

Report to **Planning Committee**
Date **9 August 2017**
By **Director of Planning**
Local Authority **Lewes District Council**
Application Number **SDNP/17/01684/FUL**
Applicant **Mr P Templeton**
Application **Demolition of existing buildings and construction of five family dwellings (C3) together with associated parking and landscaping**
Address **68-74
Malling Street
Lewes
BN7 2RH**

Recommendation: That the application be Approved for the reasons and subject to the conditions set out in paragraph 10 of this report and subject to the completion of a SI06 agreement with obligations relating to:

IMPORTANT NOTE: This application is liable for Community Infrastructure Levy.

Executive Summary

I Site Description

1.1 The application site is occupied by a single storey sales office and with a canopy covered forecourt which is in use as a car sales showroom and display area. There is parking for cars behind the office building and there is a totem sign at the front of the site. The garage is located on the north-western side of Malling Street a short distance from the opening to the Culfail Tunnel. The site is bounded to the north by Southdown Place, which comprises a terrace of two storey houses. To the south the site is bounded by the Davey's Lane and the rear gardens to properties in Malling Street and neighbouring Thomas Street. To the rear, the site backs onto an access route connected to a retail and office use known as The Malthouse and occupied by the Steamer Trading Company.

1.2 The application site incorporates a strip of highway land along Davey's Lane as well as the public footway and planters between the garage forecourt and Malling Street.

1.3 The application site measures 14m in width and 31m in depth from the back edge of the public footway, covering an area of 420 square metres.

1.4 The buildings on the site are not Listed and the site is not located in a Conservation Area, but the site is an important street frontage near to the point where the Culfail Tunnel arrives in Lewes along the route of the A26.

2 Proposal

2.1 The application seeks planning permission for the demolition of the existing car sales buildings and for the re-development of the site with 2-storey development of three terraced houses with 3-bedrooms and with accommodation within the pitched roofs and first and second floor level bay windows fronting Malling Street, and two storey development to the rear, fronting Davies Lane, by way of two semi-detached houses each having 2-bedrooms.

2.2 The three houses fronting Malling Street will have car parking underneath, at ground floor level, and living accommodation and private outdoor amenity space above. The houses will feature distinctive bay windows and a pitched roof, the ridge line and eaves height in alignment with neighbouring buildings of similar scale. External materials and finishes include grey slate cladding and grey-brown facing brickwork, stained timber screens and gates, and off-white and grey fenestration.

2.3 Behind these properties and on the land between Davies Lane and Southdown Place, a pair of semi-detached homes is proposed. These will have off-street car parking behind sliding timber gates, and the houses will be set back from Davies Lane. The roof will have a long pitched slope to the rear, reducing the height on the Southdown Place elevation to a tall single storey. The first floor level of each house will be cantilevered over the ground floor which on the Davies Lane elevation will create an overhang with a void beneath.

3 Relevant Planning History

None relevant.

4 Consultations

ESCC - Highways

No objection

1. Trip Generation

It has been accepted that the 5 dwellings generating approximately 20 - 25 vehicular trips a day is comparable to the existing trip rates generated by the car sales use. I therefore have no highway objection in principle to the proposed 5 dwellings.

2. Access/Highway

The application indicates that the existing access onto Malling Street [A26] would be permanently closed off. The existing access onto Davey's Lane would be altered to provide a paired access to two of the dwellings and a new shared access created onto Davey's Lane to serve the 3 dwellings fronting Malling Street [A26].

Part of the development [southeastern corner of plot 5] would be built within the limits of the public highway [please see attached plan which shows the adopted public highway coloured pink]. As can be seen this development would require part of the highway limits being stopped up. This can be dealt with through the application under the Town and Country Planning Act.

The south-eastern end of Daveys Lane was closed to vehicles and the highway was 'stopped up' when Cuilfail Tunnel was constructed. The road closure works comprised of creating a footway over the former road between Malling Street and Daveys Lane. When a road is 'stopped up' control over the land in question reverts back to the owner. The 'stopped area' appears to be unregistered land.

Notwithstanding the above comments, and given the number of years which the public have passed over the 'stopped up' land, it is considered that a pedestrian right of way has been established between Malling Street and Daveys Lane. It is therefore recommended that the status of the 'stopped up' area is further amended by formally adopting it as highway under s228 of the highways Act.

It is also noted that the proposal includes alterations to the parking restrictions on Malling Street by extending the on-street parking bay adjacent to the site. The footway will also be altered in this location with provision of a new raised planter in the public highway fronting Malling Street. These off site highway works would require the works to be done through a s278 agreement [with appropriate Road Safety Audit stage 1-4] and secured through a s106 agreement. Additionally the raised planter would be subject to a Licence from the Highway Authority and in any event would need to be set back at least 450mm from the kerblines of Malling Street.

A stage 1 Road Safety Audit has been carried out and although some issues have been raised these have been addressed and will be dealt with through the detailed design and completion of the Road Safety Audit procedure.

