

Report to	<b>Planning Committee</b>
Date	<b>12 September 2024</b>
By	<b>Director of Planning (Interim)</b>
Local Authority	<b>Lewes District Council</b>
Application Number	<b>SDNP/23/02973/FUL</b>
Applicant	<b>Generator (Eastgate Street) Ltd</b>
Application	<b>Demolition of existing buildings and construction of mixed-use development comprising 3 houses (Class C3), 32 self-contained flats (Class C3) and 198m<sup>2</sup> of ground floor commercial space (Class E), with associated access alterations, landscaping and parking.</b>
Address	<b>Former Bus Station, Eastgate Street, Lewes, East Sussex, BN7 2LP</b>

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**Recommendation:**

- 1) That Planning Permission be granted subject to conditions set out in paragraph 9.4 and a Section 106 legal agreement, the final form of which is delegated to the Director of Planning to secure:
- **Two affordable homes (to be secured as First Homes);**
  - **A package of on-site and off-site Transport Mitigation Measures;**
  - **£291,000 towards the provision of alternative bus facilities on the southern side of Phoenix Causeway, to be payable on the commencement of development;**
  - **TRO for loading bay on Eastgate Street;**
  - **Car club membership for each dwelling for 3 years;**
  - **Footway works on East Street and Eastgate Street;**
  - **Travel Plan;**
  - **A Landscape and Environmental Management Plan (LEMP);**
  - **Maintenance and Management Plan for the drainage system;**
  - **A review mechanism or ‘clawback clause’ to enable the Authority to secure additional affordable housing if market conditions improve;**
  - **Estate Management Plan (to include the maintenance and management of communal spaces, drainage, lighting and landscape and ecological management measures), and**

- The provision of a residents and tenants information pack (to include information highlighting ineligibility for parking permits).
- 2) That authority be delegated to the Director of Planning to refuse the planning application with appropriate reasons if the legal agreement is not completed or sufficient progress has not been made within 6 months of the Planning Committee meeting of 12 September 2024.

### Site Location Plan



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### Executive Summary

This application relates to the construction of 35 dwellings (with 17 car parking spaces) and 198sqm of commercial floorspace on the former Bus Station site, Eastgate Street, Lewes.

The key considerations for this application are:-

- the site is allocated for redevelopment as part of the strategic site 'North Street Quarter and adjacent Eastgate Area, Lewes', within Policy SD57 of the South Downs Local Plan, with an explicit policy requirement that "alternative uses on the bus station site are subject to the facility being replaced by an operationally satisfactory and accessible site elsewhere";
- the proposed financial contribution of £291,000 (to be secured through a Section 106 legal agreement) to be used to deliver the facilities for westbound bus services on the southern side of the Phoenix Causeway, is appropriate and complies with the requirements of Policy SD57. The applicant has demonstrated to the satisfaction of East Sussex County Council (ESCC) as the Local Highway Authority, and SDNPA Officers that the provision of facilities for westbound buses on the southern side of Phoenix Causeway would be operationally

satisfactory, accessible and would be physically deliverable without unacceptable impact on highway safety (including in combination with the adjacent 'Phoenix Scheme' – planning reference SDNP/23/00526/OUT – which provides three bus stops for eastbound buses, and also other facilities, including toilets and refreshment kiosk) and the protected trees;

- two affordable dwellings are proposed (2 x 1 bedroom apartments) – the provision of this has been subject to independent viability testing and will be subject to a review mechanism in the s.106 agreement.
- The proposal attempts to address heritage impacts identified in respect of the previous application. Nevertheless, there would be less than substantial harm to the Conservation Area and nearby listed buildings, namely 6 Eastgate Street, nos 2-17 East Street, no. 11 Albion road, no. 6 Eastgate Street due to the scale and form of the parts of the roof and inclusion of two floors of accommodation in the roofspace. This harm is at a low level but must be given significant weight against the proposal. However, as explained below, Officers consider that the public benefits of the proposal outweigh that harm.

Officers are broadly satisfied that the proposal accords with the Purposes and Duty of the South Downs National Park and the South Downs Partnership Management Plan, and meets the requirements of the key development plan policies relevant to this application, namely SD5, SD19, SD28 and SD57 of the South Downs Local Plan (SDLP) and HCI, PL1A and AM2 of the Lewes Neighbourhood Development Plan (LNDP). Whilst there is some residual conflict with key policies SD14, SD15 of the SDLP and policies HC3A and HC3B of the LNDP, Officers consider that on balance, the wider public benefits of the proposal outweigh the low level of harm to the Conservation Area.

Officers are satisfied that the proposal is in overall conformity with the development plan.

The application is placed before committee due to the strategic allocation and given the significant level of public interest.

## **I. Site Description**

- I.1 The site is located at the corner of Eastgate Street and East Street, immediately adjacent to, but outside of, the defined town centre of Lewes (Policy SD36).
- I.2 The site is within the Lower High Street Character Area of the Lewes Conservation Area. As set out in the recently adopted (2023) Lewes Conservation Area Character Appraisal and Management Plan (CAAMP), this area is of mixed scale with a number of Listed Buildings and buildings of townscape merit surrounding the site.
  - North (East Street), a number of early to mid C19 two and two and-a-half storey houses, some with mathematical tile elevations.
  - South (Eastgate Street) - the site is adjoined by a two and-a-half storey building (building of townscape merit) and then two three-storey buildings (one of townscape merit and the other a mid C19 Grade II listed former house).
  - East (Eastgate Street) - a modern three storey Waitrose and a three-storey Grade II listed, early C19 building
  - West (East Street) - Grade II listed c1870 Lewes Public Library building located on the corner of East and Albion Streets.
- I.3 The site itself comprises of an 'island' bus station (which allowed buses to drive around the building) with a cantilevered upper floor to provide shelter to waiting passengers and a bus warehouse / garage building. Both were built in the 1950s for the Southdown Bus Company. The existing buildings are not Listed nor are they identified in the CAAMP as having townscape merit. The site is identified within the CAAMP as an 'Area for Enhancement' having a detrimental impact on the special interest of the Conservation Area.

- 1.4 The majority of the site is located within Flood Zone 2, with the remainder within Flood Zone 1.
- 1.5 The site is also located outside the Lewes Air Quality Management Area (AQMA), being 100m from the eastern boundary.
- 1.6 The site was sold in 2006, at which time the bus warehouse / garage uses were moved off site to another location. Since the site was sold, various other elements of the 'bus station building' were closed to the public (such as the public toilets and formal waiting room) and temporary uses had occupied parts of the ground and upper floors (the most recent being a café and artists' studios) whilst the warehouse / garage is being used for general storage purposes. For a period of time, the site retained three bus stops (for pick-up and drop-off purposes), permitted by the current landowner via a temporary 28 day rolling licence, however on 17 August 2022, the owner served notice on the bus operators to quit the site.
- 1.7 The site was closed and the bus stops moved off site in September 2022. Since that time, East Sussex County Council has provided temporary bus stop facilities at the bottom of School Hill.
- 1.8 In May 2022, Lewes Bus Station (main building and bus stop area) was named, by Lewes District Council, as an Asset of Community Value, a status which is valid for 5 years.
- 1.9 On 10 August 2022, Historic England issued a 'Certificate of Immunity' which prevents the buildings from being listed for a period of five years.
- 1.10 The site is allocated by Policy SD57 as part of the strategic site of 'North Street Quarter and adjacent Eastgate Area' for a mixed-use redevelopment.

## **2. Relevant Planning History**

- 2.1 A previous application (for 40 dwellings, 198sqm commercial space and 17 car parking spaces) was submitted by the same applicant to SDNPA in May 2022 (SDNP/22/02197/FUL). That application was refused by Planning Committee on 8 September 2022 for the following reasons:
  - 1. The proposal makes no provision for the relocation of bus facilities. Bus facilities are required in a central position in Lewes and in the absence of this the proposal is contrary to policies SD19 and SD57 of the South Downs Local Plan 2014-2033, policy AM2 of the Lewes Neighbourhood Plan 2015-2033, the National Planning Policy Framework and the English National Parks and the Broads: UK Government Vision and Circular 2010.
  - 2. The proposal makes no provision for affordable housing (including Lewes Low Cost Homes) contrary to policies SD28 of the South Downs Local Plan 2014-2033 and PL1 A of the Lewes Neighbourhood Plan 2015-2033 which seeks to maximise the delivery of affordable housing to meet local housing need. The lack of affordable housing is also contrary to the National Planning Policy Framework, the English National Parks and the Broads: UK Government Vision and Circular 2010 and policy 50 of the South Downs Partnership Management Plan 2020-2025.
  - 3. The proposal would, by reason of its scale, massing, roof form and proposed materials, result in an overbearing and incongruous form of development that would fail to conserve and enhance the existing townscape character, fail to preserve the Conservation Area and would have detrimental impact on the setting of nearby Listed Buildings. The proposal is therefore contrary to SD4, SD5, SD12, SD13, SD15 and SD57 of the South Downs Local Plan 2014-33, policies HC3 A, HC3 B, PL1 A and PL2 of the Lewes Neighbourhood Plan 2015-33, the National Planning Policy Framework and the English National Parks and the Broads: UK Government Vision and Circular 2010.

4. The application would have unacceptable amenity impacts on No. 27 East Street through the loss of daylight. The proposal is therefore contrary to SD5 of the South Downs Local Plan 2014-2033, Policy PL1 A of the Lewes Neighbourhood Plan 2015-2033 and the National Planning Policy Framework.
5. Insufficient information has been submitted to satisfactorily demonstrate that the proposal would not have a harmful impact on archaeological heritage assets and that satisfactory mitigation measures can be achieved. The proposal is therefore contrary to Policies SD16 and SD57 of the South Downs Local Plan 2014-33 and the National Planning Policy Framework.
6. The proposal fails to make satisfactory provision for tree planting ensuring the right tree in the right place which would be harmful to visual amenity and fails to contribute to the character of the area. The proposed tree planting, including proposed species, on East Street (the three shown in the front gardens / areas of the individual houses and the two within the amenity spaces for ground floor flats) are too close to the proposed built form and not suitable for the site conditions. Therefore, the proposal is contrary to policies SD11 and SD57 of the South Downs Local Plan 2014-2033, the Design Guide Supplementary Planning Document and paragraph 131 of the National Planning Policy Framework and the English National Parks and the Broads: UK Government Vision and Circular 2010.
7. In the absence of a completed Section 106 legal agreement, securing:
  - The Travel Plan and its mitigation measures (and associated monitoring / audit fees);
  - Traffic Regulation Orders (and their associated administrative costs) for the bus re-provision, creation / alteration of access into the site, creation of footway on Eastgate Street, creation of service lay-by and exploring the potential to prevent future occupants from applying for parking permits in nearby streets, and
  - Highway works (and the associated S278 Highway Agreement) required to create the access to the site, creation of footway (and its subsequent adoption) and creation of service lay-by.

the proposal fails to mitigate its direct impacts and therefore is contrary to policies SD19, SD21, SD28 and SD57 of the South Downs Local Plan 2014-2033 and policies PL1 A and AM2 of the Lewes Neighbourhood Plan 2015-2033, the National Planning Policy Framework and the English National Parks and the Broads: UK Government Vision and Circular 2010.

### **3. Proposal**

- 3.1 This application is seeking permission for a total of 35 dwellings and 198sqm of commercial floorspace following the demolition of the existing bus station building and warehouse.
- 3.2 The proposed 35 dwellings are made up of 3 houses and 32 flats. The proposed mix of housing is:
  - 6 x 1 bed flat
  - 22 x 2 bed flat
  - 4 x 3 bed flat
  - 3 x 3 bed house
- 3.3 The three houses, (two of which are three storey, and the third is two storeys plus rooms in the roof) are located on the East Street frontage, immediately adjacent to the proposed block of flats, with their integral garages accessed via Eastgate Street.

