buildings including the Aldi retail store. To the north is the stream but notably, a narrow part of the north-west corner fronts onto Brooks Road, which serves Tesco's service yard and Sackville House, a three storey office to the north. The surrounding area comprises a mixture of industrial, office large retail and other employment buildings. The town centre is approximately 400m to the south west and Malling Field recreation ground is approximately 150m to the north east.

2. Relevant Planning History

- 2.1 SDNP/15/03770/PRE: 54 new flats with associated parking and landscaping. Principle of residential development not supported, concerns regarding relationship to character and accesses to the site.
- 2.2 SDNP/16/03372/PRE: 41 new flats, commercial space, parking. Noted the design improvements following the first pre-application proposal.
- 2.3 LW/08/1395: Demolition of two industrial units and Church and extension of Class A1 retail store. Approved 14 June 2010.

3. Proposal

- 3.1 This full planning application is to construct three blocks containing 13no B1 Class office and light industrial units at ground floor. Above would be 41 flats, comprising 15no. one bed and 26no two bed. Two of the blocks in the centre and north of the site would be four storey and one block to the south would be three storey. Between and around the buildings would be pedestrian paths, crossing the site from three entrance points. Vehicular access is via Brooks Road, serving 39no. car parking spaces and loading bay, which would lie along the Brooks Road frontage and the northern boundary. A communal planted space and potential rain garden would lie between the two northern blocks.
- 3.2 Boundaries would comprise a waist-high rail along the western frontage with Tesco's car-park, retaining a private pedestrian access. Further north, the high wall of Tesco's service yard would be retained and a new pedestrian/cycle access would be formed to Brooks Close and service road via a new louvered entrance feature. The northern boundary would include a retaining wall between new car parking and the steeply-sided stream and vegetation. The eastern boundary would be open to Brooks Road with a partial timber and tree screen to the communal space.
- 3.3 Site remediation works would be undertaken before development. The proposals are accompanied by a viability assessment, which indicates that commercial development here alone is not viable but that it is with the inclusion of residential development. Some contribution towards affordable housing is provided but for viability reasons, this is below the policy of 40%.

4. Consultations

4.1 Design Officer. Comments.

- Good urban design within the site but ‘sandwiching’ residential between two ‘big box’ commercial units is not sustainable. It brings multitude issues e.g. having to keep windows closed for a minimum of tranquillity. Potential for conflicting land uses to cause future grievances, might outweigh any architectural merit.
- Support the vertical mix of uses, the form, massing and active frontages on to the public realm (with exception of the close board fence dressing the perimeter of neighbouring sites).
- Sustainable location users can reach a variety of amenities using non-motorised methods.
- How has the scheme considered a Landscape-Led approach? E.g. integration of water: rain gardens, permeable surfaces, multifunctional green-space. Which drainage elements would be used – plan needed.

4.2 County Archaeologist. Object.

- High risk of significant geo-archaeological deposits, borehole survey required.

4.3 Ecologist: Comments awaited (Members will be updated).

4.4 Highways: Not supported (Comments on amended plan awaited).

- Insufficient and impractical parking provision.
- Scope for additional, detailed parking. Some shared residential / commercial use of spaces acceptable.
- Six proposed parking spaces encroach into turning head of street.
- Clarification needed between proposed access and highway.
- Gate may impinge manoeuvring for large & emergency vehicles.
- Shared parking access with adjoining Church may lead to over-spill parking between users and reduced Church parking. Tandem spaces would also limit communal parking.
- Inadequate footways. Existing shown to be removed, previously approved development include footway at Church frontage not included here.
- Pedestrian access via Tesco car park is safety risk and not legally secured.
- Traffic levels and travel plan supported.
- Close to bus stops, rail service, walking and cycling.

4.5 Drainage Officer: Comments.

- Surface water discharge rates to public sewer not given, nor evidence of Southern Water agreement; unclear where SUDS drainage structures are proposed, nor heights relative to discharge point.
- Risk of groundwater flooding and high water table, unlikely SUDS infiltration is feasible. Assurance needed that enough space proposed for SUDS.

4.6 Environmental Health: Comments.

Noise

- Proposed outdoor environment meets guidelines but mitigation needed for indoors.
- Residents facing the loading bays of Tesco’s and possibly Homebase could experience significant adverse effect. Mitigation would rely upon: long term maintenance of acoustic glazing; winter balconies; mechanical ventilation and use of brick construction. Should residents open their windows, which is not unusual, this may lead to future noise complaint and potential abatement action against commercial use.
- Maintenance and mechanical ventilation equipment should be maintained (SI06) and planning conditions for: verification of mitigation; acoustic barrier 2m high between flats and commercial premises; acoustic insulation between ground floor commercial and upper floors; Construction Management Plan (CEMP) focused on dust mitigation noise; ground floor business hours: 07:30 to 19:00 Mon – Sat and 09:00 to 17:00 Sundays and holidays only. No servicing or deliveries outside hours.

Air Quality

- Electric charging points are recommended and more permeability layout also contribution to operation of Lewes Car Club. Travel Plan to consider air quality.

Remediation

- Recommends conditions.

4.7 **LDC – Strategic Policy:** Comment.