2. Parking

ESCC's parking guidelines recommend that 7 spaces should be provided for the 5 residential units. The application provides a total of 5 car parking spaces, 1 allocated per dwelling. Given the capacity issues of on-street parking in Lewes Town the Highway Authority, at present, requires an informative be put on any planning decision for new dwellings that the owner/occupier may not be eligible for a residents parking permit.

Although 2 spaces falls short of the recommended number of spaces the proposed 5 spaces are considered sufficient given the above and subject to the existing parking bay being extended to provide either a car club bay or pay & display parking. This is to encourage other non car modes of transport together with other highway mitigation measures [see point 5 below].

The applicant has provided vehicle tracking of the swept path for private motor vehicles entering and leaving the proposed access points which are satisfactory.

The Transport Report states that servicing will take place on Malling Street along with existing properties. However, I note that some existing dwellings may result in some delivery vehicles stopping on the A26 [Malling Street]. Due to the parking available within this site the existing use does not result in vehicles currently stopping on the double yellow lines on Malling Street [A26].

This proposal could generate a requirement for delivery/removal vehicles to stop on the existing parking restrictions on Malling Street, however, given the size of the development this is not likely to be a regular occurrence. However, it is recommended that thought is given to the addresses for these dwellings, when developed, to prevent vehicles from stopping on Malling Street [A26] e.g. Can they be given address as Davey's Lane?

3. Cycling Provision

In accordance with ESCC's guidelines 1 cycle space per 2 bedroom dwelling and 2 spaces per 3 bedroom dwelling should be provided. The proposal provides for 2 covered and secure cycle spaces per dwelling and is therefore acceptable to the highway authority.

4. Demolition/Construction

The applicant will need to provide a construction traffic management plan [CTMP] which would need to include routing of vehicles and management of workers vehicles to ensure no on-street parking occurs during the whole of the demolition and construction phases.

The CTMP should also include Risk Assessment Methods showing how the demolition will take place including all associated traffic management measures required to ensure pedestrian and road user safety.

5. Mitigation Measures

Improvements towards infrastructure would be required in order to make the site accessible to alternative modes of transport and secured through the original Section 106 Agreement (including provisions for a S278 Highway agreement to cover the physical works detailed below) would be required to include provision of:-

1. Extension to the parking bay on Malling Street outside the site as shown for illustrative purposes on drawing number 0144P.101A to provide further pay & display area or a car club bay.
2. Alterations to Davey's Lane as illustrated on drawing number 0144P.101A and to provide 2 sets of highway delineation along the northern side of Davey's Lane to mark the edge of carriageway and also at the back of highway/site boundary..
3. Alterations to the existing footway and remaining highway land along Malling Street as illustrated on approved drawings.

Points 1 - 3 above are subject to all details to be agreed at design stage.

It should be noted that point 1 above would also require the existing Traffic Regulation Order [TRO] to be amended accordingly and therefore a contribution of £6,000 towards the administrative costs of carrying out the TRO is sought.

It should be noted that a TRO is open to objection and is therefore not guaranteed.

LE - Environmental Health

No objection

No objection in principle to the development. However, the Phase I Desk Study, Site Reconnaissance & Phase II Site investigation Report Ref: LP00994 of 9 October 2015 has identified a number of pollutant linkages on the site due to its former uses as a former petrol station, car sales and timbers yard. The limited intrusive investigation undertaken on the site suggest the presence of elevated levels of petroleum hydrocarbons in made ground as well as in groundwater and I therefore recommend the following conditions: contaminated land, remediation and verification. Also an informative relating to asbestos and conditions relating to unsuspected contamination and a Construction Environment Management Plan. This location is beside the A26 a busy road approximately 100m from the entrance to Cuifall Tunnel. The A26 suffers from congestion at rush hour and is within an urban canyon at this location. Lewes District Council monitors air quality at this location as part of our remit under the Environment Act 1995. We monitor nitrogen dioxide at 2 locations in the vicinity, levels although elevated are below the air quality objective for nitrogen dioxide. Road traffic noise at this location is elevated.

Accompanying the application air quality and noise assessments have been provided, which we welcome. Having reviewed both documents we are satisfied with their conclusions.

Should you be minded to recommend planning permission at this location we would recommend that the following condition is considered as means of ensuring that internal residential amenity is provided.

Internal sound insulation

The building envelope including windows and doors of the units facing Malling Street shall be constructed so as to provide an internal noise levels that are compatible to BS8233:2014 using the rigorous noise calculation approach and as described in the Acoustic Report supporting the planning application. The developer shall prior to occupation provide in writing details of the scheme and by testing of one property demonstrate that the scheme meets the requirements of BS8233:2014. The scheme shall demonstrate that either the through whole housing ventilation or mechanical ventilation methodology that the properties can be appropriately ventilated without the need to open the windows of rooms facing the A26.