- 3.4 The proposed flats are within a single block (wrapping around the corner of East Street and Eastgate Street and ranging in height between four and five storeys) with the 198sqm of commercial floorspace proposed at the ground floor (adjacent to 15 Eastgate Street, the part of the site closer to the High Street).
- 3.5 All the proposed dwellings meet the described space standards set out in the National Technical Housing Standards.
- 3.6 The proposed development includes two affordable homes. These would both be 1-bedroom apartments which would be in the form of 'First Homes'. This is notwithstanding that the applicant has provided a Financial Viability Assessment (FVA) which states that the scheme is not viable if any affordable housing were to be provided. The issues of affordable housing and viability are addressed further within the Planning Assessment section of this report.
- 3.7 Vehicular access to the site is proposed to be from Eastgate Street, with 17 car parking spaces, within an internal courtyard, including active EV charging points for 4 spaces (20% ) of spaces and passive provision for the remainder. It is noted that if the proposals are approved the development would be required to comply with Building Regulations relating to EV charging points. There would be a total of 83 cycle parking spaces proposed for the residential usage with a further 4 cycle spaces provided for the commercial element. The applicant has also submitted a Travel Plan which includes a 3-year free membership with a local car club for each residential unit. The scheme also proposes a formal service lay-by (not to be used by buses) and new public footway, built to adoptable standards, on the Eastgate Street frontage.
- 3.8 The proposed scheme would achieve an approximate 48% reduction in regulated carbon dioxide (CO<sub>2</sub>) emissions (from baseline) through a fabric first approach and through the use of air source heat pumps and PV panels it will reduce by a further 27% making a reduction of 75% in total. The proposal also includes at least 10% of green roofs (sedum with some native planting) and, given the baseline position, the scheme would achieve a net gain in biodiversity through the introduction of green roof, raised planters and some tree planting.
- 3.9 The application also includes some works to stabilise and repair the section of wall to the north of the site, that originally formed part of the rear garden boundary wall to the Grade II listed No. 213 High Street. As these works would constitute a repair, no listed building consent would be required.
- 3.10 Whilst similar, this application is changed in a number of respects from the application previously considered by Planning Committee in September 2022 (SDNP/22/02197/FUL). In particular, (a) the number of dwellings has been decreased from 40 to 35, (b) the roof of parts of the proposal has been modified and decreased in scale; (c) changes have been made to the external materials for both the public realm and the buildings; (d) two affordable homes are now proposed (to be secured as First Homes); (e) a financial contribution to meet the costs of providing westbound bus interchange facilities is now being secured.
- 3.11 The application has been revised since its submission in July 2023. The following changes have been made and this is the scheme before Members:
- 2 affordable homes are now proposed, up from zero on submission
  - Initially the applicant's proposed a contribution of £88,069.59 toward the two bus stops on the south side of Phoenix Causeway. This has now been increased to cover the full cost of providing these bus stops (£291,000)
  - Changes to external materials and finishes, including reduction in use of standing seam metal cladding; use of slate on roofs and walls and use of traditional brick bonds throughout the development.

3.12 As revised, the application seeks to address the reasons for refusal in respect of the previous application.

#### 4 Consultations

4.1 The consultee responses are summarised below.

#### 4.2 Air Quality (LDC) – Objection –

- No emissions mitigation assessment has been provided. This should include a damage cost calculation following Sussex Air Guidance
- Application meets current standards but does not demonstrate how the development would meet proposed air quality standards and objectives. Lewes DC is currently updating its Air Quality Action Plan and aims to introduce similar targets to those of Brighton and Hove City Council.
- Concern that the height and overall density of the buildings could possibly cause a ‘canyon effect’ and may introduce future occupiers (of the development) to an area of poor air quality. The development will reduce dispersal of traffic related pollutants and may therefore increase pollution levels at proposed façade on Eastgate Street.
- As there is no agreed site for a new bus station, and consequently the future traffic emissions cannot be accurately modelled. Any change in air quality levels cannot be adequately determined at this stage. Cumulative effects including from new developments in Ringmer (5km) and Uckfield (12km)

Officers note: Air Mitigation Assessment has since been provided.

4.3 **Archaeology (ESCC):** No objection. The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions.

4.4 **Conservation Officer (SDNPA)** - ‘less than substantial’ (lower end) harm to the significance of heritage interests, that is, the character and appearance of the Lewes Conservation Area and the setting of several listed buildings, namely 2-17 East Street, 6 Eastgate Street, Lewes Public Library and 11 Albion Road.

- “There have been amendment to the proposals to address the points made in the previous committee report.”
- “With regard to the two westerly houses, the scheme has been amended and the original mansard roof has been replaced with a more traditional roof-shape, with half - dormer windows which break the eaves line. The change in roof form does take some of visual bulk out of the roof and moves the ridge back which is positive. To judge from the visualisation, the proposal is now for red brick and slate, which would be a positive step.”
- Southern section of the eastern elevation – “a storey has been removed from the end metal clad unit and this does improve its relationship with No. 15. “
- “The reduction in mass of the roof over the next unit is also helpful.”
- “Traditional brick-bonds and hanging slate help to give this element a more ‘Lewesian’ feel.”
- “Subsequently, further amendments have been made to the selection and use of materials:
  - Black glazed bricks with header bond will be used for dwelling no. 1/ the large black building/ the ground floor of the cat slide building.

- English bond will be used for all the grey brick work.
- Gables will have a verge brick on edge detail.
- White/light window treatments will be used to provide a contrast with the colour of the walling material on the large dark building and dwelling No. 1
- Hanging slates will be used on the cat slide building, and on the flank wall of dwelling No. 3
- slate roof tiles will be used on the roof of the cat slide building and on the roof of dwellings 2 and 3 .
- The stretcher bond originally proposed for the black glazed bricks shown on page 61 of the DAS is not acceptable and that header bond, will be used.”
- “Not all of the comments about reducing accommodation in roof spaces have been adopted, resulting in a certain amount of harm to heritage interests”, specifically, the impact on the character or appearance of Lewes Conservation Area and also the impact on the setting of several listed buildings, namely nos 2-17 East Street, no. 6 Eastgate Street. Lewes Public Library and no. 11 Albion Road.
- The Conservation Officer has characterised the harm as at the lower end of ‘less than substantial’.

4.5 **Contamination (LDC)** – No objection subject to conditions.

4.6 **Design Officer (SDNPA)** – No objection

The development proposal has many attractive attributes and has the makings of a positive contribution to this part of Lewes, and the latest iteration of the building design has responded positively (with some reasonably significant reductions) to Authority concerns about its scale and mass and its impact on daylight.

It is a large building which occupies most of its plot but creative design helps to reduce its perceived mass to an acceptable degree. The sustainable construction credentials are generally good and, for operational energy, very good.

4.7 **Drainage (LDC)** - Raised some concerns regarding the submitted report and requested that the EA and SDNPA should seek development contributions to funding improved flood defences to Lewes Town West.

4.8 **Ecology (ESCC)** – No objection subject to conditions.

Provided suitable compensation and enhancement measures are implemented and secured through the imposition of planning conditions, the proposals can be supported from an ecological perspective

4.9 **Environment Agency (EA)** – No objection subject to conditions.

4.10 **Highway Authority (ESCC):** No objection subject to conditions

- Conditions required relating to parking, visibility splays, and the access.
- In addition, a legal agreement to secure the contribution of £291,000 towards the provision of alternative bus facilities on the southern side of Phoenix Causeway, a full Travel Plan, Traffic Regulation Order (TRO) for a loading bay on Eastgate Street; and other highway works including footway along site frontage, reinstatement of footway at northern access and creation of loading bay and footway.

4.11 **Lead Local Flood Authority (ESCC)** – Following the submission of further information, no objection subject to conditions.

4.12 **Lewes Conservation Area Advisory Group** – Objection



- As we have stated previously, we regret that major decisions on the development of the NSQ, bus station and Eastgate Wharf sites within the larger SD57 area are not being made as part of a co-ordinated and comprehensive development plan.
- The revised proposal still presents as an over-large over-complicated over-developed site in an artificial jumble of materials, resembling an early 21st century office development rather than housing. A simpler design on a more human scale with an appropriate range of local forms and details could make a major contribution to the existing townscape.

**4.13 Lewes Town Council – Objection.**

- There is no plan for the replacement of the bus station.
- The contribution to the replacement of the bus station is unknown and/or insufficient.
- There are no contributions towards the other policy SD57 conditions and there is no completed S106 agreement.
- There is no provision for affordable housing.
- The Bus Station is an iconic building and is one of its kind. The plans propose demolishing an Asset of Community Value and a heritage building.
- The proposal would, by reason of its scale, massing, roof form and proposed materials, result in an overbearing and incongruous form of development that would fail to conserve and enhance the existing townscape character, fail to preserve the Conservation Area, and would have detrimental impact on the setting of nearby Listed Buildings. It is not in keeping with the character of Lewes or the National Park.
- The Lewes CAAMP requires that development must recognise and respond to the special interest of the Conservation Area and represent designs of the highest quality. The application does not meet that requirement.
- Roof lines are too high.
- Very little has changed since the last application.
- The parking provision proposed is not acceptable as there is a significant risk of fire if an electric charging point becomes faulty.
- Members consider that existing unused premises which are of a significant size be used as an alternative provision.
- No sustainability details have been provided.
- Pits dug into hardstanding make it impossible to immediately re-open to buses
- Unauthorised hoardings around the site have not been removed
- Restoring the bus station aligns with SDNPA policies to reduce car use, support public transport and improve air quality
- Current application includes temporary construction access expected to be used for 10 years
- Strategic plan for whole of policy allocation is essential
- Detailed plans for the bus station replacement are needed which should be fully assessed by all developers, authorities and bus operators and residents consulted. There is no clear replacement plan as proposals submitted by applicant are 'illustrative' so it is not possible to determine whether it is policy compliant or whether it would conflict with Phoenix proposals or Eastgate Wharf site.

- Concerns regarding safety of separating east and west stops on either side of busy road without speed limits, crossings or calming measures.
- Government ‘Bus Back Better’ report states bus stations should be protected from closure and redevelopment and should be improved.
- Phoenix development provides 270 more homes than required by policy SD57 so there is no imperative for further residential housing on bus station site which should be developed for community benefit due to its status as Asset of Community Value. It should be developed as bus interchange and mobility node fit for sustainable transport, including: public facilities; disabled access; shelter for large numbers of passengers (including school children and older people); and toilets for travellers, visitors and bus drivers.

4.14 **Noise (LDC)** – No objection subject to conditions.

4.15 **Southern Water** – No objection subject to conditions requiring foundation risk assessment, and groundwater protection.

4.16 **Twentieth Century Society** – Objection

- The Society maintains that the site is of historic and architectural significance locally and should be treated as a Non-Designated Heritage Asset (NDHA). By proposing the complete demolition of this local heritage asset, the application fails to achieve paragraphs 189 and 197 of the NPPF. In response to paragraph 203, the scale of harm or loss would be at the highest level as the building would be completely lost.
- The proposed redevelopment would neither ‘preserve’ nor ‘enhance’ the Conservation Area (CA). Rather, the loss of this characterful and historic building would have a detrimental impact on the CA due to the total loss of a building of heritage significance in Lewes and the building(s) should be treated as a non-designated heritage asset.
- The application would have a carbon cost. The SDNPA should encourage the retention and retrofit of existing buildings like this to comply with national policy and meet its ambitious target to be net-zero by 2030. The applicant here has failed to demonstrate that reusing the building is not possible or provide adequate justification for demolition and the site could be adapted and incorporated into development proposals.

## 5 Representations

5.1 At the time of writing the report, objections have been received from 413 individuals, 2 representations in support, and 2 neutral representations have been received.

5.2 The Member of Parliament for Lewes has also objected to the proposal, and their concerns and comments are summarised below:

- Removing well-used public transport facilities from the County town is wrong. The bus station services the town of Lewes and surrounding communities and is a facility that should be protected rather than replaced.
- The proposed replacement stops on Phoenix Causeway are dangerous and will cause more traffic disruption in the town centre. The developer has not provided an adequate replacement for the bus station.
- The North Street Quarter development was approved for nearly 700 dwellings whereas the whole SD57 allocation was envisioned to provide 415 dwellings, so the area is overburdened with housing already.
- The North Street Quarter development makes public transport provision even more important in central Lewes.
- The massing and height of the proposed development is unsympathetic to the local townscape and more fitting for a large urban area rather than rural market town.

- The lack of affordable housing means that the proposals do not address the town's housing need, and further prices local people from the town.
- Overall this is a poor application that will harm the character and sustainability of our county's historic heart which should be recommended for refusal,

5.3 A summary of the other objections, including those from organisations (such as Friends of Lewes, Save Britain's Heritage, Eastgate Baptist Church, Human Nature (Places) Limited, and Sussex Industrial Archaeology Society) are set out below together with a summary of the supporting and neutral letters.

#### 5.4 Objections

##### Bus facilities

- There is no agreed plan to replace or relocate the bus station with an operationally satisfactory and accessible site elsewhere or offers the same or better undercover waiting facilities.
- The bus station should not be sold
- The existing location is the only viable location for the bus station
- The developer has taken away the town's bus station
- Concerns regarding safety of pedestrians crossing road to access the bus stops, especially elderly, disabled and children
- Phoenix Causeway has insufficient room for >1 bus to arrive at the same time
- Traffic on Causeway is bad and will get worse
- The proposals do not provide any facilities for passengers or drivers, including seating, toilets and rest areas. The redevelopment of the site will result in a loss of a central convenient location for buses and passengers. Options proposed would have detrimental impact to passenger and pedestrian safety for a number of reasons including pavement crowding whilst waiting at stops, which will particularly affect people with pushchairs and wheelchair users.
- The bus station is an attractive, practical and well-loved space and should be retained and improved; Public transport should be improved not made worse.
- Proposal will have a disproportionate impact on the poor, elderly and vulnerable (i.e. those that rely on public transport).
- SDNPA should buy the site so it remains as a bus station.
- What are the criteria to determine whether replacement facilities are operationally satisfactory and accessible?
- Tourist buses not accommodated.
- A compromise should be built with some housing but retaining the bus facilities on ground floor.
- The existing site is the most accessible and the best location in the town centre.
- Contrary to Government 'Bus Back Better' report which states bus stations should be protected from closure

##### Housing / Affordable Housing

- The proposal does not include any affordable homes; If the site is unviable to develop as the applicant has calculated, then it should be left as it is; No affordable housing or for

elderly people and the market dwellings will be unaffordable for those on an average salary.