- Development should provide 16 affordable units and 0.4 equivalent commuted sum (or 17 units). Sizes should reflect local needs especially: 55% one bed and 27% two bed and tenure split 75% rented and 25% shared ownership.

4.8 **LDC – Regeneration and Investment:** Object.

- Due to extremely limited employment land in Lewes, preference is for employment or retail.
- The 13 commercial units, aimed at small and medium enterprises is in line with LDC growth and prosperity aspirations but concerns regarding impact on surrounding commercial uses contrary to NPPF para 123.
- Alternative scenarios should be viability tested to justify the loss of employment space and lack of affordable housing provision given highest need in Lewes.
- Previous permission for Tesco expansion included a commuted sum for economic regeneration in Lewes, an amount should be included here.

4.9 **Environment Agency:** No objection.

- Flood risk is low but recommends consideration of emergency procedures due to residual risk of over-topping. Conditions to include sustainable drainage sufficient for climate change and quality safeguards and future management. Flood resistance and resilience measures should be used.

4.10 **Southern Water (SW):** Advice and recommended conditions.

- Public mains and decommissioned sewer cross the site and may be diverted, provided no reduced hydraulic pressure. Additional foul drainage infrastructure will be needed, a planning condition recommended for details. Surface water SUDS also needed due to limited drainage capacity. Ongoing SUDs management should be secured.

4.11 **South Downs Society:** Object.

- Site is needed for employment. Dwellings would be affected by commercial noise and is at risk of flooding. Low cost potentially noisy industrial for start ups are needed.

5. Representations

5.1 **Friends of Lewes:** Object.

- Loss of important business site in one of few good quality business areas in Lewes to mixed residential use.
- Inappropriate location for dwellings, subject to commercial noise and disturbance, including 24hour/daily Tesco's service, contrary to NPPF para 109.
- Environmental Health legislation could require curtailing of existing commercial noise, affecting businesses, viability and town economy.
- Pre-Submission Lewes Neighbourhood Development Plan (NDP) rejects residential development here. FoL suggests a much needed coach park instead to support tourism.

5.2 **Lewes Town Council:** Object.

Note the beneficial provision of workspace and attractive buildings but residential use rejected in Neighbourhood Planning process as site is among commercial uses.

5.3 **Lewes Conservation Area Advisory Group (LCAAG):** No objection.

- Site is outside Conservation Area but impact is relevant; scale, design, materials acceptable. Good opportunity to create much needed housing. The need for mixed use is a planning issue along with others, employment need, floodrisk affordable housing.

5.4 **Lewes Phoenix Rising:** Support.

- Work spaces with flats above are essence of a sustainable town.
- Helps to meet loss of workshops at North Street.
- Recent conversions in this part of Lewes welcomed, providing homes; an area for live, work and play, close to and supporting town centre trade.
- We are a local community development company focused on providing affordable work spaces for thriving arts and crafts and are working with the developer on another affordable work space scheme near Ringmer.

5.5 **Residents:** 3 letters, two in support, one neutral.

From individual residents in Lewes Town and District. No responses from commercial neighbours:

- Excellent project; much needed housing workspace.
- Attractive and practical design, revitalising neglected area.
- Will create bustling area in keeping with Lewes.
- Gratified there will be a proportion of reduced residential and commercial rents.
- Developer should make further concessions to affordable residential and workspace here.

6. **Planning Policy Context**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area the Lewes District Local Plan Joint Core Strategy, which was adopted in 2016 and saved polices of the Lewes District Council Local Plan 2003.

6.2 The emerging South Downs National Park Local Plan Consultation Draft is at an early stage of preparation and is currently afforded limited weight.

National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

National Planning Policy Framework and Circular 2010

6.3 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and NPPF which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the National Parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight. The purposes of designation are therefore given considerable weight in the NPPF and 2010 Circular is therefore relevant to this application.

6.4 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant.

7. **Planning Policy**

7.1 The statutory development plan in this area is the Lewes District Council Joint Core Strategy 2016 and saved polices of the Lewes District Council Local Plan 2003.

7.2 Relevant Joint Core Strategy polices include:

- CPI - Affordable Housing
- CP2 - Housing Type, Mix and Density
- CP4 - Economic Development & Regeneration
- CP6 - Retail and Town Centres
- CP8 - Green Infrastructure
- CPI1 – Built and Historic Environment and High Quality Design
- CPI2 - Flood Risk, Coastal Erosion & Drainage
- CPI3 - Sustainable Travel
- CPI4 - Renewable and Low Carbon Energy

The relevant saved policies include:

- E1 - Planning For Employment
- RES 9 – Affordable Housing
- RES19 - Provision of outdoor playing space
- E7 - Out of Centre Retail Development
- ST3 - Design, form and setting of development
- ST5 - Access for people with limited mobility
- ST11 - Landscaping of development.

7.3 The South Downs Local Plan: Pre-Submission version September 2017 was published for public consultation on 26 September 2017 for 8 weeks up to 21 November 2017. The next stage in the Plan's preparation will be its submission for independent examination and thereafter adoption. Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation and that the policies are considered to be compliant with the NPPF the Pre-submission Local Plan it is currently afforded some weight.