Reason: To provide appropriate internal residential amenity and to conform the National Planning Policy Framework requirements

External Sound Amenity

Prior to occupation details of the noise fences for the external amenity areas shall be provided in writing to the LPA for its written approval. The scheme shall ensure that the WHO standard of 50dB(A) is complied with and the scheme shall be compatible with the recommendations made in the acoustic report submitted with planning application.

Reason: To provide appropriate internal residential amenity and to conform the National Planning Policy Framework requirements

During the construction phase the impact of the development on the neighbouring residents should be managed and mitigated given their close proximity. To that end I recommend the following condition

Construction Environmental Management Plan (CEMP)

No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall set out the arrangements for managing all environmental effects of the development during the construction period, including traffic (including a workers' travel plan), temporary site security fencing, artificial illumination, noise, vibration, dust, air pollution and odour, including those effects from the decontamination of the land, site illumination and shall be implemented in full throughout the duration of the construction works, unless a variation is agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity of the locality.

LE - Waste & Recycling

Comments awaited.

Environment Agency (STAT)

No objection

No objections to the proposed development, subject to the inclusion of the following conditions in any planning permission. Without the inclusion of these conditions the Environment Agency considers that the development poses an unacceptable risk to groundwater quality, and to people and property from flooding:

Surface water drainage and flood risk mitigation together with informatives relating to emergency flood procedures and flood resistance and resilience.

Parish Council Consultee

Objection

Members felt there was little improvement over previous applications and this would still be a cramped overdevelopment which would dwarf neighbouring properties. The design was dominant and out of rhythm with the local roofscape, and generally out of proportion to the location.

5 Representations

Friends of Lewes - Support

Friends of Lewes Society support this lower density development for 68/74 Malling Street as it has fewer dwellings than in the previous proposal, to which it objected. The Society considers the proposed development to be well designed and supports the use of slate gables which will break up the bulk of the principal elevation.

It supports the scale of the development and the modern design, conditional on careful detailing and construction delivering high quality buildings. The west side of Malling Street has a history of

commercial development of poor design and inappropriate scale and this development presents an opportunity to restructure the residential balance of the street.

Lewes Conservation Area Advisory Group - Support

This Application replaces one that proposed a higher dwelling density with considerably greater massing and few obvious positive design elements. The Group welcomes this fresh Application and believes that, although the proposed development is outside the boundary of the CA, it will fit well into the streetscape and, through good design quality, have a positive impact upon the CA, situated as it is on one of the main access routes to the town centre.

Malling Street is one of the busiest roads in Lewes and the general environment for pedestrians and residents is very poor. Problems include poor air quality, noise and dirt. The scheme appears to address this by providing a landscaped barrier between the development and Malling Street.

The west side of Malling Street has been blighted by extensive demolition and the construction of commercial premises that are of unsympathetic design and inappropriate scale. The new proposal, by filling one of these gaps, goes some way to mending the domestic fabric of the street.

The Group particularly likes the use of slate gables to break up the bulk of the principal elevation. On the two side streets the new houses are much lower and the general feeling is of a mews, entirely appropriate for this site. Some Group members question the degree of roof pitch to the houses on the eastern face and suggest that this might be revisited by the developer.

As always with such buildings, the final appearance will depend on careful detailing and meticulous construction.

Lewes District Architects' Advisory Panel - No objection

No objection in principle. Close attention to detail will be required for example to the guttering and external materials. The proposal is a clever scheme and the changes suggested by the South Downs National Park Authority are a retrograde step and the original design is superior.

South Downs National Park Design Review Panel - No objection

1. The Panel began by saying that this scheme is an ingenious scheme that appears to make best use of a tight site and had obviously taken some time to development.
2. The Panel noted that it still was not convinced by the parking, but that this is a fairly minor issue overall.
3. The Panel raised concern about the aspect to the North East and wondered whether units 1 and 2 could be moved to the South West of the site. Bays could be constructed that project and look down on to Davis Way so the scale and bulk of the building would have less impact overall.
4. The Panel recommended that a shadow analysis is done of the gable end of unit 3, which they think will shadow Southdown Place, and perhaps consider pitching the roofs in the other direction in order to overcome that.
5. The Panel suggested that the bays need more development of the details, in order to ensure. Currently the bays are aggressively dominant against the context and calming that down would be beneficial to the overall street.
6. The Panel noted that the bed in the planned layout of the bedrooms would be close to the window and questioned whether that would be comfortable, especially given that the front three units look out on to a very aggressive, noisy road.

7. The Panel suggested that the wall by Southdown Place could be in a perforated brick design or made from slatted timber panels in order to let some light in while keeping the privacy of the occupants intact.

8. The Panel raised a concern that the gables are too high above the roofline of the surrounding buildings, which looks quite aggressive. They also expressed some doubts about the detailing shown in the CGI. Additionally, they feel that the spandrel panel does not work particularly well.

9. The Panel finished by saying that they hope that the scheme will be carried forward and reminded the Applicant that they have a reputation to maintain.