- The price paid for the development site is not a justification for failing to provide affordable housing also there is a concern that lack of viability will mean that the site is landbanked and left derelict.
- The houses proposed are too expensive for local people
- The North Street Quarter development has overprovided, therefore these 35 houses are not needed

#### Design and Impact on Heritage Assets

- Despite changes the development remains overbearing and incongruous.
- Out of scale with the site and surroundings; proposal is taller than adjacent church tower; top storey should be removed.
- Contemporary architecture and metal material for roof is uncharacteristic of Conservation Area
- The design is bland and generic; The roofline is ugly with functionless features and is of a generic design.
- Design not in keeping with the character of the Town and does not conserve or enhance the Conservation Area; the choice of materials is harmful to the Conservation Area; Gable ends not a typical feature of Lewes.
- Balconies are badly located and inappropriate as will be used for storage and clutter. The traffic noise and exhaust will mean that they will not be used by residents.
- Blocks views of the Downs.
- Resemble city office block.
- The bus station is attractive
- The bus station is an usual example of its type and should be identified as a non-designated heritage asset.
- Impact on listed buildings and listed flint wall.
- Does not comply with policies of Lewes Neighbourhood Plan or South Downs Local Plan.
- Does not step down the hill (East Street) as do the listed buildings opposite.
- Should include work from home office space.

#### Neighbour Amenity

- Potential loss of light and loss of privacy to neighbouring properties.
- Concern that residents could look into the windows of the Baptist Church resulting in safeguarding concerns.
- The site is too busy with traffic for residential development at ground level.
- Noise impacts from ventilation systems.

#### Flood risk and drainage

- Site is prone to flood and proposal will increase flood risk.
- Inadequate drainage and sewage provision.

- Uses out of date information.

#### Highways and parking

- The proposal will increase traffic and congestion on already busy roads including Eastgate Street and will lead to further dangers for road users and pedestrians and increase pollution.
- The proposal has inadequate parking.
- The proposal has too many car parking spaces.
- Should be encouraging / increasing sustainable travel options and reducing car use, particularly given too few parking spaces within the site and in Lewes.
- Will result in worsening parking situation in Lewes.
- Careful phasing of developments needed to avoid impact traffic in Lewes
- Application should be refused or deferred until discussions to remodel the Phoenix Causeway have taken place (including traffic directed to A26 tunnel and away from town, limits to speed, controlled crossing point between north and south, wider pavements and segregated cycle paths)

#### Town Centre economy

- Additional retail space isn't needed as other similar units in the town are empty; There is no need for additional commercial units.
- Loss of central bus station will have detrimental impact on the town economy.

#### Financial contributions

- All developers within the policy SD57 allocation should share responsibility for relocation of buses also, flood mitigation measures, transport links, riverside route and public car parking provision.
- The financial offer for replacement buses is too low.

#### Other concerns

- The bus station has been designated an Asset of Community Value; Scheme is contrary to Policy SD43 as the site is a community asset.
- Proposed location for stops on south of Causeway would result in loss of TPO trees.
- Building should be re-used to prevent loss of embodied carbon.
- Little green/outside space provided.
- Deterioration in Air quality.
- Site should have been marketed for 24 months to show no need or demand.
- Very limited public consultation.
- Refused hoardings have not been removed.
- New government means developer profit is not an issue.

#### 5.5 Support

- The town centre would benefit from the development of this site which is an ugly eyesore.
- The town will benefit from the buildings which are of modern design.

- Current bus arrangements appear to be working.
- New bus stops at School Hill are more convenient than the old bus station.

5.6 Neutral

- The level of financial contribution to the bus reprovision should be increased to reflect the actual cost of the additional bus stops.
- The two options proposed for the buses on the south of the Phoenix Causeway would prejudice the construction access and 'Co-Mobility Hub' of the proposed North Street Quarter development to the north of the causeway.
- The old Bus Station itself was run down for years, and was a litter strewn and windswept facility with no toilets.
- The new stops at the bottom of School Hill have as much seating as in the bus station and the electronic information boards are an improvement on the information provided at the bus station.

**6 Planning Policy**

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

6.1 Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 are relevant.

6.2 Section 66 relates to the grant of planning permission and states 'in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

6.3 Section 72 specifically refers to Conservation Areas and requires that 'special attention shall be paid to the desirability of preserving or enhancing the character of that area'.

6.4 Most relevant Sections of National Planning Policy Framework:

- Section 2 – Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 6 – Building a strong, competitive economy
- Section 12 – Achieving well-designed and beautiful places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

6.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination a planning application should accord with the development plan unless material considerations indicate otherwise. The development plan comprises the South Downs Local Plan and the Lewes Neighbourhood Plan.

6.6 Most relevant Policies of Adopted South Downs Local Plan (2014-2033) (a longer list of other relevant policies can be found in Appendix I)

- SD5: Design
- SD12: Historic Environment
- SD15: Conservation Areas
- SD27: Mix of Homes

- SD28: Affordable Homes
  - SD 43: New and Existing Community Facilities
  - Strategic Site Policy SD57: North Street Quarter and adjacent Eastgate Street, Lewes
- 6.7 Most Relevant Policies of made Lewes Neighbourhood Plan (2015-2033) (a longer list of other relevant policies can be found in Appendix I)
- HCI – Protection of Existing & New Community Infrastructure
  - HC3 A – Heritage Protection of Landscape and Townscape
  - HC3 B – Planning Application Requirements and Heritage Issues
  - PL1 A – General Housing Strategy
  - PL2 – Architecture & Design
  - AM2 – Public Transport Strategy
- 6.8 Other relevant policy documents (not part of the development plan) (including SPDs and TANs) (a longer list of other relevant documents can be found in Appendix I)
- Parking SPD
  - Affordable Housing SPD
  - Design Guide SPD
  - Sustainable Construction SPD
  - Biodiversity Net Gain TAN
  - Ecosystem Services TAN
  - Lewes Conservation Area Appraisal and Management Plan (October 2023)
- 6.9 Most relevant Policies of the South Downs Management Plan (2020-2025) (not part of the development plan)
- Policy 1
  - Policy 9
  - Policy 50

## **7 Planning Assessment**

### Principle of development

- 7.1 The application site forms part of a wider strategic allocation (Policy SD57) allowing for redevelopment for a mix of uses, including a large number of residential units. Given the scale of this application, the site's specific location within the settlement boundary and immediately adjacent to the defined Town Centre boundary, the fact that this is a previously developed site (i.e. a brownfield site) and the lack of significant adverse impacts upon the purposes for which the National Park has been designated, the proposed development does not constitute major development for the purposes of paragraph 183 of the National Planning Policy Framework (NPPF) and Policy SD3.
- 7.2 As part of an allocated site, the principle of redeveloping the site (including demolition of the existing buildings) for alternative uses has been established and the uses proposed (residential and commercial) comply with the range of uses referred to within Policy SD57 and given the relatively limited floorspace of the proposed commercial units it would not conflict with Policy SD36.

- 7.3 At the heart of the matter, and subject of much public interest as shown in the letters of representation, is how the proposal accords, or not, with criterion 3j of Policy SD57. This states that “Alternative uses on the bus station site are subject to the facility being replaced by an operationally satisfactory and accessible site elsewhere”.
- 7.4 In addition, the supporting text of policy HC1 of the Lewes Neighbourhood Plan refers to the retention of the bus station until a suitable alternative town centre site can be found offering the same or better undercover waiting facilities. This policy is blind to the commercial position that the owner of the site chose to discontinue the use of the site for buses.
- 7.5 It is clearly regrettable that the applicant chose to end the license agreement with the bus providers for the use of the bus station site before planning approval for redevelopment of the site had been obtained, however this action was a private legal matter that the applicant was entitled to take. It is noted that since the license agreement ended and the use by buses of the site concluded, East Sussex County Council (ESCC) installed temporary bus facilities at the bottom of School Hill. ESCC has expressed a firm view that the standard of these temporary bus facilities (now in place for 2 years) are not considered commensurate with what was previously provided by the bus station, and that a more appropriate facility for the town is required.
- 7.6 The information submitted with this application builds on the ‘bus stop re-provision assessment’ originally provided as part of the previous application at this site (SDNP/22/02197/FUL), which set out a number of potential options for relocating the bus facilities. In addition, SDNPA Officers, together with ESCC Highways and Passenger Transport Officers have led meetings with Lewes District Council, Lewes Town Council and the various developers for the policy SD57 allocation site with the aim of identifying sites that were potentially suitable and available for alternative bus provision.
- 7.7 During those discussions, Lewes District Council confirmed that no land in their ownership was available for an alternative bus provision. Discussions then focused on land in and around the Causeway, land owned by ESCC.
- 7.8 In February 2024, the Planning Committee resolved to approve the ‘Phoenix Scheme’, a hybrid planning application (Planning Reference: SDNP/23/00526/OUT), subject to the resolution of a number of matters to the satisfaction of the Director of Planning. As part of that application, 3 bus stops for eastbound bus services are to be provided on the northern side of the Causeway (within the full application) along with facilities including toilets and refreshment kiosk (within the outline part of the application). ESCC confirmed that it was satisfied that the bus stops and facilities on the northern side of the Causeway were operationally satisfactory and deliverable. It is noted that the construction of those facilities on the northern side, would be undertaken by that developer (as secured through a Section 106 legal agreement).
- 7.9 It is unfortunate that the applicants for this site and the ‘Phoenix Scheme’ have not worked together in a co-ordinated manner to holistically plan for appropriate bus infrastructure provision across their two development proposals. However, in accordance with Policy SD57, which does allow for individual applications to come forward separately, sufficient information has been provided by the applicant, to the satisfaction of both ESCC and SDNPA officers, that provision for the westbound bus services on the southern side of the Causeway (secured and funded by this application) can be operationally satisfactory and deliverable.
- 7.10 This information includes an arboricultural assessment of the potential impact on the TPO trees; more detail on the underground utilities, and an assessment of the engineering and structural implications of the proposed bus stop relocation. In addition, it incorporates the level I Road Safety Audit (RSA) undertaken by the developers of the Phoenix Scheme as part of work undertaken to demonstrate feasibility of the bus stops on the northern side of



the Causeway, which also included the two stops on the southern side of the Causeway. It is noted that ESCC's Road Safety Audit Policy document states that a level 1 RSA is sufficient to support preliminary design at planning application stage, with level 2 triggered at completion of detailed design stage (post consent) and level 3 triggered at completion of construction.

- 7.11 The arboricultural report indicated that whilst some incursion into root protection areas would be required, and some pruning of the TPO trees would be required to provide sufficient headroom for people and access for high sided vehicles, i.e. double decker buses, overall any impact to the health of the trees would be minimised through the use of low-impact, no-dig construction methods. This report has been reviewed by the Authority's arboricultural specialist who has advised that the assessment and conclusions are acceptable and the mitigation measures proposed are appropriate.
- 7.12 The wording of Policy SD57 sets out the clear expectation that the redevelopment of the bus station site would help secure alternative facilities. The Authority accepts that the wording of the policy allows for the bus station site to come forward for development without the relocation of the bus interchange facility having been physically delivered, however, the policy does sets out the clear expectation that the redevelopment of the bus station site would help secure alternative facilities.
- 7.13 Legal advice, received at the time of the previous application, was that Policy SD57 could be satisfied by securing an appropriate financial contribution (secured through a Section 106 legal agreement) towards the provision of bus facilities. Such a contribution would be necessary to make the development acceptable in planning terms, secondly such a contribution is directly related to the development and thirdly, such a contribution is reasonably related in scale and kind to the proposed development, and as such, would meet all of the legal tests in regulation 122(2) of Community Infrastructure Levy Regulations 2010 (as amended).
- 7.14 At the time that this application was submitted, the applicant proposed to contribute just £88,069.59 towards the financial cost of bus reprovision. During the course of this application, Officers have made it clear that to satisfy Policy SD57, the applicant should fully fund the costs of works required to construct the two stops for the westbound buses on the southern side of the Causeway.
- 7.15 The applicant has subsequently provided a Cost Estimate for the works which was reviewed by ESCC. As a result, the applicant is now proposing a financial contribution of £291,000, index linked, for works on the southern side of the Causeway, and this contribution has been agreed with both SDNPA and ESCC Officers. The £291k would deliver the two bus stops on the southern side of the Causeway, including the works to construct the bus bays, provision of the bus shelters and the electronic passenger information boards and the works to protect the trees. The financial contribution would be secured by a legal agreement, to be paid at the commencement of development, should planning permission be granted.
- 7.16 Officers consider that a financial contribution of this level would meet the relevant tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, namely that it must be: (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development. Criteria a) and b) are satisfied due to the direct policy link between the redevelopment of the bus station site and the reprovision of bus interchange facilities. Criterion c) relates to the amount of the contribution. The level of contribution is considered reasonable and fair as it relates only to facilities westbound buses, as provision for eastbound buses, toilets and refreshment kiosk, has already been agreed as part of the Phoenix Scheme. Officers consider that the contribution should not be lowered, as that would rely on the assumption that the development of the remaining elements of the Policy SD57 allocation would contribute any outstanding amount. At present there is insufficient

certainty of redevelopment of the last remaining elements of the Policy SD57 allocation site and no planning application has been submitted.