7.4 Relevant policies of the Pre-submission Local Plan include:

- SD1 - Sustainable Development
- SD2 - Ecosystem Services
- SD3 – Major Development
- SD4 – Landscape Character
- SD5 – Design
- SD8 - Dark Night Skies
- SD19 – Transport and Accessibility
- SD21 - Public Realm and Highway Design
- SD22 – Parking Provision
- SD27 – Mix of Homes
- SD28 – Affordable Homes
- SD34 – Sustaining the Local Economy
- SD35 – Employment Land
- SD38 - Shops Outside Centres
- SD45 – Green Infrastructure,
- SD49 – Flood Risk Management
- SD50 – Sustainable Drainage Systems
- SD54 – Pollution and Air Quality
- SDD55 Contaminated Land

7.5 The following policies in the Lewes Town Council Neighbourhood Plan 2015-2033 Pre-Submission Draft (May 2017) are considered to be of relevance to this application:

- LE1 - Natural Capital
- LE2 - Biodiversity

- HC1 - Protection of Existing Community Infrastructure
 - HC4 - The Working Town
 - PL1 - General Housing Strategy
 - PL2 - Architecture and Design
 - PL3 - Flood Resilience
 - PL4 - Renewable Energy and Resource and Energy Efficiency of Buildings
 - AM1 - Active Travel Networks
 - AM2 - Public Transport Strategy
 - AM3 - Car Parking Strategy
 - SS2 - Social and Civic Spaces
 - SS3 - Protection and Enhancement of Green Spaces
- 7.6 The question of lawful use of the site is discussed in the assessment section below. Policy CP4 supports re-use of previously developed sites in sustainable locations without adversely affecting the character of the area. Notably it encourages new, small, flexible premises. Along with saved policy E1 and emerging SD35 and HC4 it safeguards existing employment sites from other uses unless there are demonstrable economic viability or environmental amenity reasons. The emerging SD34 allows for more intensified commercial use of employment sites. The site is not among those identified for housing development under draft policy PL1 of the emerging Neighbourhood Plan.
- 7.7 Retail development is supported by policy CP6 and saved policy E6 in locations outside but at the edge of or close to town centres. Along with saved policy E7, it requires the provision, enhancement or contribution to improved pedestrian and cycle linkages to the centre and should not adversely impact the vitality and viability of the centre. In emerging policy SD38 the proposed loss of retail units which are fit for purpose requires consideration of market evidence.
- 7.8 It is noted that the Joint Core Strategy policies SP1 and SP2, which identify the amount of housing up to 2030, were recently quashed by a High Court ruling and therefore have no effect within the National Park. Quashing was due to the 'in-combination' effects of developments near the protected habitat of the Ashdown Forest, particularly due to nitrogen levels associated with increased traffic. As such a comparison must be considered between the traffic implications of the approved employment use and the proposed residential flats. This is also considered below.
- 7.9 Policy CP2 requires that new residential development should provide a range of types and sizes to meet local needs, including 1 and 2 bedrooms dwellings. It should reflect the site context, surrounding character and accessibility, with densities around 47 – 57 dwellings/ha in towns. Policy CPI requires 40% affordable dwellings, the emerging policy SD28 requires 50%, within which a guideline seeks of 75% rented and 25% shared ownership (intermediate). Proposals for reduced amounts of affordable housing may exceptionally be allowed where viability evidence is provided.
- 7.10 Designs, according to policy CPI1 and the emerging SD5 and PL2 should be high quality, responding sympathetically to its context and well integrated in terms of access and function. Development should provide a satisfactory environment for future occupiers, including effective private or communal outdoor space, also subject of saved policy ST11 and the emerging SD45. Roof-scape and views from the downs are important. Saved policy ST3 and the emerging SD5 include consideration of neighbouring amenities and uses which should not be harmed; emerging SD54 states that development should not lead to significant negative effects on people by reason of pollution, including noise and consideration of air quality.
- 7.11 Sustainable access required under CPI3 should prioritise the needs of pedestrians, cyclists and non-car modes, with safe, legible and attractive designs according to the emerging SD21. Development should include appropriate levels of parking, including cycles and people with disabilities under saved policy ST5 and emerging SD19 and AM1, but without visual harm due to over-intensive parking (saved policy ST3).
- 7.12 Under policy CPI2 and the emerging SD49, SD50 and PL3 development should consider and

respond to flood risks and incorporate sustainable drainage. These are also elements of the ecosystems services approach under emerging policy SD2, wherein development should also contribute to reduced pollution and provide access to natural and cultural facilities and the protection of dark skies. There should be access to or provision for outdoor playing or sports space under saved policy RES19.

- 7.13 Proposals which constitute 'major development' in the National Park context are subject to exceptions tests under emerging policy SD3.

