

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/2875	Case Officer:	Rachel Richardson
Application Type:	Full Application		
Proposal:	Planning application to retain the commercial unit on the ground floor and provide three apartments. The internal layout will be reconfigured with some alterations proposed to the fenestration and roof.		
Site:	24 Royal George Road, Burgess Hill, West Sussex, RH15 9SE, , , ,		
Validation Date	2 Jan 2025	Overall Expiry Date:	17 Apr 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	10 Apr 2025
Target Date:	27 Feb 2025	Recommending Officer Signature:	Rachel Richardson

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	10 Apr 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/2875

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Planning application to retain the commercial unit on the ground floor and provide three
apartments. The internal layout will be reconfigured with some alterations proposed to the
fenestration and roof.

Mr Ben Miller

SUMMARY OF REPRESENTATIONS

None.

SUMMARY OF CONSULTEES

Conservation Officer: No objection subject to details by way of planning condition.

Flood Risk and Drainage: No objection on flood risk grounds.

WSCC Highway Authority: No highway safety concerns and a condition is recommended to secure cycle parking.

Environmental Protection: No objection subject to conditions

TOWN/PARISH COUNCIL OBSERVATIONS

No objection but concerned by size of rear dormer window and requests that room sizes meet the minimum building regulation standards.

INTRODUCTION

The application seeks permission for retention of the commercial unit on the ground floor and three apartments above. The proposal involves alterations to the fenestration and roof.

RELEVANT PLANNING HISTORY

BH/199/76 Rear extension to form granny flat accommodation. Permission 07.12.1976

BH/211/88 Conversion of granny annexe to form self contained maisonettes. Permission 16.09.1988

SITE AND SURROUNDINGS

The application site comprises a late 19th/early 20th century end of terrace two storey building, which benefits from rooms in the roof. It is located on the corner of Royal George Road and Fairfield Road in Burgess Hill, which is within the Fairfield Conservation Area.

The building, which would appear to have been subject to alterations and the likely loss of original features, is likely to have originally been a corner shop, mirrored by a similar shop to the opposite end of the terrace, but is now a commercial premises with a 3 bed maisonette over the first and second floors. It was formerly occupied by Holt Security Systems but is now vacant.

For the purposes of planning policy the site is located within the built up area boundary as defined in the District Plan.

APPLICATION DETAILS

The application proposes retention of the commercial unit at ground floor and provision of 3 apartments above. It is proposed to reconfigure the internal layout and carry out alterations to the roof and fenestration. The proposal would provide:

- o 2 no. 1 bedroom flats and
- o 1 no. 2 bedroom flat, and
- o a commercial unit of 25sqm (a reduction from 60 sqm, as existing).

The external alterations proposed, include:

Front Elevation

- o Automatic opening vent in roof
- o Replacement Upvc windows to match
- o Timber fascia above ground floor fenestration of commercial unit as well as above the door on the corner. The double window (west) will be replaced with a door
- o White rendered facing elevation

Rear Elevation

The proposed rear elevation states that it will have a tiled roof and timber fascia.

Side Elevation

- o Second floor windows to match and moved apart introducing stone coping
- o At first floor another window will be added to match the twin pair to the south and a privacy screen of 1.8m x 1m wide will be installed on the shared boundary with No.26 Royal George Road.
- o At ground floor it is proposed to replace the shop front/commercial fenestration with two, four paned windows.

LEGAL FRAMEWORK AND LIST OF POLICIES

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

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

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

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

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

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

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Burgess Hill Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP1: Sustainable Economic Development
DP17: Ashdown Forest SPA and SAC
DP20: Securing Infrastructure
DP21: Transport
DP26: Character and Design
DP27: Dwelling Space Standards
DP28: Accessibility
DP29: Noise, Air and Light Pollution
DP30: Housing Mix
DP35: Conservation Areas
DP38: Biodiversity
DP39: Sustainable Design and Construction
DP41: Flood Risk and Drainage
DP42: Water Infrastructure and the Water Environment

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

Relevant policies.

None.

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made on 28th January 2016 .