Letters of representation have been received from (no number) Southdown Place; 4 and 22 Thomas Street; 62 Malling Street; and 108 Western Road, objecting to the application for the following reasons:-

Over development
Too high
Out of character
High density
Over dominant
Materials
Modern design and massing
Noise and disturbance
Loss of light and privacy
Inadequate parking
Access issues
Highway safety
Air quality
Eligibility for parking permits should be limited

6 **Planning Policy Context**

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the **Lewes District Local Plan (2003)** and the following additional plan(s):

- Lewes District Council - The Core Strategy (Local Plan Part 1) 2014
- South Downs National Park Local Plan - Preferred Options September 2015
- SDNPA Partnership Management Plan 2014
- National Planning Policy Framework

The relevant policies to this application are set out in section 7, below.

National Park Purposes

The two statutory purposes of the SDNP designation are:

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

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

7 **Planning Policy**

Relevant Government Planning Policy and Guidance

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

National Planning Policy Framework (NPPF)

The following National Planning Policy Framework documents have been considered in the assessment of this application:

- NPPF - Achieving sustainable development
- NPPF - Delivering a wide choice of high quality homes
- NPPF - Requiring good design

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

The following policies of the **Lewes District Local Plan (2003)** are relevant to this application:

- CT1 - Planning Boundary and Key Countryside
- ST3 - Design, Form and Setting of Development

The following policies of the **Lewes District Council - The Core Strategy (Local Plan Part 1) 2014** are relevant to this application:

- SP2 - Distribution of Housing
- CP2 - Housing Type, Mix and Density
- CP10 - Natural Environment and Landscape
- CP11 - Built and Historic Environment and Design
- CP12 - Flood Risk, Coastal Erosion and Drainage
- CP13 - Sustainable Travel

The following policies of the **South Downs National Park Local Plan - Preferred Options September 2015** are relevant to this application:

The following policies of the **SDNPA Partnership Management Plan 2014** are relevant to this application:

- General Policy 50

The following policies of the **National Planning Policy Framework** are relevant to this application:

- NPPF - Achieving sustainable development

- NPPF - Delivering a wide choice of high quality homes

Partnership Management Plan

The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

The following Policies and Outcomes are of particular relevance to this case:

- General Policy 50

The South Downs Local Plan: Preferred Options was approved for consultation by the National Park Authority on 16th July 2015 to go out for public consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The consultation period ran from 2nd September to 28th October 2015. The responses received are being considered by the Authority. The next stage in the plan preparation will be the publication and then submission of the Local Plan for independent examination. Until this time, the Preferred Options Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the National Planning Policy Framework, which confirms that weight can be given to policies in emerging plans following publication. Based on the early stage of preparation the policies within the Preferred Options Local Plan are currently afforded limited weight and are not relied upon in the consideration of this application.

8 Planning Assessment

8.1 The principal considerations in the determination of the application include the principle of development; the design and appearance of the dwellings; the impact on neighbour amenity; the impact on sustainable transport; flood risk; and contaminated land risk.

PRINCIPLE -

8.2 Within the defined Planning Boundaries opportunities do arise for residential development by infilling, redevelopment or conversion of buildings.

8.3 Provided such arrangements respect the need to safeguard the character of the town or village and the amenities of the local residents, they can make a contribution to the share of the District's housing requirements and an allowance for such "unidentified sites" is made in the calculation of Housing Land Supply in the District.

8.4 The existing use of the land for car sales falls into a Sui Generis land use class and the site employs a small number of people, mainly in the small office space, and most of the site area is used primarily for the storage, display and preparation of cars for sale. There is no policy within the Local Plan that seeks to safeguard such uses and this previously developed, brownfield site, is therefore suitable for alternative uses such as residential development.

8.5 The application site is located within the Planning Boundary of Lewes where there is a presumption in favour of sustainable development and being contained within the Planning Boundary the application site is compliant with policy CT1 of the Lewes District Local Plan. The proposals also relate to previously developed land, the re-use of which for residential purposes is supported in principle. The proposed dwellings will help to meet the housing need identified in the Lewes District which is welcomed.

8.6 Being a scheme for 5 residential units, the proposals fall below the threshold of 6 or more dwellings that would trigger a contribution for affordable housing within the National Park.

DESIGN AND APPEARANCE -

8.7 In terms of scale and massing the three dwellings fronting Malling Street will be sympathetic with and comparable to neighbouring buildings and also the buildings behind the site such as The Maltings. The eaves level and the full pitched roof to the rear elevation will give the development the scale of a two storey building with accommodation at second floor level and this is not out of keeping with other neighbouring buildings that front Malling Street. The external materials and finishes proposed to be used are traditional but the form and detailing of the building is contemporary. The three bay windows to the front elevation will give the development vertical articulation and a rhythm which is in keeping with the sub-division of neighbouring terraced properties and buildings such as 84-94 Malling Street. The three bay windows are striking but not overly dominant and they reflect the gable frontages of 84-94 Malling Street and will feature a modern design and arrangement of windows that will complement the overall scheme. This high quality and innovative design approach is supported.