8. Planning Assessment

- 8.1 The main considerations in this case are:

- i) Major Development
- ii) Principle of Development and Uses
- iii) Affordable Housing and Viability
- iv) Design, Access and Public Realm
- v) Parking and Traffic
- vi) Noise
- vii) Flood-risk and drainage

Major Development

- 8.2 Counsel's advice to the SDNPA by James Maurici QC in 2014 considers what constitutes major development in the National Park context. Following this advice the following are relevant.
- 8.3 The urban context and scale of the proposed buildings set within a heavily built-up commercial setting among other large buildings, is unlikely to appear large. Nor would it have a serious adverse impact on natural beauty, recreational opportunities, wildlife and cultural heritage of the National Park; its most important visual and character impacts are largely localised.
- 8.4 In terms of specialist assessments: the generation of traffic relative to this busy commercial area is not considered significant despite reservations regarding the amount of parking. Air quality impacts are likely to be minimal if at all given the previously approved development of the site. Site remediation would deal with historic contamination risks. The proposal is not considered EIA development under Environmental Assessment Regulations.
- 8.5 For these reasons it is not considered to be major in the National Park context. Accordingly for the purposes of NPPF paragraph 116 and the emerging policy SD3 exceptional circumstances in the public interest do not need to be demonstrated. The effects of the proposal and applicable planning policies and practice, are considered in the following planning assessment.

Principle of Development and Uses

- 8.6 Following its use for warehousing and light industry during the 1970s – early 2000s, planning permission was granted in 2010 for the site and the Tesco servicing yard for an extension of the adjoining Tesco store. In this permission, the site was to serve as a relocated service yard and enlarged customer car park. This permission included a financial contribution, (£230,000) to offset the loss of Class B use.
- 8.7 Recent legal opinion obtained by the applicant suggests that this permission has been implemented by the demolition of the previous buildings on-site, although other substantive works do not appear to have been begun. The applicant therefore concludes that the site has a lawful retail use as distinct from its earlier light industrial one.
- 8.8 In terms of planning policies, the claimed lawful use of the site (albeit as a service yard and car park), may be said to make a potential contribution to the edge of centre retail attraction of the town. The emerging policy SD38 suggests that loss of retail units is only acceptable subject to market evidence of need, but no such units have been constructed at the application site.

- 8.9 The history of the 2010 permission, including financial contribution to compensate for lost Class B space, shows that employment has consistently been viewed as desirable at this site, a view which persists in current and emerging policies and which is met by this proposal to construct 13 no. Class B Units. In view of employment and retail policies, coupled with the planning history of the site, it is not considered essential that market evidence of retail is needed.
- 8.10 The proposed Class B units would provide a range of office and light industrial premises ranging between 55 – 150sqm. This is supported in principle by policy CP4. The proposal with its range of unit sizes, all with tall ceilings (4.5m), mezzanines and tall doorways for loading and large display windows, is consistent with the policy to encourage small and flexible premises.
- 8.11 The applicant confirms that 5% commercial space (65sqm) would be offered to Lewes Phoenix Rising (LPR), for a period of up to three years at 75% market rental value. The applicant is currently working with LPR and the District Council on pre-planning proposals for a new workers co-operative hub at a site in Ringmer, just outside the town and National Park. The subsidised lease would provide a base for the group in its promotion of small local businesses and as a 'feeder' for the Ringmer development.
- 8.12 This modest subsidy could be secured by S106 Agreement. Beyond this, the economic development officer acknowledges that the unsubsidised units would offer 'starter' accommodation to support new small businesses and those looking to relocate or expand. The applicant's commercial consultant refers to fifty local business enquiries for between 50 – 230sqm including artisanal, technology and professional companies for whom the units would be suitable.

Affordable Housing and Viability

- 8.13 The application is accompanied by the applicant's viability assessment which concludes that the provision of affordable housing in accordance with the Core Strategy requirement of 40% would produce a negative residual site value. A scenario of no affordable housing contribution has also been assessed, which produces a profit of 14.7%.
- 8.14 It is also noted that the site is part of a tract of former landfill, which includes land at Southdowns Road (previously considered by this Committee). It has similar ground conditions and abnormal costs as at that site but overall a lesser market value due to its location deeper within a commercial area.
- 8.15 The Economic Development and Regeneration officer comments that the assessment appears robust, but there is scope for more scenarios to be tested, for example a fully commercial scheme. The applicant replies with figures which indicate that such a scenario would produce a greater loss.
- 8.16 The evidence is therefore that a mixed development is unlikely to sustain a proportion of affordable housing and that a commercial redevelopment alone is unlikely to be viable in the current market.
- 8.17 However two other factors are relevant. Firstly, the application site has already undergone some degree of remediation, which suggests that future remediation costs may be less than at Southdowns Road. Secondly the permission for 79 dwellings at Southdowns Road includes some affordable housing also within a finely balanced financial scenario. Therefore the application site has the partial advantage of likely lesser remediation costs but lower market value. Consistency of approach between the two sites would suggest that some provision for affordable accommodation should be explored further. Discussions with the applicant have identified that a modest provision operated privately could be viable. The applicant proposes three units equating to 7% provision of affordable housing.

Design, Access, and Public Realm

- 8.18 The three flatted blocks of 3 and 4 storeys would be pitched-roofed and range between 15.5m and 19.5m height. Their design uses locally referenced forms: steep, slate roof slopes window shapes and proportions and a palette of materials including red/brown brickwork ground floor elevations with zinc-clad upper and some areas of timber, notably the large

ground floor windows and doors. They include balconies, some fully enclosed by glass as 'winter' gardens'. They are taller than Sackville House (16m high) at the north, but their spacings are considered to avoid a cramped appearance, Their local prominence could improve the design quality of the area and provide an interesting roof-scape without appearing intrusive from long distant views, including from the downs, and Lewes Conservation Area.