- 7.17 It is acknowledged that the area identified for relocation of the bus facilities falls outside of the red line area for this application and the applicant is not proposing to deliver the facilities. The technical information provided by the applicant has however demonstrated an operationally satisfactory, feasible and deliverable location for the facilities for the westbound bus services in a way that is compatible and safe with the proposals being delivered by the Phoenix Scheme and the proposed financial contribution has been assessed and agreed by Officers, including from the Local Highway Authority. The final detailed issues relating to trees, structures, utilities and further stages of the RSA process can be addressed through detailed design and completion of the Road Safety Audit process and would be undertaken by ESCC and its contractors in its role as landowner and Local Highways Authority.
- 7.18 A number of respondents have highlighted the Department for Transport 2019 report 'Bus Back Better: National Bus Strategy for England' which seeks to improve bus stations and protect bus stations from closure and redevelopment. Officers consider that a deliverable bus stop reprovision (in both financial and physical terms) would be consistent with the overall aim of the Department of Transport report whilst according with the development plan. It is also noted that if the planning application is refused the temporary bus stops will remain in operation for some time given that at this time no alternative satisfactory provision has been identified.
- 7.19 Officers have not sought any other financial contribution from the applicant for contributions towards any other off-site infrastructure improvements listed within Policy SD57. This has been queried by two Statutory Consultees and within representations. It is acknowledged that Policy SD57 refers to a number of benefits sought, including improved linkages between Phoenix Causeway and Eastgate Street; a cycleway along the banks of the River Ouse; and flood defences. Officers consider that additional financial contributions that might be sought for infrastructure improvements, other than the relocation of the bus facilities, would not be proportionate in the specific circumstances of this case in the light of the significant contribution to bus facilities and would not be reasonably related in scale and kind to the development.
- 7.20 Concerns were initially raised by the agent acting on behalf of Human Nature (Places) Limited (the developers of the Phoenix Scheme) that the options for bus stops on the southern side of the Phoenix Causeway would prejudice the access and other facilities proposed as part of their scheme, and thereby undermine the delivery of the Phoenix scheme (which has a resolution to grant planning permission). However, as set out above, the options have been considered by both SDNPA and ESCC Officers in the context of the bus stop and access arrangements for the Phoenix Scheme (including the RSA), and no concerns have been identified.
- 7.21 In response to the previous planning application at this site, Lewes District Council formally registered the site as an 'Asset of Community Value' (ACV). Listing as an ACV does not restrict the owner of the site in any way over what they can do with their property if it remains in their ownership. It does however mean that once registered as an ACV, if the owner wishes to dispose of the site, its sale must be open to enable a competitive bid from a community interest group. Usually, groups are given 6 months to raise funds after which time the owner can sell to whomever they choose. The registering of the site as an ACV does not prevent the determination of a planning application, nor does it result in an automatic refusal of planning permission if that asset was to be lost. However, the registration is a material consideration in determining any planning application.
- 7.22 Policies SD43 (New and Existing Community Facilities) of the South Downs Local Plan and HCI of the Lewes Neighbourhood Plan, seek to protect existing community infrastructure.

To that extent therefore, there is conflict with the development plan. However the development plan must be considered as a whole, Policy SD57 allocates the site for redevelopment and envisioned the loss of the buildings. As a strategic site allocation policy, SD57 is the policy with the stronger weight in the decision-making process, subject to the proposal satisfactorily meeting criterion SD57 3j.

- 7.23 In conclusion, given the development plan allocation, the principle of redeveloping the site is acceptable and accords overall with the development plan. Officers consider that the applicant has demonstrated that bus services can be delivered in an operationally satisfactory and accessible location. In addition, Officers consider that the proposed financial contribution (to be secured through a Section 106 legal agreement) is proportionate and sufficient to enable the delivery of the relocation of bus stops for westbound buses. As such, Officers are satisfied that the proposals comply with the requirements of Policy SD57(3)(j) of the South Downs Local Plan, and Policy AM2 of the Lewes Neighbourhood Plan and are supported overall by the development plan.

Affordable Housing and Housing Mix

- 7.24 The applicant has submitted a 'Financial Viability Assessment' (FVA) which states the scheme is unviable and cannot provide any affordable housing.
- 7.25 The Authority has commissioned an independent review of the applicant's FVA and has undertaken detailed discussions with the applicant. During these discussions, agreement has been reached regarding the build costs for the proposed development, but there are a number of items, on which agreement has not been reached, including Gross Development Value, fees for consultants and marketing, and also developer's profit.
- 7.26 The independent review concluded that to provide 50% affordable housing onsite to comply with Policy SD28 of the South Downs Local Plan and Policy PLI A of the Lewes Neighbourhood Plan would make the scheme unviable. It is acknowledged that the requirement to provide a direct financial contribution towards the bus re-provision will have an impact on the viability of the scheme and impact on the affordable housing that could be provided. However, the independent review did not agree with the applicant's FVA that no level of affordable housing was viable, even accounting for the level of financial contribution considered necessary to deliver the westbound bus services (on the south side of the Causeway). The independent review concluded that the proposed development could support a level of affordable housing provision. In response, whilst the applicant maintains that the scheme is not viable, it has now proposed to provide two onsite, affordable housing dwellings. Two, 1-bedroom apartments are being offered as First Homes, with such a provision to be to be secured by S106 legal agreement.
- 7.27 Taking into account the 30% discount on the open market value of the First Homes offered for affordable housing, the equivalent financial contribution would be of the order of £195,000. Whilst this is slightly less than the amount that the independent review of the FVA indicated would be available for affordable housing, it is noted that if three dwellings were provided on this basis, the financial contribution for the three dwellings would exceed the amount which the independent review indicated would be available and could jeopardise the financial contribution towards the relocation of westbound bus facilities. On this basis, the provision of 2 dwellings is consistent with the viability evidence.
- 7.28 Policy PLIA of the LNDP states that new residential development should comply with the development plan requirement for affordable housing, which shall include maximising the amount of Lewes Low-Cost Housing (LLCH) to meet local housing need, unless proven to be undeliverable. LLCH is defined by the LNDP as being available to rent or purchase at the median local income. The application site falls within the Lewes Bridge ward, within which for the financial year ending March 2020 the mean average annual income (before housing costs) was £42,500 ([Income estimates for small areas, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)). The LNDP indicates that to qualify as LLCH, properties for

purchase should be no more than 5 times household income, so that the maximum price should be £212,500. As such, if the applicant were to offer 2 x LLCH for sale, rather than 2 x First Homes, that would equate to 35% discount on open market value, with an equivalent financial contribution of £225,00. This is approximately equivalent to the amount that the independent review of the FVA indicated might be available for Affordable Housing (but on assumptions which are contentious).

- 7.29 Officers have raised provision of LLCH with the applicant, who has advised that whilst they had considered the possibility of offering LLCH for purchase, it would have a materially negative impact on viability of the scheme.
- 7.30 Policy SD28 of the SDLP prioritises provision of rented affordable tenure for affordable homes. However, given the low number of dwellings available for affordable housing, and the very limited availability of Registered Providers willing to take-on small sites, Officers have given greater weight to maximising the total number of affordable homes being offered over the specific provision of rented tenure .
- 7.31 As set out in paragraph 7.63 of the South Downs Local Plan, insufficient affordable housing provision which runs contrary to Policy SD28 will be a significant factor weighing against approval, irrespective of any viability barriers.
- 7.32 Whilst the affordable housing provision is only 6% (and the high need for affordable housing in Lewes is acknowledged), given the results of the viability review and the applicant’s proposed offer of two dwellings, Officers consider that the requirements of policy SD28 have been met, subject to the inclusion of a review mechanism or ‘clawback clause’ within the legal agreement. This would enable the Authority to secure more affordable housing, up to the requirement in Policy SD28, if market conditions improve before the completion of development. In the specific circumstances of this case, and subject to the inclusion of a review/clawback clause in the legal agreement, Officers are satisfied that the proposed affordable housing contribution is consistent with the development plan.
- 7.33 The proposed housing mix is set out in the table below:

Size of Unit	Market Housing		
	Total number of units	Total %	Policy SD27 requirement, total % by size of unit
1 bed unit	6	17%	At least 10%
2 bed unit	22	63%	At least 40%
3 bed unit	7	20%	At least 40%

- 7.34 Whilst there is a larger percentage of 2 bed units (and as a consequence fewer 3 bed units than set out in Policy SD27), the mix is otherwise in accordance with Policy SD27 and the supporting text (at para. 8.6) to Policy PL1 A of the Lewes Neighbourhood Plan refers to a preference for smaller dwellings.
- 7.35 The predominance of 2 bed units is acceptable for a ‘town centre’ site where the form of the development is more likely to be flats. Therefore, the proposed housing mix is acceptable (and in overall accordance with the development plan). As already stated the proposed units meet the national described space standards.

Design

- 7.36 During the discussions with the applicant (both pre-application and on the previously refused scheme), Officers have been broadly supportive of the applicant’s approach to a

contemporary design and a varied roofscape, including several gables fronting the streets, given the surrounding variety of structures and also the existing buildings on site.

- 7.37 It is accepted that given the site's location in the town i.e. on a corner location with the extra setting space this provides; given the surrounding grain and form of existing developments including some tall buildings within the nearby High Street and environs; and the change in levels across the site (and when compared to its immediate neighbours, particularly in Albion Street), the site could accommodate a relatively substantial built form. From a design perspective, Lewes has always included contemporary architecture (i.e. of its time) at different periods of its history, resulting in an eclectic mix of building styles with a wide range of materials. Whilst new buildings are not expected to be a pastiche of those of the past, they are expected to respect their context and meet high standards of design with high quality materials and detailing.
- 7.38 In terms of the previous application, Officers were supportive of the architectural approach with varied roofscape; the use of the distinctive gables facing both East Street and Eastgate Street; the height of the gables; the building footprint; the inclusion of 3 town houses on East Street, to complement its residential context; the provision of private or semi-private amenity space for each of the residential units; the form and location of the commercial units (adjacent to No. 15 Eastgate Street); effective use of the extensive roof with PV and roof terrace.
- 7.39 The current proposals include changes from the previous scheme including reductions in scale in particular at the southern end of the Eastgate elevation, and the changes to the scale of the town houses on East Street, have reduced the perceived mass, provide a more respectful relationship with existing adjacent buildings and made the proposal integrate better with the existing built form. The materials pallet including the inclusion of glazed black brick in header bond, use of Flemish and English bond brickwork on the main buildings use of metal window frames and rainwater goods, hung tiles and slate roof tiles chime with what is locally characteristic of Lewes. The remaining inclusions of locally uncharacteristic standing seam metal roof is acceptable as this are of roof is recessed from the street elevation and is unlikely to be visually prominent from the public realm.
- 7.40 The landscape proposals also include two new small trees to be planted in front of two of the three new houses in East Street, and two medium-size trees; one within the car park at the rear of the site, and one, on the Eastgate Street elevation, both of which would have a mature height of up to 12m and crown of 5-8m diameter. The proposed set-back for the trees are in accordance with guidance set out within the Design SPD. Should the application be approved, landscape details would be secured through an appropriate condition.

#### Heritage

- 7.41 The Conservation Area covers much of the town and its historic core and is separated into character areas. Its significance derives from its historical and architectural interest and its Downland setting. The domestic scale of buildings, the varied roof designs and architectural styles and variety of building materials all contribute to the significance of the Conservation Area. The particular features of significance within the Lower High Street Character Area are its varied nature with historic commercial and retail character which also features refined, architecturally unified terraces, including 2-17 East Street opposite the application site. The significance of these Grade II listed buildings lies both in their architectural value (including the use of mathematical tiles, a particular feature of East Sussex) and also their unified architectural style and scale. The significance of some of the other listed buildings in the vicinity of the proposals, i.e. No. 6 Eastgate Street and the Lewes Public Library, derive from their role as landmarks in the streetscene.
- 7.42 The Lewes CAAMP characterises modern buildings as being of generally larger scale than historic buildings, with longer street frontages and occupying deeper footprints breaking up the fine urban grain. The existing buildings on site follow this pattern and are also identified

within the CAAMP as an 'Area for Enhancement' that at present has a detrimental impact on the special interest of the Conservation Area. The CAAMP acknowledges that the eastern end of the Lower High Street character area has modern buildings of larger scale, departing from the fine urban grain of the western part of the character area. However, the majority of the buildings along the High Street are identified by the CAAMP as being three or four storeys, so that the fifth storey element of the proposal, does not fully accord with the specific characteristics of the area.

7.43 The CAAMP also identifies a number of key views within the Lower High Street character area, which afford long views towards the Downs to the east and south. In the vicinity of the application, these include views east from Albion Street, and along East Street. Visualisations and wireframe drawings submitted by the applicant indicate that the views of Cliffe, on the opposite side of the River Ouse would be blocked from Albion Street during the summer, although some visibility of Cliffe would be gained during winter (when the existing trees are without leaves). Views of Cliffe and Malling Hill from East Street would be somewhat narrowed but would be retained.