8.8 The two dwellings proposed behind will be much smaller scale and will be two storeys in height. This is to reflect the scale and massing of the terraced houses in Thomas Street and Southdown Place. Again the palette of materials and finishes is traditional and takes cues from other buildings within Lewes which define its unique character and which will reinforce local distinctiveness. Once more the design makes a modern re-working of the traditional style by way of a cantilevered first floor level and the use of sliding timber gates to the parking areas.

8.9 The proposed landscaping and construction of a new planter in front of the development will enhance the street scene as well as making a positive contribution to the setting of the proposed development.

8.10 In summary the proposals represent a high quality and innovative approach to this difficult site, and it is considered that the proposals will enhance the appearance and character of this location and enhance the public realm.

8.11 Neither the South Downs National Park Design Review Panel nor the Lewes District Council Design Panel raise objections and it is noted that the Friends of Lewes and also the Lewes Conservation Area Advisory Committee do not raise objections to the application.

NEIGHBOUR AMENITY -

8.12 The development proposal essentially comprises two elements. The larger two-storey building will be separated from the neighbouring buildings by the widths of both Southdown Place and Davey's Lane, and in terms of depth, the building will be comparable with the terrace 76 - 94 Malling Street. With respect to the first floor level garden terraces to the rear of the building, the applicant has taken steps to ensure these are positioned as far from properties in Southdown Place as practicable, and a timber screen wall will prevent undue overlooking of these neighbouring properties and also the rear elevations of those in Thomas Street.

8.13 The two storey semi-detached houses behind will have a lower profile and will be set back from both Davey's Lane and from Southdown Place.

8.14 No upper floor windows are proposed that would result in loss of privacy for occupiers of Southdown Place and the rooflights on the rear roof slope will be at least 3.5m above internal finished floor level, and will direct light straight down to ground floor level. The rear roof slope is long and shallow and the rear eaves height will be 3.73m and set back from the rear boundary of the site by approximately 1m. The rear elevation will be 1.5m taller than the boundary wall which exists along this site boundary.

8.15 In summary, and in view of the site constraints and the character of this location as a densely built-up area, the proposed development will not give rise to a level of overlooking or overshadowing that will be demonstrably harmful to neighbour amenity.

ACCESSIBILITY AND SUSTAINABLE TRANSPORT -

8.16 The application site is within walking distance of the superstores located nearby in Brooks Road, which include Homebase, Aldi and Tesco. The site is also within walking distance of bus services along Malling Street/A26 between Tunbridge Well, Ringmer and Brighton. As such future residents need not be solely reliant on private car use. It is also noted that the applicant proposes to provide secure and sheltered cycle storage. On-street parking spaces are limited and controlled by parking permits. Nonetheless, the applicant proposes off-street car parking to the ratio of one space per unit. This level of car parking provision is acceptable to the highway authority and the applicant has shown tracking of vehicles on the plans submitted, indicating that access and manoeuvring will be acceptable.

8.17 The applicant will need to amend the Traffic Regulation Order in effect along Malling Street in order to provide the additional on-street car parking bay, and the highway authority is seeking improvements to Davey's Lane, which can be secured by entering into a S106 Agreement.

8.18 The comments of neighbouring residents are acknowledged but it is not considered that the development will result in increased vehicle usage of Thomas Street and the rear access via Southdown Place are pedestrian only, and will lead to the back gates of the development rather than the main entrance points. Davey's Lane is already used by vehicular traffic and residents wishing to access their properties via the back gates will need to exercise caution as these access points open directly onto the road. The number of vehicular movements associated with the small number of additional units proposed, taking into account the densely built-up character of the locality (there are some 14 properties in Thomas Street and 6 in Southdown Place) and its relatively central position, will not result in a material impact on highway safety or the operation of the public highway, and the highway authority raises no objection to the proposals on these grounds.

FLOOD RISK -

8.19 The application site lies within both a Zone 3 and Zone 2 flood risk area, meaning the site is at higher risk of fluvial flooding owing to the nearby River Ouse. The site is protected against 1 in 200 year flood events but there is always a residual risk of defence failure or overtopping.

8.20 The Environment Agency has been consulted and having reviewed the Flood Risk Assessment submitted with the planning application raises no objection subject to a condition to ensure that all sleeping accommodation is restricted to first floor level or above, in accordance with the recommendations of the Flood Risk Assessment.

8.21 Informatives are also recommended to ensure that the applicant has considered flood emergency procedures and flood resistance and resilience measures.

CONTAMINATED LAND -

8.22 The applicant has submitted a Phase I Desk Study, Site Reconnaissance and Phase II Site Investigation Report because the land is potentially contaminated by virtue of its current and former uses for car sales, as a petrol station, and a timber yard. The reports highlight the presence of elevated levels of petroleum hydrocarbons in the made ground as well as in the groundwater.

8.23 In view of this both the Environmental Health team and the Environment Agency recommend conditions to ensure that the necessary investigations, remediation strategies, verification reports and methodology for long-term monitoring are put in place.