- 8.19 The blocks would be spaced out, with the northern four-storey pair aligned east-west and an intervening communal grassed-space of 18m width (500sqm) between them. The southern block aligned north-south would be separated by a 5.5m surfaced pathway providing a pedestrian connection between the Brooks Road frontage, the interior of the site and Tesco car park, with pavement seating indicated alongside. A footpath link into the service road at the north-west corner would pass through a new, distinctive louvered gate-feature.
- 8.20 In terms of movement through the site the arrangement follows natural desire lines and indicates a hierarchy of surface treatments to denote this, punctuated by benches, planters cycle racks and some trees and perimeter fencing. There is some concern regarding the location of the communal space sandwiched between commercial frontages and close to several parking spaces, with little sense of privacy and little likely tranquillity. Communal bin stores are within the ground floor of buildings, although some are more than 25m from access roads.
- 8.21 Along the Brooks Road frontage, amended plans now show a continuous pedestrian footpath and indicative new path in the street to link with this. Some roadside trees are also proposed in the public highway as an environmental improvement and visual signal to the proposed residential access. The highway officer's comments on these arrangements are awaited, together with a response on the amended delineation of the turning area to the northern boundary, which would stride the site boundary with the highway and be immediately behind several proposed parking spaces.
- 8.22 As well as highways, the matter of broader suitability in planning terms is also of great importance. In this respect there are concerns that even with a continuous footpath and trees, the Brooks Road access is shared with the commercial traffic, servicing and manoeuvring areas and parking with views of loading doors and outdoor storage and sometimes waste. The proposed site frontage would also contain much prominently-sited parking and a loading bay.
- 8.23 The challenge is in providing a high quality development, responding sympathetically to its context and well integrated in terms of access and function. The strength and presence of the well-designed buildings and internal public realm as seen from the street is helpful, but inevitably the character of the approach is dominated by commercial activities and parking. In recent residential developments at Daveys Lane and Malling Street at the eastern fringes of this wider commercial estate, there is some similarity in terms of spatial relationship to commercial uses and shared access, but in the current application, the lack of separation and sense of discomfort is of a greater degree.
- 8.24 A similar concern applies at the proposed northern pedestrian access to the site, which is via a shared (and privately owned) concrete road contained within high boundary walls along which delivery vehicles and staff cars reach the Tesco service yard. Residents of the proposed development would cross a distance of 45m through this shared access, before reaching the footway in Brooks Close and Malling Fields recreation ground beyond.
- 8.25 Whilst this appears to be lightly trafficked, delivery vehicles are large. The layout and design of the approach has little to indicate to drivers that pedestrians or cyclists might use it and there is limited lighting. There is potential for conflict. Although the proposed and striking louvered gateway at the site boundary would help, concerns remain that is not a well-integrated and well-designed safe access.
- 8.26 Further south along this boundary, the legal status of the existing pedestrian access to the Tesco customer car park, crosses land which is not within the applicant's control and there is no evidence that it could be delivered. The highway authority has also noted the safety risks here, although because the car park is already well-used by pedestrians (customers on

foot), the risks are perhaps less challenging here than at Brooks Close. In residential amenity terms access on foot or cycle through the car park is considered poor.

- 8.27 This concern would not apply to commercial users of the ground floor, given the physical and visual connection between the Tesco site and proposed commercial uses here, with their active frontages and publicly accessible space. These would add visual interest and vitality, supported by polices.

Parking and Traffic

- 8.28 Access and parking for cars and commercial vehicles has been subject to amended plans. It now includes a long and wide loading bay for commercial vehicles at the Brooks Road frontage. This is close to some of the business units but remote (40m and more) from several of them, although short, temporary use of vehicle manoeuvring space is a conceivable practical alternative.
- 8.29 The amount of vehicle parking space has also been increased and now shows 39 individually accessed (not tandem) spaces. These are:
- 25 residents, unallocated
 - 12 business users
 - 2 car club
- 8.30 This remains below the 70no indicated by parking standards and the highway officer has previously suggested that below-standard provision may lead to pressures on on-street parking in the vicinity and with the neighbouring Church, which has its own car park. It was suggested that a parking survey of the area is needed.
- 8.31 In response, it is noted that the site lies in a sustainable location, close to the town centre, with bus services operating along Southdowns Road around 200m away. The railway station is within walking distance. The proposal includes space for 64 cycle parking spaces, most being secure within buildings. The Church car park would be rearranged to provide 16 spaces, some of which could be used by occupiers of the Class B units, outside Church hours, although it is noted that this assumes a low level of Church activity at times, which is not necessarily the case. Furthermore the mechanism for achieving this shared use would have to be a legal agreement as the land falls outside the applicants control at the moment.
- 8.32 The car club spaces are important and the mechanism for providing these cars would need to be set, by financial arrangement with the Lewes Car Club. This will assist in managing both parking demand and air quality. Clarification has also been sought on the matter of electric hook up spaces. Given the National target of 100% by 2040, it is considered reasonable that infrastructure be provided in anticipation of this, with a proportion of charging points provided prior to occupation.
- 8.33 In terms of vehicle trips the number which would be generated by the proposed development has been examined by the applicant's transport consultant. He concludes a reduction of 140 trips daily, which is 58 percent less than the approved retail scheme. Mindful of the Court ruling concerning in-combination of developments on Ashdown Forest, this reduction is likely to have a lesser impact. A travel plan would also assist in promoting other means of travel.