Relevant policies:

S3 Protect and Enhance Existing Community and Medical/Health Facilities
S4 Parking Standards for New Developments
H1 Protecting and Enhancing Heritage Assets and Conservation Areas

Other Legislation

Planning (Listed Buildings and Conservation Areas) Act 1990

Other Material Considerations

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

DPS2: Sustainable Design and Construction
DPS4: Flood Risk and Drainage
DPN7: Noise Impacts
DPC6: Ashdown Forest SPA and SAC
DPB1: Character and Design
DPB3: Conservation Areas
DPE1 : Sustainable Economic Development
DPT1: Placemaking and Connectivity
DPT3: Active and Sustainable Travel
DPH1: Housing
DPH3: Sustainable Development - Inside the Built-Up Area
DPH7: Housing Mix
DPH9: First Homes
DPH11: Dwelling Space Standards
DPH12: Accessibility

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

National Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

Paragraph 12 of the NPPF states;

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that

depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

Chapter 11 of the NPPF deals with making effective use of land and paragraph 125 c) sets out that decisions should;

'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals should be approved unless substantial harm would be caused...'

National Design Guide

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- o Principle
- o Design and Impact on the character and appearance of the area
- o Conservation Area
- o Space Standards
- o Housing Mix
- o Impact on Residential Amenity
- o Transport
- o Flood Risk and Drainage
- o Ecology
- o Sustainability
- o Ashdown Forest
- o Biodiversity Net Gain
- o Planning Balance and Conclusion

Principle

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

The policies contained within the NPPF are material considerations which should be taken into account in the determination of this application. This is confirmed within paragraph 231 of the NPPF.

Paragraph 232 clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development, and states;

'For decision-taking this means;

c) *approving development proposals that accord with an up-to-date development plan without delay;*
or

d) *where there are no relevant development policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless;*

i. *The application of policies within this Framework that protect areas of assets of particular importance provides a strong reason for refusing development proposed; or*

ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.'*

Footnote 7 of paragraph 11(i) clarifies that the policies referred to are those in this Framework (rather than those in development plans) and relate to habitats sites (and those and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and other heritage assets of archaeological interest; and areas at risk of flooding or coastal change.

Footnote 8 of paragraph 11 clarifies that for applications involving the provision of housing, in situations where the local planning authority cannot demonstrate a five year land supply of delivery housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that delivery of housing has been substantially below (less than 75%) of the housing requirement for the last three years, then relevant policies for the supply of housing should be considered out-of-date.

Having regard to the above, while the Council has performed excellently in respect of the Housing Delivery Test, a new standard method formula was published alongside the NPPF which gives Mid Sussex a significantly higher housing requirement than the current District Plan. As a result, and having regard for the need for an appropriate buffer, the Council is unable to demonstrate a five year supply of deliverable housing sites as per the requirements of paragraph 78 of the NPPF.

In light of the above, this development needs to be considered in the context of paragraph 11 (c) and (d) of the NPPF, and it is considered necessary to assess whether the policies most important to the determination of the application within the Mid Sussex District Plan are up-to-date or not. The housing related policies (DP4 and DP6) are not up to date and the this development needs to be considered in the context of the presumption in favour of sustainable development.

As part of this process, the weight to be given to development plan policies will need to be assessed against the degree of conformity with the NPPF.

Notwithstanding this, policies DP1 and BHNP S3 states respectively that, *'existing premises should be protected unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment... and 'The existing community facilities within Burgess Hill are important resources for the local community and should be retained. Support will be given to allocating new facilities or improving existing ones. The Town Council will consider registering some of the existing community buildings as Assets of Community Value. Proposals involving the loss of community facilities for which there continues to be an established need will be resisted unless adequate alternative provision is or will be made available in a location supported by the local community within an appropriate and agreed timescale.'*

BHNP S3 sits under Core Objective CO3 to ensure that all sections of the community in Burgess hill have access to community/medical services including retail use, inter alia.

It is considered that the proposals do comply with the criteria of relevant policies mentioned above, DP1 and BH NP S3, because it includes retention of the commercial element at ground floor, albeit on a reduced scale. Para 85 of the NPPF places significant weight on supporting economic growth and productivity, including local business needs and para 124 seeks to promote an effective use of the land in meeting the need for homes and other uses, and (d & e) promoting and supporting the development of under-utilised land and buildings, for example, converting space above shops where the development would be consistent with the prevailing form of neighbouring properties and the overall street scene.

The site is located within the built up area boundary as mentioned above, and therefore meets the test of presumption in favour of sustainable development. The Planning Statement confirms that the site is 0.4 miles from the town centre and 0.5 miles from the train station, so both are within walking distance.