8.24 These conditions will ensure that any contaminated land is dealt with and the land made safe for residential use.

S106 HEADS OF TERMS AND CIL LIABILITY -

A) A financial contribution of £6000 towards amending the Traffic Regulation Order to allow the top end of Davey's Lane to be adopted as highway and for the extension of the existing parking bays on Malling Street to provide an additional parking space together with:

i) An invitation to the Co Wheels car club to use the above parking bay as a car club space, together with a maintenance payment of £6000 per annum for the first two years following the first occupation of any of the dwellings hereby permitted.

ii) A cascade clause to allow for the parking bay to be used as a pay-and-display parking space in the event that a deal with the car club cannot be secured within 6 months of the commencement of the development hereby approved or in the event the car club space is not self-supporting after the first two years following first occupation of any of the dwellings hereby permitted.

B) Alterations to Davey's Lane to provide highway delineation in accordance with the approved plans.

8.25 The proposed development will attract a CIL liability which can then be used to deliver the projects outlined in the adopted Regulation 123 List, which includes education and highway improvements.

9 Conclusion

The development proposal is acceptable in principle and will provide much needed additional housing on a site that has been previously developed, in buildings of a high quality and innovative design that reflect the positive characteristics of the immediate locality and take into account the constraints of the site whilst seeking to minimise the impact of the development on neighbour amenity and the highway.

Accordingly approval is recommended.

10 Reason for Recommendation and Conditions

It is recommended that the application be Approved for the reasons and subject to the conditions set out below and subject to the completion of a S106 agreement with obligations relating to:

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 (1) of the Town and Country Planning Act 1990 (as amended)./ To comply with Section 51 of the Planning and Compulsory Purchase Act 2004

2. No development shall take place until details/samples of all external materials and finishes to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details/samples.

Reason: To ensure a satisfactory appearance to the development in keeping with the locality having regard to retained policy ST3 and Core Policy 11 of the Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

3. No development shall take place until full details of the existing and proposed ground levels within the site, together with the eaves and ridge height of the approved development, and details of the ground levels, eaves and ridge heights of the existing buildings on land adjoining the

site, to include 66 and 76 Malling Street and 8 Southdown Place, by means of spot heights and cross-sections to OS Datum, have been submitted to and approved by the Local Planning Authority. The development shall thereafter be implemented and completed in accordance with the approved level details.

Reason: In the interests of visual amenity, neighbour amenity and to ensure a satisfactory appearance to the development in accordance with retained policy ST3 and Core Policy 11 of the Lewes District Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within and, where necessary, around the perimeter of the application site. The boundary treatment shall be completed in accordance with the approved details prior to the occupation of the dwelling units hereby permitted and retained as such thereafter.

Reason: To enhance the general appearance of the development having regard to retained policy ST3 of the Lewes District Local Plan, Core Policy 11 of the Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

5. Prior to the occupation of the residential units hereby permitted, full details of the facilities for secure cycle storage shall be submitted to and approved in writing by the local planning authority. Each cycle parking facility shall provide Sheffield type stands allowing for secure storage of cycles by frame and wheel, together with details of a canopy or shelter over each cycle parking facility. The development shall be implemented in accordance with the approved details and the cycle parking facilities shall be retained thereafter for the use of residents of, and visitors to the development.

Reason: In order to encourage the use of sustainable transport and minimise dependence on private car use in the interests of the environment and the amenity of the area in accordance with Core Policy 13 of the Lewes District Local Plan Part One: Joint Core Strategy and having regard to National Planning Guidance contained in the National Planning Policy Framework 2012.

6. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of the new dwelling units hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enhance the general appearance of the development having regard to retained policy ST3 and Core Policy 11 of the Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

7. Construction work and deliveries in association with the development hereby permitted shall be restricted to between the hours of 0800 and 1800 Mondays to Fridays and from 0830 until 1300 on Saturdays. No works in association with the development hereby permitted shall be carried out at any time on Sundays or on Bank/Statutory Holidays.

Reason: In the interests of the residential amenities of the neighbours having regard to policy ST3 of the Lewes District Local Plan, policy CPI 1 of Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

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

- o the anticipated number, frequency and types of vehicles used during construction,

- o the method of access and egress and routing of vehicles during construction,
 - o the parking of vehicles by site operatives and visitors,
 - o a workers' Travel Plan
 - o the loading and unloading of plant, materials and waste,
 - o the storage of plant and materials used in construction of the development,
 - o the erection and maintenance of security hoarding,
 - o the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - o details of public engagement both prior to and during construction works.
- Reason: In the interests of highway safety and the amenities of the area.
- o A Risk Assessment Method showing how the demolition will take place including all associated traffic management measures required to ensure pedestrian and road user safety.

Reason: In the interests of highway safety and amenity and having regard to retained policy ST3 and Core Policies 11 and 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

9. No development shall take place, including any ground works or works of demolition, until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The approved plan shall set out the arrangements for managing all environmental effects of the development during the construction period, including temporary site security fencing, artificial illumination, noise, vibration, dust, air pollution and odour, including those effects from the decontamination of the land, and site illumination, and shall be implemented in full throughout the duration of the construction works, unless a variation is agreed in writing by the Planning Authority.