Noise

- 8.34 Neighbouring commercial uses, including the Tesco service yard, rely on deliveries by large vehicles. On average these occur 4-5 times spread between 10pm and 6am. Sound emanating from these activities comprise of engines, and impulse noises: bangs, rattles, reverse warning systems and voices and from larger engines and is predicted to be noticeable above the background noise levels at night. Noise is not expected to be a cause of nuisance during daytime but it is predicted that residents of flats facing the loading bays of Tesco's and possibly Homebase which are around 5m – 20m away could experience a significant adverse effect.
- 8.35 In response the applicant has positioned smaller windows on the ends of the blocks facing or closest to neighbouring yards, with principle bedroom windows facing away, other than at

the southernmost blocks, where these face the Tesco customer car park 3-12m away, which is expected to be quieter at night. Closest balconies are enclosed 'winter gardens and windows would comprise acoustic glazing with mechanical ventilation heat recovery installed to circulate and regulate air when windows are closed.

- 8.36 This would provide mitigation against noise but relies upon future residents being prepared to sleep or rest with their windows closed. Should they choose to open their windows for ventilation and air purging, which the environmental health officer points out, is not unusual in the UK, mitigation would be lost. The District Council would be obliged to investigate any complaint of noise nuisance, one consequence of this may be an abatement notice on the commercial neighbour in turn affecting their business activity.
- 8.37 Policies support re-use of previously developed sites in sustainable locations provided that they do not adversely affect the character of the area and neighbouring occupiers are safeguarded, while residential amenities of new development should be acceptable. NPPF para 123 states that in relation to noise "business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established".
- 8.38 This relationship between existing and proposed uses presents a difficulty which is hard to eliminate. Whilst a technical solution exists, the question of whether it is reasonable to expect future occupiers to find it acceptable is a significant concern. As advised above, it is not uncommon for residents to have windows open at night.
- 8.39 In conclusion the relationship between the proposal and commercial neighbours is considered to be an incompatible one, and would present risks to their businesses. Safeguarding existing uses is afforded considerable weight, by planning policies and for this reason the proposals are not supported.

Flood-risk and Drainage

- 8.40 The site lies within flood zone 2, in common with much of the surrounding commercial area. This signifies a medium risk of river and sea flooding. The NPPF and associated guidance jointly categorise light industrial and retail uses as 'less vulnerable' in terms of sensitivity to flooding.
- 8.41 The proposed residential use of the site falls with the 'more vulnerable' category and as such NPPF requires consideration of the sequential preference or test, whereby alternative locations in lower risk zones are considered first, but taking a pragmatic approach that in central locations, where development may be needed for regeneration and alternatives are constrained. Development should not increase flood risks elsewhere.
- 8.42 In the current application, as explained above the applicant's viability assessment concludes that residential use allows for commercial development of the site to come forward which would otherwise not be viable. Given the limited opportunities for light industry and offices in the town, it is considered that the proposal meets this sequential flood risk test.
- 8.43 For flood resilience and in light of recorded surface water flooding, floor levels are required to be at 6.0m AOD, which is approximately 0.5m above existing ground level. The environment agency recommends the use of a flood warning and evacuation plan, to manage any residual risk. This could be achieved and updated by condition but more effectively through S106 agreement, as the responsibility of a site management company.
- 8.44 The applicant's surface water drainage proposals rely on the construction of a new and replacement piped system to discharge into public sewers and possibly the stream to the north, at flow rates that are no greater than the existing site, (which comprises much hard surfacing), allowing for predicted climate change increase. Natural flow routes across the site would be modified to ensure that water falls away from buildings, towards drains and a range of sustainable (SUDS) drainage features; permeable paving, underground tanks and crates, rain gardens and water butts, which will hold and release water at controlled rates, thereby meeting requirements not to increase off-site risks.
- 8.45 With likely high groundwater levels, limited capacity for infiltration to ground (due to geology and ground remediation), and need for drainage to remain above the level of any main connection or outfall, the drainage officer has asked for assurance that there is enough

space proposed for SUDS components within the development. The applicant's technical addendum on this matter is with the LPA and is likely to be acceptable but a more formal conclusion will be given.