7.44 In terms of the previous application, regard to the impact on heritage assets, Officers had expressed concerns that the previous proposals were overbearing, did not sympathetically integrate with its surroundings, did not preserve or enhance the Conservation Area and would have had a detrimental impact to the setting of nearby Listed Buildings which were not outweighed by any public benefits of the scheme. The specific concerns relating to the original scheme (set out in the previous report to Planning Committee) are set out below:

- the size and scale of the proposed two westerly houses (adjacent to No. 27 East Street) in particular due to the proposed fourth floor and uncharacteristic mansard roof with flat roof which would be overbearing to No. 27 East Street and the Listed Buildings opposite and would be taller than the existing Library Building that sits up the hill from the site.
- The height and scale of the southern section of the eastern elevation (adjacent to No. 15 Eastgate Street - a building of townscape merit) which would be imposing and overbearing to No. 15 Eastgate Street and in views from Eastgate Wharf and from Albion Street.
- The two stories of accommodation within the roofs would result in a large dominating roof form within the street scene of a non-traditional forms of pitched front with flat roof to rear which was uncharacteristic of Lewes.
- Whilst a taller element on the corner of Eastgate Street and East Street was supported the bulk of the roof form between the gables (when viewed in the north elevation – East Street) needed to be reduced.
- Proposed use of uncharacteristic materials such as buff brick, concrete pavers and large areas of modern materials including metal cladding to elevations and roof.
- Landscape proposals including location of trees too close to the building facades, which would likely to result in shading to the proposed dwellings.

7.45 The applicant has undertaken some changes to the design and proposed materials to address the previous concerns as follows:

- the size and scale of the proposed two westerly houses (adjacent to No. 27 East Street) have been amended, reducing from 12.34m to 11.38m (when measured from East Street ground level). The fourth floor has been removed, as has the previously proposed mansard roof, replaced with a more traditional ridged roof-shape, with half dormer windows which break the roof-line. The change in roof form takes out some of the visual bulk from the roof and moves the roof back.
- The building at the southern end of the eastern elevation (adjacent to No. 15 Eastgate

Street - a building of townscape merit) has been modified, with the removal of the top storey and the retention of the cat-slide roof form. The height has been reduced from 14.04m to 11.33m. This has improved the relationship with No.15 Eastgate Street.

- The height of the main building on the eastern elevation (facing Eastgate Street) has been reduced (from 15.58m to 13.68m), so that there is now only one storey of living accommodation within the roof space. The roof lights have been replaced with dormer windows in the roof which now that the bulk of the roof has been reduced, serve to break up the roof form.
  - The material palette has been amended, with the replacement of buff brick previously proposed, with grey and red bricks. These would be laid using traditional bonds (Flemish and English bond) on the main body of the buildings. The existing flint cobble and brick walls along East Street, that will form the garden walls in front of the 3 townhouse dwellings will be repaired. Extra brick courses will be added to the wall, also with an English garden Bond.
  - The use of metal cladding has been substantially reduced and is now proposed to be restricted to the roofs of the larger buildings and the smaller of the three dwellings. Whilst this material is not locally characteristic, the roof areas are recessed from the street elevation and are unlikely to be visually prominent from the public realm.
  - The roofs of the 2 remaining dwellings (adjacent to No. 27 East Street) and the building adjacent to No. 15 Eastgate Street to be roofed with slate. Slate hung tiles are also proposed on the flank walls of the dwelling adjacent to No. 27 East Street and on the first and second stories of the building alongside No. 15 Eastgate Street. The ground floor of that building to be faced with black gloss bricks (echoing the glazed mathematical tiles used elsewhere within the Conservation Area). The black gloss bricks are also proposed for main apartment building on the eastern elevation (facing onto Eastgate Street) and on the smaller dwelling facing onto East Street and also used to provide window quoins and other decorative features within the façade.
  - Light colour window treatments are proposed to provide a contrast with the colour of the walling material on the large apartment building facing Eastgate Street and one of the proposed town houses facing onto East Street.
- 7.46 An additional change to the design has been made, in that the height of the central gables has been slightly increased, with the tallest north facing gable from increasing from 16.85m to 17.46m, and the tallest east facing gable increasing from 18.38m to 18.84m.
- 7.47 Some of the Heritage concerns, relating to the previous submission, have not been addressed. The bulky roof form between the gables (when viewed from the north elevation) has been retained and has not been reduced. In addition, some two-storey accommodation within the roof, uncharacteristic of Lewes, has been retained
- 7.48 The Conservation Officer has considered the revised proposals and advised that the changes secured, with regard to materials in particular, do help to better tie-in the proposed building with its context. However, it is of concern that not all the issues relating to the design of the proposed development have been adopted. The retention of the locally uncharacteristic bulky roof form (particularly as viewed from East Street), and also the retention of two-storeys of accommodation within the roof, would result in some harm to the heritage interests, with the most significant harm being to the Conservation Area, but also harm to the setting of nearby listed buildings, namely 2-17 East Street, 6 Eastgate Street, Lewes Public Library and 11 Albion Road. This harm has been assessed as being at the lower end of 'less than substantial'.
- 7.49 In terms of the public realm, these proposals have been revised from the previous submission by incorporating materials into the outside realm that are more characteristic of Lewes in general and the Conservation Area in particular as identified within the Lewes

CAAMP. The main area of public realm, (the footpath along Eastgate Street), is proposed to be laid with red brick clay paving which is the predominant paving material on Lewes footpaths. The proposed layby and the entrance to the car park (both on Eastgate Street) are proposed to be laid with granite setts, also referenced within the CAAMP as characteristic within this character area. Internally for the development, the pedestrian areas of the car park area is proposed to be laid with sandstone slabs with areas of sandstone sets. Overall, the revised proposal has sought to better respond to what is locally characteristic of Lewes. A condition to require approval of materials samples will secure the use of high-quality materials that reflect local heritage and are visually interesting in terms of colour and texture.

- 7.50 The termination of the use of the application site as a bus depot resulted in the introduction of new temporary bus stops on School Hill. These are described within the Lewes CAAMP as adding visual clutter to an important part of the High Street and detracting from its special character. Whilst this application does not directly provide alternative and permanent bus facilities, the financial contribution proposed by the applicant would allow the relocation of westbound bus facilities, which along with the eastbound bus facilities to be provided by the Phoenix Scheme, would thus bring about improvements to that part of the Conservation Area. It is acknowledged that by terminating the license with the bus operators, the applicant triggered the need for the installation of the temporary bus stops resulting in the impact to the Conservation Area. However, it must be recognised that the relationship of the applicant with the bus operators was purely commercial and, whilst unpopular, that course of action was legal and legitimate and could have occurred at any time regardless of development plans on this site. Without any development at the application site, no financial contribution from the applicant towards the relocation of bus facilities would be forthcoming, which would likely further extend the period of operation of the temporary School Hill bus stops and consequent harm to the Conservation Area. Officers consider that this would represent a benefit of the scheme, which carries moderate weight.
- 7.51 In conclusion, the proposal has a number of positive attributes but there are still some concerns about the scale of certain parts of the roof form, resulting in a proposal that would be somewhat uncharacteristic in scale to this part of the Conservation Area, and when compared to nearby Listed Buildings, namely 2-17 East Street, 6 Eastgate Street, Lewes Public Library and 11 Albion Road thereby having a somewhat detrimental impact on their setting. The impacts to both the Conservation Area and nearby Listed Buildings, would result in a level of harm that is assessed as on the lower end of 'less than substantial'. This needs to be given great weight and weighed against the public benefits of the scheme. The relevant balancing exercise addressed below.

Whether the existing buildings on site are a non-designated heritage asset

- 7.52 On the 10 August 2022, the Secretary of State for Digital, Culture, Media and Sport decided not to add the Bus Station building to the List of Buildings of Special Architectural or Historic Interest. Therefore, Historic England issued a 'Certificate of Immunity' which precludes the building from being listed for a period of five years.
- 7.53 As part of that process, further knowledge and understanding was gained about the buildings on site, and as highlighted in the consultee comments and a number of representations, there are those who consider the former bus station and garage to be a non-designated heritage asset. This is due to the buildings being distinctive within the Lewes Conservation Area and locally rare as buildings relating to the historic shift towards bus travel.
- 7.54 The issue regarding whether the site should be listed (or considered a non-designated heritage asset) was not raised by respondents or the Inspector during the creation of the Local Plan and the allocation of the site through Policy SD57. The supporting text of Policy SD57 describes the buildings themselves as 'unattractive utilitarian features'. The recently adopted (2023) Lewes CAAMP in its assessment of the Lower High Street Character Area,



does not include the bus station as an undesignated building of townscape merit, but rather identifies the whole site as an Area of Enhancement, and specifically refers to this site when describing 'potential development sites' within the Conservation Area.

- 7.55 Determining whether a building(s) is a non-designated heritage asset is a matter of judgement. At the time of the previous application (refused in 2022), having considered the matter in detail, Planning Officers did not consider, on balance, the buildings to be a non-designated heritage asset. Members discussed this matter in detail at the previous committee meeting and considered that it should not be considered a non-designated heritage asset. Officers remain of this view given that there has been no material change in circumstances.

#### Archaeology

- 7.56 The application site is located within an Archaeological Notification Area. Initially the applicant submitted a desk-based assessment. The ESCC Archaeology Officer raised concern that the archaeological significance of the site was not wholly established and requested that the applicant undertake archaeological field investigation prior to determination, in order that any archaeological issues could be fully considered.
- 7.57 The applicant submitted a Written Scheme of Investigation (WSI) setting out the scope of archaeological work (agreed with the ESCC Archaeology Officer). Following on from the WSI, in November 2023, the applicant undertook archaeological trial trenching and submitted a report of the fieldwork.
- 7.58 The ESCC Archaeology Officer has considered the submitted fieldwork report and has advised that the submitted information is satisfactory. Whilst there is a risk that the construction of the proposals would result in damage to locally/regional archaeological remains, this risk can be mitigated by appropriate planning conditions requiring the applicant to undertake a robust programme of or archaeological investigation, similar to those undertaken elsewhere within the historic core of Lewes.

#### Planning and Heritage Balance

- 7.59 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that for development which affects a listed building or its setting, the Local Planning Authority (LPA) shall have special regard to the desirability of preserving the building, or its settings or any features of special architectural or historic interest which it possesses, Section 72(1) of the 1990 Act states that LPAs shall pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 7.60 In addition, policies SD13 and SD15 of the SDLP are relevant which respectively relate to Listed Buildings and Conservation Areas. Policy SD13 states that development proposals that result in that harm to the significance of the setting of listed buildings will only be permitted where the Authority considers that the harm is outweighed by public benefits. Policy SD15 requires development proposals to preserve or enhance the special architectural or historic interest, character or appearance of a Conservation Area and that development proposals which involve the total demolition of structures in a Conservation Area will only be permitted where it is sufficiently demonstrated that the current buildings make no positive contribution to the special architectural or historic interest, character or appearance of the Conservation Area, and the replacement would make an equal or greater contribution to the character and appearance of the Conservation Area.
- 7.61 Policy HC3B of the LNDP is also relevant and states that proposals for the demolition and replacement of buildings in the Conservation Areas will only be supported where the existing structures do not make a positive contribution to the area's character appearance or significance, where they have been properly maintained and are not neglected.
- 7.62 The development of the site as set out above, would have some harmful effect on the Conservation Area and its significance, and also on the setting of the Listed Buildings 2-17 East Street. The existing site itself, although reasonably maintained and not neglected is

identified within the CAAMP as being an area for enhancement within the Conservation Area. The proposals therefore somewhat conflict with Policies SD5, SD14 and, SD15 of the South Downs Local Plan, and Policies HC3 A and HC3 B of the LNDP which collectively seek for development to respect the heritage and local character through safeguarding heritage assets and their setting.

- 7.63 Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. Paragraph 209 of the NPPF goes on to state that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.64 The benefits of the proposal include market housing provision of 33 dwellings; provision of 2 affordable dwellings; financial contribution of the full amount agreed for the relocation of facilities for westbound bus services (to be paid on commencement of development); local employment during construction; use of an allocated and sustainable brownfield site which currently detracts from the Conservation Area; new pedestrian footway on Eastgate Street; enhancement of the public realm using locally characteristic materials; and further modest improvement to the Conservation Area due to the removal of the congestion and pavement clutter on School Hill from the temporary bus stop facilities.
- 7.65 Officers consider that these benefits, when taken together are considered to be sufficient to outweigh the low level of ‘less than substantial harm’ that would be caused to the Lewes Conservation Area and the setting of the nearby Listed Buildings due to the scale of some elements of the roof and the uncharacteristic inclusion of two stories of accommodation within the roof. In coming to this conclusion officers have had due regard to the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and placed considerable weight on the heritage harm in accordance with these statutory duties as explained in the applicable caselaw and policy guidance.