Reason: In the interests of the amenities of neighbouring residents and occupants, having regard to policy ST3 of the Lewes District Local Plan, policy CPI 1 of Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

10. No development shall commence until such time as temporary arrangements for access and turning for construction traffic has been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority.

Reason: To ensure safe and satisfactory means of vehicular access to the site during construction in accordance with retained policy ST3 and Core Policies 11 and 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

11. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (Ambiental ref. 2300, dated June 2015) and the following mitigation measures detailed within the FRA:

- I. Sleeping accommodation must be restricted to the first floor and above (no sleeping accommodation on the ground floor) as referenced in section 6.3 of the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: In the interests of the amenity of future occupants, ensure safe access and egress from and to the site and to manage flood risk in accordance with Core Policy 12 of the Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

12. No development shall take place until details of the proposed surface water drainage to prevent the discharge of surface water from the application site onto the public highway and, similarly, to prevent the discharge of surface water from the highway onto the site, shall be submitted to the Local Planning Authority for approval in consultation with the Highway Authority and the Lead Local Flood Authority. The works shall be carried out in accordance with the approved details prior to the first occupation of the development and retained as such thereafter unless otherwise agreed in writing.

Reason: In the interests of highway safety and to manage flood risk in accordance with Core Policies 12 and 13 of the Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

13. No drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To protect the underlying groundwater from potential pollution having regard to Core Policy 10 of the Lewes District Local Plan Part One: Joint Core Strategy; the National Planning Policy Framework 2012; and because the site lies on the New Pit Chalk Member, which is designated a Principal Aquifer.

14. 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 shall each be submitted to and approved, in writing, by the local planning authority:

1. Preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site and including further intrusive investigation in the area of the underground petrol storage tank in order to delineate the extent of hydrocarbon contamination and quantify the level of hydrocarbons in the made ground.

3. The results of the site investigation and the detailed risk assessment referred to in (2) 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 to include measures required to deal with the elevated level of petroleum hydrocarbons and VOCs in soil and ground water, and details of how the underground fuel storage tanks including the associated pipework can be safely removed from the site.

4. Gas monitoring in accordance with CIRIA C665 (nine over 6 months) particularly in the areas of the made ground and the car sales office building and if elevated levels of gas are detected, adequate gas protection measures shall be undertaken to prevent gas ingress into the buildings.

5. 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 (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the underlying groundwater from potential pollution having regard to Core Policy 10 of the Lewes District Local Plan Part One: Joint Core Strategy; the National Planning

Policy Framework 2012; and because the site lies on the New Pit Chalk Member, which is designated a Principal Aquifer and contamination may be present at the site as a result of its historical uses.

15. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure the any remediation, if deemed necessary, is satisfactorily completed, having regard to Core Policy 10 of the Lewes District Local Plan Part One: Joint Core Strategy and the National Planning Policy Framework 2012

16. No occupation of any part of the permitted development shall take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the any remediation, if deemed necessary, is satisfactorily completed, having regard to Core Policy 10 of the Lewes District Local Plan Part One: Joint Core Strategy and the National Planning Policy Framework 2012

17. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with.

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 in accordance with Core Policy 11 of the Lewes District Local Plan Part One: Joint Core Strategy, and the National Planning Policy Framework.

18. Unless otherwise agreed in writing, no part of the development shall be occupied until such time as the existing vehicular access onto Malling Street [A26] has been physically closed in accordance with plans and details which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with retained policy ST3 and Core Policies 11 and 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

19. Unless otherwise agreed in writing, no part of the development shall be first occupied until pedestrian visibility splays of 2 metres by 2 metres have been provided either side of the proposed vehicular accesses onto Daveys Lane in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. These visibility splays shall thereafter be kept free of all obstructions over a height of 600mm.

Reason: In the interests of highway safety in accordance with retained policy ST3 and Core Policies 11 and 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

20. The residential units hereby approved shall not be occupied until the parking and turning areas have been provided in accordance with the approved plans and shall thereafter be retained for that use and shall not be used other than for the parking and manoeuvring of motor vehicles used by occupants of and visitors to the development hereby permitted.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, and in the interests of safeguarding amenity in accordance with retained policy ST3 and Core Policy 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

21. Travel plan packs should be provided for each householder upon occupation

Reason: To encourage and promote sustainable transport.

22. Unless otherwise agreed in writing by the local planning authority, no development shall commence until such time as revised plans and details incorporating the recommendations given in the Stage 1 Road Safety Audit and accepted in the Designer's Response have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety, to ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, and in the interests of safeguarding amenity in accordance with retained policy ST3 and Core Policy 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

23. Unless otherwise agreed in writing by the local planning authority, no part of the development shall be occupied until a Servicing Management Plan for has been submitted to and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Service Management Plan, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of highway safety and amenity, to ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway, and in the interests of safeguarding amenity in accordance with retained policy ST3 and Core Policy 13 of Lewes District Local Plan Part One: Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

24. No development shall take place until details of both hard and soft landscape works, including new tree planting, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellinghouses hereby permitted.