9. Conclusions

- 9.1 The application would re-use a site in a sustainable location, delivering mixed use and a high standard of design and internal layout, adding to vitality of the area and well-supported needs for small and medium local business. However for viability reasons, delivery of the commercial element relies on the provision of 41 flats, which in turn creates a risk that future residents may find the surrounding commercial activities to be a source of nuisance.
- 9.2 Access to the site is through commercial areas, the character of which is poorly pre-disposed to residential use, offering a poor standard of amenity and bringing the risk of conflict between pedestrians and traffic and two site frontages dominated by parking. Within the site shared communal space lacks privacy and tranquillity although elsewhere the proposed public realm is good. Access to the nearest recreation ground is via an unsatisfactory and uncertain route in terms of ownership.
- 9.3 Affordable housing has been proposed but is far below the normal 40 – 50% requirement, however this is explained by the viability assessment.
- 9.4 Overall, the merits of the scheme are recognised but the risks and their potential consequences are considered to have greater weight. In terms of residential amenities the poor relationship and access is considered to make the site unsuitable. In balancing these considerations against the merits, it is not considered that the proposal can be supported and refusal is recommended.

10. Reasons for Refusal:

- 10.1 The application is recommended for refusal subject for the following reasons:
 - 1. Due to the location of the site and its proximity to neighbouring commercial premises, with loading and servicing yards which operate during the night, the proposal to include residential development introduces a significant risk that future occupiers will be disturbed by noise at night. The proposed mitigation relies on the willingness of future residents to close windows, a requirement which the Local Planning Authority considers to be unreasonable and unlikely to be fully adhered to. Noise nuisance experienced by future residents would increase the likelihood of abatement or similar action upon neighbouring commercial occupiers, which may be harmful to their business activities and commercial use of neighbouring sites. The application is therefore contrary to policies CP4 and CP11 of the Lewes District Council Joint Core Strategy 2016, Saved policies E1 and ST3 of the Lewes District Council Local Plan 2003 and draft policies SD34, SD35 and SD54 of the South Downs Local Plan: Pre-Submission version September 2017.
 - 2. The application site, by reason of its location, with access through adjoining commercial areas, service yards and car parks, and with some of these accesses being apparently privately-owned and not controlled by the applicant, is not considered to be well integrated with and sympathetically related to the surrounding area. This serves as a poor environment for residential development and amenities of future occupiers. This is accentuated by the proposed dominance of parking at two of the site boundaries and the fact that the communal space is sandwiched between commercial frontages and close to several parking spaces, with little sense of privacy and tranquillity. The application is therefore contrary to policies CP11 and CP13 of the Lewes District Council Joint Core Strategy 2016, Saved policies ST3 and ST11 of the Lewes District Council Local Plan 2003 and draft policies SD9 SD45 of the South Downs Local Plan: Pre-Submission version September 2017.
 - 3. The proposal does not make provision for affordable housing in accordance with Policy CP1 of the Lewes District Council Joint Core Strategy 2016. Saved Policies RES9 of the Lewes District Council Local Plan 2003 and Policy SD28 of the South Downs Local Plan: Pre-Submission version September 2017.

11. Crime and Disorder Implication

11.1 It is considered that the proposal does not raise any crime and disorder implications.

12. Human Rights Implications

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

13. Equality Act 2010

13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

14. Proactive Working

14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included the provision of advice from the SDNPA Development Management Officer preceding the submission of the application.

TIM SLANEY

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Appendices

1. Site Location Map

SDNPA Consultees

Director of Planning and Legal Services

Background Documents

[Planning application LW/08/1395](#)

[Lewes Joint Core Strategy 2016.](#)

[Lewes District Local Plan 2003](#)

[Written Statement](#)

[Saved policies - list](#)

[Proposals Map](#)