#### Highways and Parking

- 7.66 The issue of the replacement bus facilities has already been addressed in this report.
- 7.67 In terms of the scheme itself the proposal does not give rise to any detrimental impacts to the local highway network nor is there an unacceptable impact in highway safety terms, subject to securing the mitigation measures (such as the Travel Plan and Traffic Regulation Order for the service bay) through a Section 106 legal agreement.
- 7.68 In terms of car parking, the proposal includes 17 parking spaces. 3 spaces are ‘allocated’ within garages for each of the 3 individual houses, the remaining 14 spaces are ‘unallocated’ within the internal courtyard. It is noted that in accordance with adopted Parking SPD, garages only count as 1/3 of a space (owing to the reduced use of garages for parking and increased use of them for storage), so that only 15 spaces may be counted.
- 7.69 Using the Authority’s parking guidance the scheme would give rise to a demand of 20 spaces. Therefore, the scheme could be seen as being deficient by 5 spaces (as the three garages only count as 1 space in the calculation). As set out in the Authority’s Parking SPD, the parking calculator is not a strict requirement and is intended to be guide based on the site and scheme context. In this case, the level of parking proposed is acceptable as the site is relatively accessible (by other means of transport), is located adjacent to a town centre and because of the other mitigation measures proposed (such as membership to a car club).
- 7.70 However, as highlighted in the comments from the Local Highway Authority, whilst there are car parks in the area, parking stress in the surrounding streets is high and there is no mechanism (e.g. via a Section 106 agreement) to prevent new residents from applying for

parking permits, (as illustrated by the Court of Appeals' judgement in R (Khodari) v Kensington and Chelsea RLBC [2018] 1 WLR 584).

- 7.71 It is noted however that ESCC as Local Highways Authority has advised that Article 23 of The East Sussex (Lewes Town Centre) (Parking Places) Traffic Regulation Order 2007 (dated 28<sup>th</sup> December 2007), residents of this development are unlikely to be eligible for an on-street parking permit. An informative to this effect would be included within the decision notice, should permission be granted. Furthermore, whilst a Section 106 legal agreement cannot be used to prevent new residents applying for parking permits, there is scope to include a requirement that the applicant provide details to the Authority, of the sales particulars which include information to highlight this fact to potential purchasers.
- 7.72 The proposed cycle parking and Electric Vehicle Charging provision are acceptable and the final details would be secured through suitably worded conditions.

Sustainable Construction

- 7.73 The proposed sustainable construction measures comply with Policy SD48 and the Sustainable Construction SPD and can be secured by condition should permission be granted. Whilst the Design Officer had raised some concerns regarding inclusion of rain gardens and other at-surface sustainable drainage measures, overall, given the constrained context of the site and the central urban location, the surface water drainage measures proposed are satisfactory and comply with the requirements of Policy SD50.
- 7.74 The representations received on this application have included concerns regarding the embodied carbon associated with the demolition of the existing buildings. However, the re-use of the existing buildings would be limited due to their form, layout, materials and potential structural concerns without substantial changes and alterations. In addition, Policy SD57 which allocates the site for redevelopment holds substantial weight, as do the requirements of Policy SD48 (with which the proposal complies). Therefore, the redevelopment of the site and the proposal put forward are acceptable in sustainability terms.

Impacts upon amenities (both to neighbouring properties and within the scheme)

- 7.75 The set-back of the windows within the active elevations of the proposed building would be similar to those already experienced by dwellings along East Street and Albion Street. Given the distance between the proposal and existing residential properties in East Street (including Eastgate Baptist Church) and Albion Street, and the tight grain of the existing developments in the town centre, the proposal will not cause undue loss of privacy or have detrimental impacts due to overlooking.
- 7.76 In addition, the 'back-to-back' distance from properties in Albion Road to the new scheme meets the minimum requirements set out in the Design Guide SPD (minimum requirement is 27m, the actual distance is approximately 35m) and no garden or amenity spaces are located close enough to the proposed development to be detrimentally affected by overshadowing.
- 7.77 The applicant has submitted an assessment of the impact of the proposals on the daylight at neighbouring residential properties. This found that windows at 5 dwellings would experience some loss of daylight, measured by the 'Vertical Sky Component' (VSC), in excess of the 20% reduction that the Building Research Establishment (BRE) guide suggests is usually considered acceptable i.e. before the loss is materially noticeable.
- 7.78 The second part of the assessment for light relates to 'Daylight Distribution' (DD) which BRE guidance indicates that reductions of more than 20% would be likely to adversely affect daylighting within a room. The report found that rooms at 5 dwellings would experience a decrease in daylight greater than 20%.

- No. 16 East Street – This property is situated on the northern side of East Street and is located opposite the westernmost of the proposed townhouses. One ground floor window at the front of the dwelling would experience a daylight reduction of 21%, and one second floor bedroom at the front of the property would experience a reduction in Daylight distribution of 21%. Officers accept the applicant’s assessment that this level of impact is de minimis.
- No. 17 East Street – This property is situated on the northern side of East Street and is located opposite the central and western of the proposed townhouses. One ground floor window would experience a daylight reduction of 32%. No rooms would experience a reduction in daylight distribution exceeding 20%.
- No. 27 East Street – This property is located on the southern side of East Street and is located alongside the side elevation of the westernmost of the proposed townhouses, separated by a driveway that leads to private car park. Three windows would experience a daylight reduction of over 20%; two of these windows are at ground floor level on the eastern elevation (47% and 92% reduction) and the third is on the second floor, also on the eastern elevation (40% reduction). The window on the second floor illuminates a room that benefits from two further windows and would experience no change to its daylight distribution. The two ground floor windows serve the kitchen at the rear of the dwelling, which also benefits from a skylight, which would be practically unaffected (2% decrease).
- The kitchen would also experience a reduction in daylight distribution of 31%. It is noted that the light to the kitchen is already affected by the position of a detached garage building to the south, and the position of one of the windows beneath a deep overhang created by the first floor of this dwelling.
- No. 14 Albion Street – Two ground floor windows at the rear of the dwelling would experience daylight reduction of 24% and 26%. That ground floor room would experience a reduction in daylight distribution of 23%, a modest but potentially discernible effect. It is noted that this is a particularly deep room for a town centre location.
- No. 15 Albion Street – One ground floor window at the rear of the dwelling would experience a daylight reduction of 24%, however it is noted that the room this window illuminates benefits from an additional window. No rooms would experience a reduction in daylight distribution of 20% or above.
- 214 High Street – This property is located to the south of the application site and is separated from the proposed development by a rear courtyard. There are 2 windows at first floor level that face north towards the proposals. Neither of these windows would experience a decrease in daylight of over 20%, although as these windows face north, this is not unexpected. Two small rooms would experience a reduction in daylight distribution of 31% and 44%, however plans associated with a previous planning application (LW/95/1414) indicate that these windows illuminate an office and a bathroom, and as such are not relevant to this assessment as they do not relate to residential habitable rooms.
- 214 & 217 High Street – This property is located to the south of the application site and is separated from the proposed development by no. 15 Eastgate Street and by the access into the private car park to the rear of no. 214 High Street. There are 3 windows at second floor level that face north towards the proposals, which illuminate a residential flat. None of the windows of this flat would experience a decrease in daylight of over 20%, although as these windows face north, this is not unexpected. One room would experience a reduction in daylight distribution of 30%, an effect which would be modest but discernible.

- 7.79 The daylight effects of the proposals for the majority of the adjacent residential properties would be insignificant or modest (especially in the context of an edge of town centre site), with the exception of No. 27 East Street, in which the effects would be the most significant. The impact on daylight amenity of this property was one of the reasons for refusal for the previous application (SDNP/21/02197/FUL). It is noted that the extent of impact on daylight on the affected windows/rooms of this property would be slightly, but not significantly, less than for the previous application (as the bulk of the proposed building has been reduced).
- 7.80 However, since the previous application was considered, Officers have visited No. 27 East Street (with the permission of the owner). This visit confirmed that the most affected room, the kitchen, is served by three windows, one of which is situated below a deep overhang and which already contributes to the lower light conditions in the rear part of the room. Officers also confirmed that the main part of the kitchen is also served by a skylight which provides natural light to the kitchen as a whole. This rooflight would be unaffected by the proposals and would continue to provide natural light to the kitchen.
- 7.81 However, it also must be noted that the BRE guidance itself states that its advice is not mandatory and that numerical guidelines should be interpreted flexibly. The guidance also particularly highlights that there are certain circumstances, such as in a historic town or city (e.g. such as Lewes Conservation Area), where a higher degree of obstruction and hence reduction in light may be unavoidable.
- 7.82 The light report indicates that the nearby dwellings currently experience somewhat elevated levels of light than might ordinarily be anticipated in an historic town centre locations, and this is due to the existing low-lying development at the application site. Given the grain and density of Lewes town centre, it is considered that development of any greater scale than the existing bus depot buildings would result in some degree of impact to daylight levels in adjacent properties. The inclusion of the application site within the Strategic allocation, and consequent changes to the built form at the site, indicates that some level of light impact to nearby dwellings would have been anticipated and as such, Officers consider that that a reason for refusal on the impact to daylight levels in adjacent properties could not be sustained.
- 7.83 In terms of 'internal' daylight and sunlight (i.e. daylight and sunlight to the proposed units), 55 rooms (50%) would not meet BRE guidance on sunlight, however of these 52 face northwards so that high levels of sunlight would not be expected. The windows to the remaining three rooms are shaded by balconies to other apartments. With regard to daylight 4 rooms (not bedrooms) would not be compliant with BRE guidance on daylight levels. In general these lower levels are due to the mainly larger open plan design of the units and the presence of balconies i.e. these rooms are set back from the main elevation behind overhanging balconies. In addition, the balconies are a positive design feature and provide much needed private amenity space. Officers consider that given these factors and that the site is a 'town centre' location where higher density and tighter forms / grain of development are reasonably expected, Officers consider that a reason for refusal on the impact to daylight to the proposed units could not be sustained.
- 7.84 When considering the potential for overbearing effects, plans and sections submitted by the applicant indicate that Nos 16 & 17 East Street are situated opposite the 3 townhouses at the western end of the proposed development. These three storey buildings are of a domestic scale (between 10-11.5m height) and are of similar height to the buildings opposite. The same applies to the residential buildings to the west of the proposals (No 27 East Street, and Nos 14-16 Albion Road). The parts of the building at the largest scale are the five storey elements on the corner of East Street and Eastgate Street. These are undeniably substantial in scale, with the height to the roof being between 16.5m from ground level and the height to the central gables being 17.5m – 18.5m from ground level. At this location, the road widens, to form the junction between East Street, Eastgate Street and the road from Causeway. The buildings in the vicinity of this part of the proposals are non-residential

comprising a church hall, Waitrose supermarket and restaurant (currently closed) and as such, the overbearing effects on residential neighbours of this part of the proposals would thus be limited. That part of the development at the south-east of the application site, neighbouring No. 15 Eastgate Street would have a height of 11.3m from ground level, which although taller than the 8.5m height of No. 15, any overbearing effect would be tempered by the catslide roof reducing its bulk and the separation between the buildings provided by the car park access. The remaining parts of the proposed building are set back from other neighbours by the internal open car park which acts as a buffer from development to the west and south-west. Officers are satisfied that the development is satisfactory in terms of outlook from neighbouring residential properties, and as such, a reason for refusal on the grounds of loss of residential amenity due to overbearing impact would not be warranted and could not be sustained.

- 7.85 The application is also supported by a noise assessment which concludes that mitigation measures (such as recommended glazing and mechanical ventilation) will be required to protect the amenity of the new residents from overheating, and noise associated with fixed plant associated with the commercial units and reduce the risk of noise impacts from road traffic along Eastgate Street. This is considered acceptable and conditions to maintain residential amenity and to secure these mitigation measures are proposed. It is noted however, that internal noise levels in residential dwellings are controlled by Part E of the Building Regulations.
- 7.86 It is acknowledged that some of the proposed spaces (such as private gardens and external balconies) front onto or are in close proximity to Eastgate Street and therefore will exceed the maximum British Standard (BS8233) guideline values of 55dB in terms of noise impacts. Whilst some of the impacts may be mitigated through inclusion of balustrades and privacy screening secured via a planning condition, these mitigation measure would not reduce the impacts significantly. Furthermore, there is an expectation that developments within / close to town centres will have higher levels of noise and the proposal has considered reasonable measures to mitigate the impacts. As the site is in close proximity of the defined town centre boundary, adjacent to a key road / route through Lewes, the site is allocated for redevelopment and, given the benefits provided to occupiers of the amenity space, this impact is acceptable in this case.
- 7.87 The method of internal heating for the development is via Air Source Heat Pumps. The submitted noise report indicates that those attached to the three town houses could be located and screened so as to reduce impact to the host property and its neighbours. A detailed assessment of any potential impact from the external fixed plant to serve the apartments or commercial units has not been undertaken, however a condition requiring a noise assessment to ensure externally fixed plant shall achieve acceptable noise levels at nearest noise sensitive location is proposed. This would ensure that any plant, equipment and servicing would not result in any unacceptable noise impact to neighbours.

Flood Risk / Drainage and Water Supply

- 7.88 With regards to flood risk and drainage issues, the applicant has undertaken detailed discussions with ESCC, as the Lead Local Flood Authority (LLFA), regarding the design of surface water attenuation systems. LLFA Officers have advised that the resulting design is acceptable subject to conditions.
- 7.89 Furthermore, the Environment Agency and Southern Water have raised no objection to the proposed development, subject to a number of conditions particularly relating to foundations and also ground contamination.
- 7.90 The issue of a financial contribution towards flood defences, was raised by the Lewes District Council Drainage Officer. Officers discussed this with Environment Agency Officers who advised that the EA would not seek financial contributions for a development of this size within Flood Zone 2.