Reason: To enhance the general appearance of the development having regard to policy ST3 of the Lewes District Local Plan, Core Policy 11 of the emerging Joint Core Strategy and to comply with the National Planning Policy Framework 2012.

25. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development described in Parts 1 and 2 of Schedule 2, shall be undertaken unless the Local Planning Authority otherwise agrees in writing.

Reason: Further extensions, alterations and a more intensive development of the site would be likely to adversely affect the appearance and character of the dwelling, the area and neighbour amenity, having regard to policy ST3 of the Lewes District Local Plan, Core Policy 11 of the emerging Joint Core Strategy, and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012.

26. The building envelope including windows and doors of the units facing Malling Street shall be constructed so as to provide an internal noise levels that are compatible to BS8233:2014 using the rigorous noise calculation approach and as described in the Acoustic Report supporting the planning application. The developer shall prior to occupation provide in writing details of the scheme and by testing of one property demonstrate that the scheme meets the requirements of BS8233:2014. The scheme shall demonstrate that either the through whole housing ventilation or mechanical ventilation methodology that the properties can be appropriately ventilated without the need to open the windows of rooms facing the A26.

27. Prior to occupation of any of the residential units hereby permitted, details of the noise fences for the external amenity areas shall be provided in writing to the local planning authority for its written approval. The scheme shall ensure that the World Health Organisation standard of 50dB(A) is complied with and the scheme shall be compatible with the recommendations made in the acoustic report submitted with planning application, unless otherwise agreed in writing by the local planning authority.

Reason: To provide appropriate internal residential amenity and to conform with retained policy ST3 and Core Policy 11 of the Lewes District Local Plan Part One: Joint Core Strategy and having regard to the National Planning Policy Framework.

11. Crime and Disorder Implications

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

12. Human Rights Implications

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

13. Equality Act 2010

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

14. Proactive Working

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Tim Slaney
Director of Planning

South Downs National Park Authority

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Appendices Appendix 1 - Site Location Map
Appendix 2 – Plans Referred to in Consideration of this Application

SDNPA Consultees

Background Documents

Appendix I

Site Location Map



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Appendix 2 – Plans Referred to in Consideration of this Application

The application has been assessed and recommendation is made on the basis of the following plans and documents submitted:

| Plan Type | Reference | Version | Date on Plan | Status |
|--|--------------|---------|--------------|----------|
| Reports - Design and Access Statement Parts 1,2 & 3 | | | 29.03.2017 | Approved |
| Reports - Phase I Desk Study, Site Reconnaissance and Phase II Site Investigation Report | | | 29.03.2017 | Approved |
| Reports - Noise Assessment | | | 29.03.2017 | Approved |
| Reports - Phase I Flood Risk Assessment | | | 29.03.2017 | Approved |
| Reports - Planning Statement | | | 29.03.2017 | Approved |
| Reports - Preliminary Air Quality Assessment | | | 29.03.2017 | Approved |
| Reports - Stage I Road Safety Audit | | | 29.03.2017 | Approved |
| Reports - Sustainability & Energy Strategy Report | | | 29.03.2017 | Approved |
| Plans - Location Plan | 1616_50 | | 29.03.2017 | Approved |
| Plans - Landscape GF Plan | 0144.P.101 A | | 29.03.2017 | Approved |
| Plans - Landscape Roof Terraces Plan | 0144.P.102 A | | 29.03.2017 | Approved |
| Plans - Planting Roof Terraces Plan | 0144.P.302 A | | 29.03.2017 | Approved |
| Plans - Exterior Lighting GF Plan | 0144.P.501 A | | 29.03.2017 | Approved |
| Plans - Existing Topographical Site Plan | 1616_100 | | 29.03.2017 | Approved |
| Plans - Existing and Proposed Block Plans | 1616_105 | | 29.03.2017 | Approved |
| Plans - Proposed Ground Floor Plan | 1616_201 | | 29.03.2017 | Approved |
| Plans - Proposed First Floor Plan | 1616_202 | | 29.03.2017 | Approved |
| Plans - Proposed Second Floor Plan | 1616_203 | | 29.03.2017 | Approved |
| Plans - Proposed Roof Plan | 1616_204 | | 29.03.2017 | Approved |
| Plans - Existing Elevations | 1616_400 | | 29.03.2017 | Approved |
| Plans - Proposed Elevations | 1616_410 | | 29.03.2017 | Approved |
| Plans - Proposed Elevation/Sections | 1616_411 | | 29.03.2017 | Approved |
| Plans - Proposed Elevations/Sections | 1616_412 | | 29.03.2017 | Approved |
| Plans - Proposed South East Contextual Elevations | 1616_420 | | 29.03.2017 | Approved |

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