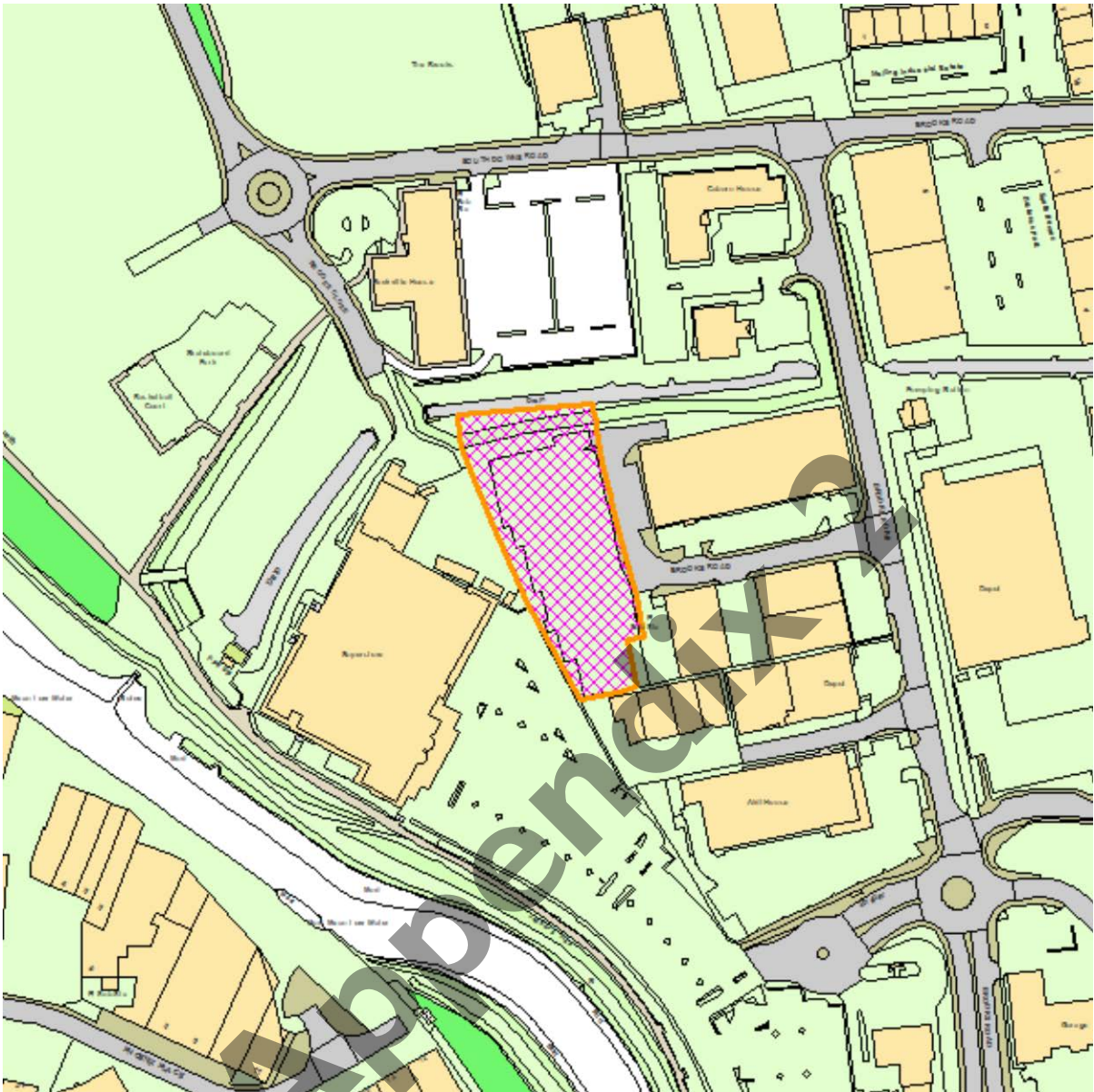
[Lewes Neighbourhood Plan Pre-Submission draft – May 2017](#)

[East Sussex County Council - Residential Car Parking Standards 2012](#)

[Lewes District Council - The provision of outdoor playing space as part of new residential development 2002](#)

[National Planning Policy Framework 2012](#)

Site Location Map



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Appendix 2

Agenda Item	Page No	Para	Update	Source/Reason
8	39	4.2	County Archaeologist: Following further information received, has removed objection, recommends conditions	Update
8	39	4.3	County Ecologist: No objection	Update
8	39	4.4	<p>Highway officer: Following amended plan and additional information <i>"I am not of the view that the concerns raised in my earlier report have quite been addressed. The scheme has technical problems that will require addressing and to achieve alterations to the road layout, there is a requirement for Traffic Regulation and Stopping Up Orders which are subject to separate public consultation procedures and are not guaranteed"</i>.</p> <p>Officer Comment: A highway reason for refusal will be added verbally at the Committee meeting</p>	Update
8	39	4.5 / 8.45	<p>Unable to revise earlier comment.</p> <p>From further information received It is unclear clear how big the attenuation tank will be tank or whether it will also be up to the edge of the buildings. The drawing also indicate some of the foul drainage will run under the permeable pavement/attenuation tank. Concerned about practicality does not leave enough room for access for maintenance or replacement nor clear whether space for foul drainage</p> <p><i>"Consequently, we are not assured that enough space has been reserved for the management of surface water runoff. Considering that the discharge rates are not yet agreed to by Southern Water, who appear to have requested for evidence of existing connection to justify the proposed drainage rates, we are not assured that the storage requirements will not increase"</i>.</p> <p>Officer Comment: A drainage reason for refusal will be added verbally at the Committee meeting</p>	Update

Agenda Item	Page No	Para	Update	Source/Reason
8	41	5.5 / 8.31	<p>Additional letter received – Trustee, Kings Church (who has not previously commented) Regarding para 8.31 of officer report: <i>“The existing and any new church parking spaces will be for the exclusive use of the church. The church building is used 7 days per week for a wide range of church and community activities. All the church parking available is required for these activities. There is no agreement, nor is there likely to be any agreement, for any of this church parking to be made available for the purposes indicated in para 8.31 ...I should stress that King’s Church has not made any representations on the overall merits of the proposal and does not wish to do so”.</i> Applicant comments: <i>“Our proposals do not include or rely on access to the church car park”</i></p>	Further representation
8	45	8.17	<p>Affordable housing. Applicant comments: <i>“We envisage nominations to be from the local authority waiting list in the first instance with the applicants having the right to select alternative prospective tenants from the waiting list if credit ratings and/or references give them reasonable cause to believe that the tenants initially selected will not be able to meet the rent payments and/or be responsible tenants.”</i> Further advice has been sought from Housing officer concerning proposed private rented affordable accommodation at 75% market value for 10 years. Any response will be reported verbally.</p>	Update / Additional Information
8	47	8.28	District Council Cleansing officer: Confirms that amended plan is acceptable in terms of bin store locations and access.	Update
8	47	8.32	Applicant, confirms that provision would be made for two car club vehicles. Residents having automatic membership of club for one year	