Air Quality

- 7.91 The application site is located outside the Lewes Air Quality Management Area (AQMA), 100m to the east. The submitted Air Quality Assessment report has, in accordance with methodology set out by the Institute of Air Quality Management, identified that the low level of traffic movements associated with the development would not reach the lower screening threshold for development within or adjacent to AQMA that might result in potentially significant effects on the AQMA.
- 7.92 The proposed development will lead to a change to the existing street canyon configuration which is likely to alter the dispersion of pollutants. To assess these possible impacts on air quality the applicant has undertaken Air Quality monitoring and modelling which predicts that the concentrations of pollutants at 'worst-case' locations locally (including East Street, Eastgate Street, also the junctions of East Street with Little East Street and Albion Street) would change marginally and would not exceed national air quality objectives.
- 7.93 The applicant's air quality model indicates that pollutant levels would vary as follows:
- Nitrogen dioxide – of 12 nearby receptor locations, NO<sub>2</sub> would increase by 1-2 µg/m<sup>3</sup> at 6 locations, and decrease by 2-3 µg/m<sup>3</sup> at 2 locations, with the remainder of sites remaining unchanged (taking 'rounding' into account). The Institute of Air Quality (IQA) methodology classes the extent of percentage change as negligible. All sites remained within current UK standard for NO<sub>2</sub> of 40 µg/m<sup>3</sup> annual average.
  - PM<sub>10</sub> – of 10 nearby receptor locations PM<sub>10</sub> would increase at 1 of the 10 locations. Levels at the remaining locations were unchanged. The Institute of Air Quality (IQA) methodology classes the extent of % change as negligible. Predicted levels at all locations were within current UK standards (40µg/m<sup>3</sup>).
  - PM<sub>2.5</sub> – of 10 nearby receptor locations, PM<sub>2.5</sub> would marginally decrease at 4 of 10 locations and remain the same at 6 of 10 locations. Levels at all locations were well within current UK standards (within 20µg/m<sup>3</sup>). The Institute of Air Quality (IQA) methodology classes the extent of % change as negligible. The future levels would also remain within the interim 2028 targets for PM<sub>2.5</sub> of 12µg/m<sup>3</sup>.
- 7.94 The specialist advisor on air quality to Lewes District Council has objected to the proposals raising a number of concerns. The first of these was that an Emissions Mitigation Assessment (including damage cost assessment) had not been provided as part of the application documents. Initially Officers considered that, should the application be approved, this document could be secured by condition, however the applicant has recently submitted this document prior to determination. SDNPA Officers have reviewed this document and are satisfied that it meets the requirements of the Air Quality and Mitigations Guidance for Sussex, and that the costs of the proposed mitigation measures (including car club membership and implementation of low emissions strategy via the travel plan;). These mitigation measures would be secured via a Section 106 legal agreement.
- 7.95 The Air Quality specialist has also raised concerns that whilst the proposals do not exceed current national air quality standards, they have not been assessed against future standards. They advise that Lewes District Council is currently updating its Air Quality Action Plan and aims to introduce more stringent targets similar to those of the adjacent authority Brighton and Hove City Council. However, Officers consider that it is not reasonable to expect the applicant to undertake an assessment against, as yet, unspecified and unadopted targets.
- 7.96 The Air Quality specialist also raised concerns regarding the under cover nature of the parking area and the effect of idling vehicles on air quality, however it is noted that a large portion of the car park is uncovered and open to the elements so would not require additional ventilation. It is noted also that in undertaking the assessment, the applicant has incorporated traffic and emissions projections from the Defra Emissions Factor Toolkit (EFT) which is the national standard data source.

- 7.97 Given the figures summarised above, and the mitigation measures proposed for matters within the applicant's control (such as seeking to limit car use, car club membership for residents and use of air source heat pumps for heating) Officers consider that the negligible percentage increase in pollutant levels (which also needs to be viewed in light of the public benefits of the scheme) would not justify a reason for refusal on the grounds of air quality impacts and would not represent a conflict with Policy SD54 of the SDLP. (Environmental Targets for Fine Particulate Matter (England) Regulations 2023).
- 7.98 With regard to construction impacts on air quality, given the town centre location, the construction process has the potential to give rise to dust and air quality concerns, however this can be managed through a Dust Management Plan (developed in line with the methodology described within the submitted Air Quality Assessment), to which contractors must adhere. This would be secured and monitored by an appropriately worded condition.

Ecology and Biodiversity

- 7.99 The proposals for green roofs, raised planters and the larger gateway tree within the public realm in Eastgate Street are generally well considered and supported and are in accordance with Policies SD2, SD9 and SD11, and given the baseline position the addition of any green infrastructure will likely demonstrate a biodiversity net gain. There is scope for further improvement by inclusion of more locally specific planting options and incorporating bat, bird and insect boxes. These should be detailed in a Landscape and Ecological Management Plan (LEMP) that would be secured via a S106 legal agreement should the application be approved. The proposals for trees within the small gardens for the dwellings on East Street have been selected as being suitable for small gardens. Given this, the proposal would comply with policies SD11 and SD57, and the adopted Design Guide SPD.
- 7.100 The Ecology Officer has advised that should the development be delayed an updated survey for bats must be undertaken to ensure no adverse impact to protected species. This could be achieved by the imposition of an appropriate condition.

Land Contamination

- 7.101 The submitted land contamination report is acceptable and the detailed recommendations, (including a remediation strategy and mitigation measures) can be secured through suitably worded conditions.

**8. Conclusion**

- 8.1 The principle of a mixed-use development scheme on this site is supported (as it is allocated for development within Policy SD57 of the South Downs Local Plan) and as it is a sustainably located, brownfield site.
- 8.2 The applicant has demonstrated that an alternative location for bus interchange facilities for westbound buses is deliverable on an available site, and has committed to providing an acceptable financial contribution for the full cost of that provision (as agreed with ESCC as Highways Authority). Part 3j of policy SD57 of the SDLP is therefore satisfied.
- 8.3 The applicant has offered 2 affordable homes as First Homes for purchase. This does not represent the level set out in policy SD28, however an independent review of the scheme's viability has identified that a fully policy compliant affordable housing contribution would be unviable. The level of affordable housing proposed is in line with that identified within the independent review of viability, and as such, Officers consider that there is no conflict with policy SD28.
- 8.4 Whilst Officers consider that the proposal is otherwise acceptable, there is a degree of harm to the significance of the Conservation Area and the setting of the nearby listed buildings which is characterised as at the low end of 'less than substantial'. This is due to the bulk of parts of the roof, and the inclusion of uncharacteristic two-stories of living accommodation within the roof space.



8.5 Officers have paid special attention to the desirability of preserving or enhancing the character of the Conservation Area and also, special regard to the desirability of preserving the setting of the nearby listed buildings. In doing so, Officers have weighed the harm to the significance of these heritage assets with the public benefits of the proposal. Overall, Officers consider that the public benefits are sufficient to outweigh the less than substantial harm both to the Conservation Area and the setting of the nearby listed buildings.

8.6 Officers are satisfied that the proposal is in overall conformity with the development plan.

**9. Recommendation and Reasons**

9.1 It is recommended to grant planning permission subject to the completion of a Section 106 Legal Agreement (the final form of which is delegated to the Director of Planning) to secure the obligations set out in paragraph 9.3 and the conditions set out in paragraph 9.4

9.2 In addition, that authority be delegated to the Director of Planning to refuse the planning application with appropriate reasons if the Section 106 Agreement is not completed or sufficient progress has not been made within 6 months of the 12 September 2024 Planning Committee meeting.

**9.3 Planning Obligations (Section 106 Legal Agreement)**

- Two affordable homes (to be secured as First Homes);
- A package of on-site and off-site Transport Mitigation Measures;
- £291,000 towards the provision of alternative bus facilities on the southern side of Phoenix Causeway, to be payable on the commencement of development;
- TRO for loading bay on Eastgate Street;
- Car club membership for each dwelling for 3 years;
- Footway works on East Street and Eastgate Street;
- Travel Plan;
- A Landscape and Environmental Management Plan (LEMP);
- Maintenance and Management Plan for the drainage system;
- A review mechanism or ‘clawback clause’ to enable the Authority to secure additional affordable housing if market conditions improve;
- Estate Management Plan (to include the maintenance and management of communal spaces, drainage, lighting and landscape and ecological management measures), and
- The provision of a residents and tenants information pack (to include information highlighting ineligibility for parking permits).

**9.4 Planning Conditions and Reasons**

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

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

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

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

3. The commercial floorspace within the building fronting onto Eastgate Street, as shown on the approved floorplan drawing 7041A-ECE-VI-00-PL-A-1100\_A, shall only be used

for uses falling within Class E(a) or Class E(c-g inclusive), as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose within Class E or any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

Reason: To ensure the use of the building does not have a harmful environmental effect and in the interests of amenity

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification),
  - No buildings, structures, works or minor operations as defined within Part 1, classes A-H and Part 2, classes A-G of Schedule 2, shall be erected or undertaken on the site, and
  - No changes of use of the uses of the commercial floorspace hereby permitted by Condition 3 and as defined within Part 3 of the Order, shall be undertaken on the site;

unless permission is granted by the Local Planning Authority pursuant to an application for that purpose.

[Classes of use are as defined in the Town and Country Planning (Use Classes) Order 1987, as amended, and this condition shall apply notwithstanding any Order revoking or re-enacting the provision of that Order].

Reason: To enable the Local Planning Authority to regulate and control the development of land in the interests of the character and appearance of the area and in the interest of amenity.

#### Construction

5. No construction works, including piling, demolition, earth works and the use of heavy plant, shall be undertaken on site except between the hours of:
  - 08:00 hours to 18:00 hours Monday to Friday,
  - 08:00 hours to 13:00 hours on Saturday, and
  - no work shall be undertaken on Sundays, Bank and Public Holidays.

Reason: To enable the Local Planning Authority to control the development in the interest of maintaining a safe and efficient highway network and in the interests of amenity

6. Prior to the commencement of development including any site clearance and demolition, a Construction Environmental Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter all works shall be carried out in accordance with the approved Statement throughout the construction period. The Statement shall provide for, but not be limited to the following:
  - (a) A programme for carrying out the works (including any phasing of works);
  - (b) Protection of pedestrian routes during construction;
  - (c) Construction traffic management plan, to include:
    - i) the anticipated number, frequency and types of vehicles used during construction,
    - ii) the method of access and egress and routeing of vehicles during construction,
    - iii) the provision of long term facilities for parking for contractors, site operatives and visitors, and

- iv) the arrangements for deliveries associated with all construction works;
- (f) loading and unloading of plant, materials and waste
- (g) storage of plant and materials used in constructing the development
- (i) Access and egress for plant and machinery;
- (j) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (k) wheel washing facilities and other works required to mitigate the impact of construction upon the public highway
- (l) measures to control the emission of dust and dirt during construction (in accordance with the measures described within Section 6 of the Ardent Air Quality Assessment report , Ref: 2103591-R01, dated June 2023)
- (m) measures to control noise, vibration and odour during construction;
- (n) a scheme for recycling/disposing of waste resulting from demolition and construction works
- (o) Location of temporary site welfare buildings, compounds, construction material, and plant storage areas;
- (p) site illumination
- (q) ground water protection and details of measures to comply with the most recent version of the Environment Agency's Groundwater Protection Guidance;
- (r) measures to manage flood risk both on and off the site during the construction phase
- (s) the provision of temporary Traffic Regulation Orders
- (t) a public communication strategy (for both prior to and during construction works), including a complaints procedure

Reason: To enable the Local Planning Authority to control the development in the interest of maintaining a safe and efficient highway network, in the interests of amenity, to reduce the flood risk and protect from contamination to controlled waters

#### Contamination

7. Prior to the commencement of development, details of foundation design and a Foundation Risk Assessment and Mitigation Plan shall be submitted to, and approved in writing by, the Local Planning Authority. This assessment must include mitigation for all turbidity and contamination risks to the underlying Chalk aquifer.

The Foundation Risk assessment and Mitigation Plan shall be implemented as approved. The foundations shall thereafter be constructed in accordance with the approved foundation design.

Reason: To ensure the protection of groundwater resources

8. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved, in writing, by the Local Planning Authority.

The strategy shall include the following components:

- a) Additional site investigation scheme, based on preliminary investigations already undertaken (Ashdown Site Investigations, Combined Geotechnical and Quantitative Ground Contamination Risk Assessment, Ref: R14628 dated 12/02/2021) to provide information for a detailed assessment of the risk to all receptors that may be

affected, including those off site. This investigation should continue post-demolition works;

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

The scheme shall be implemented as approved.

Reason: To ensure that risks from any land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a Remediation Strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Strategy shall be implemented as approved.

Reason: To ensure that the development can be carried out safely without unacceptable risks from contamination.

10. Before any part of the development is first occupied or brought into use a verification report demonstrating the completion and effectiveness of the remediation works carried out, including any future monitoring of pollution linkages, maintenance and contingency actions, and a completion certificate confirming that the approved remediation scheme has been implemented in full shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA, ref 15942/01/HOP/RPT/01) and the following mitigation measures detailed therein:

- All habitable finished floor levels shall be set no lower than 5.8 metres above Ordnance Datum (AOD) in accordance with sections 4.4, 11.2 of the submitted FRA and Drawing Nod. 1100Rev B.

These mitigation measures shall be fully implemented prior to occupation in accordance with those details approved and shall be retained and maintained thereafter.

Reason: To reduce the risk of flooding to the proposed development and future occupants and prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site.

12. Prior to the commencement of development, details of foul and surface water drainage systems shall be submitted to, and approved in writing by, the Local Planning Authority. The detailed design shall include the following:

- Surface water discharge rates not exceeding 1.3 l/s for all rainfall events, including those with 1 in 100 (+45% for climate change) annual probability of occurrence. Evidence of this (in the form of hydraulic calculations) should be submitted with the

detailed drainage drawings. The hydraulic calculations should take into account the connectivity of the different surface water drainage features.

- Areas of hard standing that may be subject to oil/petrol spillages should be drained by means of appropriate oil trap gullies or petrol/oil interceptors. If other measures to manage run-off are proposed, full details shall be provided.
- The drainage design must ensure that no groundwater or land drainage will enter public sewers.
- The details of the outfall of the proposed attenuation tanks / permeable pavement and how it connects into the watercourse/sewer/drain should be provided as part of the detailed design. This should include cross sections and invert levels.
- Copies of the documents and evidence provided to Southern Water to demonstrate acceptable connection to the main sewer together with their approval of the physical works.
- The detailed design should include information on how surface water flows exceeding the capacity of the surface water drainage features will be managed safely.
- The detailed design of the attenuation structure should be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the attenuation storage and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the drainage system should be provided.
- The detailed design should include details regarding the prevention of surface water discharge from the highway onto the site, and also from the site onto the highway
- The surface water drainage scheme shall be designed to integrate with the landscape details pursuant to condition 27

The development shall thereafter be undertaken in full accordance with the approved details.

Reason: To ensure satisfactory surface water drainage.

13. Prior to first occupation of the development hereby permitted, evidence (including photographs) to demonstrate that the foul and surface water drainage system has been constructed in full accordance with the final agreed detailed drainage designs shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory provision of surface water drainage and ensure surface water runoff from the development is managed safely.

#### Highways

14. Notwithstanding the plans hereby approved, the development hereby permitted shall not be brought into use until a detailed plan of the site access has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall demonstrate that the Eastgate Street access shall:
- be at least 5 metres inwidth within the site (to accommodate 2 vehicles side by side)
  - have a bellmouth form with 2 metre radii on both sides, such that it shall be 9m width at where it meets Eastgate Street,
  - visibility splays of 2.4m by 27.4m in both directions
  - pedestrian and vehicular gates

The approved plans shall be implemented and retained and maintained thereafter.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

15. Notwithstanding the plans hereby approved, prior to the commencement of development, updated car parking details shall be provided to, and approved in writing by, the Local Planning Authority. The submission shall include:

- scale plans (with dimensions) showing the layout of garages and parking spaces,
- EV charging points
- Locations of disabled parking spaces
- updated swept path plans for the parking areas and garages.

The development shall thereafter be undertaken in full accordance with the approved details and those details retained thereafter.

Reason: To provide adequate space for the parking of vehicles and to ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

16. The development hereby permitted shall not be occupied until 17 vehicle parking spaces have been provided, including EV charging points, in accordance with the approved plans (submitted in accordance with condition 15).

Reason: To meet the vehicle parking demand of the development and ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

17. Notwithstanding the plans hereby approved, no development above slab level shall commence until cycle parking details have been provided to and approved in writing by, the Local Planning Authority. The submission shall include scale plans, (with dimensions) showing the location and layout of 83 residential cycle parking spaces and 4 commercial cycle parking spaces.

Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.

18. The development hereby approved shall not be occupied until at least 83 cycle parking spaces have been provided for residents and 4 cycle parking space for the commercial uses (as approved under condition 17). These spaces / areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.

#### Residential amenity

19. No development above slab level shall commence until a noise survey report (undertaken to measure typical background noise levels (LA90) at the nearest noise sensitive locations) has been submitted to, and approved in writing by the Local Planning Authority. The report shall also include details of measures necessary to ensure that any externally mounted ancillary plant and equipment shall achieve a rating level of 5dB (LAeq) below the typical background level at the nearest noise sensitive locations. These measures shall be implemented as approved, and retained for the life of the development.

Reason: In the interests of residential amenity.

20. The development shall not be brought into use until details have been submitted to and approved in writing by the Local Planning Authority addressing the proposed ventilation or extraction system that will be used on the site, including the required maintenance regime for the system. The details shall be prepared by a competent person for the purpose of assessing potential odour and noise nuisance to surrounding properties. The agreed details shall be fully implemented before the use hereby approved is commenced and the equipment shall be installed, operated and maintained in accordance with the approved details and shall be retained thereafter.

Reason: To ensure that the amenity of the area is not detrimentally affected by the use of the site.

21. Notwithstanding the details shown on the approved plans and documents, before the development hereby permitted is first brought into use, details of refuse and recycling storage facilities for both domestic and non-domestic waste relevant to the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling storage facilities shall be implemented prior to the occupation of the development, and thereafter be retained.

Reason: To ensure that adequate provision is made for the storage of refuse and recyclable materials and to protect the character and amenity of the area.

#### Heritage

22. Prior to the commencement of the development hereby permitted, a survey report and a method statement setting out how the section of listed wall (as shown on page 19 of the Heritage Impact Assessment, WS Heritage Ref: J004510 dated July 2023) is to be protected, maintained, repaired and stabilised during and after demolition and construction works, and including details of any temporary support and structural strengthening or underpinning works, shall be submitted to and approved in writing by the Local Planning Authority.

The demolition and construction works shall be carried out and completed fully in accordance with the approved method statement.

Reason: In the interests of preserving the character and appearance of the listed structure.

23. No development, other than demolition and site clearance, shall take place until a programme of archaeological works has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken and findings 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.

Should the archaeological works identify further archaeological investigation is required, a further written scheme of investigation shall be submitted to, and approved in writing by, the Local Planning Authority, and the works shall be completed in accordance with the paragraph above.

Reason: To enable the recording of any items of historical or archaeological interest

24. No occupation of any part of the development hereby approved, shall take place until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post - investigation assessment will be undertaken

in accordance with the programme set out in the written scheme of investigation approved under condition 23.

Reason: To enable the recording of any items of historical or archaeological interest,.

#### Ecology / Biodiversity

25. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 18 months from the date of the last bat emergence survey (02 May 2024), an Updated Ecological Survey Report will be commissioned to establish the following:

- if there have been any changes in the presence and/or abundance of bats and
- identify any likely new ecological impacts that might arise from any changes.

Should the survey results indicate that changes have occurred, that will result in ecological impacts not previously addressed in the approved scheme, the Updated Ecological Survey Report will set out appropriate ecological mitigation measures and timetable for implementation. The Updated Ecological Survey Report will be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of development (or recommencement if applicable) and implemented in accordance with the approved details and those measures thereafter retained.

Reason: To ensure adequate mitigation and compensation can be put in place,.

#### Materials and Design

26. Notwithstanding the details shown on the approved plans, no development above slab level shall commence until a schedule of architectural details, materials and finishes and samples of such materials and finishes, have been submitted to and approved in writing by the Local Planning Authority. Details to include:

- External walls (including sample panels to accurately reflect the proposed bond, coursing and finish of the materials)
- Roofs;
- Photo voltaic panels (including fixtures and fittings);
- Eaves, fascias and soffits;
- Rainwater goods;
- Windows and openings including glazing, head, sill, lintel and depth of reveals;
- Doors;
- Balconies and privacy screens

Thereafter the development shall be carried out in full accordance with the approved schedule and samples.

Reason: To safeguard the appearance of the building and the character of the area and to enable the Local Planning Authority to properly consider the development

#### Hard and Soft Landscaping

27. Notwithstanding the details shown on the approved plans, no development above slab level shall be commenced until details of hard landscaping have been submitted to and approved in writing by the Local Planning Authority. The plans shall include:

- Treatment of external surfaces, paths, access ways, courtyards, seating areas, patio areas and parking spaces, including their appearance, depth and permeability, kerbs, edges, steps and ramps, spot levels, finished floor levels, upstands and demarcation;



- Location, height and materials / construction technique for all boundary treatments and other built means of enclosure including any gates, bollards, railings and fencing;
- Location, height and design of any street furniture,
- Tree grilles and tree pit surfaces;
- Demonstrate no conflict with drainage details approved under Condition 12)
- Ecological mitigation and enhancement measures including the following:
  - a) details of compensatory bat roost features which must be unlit and suitable for common and soprano pipistrelle bats.
  - b) Details of swift bricks, bat boxes, bird boxes and insect boxes to be provided, including locations; numbers and specifications.
  - c) Incorporate any requirements of the Updated Ecological Survey Report (required by Condition 25) if applicable.

Reason: In the interests of amenity and to conserve and enhance the landscape character.

28. Notwithstanding the details shown on the approved plans, no development above slab level shall be commenced until the final details of the soft landscaping, including provision of the green roofs, have been submitted to and approved in writing by the Local Planning Authority. The plans shall include:

- Detailed schedule of plants, noting species, sizes and proposed numbers / densities;
- Planting methods including soil depth and support proposals (underground guying etc);
- Tree guards, staking and tree-pit construction information;
- Ground preparation;
- Surface dressing, where appropriate;
- Grassing / turfing operations;
- Seed mixes;
- Written specification for soil amelioration including cultivations, planting methodology, establishment and maintenance operations;
- Planting details for green roofs in accordance with industry best practice guidance including (but not limited to) substrate depth and justification for split between sedum and wildflower green roofs; spacing between planting and Solar PV arrays; locally specific planting scheme reflecting chalk grassland habitat.

Reason: In the interests of amenity and to conserve and enhance the landscape character.

29. All hard and soft landscape works shall be carried out in accordance with the approved details (in accordance with Conditions 27 and 28).

- All hard landscaping shall also be carried out prior to the development hereby permitted first being brought into use.
- All soft landscaping shall be carried out in the first planting and seeding season following when the development hereby permitted is first occupied. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or

diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by Local Planning Authority.

- The Ecological mitigation and enhancement measures shall be implemented as approved and retained thereafter.

Reason: In the interests of amenity and to conserve and enhance the landscape character.

#### Commercial Frontage

30. No development shall be carried out above ground floor slab level until full details of the shopfront(s) has been submitted to and agreed in writing by the Local Planning Authority. Those details shall include:

- drawings, including elevations and sections at 1:5, 1:10 and 1:20 as appropriate, on the components of the shopfront, including stall riser, cills, pilasters, fascia, cornice, mullions and transoms, doors and overlights, and blinds;
- Materials of construction;
- Surface finish and colour;
- Any fixings for signage.
- Any grills or other security measures.

The works shall be implemented as approved and retained thereafter.

Reason: in the interest of good design, and to preserve or enhance the special architectural or historic interest, character or appearance of the Conservation Area.

#### Sustainable Construction

31. Prior to works above ground floor slab level of the development hereby permitted, detailed information in the form of a Design Stage Sustainable Construction Report shall be submitted to and approved in writing by the Local Planning Authority. This report shall demonstrate how the predictions in respect of the reduction in CO<sub>2</sub> emissions, mains water consumption, construction and operational waste, provision of EV charge points and green roofs as set out in the Energy and Sustainability Statements dated 11 July 2023 shall be achieved, including through SAP data or agreed equivalent. The development shall be constructed in accordance with the approved details.

Reason: To ensure the development demonstrates a high level of sustainable performance to address mitigation and adaptation to climate change.

32. Within 6 months of the first occupation of any part of the development hereby permitted, detailed information in the form of a Post Construction Stage Sustainable Construction Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall demonstrate, including using post-construction/as built stage SAP data and the BRE water calculator, that the development has met or exceeded all the predictions of the Energy and Sustainability Report dated 11 July 2023. The development shall be occupied in accordance with these approved details and shall thereafter be retained.

Reason: To ensure the development demonstrates a high level of sustainable performance to address mitigation and adaptation to climate change.

#### Telecommunications

33. No development above slab level shall be commenced until details of how superfast broadband connection will be provided (or an equivalent alternative technology) and installed on an open access basis (including the location and appearance of any above

ground equipment), have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development, shall be carried out in full accordance with the approved details.

Reason: To provide satisfactory broadband connection for new residential units and businesses and to protect the landscape character of the area.

Hours of Use - Commercial

34. The Commercial Use hereby permitted shall not take place other than between the hours of:

(i) 08:00 – 19:00 Mondays to Saturdays

(ii) 09:00 – 17:00 Sundays and Bank Holidays

Reason: To protect the residential amenities of the locality.

**Mike Hughes**

**Director of Planning (Interim)**

**South Downs National Park Authority**

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Appendices: Appendix 1 – Information concerning consideration of applications before committee

SDNPA Consultees: Director of Planning, Development Manager, Legal Services

Background Documents: [All planning application plans, supporting documents, consultation and third party responses SDNP/23/02973/FUL](#)

[South Downs Local Plan 2019](#)

Road Safety Audit Policy for Developments, East Sussex County Council Transport Development Control 2017 (Reference Paragraph 7.10)

Building Research Establishment (BRE). 2022. Site Layout Planning for Daylight and Sunlight: A guide to good practice. (Reference Paragraph 7.80).

[Lewes Neighbourhood Plan 2019](#)

[Supplementary Planning Documents and Technical Advice Notes](#)