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

Design and Impact on Character and Appearance

Policy DP26 of the District Plan deals with design matters and states:

'All development and surrounding spaces, including alterations and extension to existing buildings and replacement dwellings, will be well designed and reflect and distinctive character of the towns and villages while being sensitive to the countryside. All applicants will be required to demonstrate that development:

- is of high quality design and layout and includes appropriate landscaping and greenspace,*
- contributes positively to, and clearly defines, public and private realms and should normally be designed with active building frontages facing streets and public open spaces to animate and provide natural surveillance,*
- creates a sense of place while addressing the character and scale of the surrounding buildings and landscape,*
- protects open spaces, trees and gardens that contribute to the character of the area,*
- protects valued townscapes and the separate identity and character of towns and villages,*
- does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution.*
- creates a pedestrian friendly layout that is safe, well connected, legible and accessible,*
- incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed,*
- positively addresses sustainability considerations in the layout and the building design,*
- take the opportunity to encourage community interaction by creating layouts with a strong neighbourhood focus/centre, larger (300 plus unit) scheme will also normally be expected to incorporate a mixed use element,*
- optimises the potential of the site to accommodate development."*

The Council's Design Guide is also of relevance and a number of sections relate specifically to layout and design features within a proposed development, specifically sections 3, 4, 5, 6 and 8.

NPPF Chapter 12 seeks to achieve well designed places, by creating high quality, beautiful and sustainable buildings and places. Paragraphs 131 and 135 are of particular relevance.

NPPF Paragraph 125 c states that decisions should give *'substantial weight to the value of using brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.'*

It is therefore necessary to consider whether in terms of design, the proposal would constitute substantial harm to the character and appearance of the area having regard to the above objectives and relevant policy criteria in the adopted development plan and SPD.

In terms of design, the proposed external alterations are not considered to constitute substantial harm to either the building or location. They are considered to be relatively minor with changes to the positions and sizes of some windows at ground, first and second floor. The main alteration is to break up the amount of glazing at ground floor. However, existing windows will be kept where possible and replaced like for like elsewhere. The building already has white painted rendered walls and a tiled roof which will stay as existing. The hard surfacing and parking area at the front and to the side will also remain as existing.

Therefore, in terms of design, the proposed development is considered to be acceptable and meets the criteria of the relevant policies and principles mentioned above. It would not result in substantial harm to the character and appearance of the building nor the locality, having regard to para 125 c of the NPPF.

The proposal is therefore considered to be acceptable and meets the requires of DP26, the MSDG and national policy contained within the NPPF.

Conservation Area

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of conservation preserving or enhancing the character or appearance of that area.'

Policy DP35 states:

'Development in a conservation area will be required to conserve or enhance its special character, appearance and the range of activities which contribute to it. This will be achieved by ensuring that:

- o New buildings and extensions are sensitively designed to reflect the special characteristics of the area in terms of their scale, density, design and through the use of complementary materials;*
- o Open spaces, gardens, landscaping and boundary features that contribute to the special character of the area are protected. Any new landscaping or boundary features are designed to reflect that character;*
- o Traditional shop fronts that are a key feature of the conservation area are protected. Any alterations to shopfronts in a conservation area will only be permitted where they do not*
- o result in the loss of a traditional shopfront and the new design is sympathetic to the*
- o character of the existing building and street scene in which it is located;*
- o Existing buildings that contribute to the character of the conservation area are protected. Where demolition is permitted, the replacement buildings are of a design that reflects the special characteristics of the area;*
- o Activities such as markets, crafts or other activities which contribute to the special character and appearance of the conservation area are supported;*
- o New pavements, roads and other surfaces reflect the materials and scale of the existing streets and surfaces in the conservation area.*

Development will also protect the setting of the conservation area and in particular views into and out of the area.

New buildings of outstanding or innovative design may be acceptable in conservation areas provided that their impact would not cause material harm to the area.'

BHNP policy H1 states that proposals will be required to preserve and enhance their special character or appearance. This policy sits under Core Objective CO 4 - protect the loss and encourage the re-use of historic and significant buildings or assets of community value. Protect the amenities of existing residential areas/neighbourhoods.

Section 16 of the NPPF is of particular relevance in relation to the application and the most relevant paragraphs are set out below ;

'208. Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal of heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.'

210. *In determining applications, local planning authorities should take account of:*

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*

212. *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

213. *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

- a) Grade II listed buildings, or Grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, Grade I and II* listed buildings, Grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

214. *Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

215. *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.'*

The application is accompanied by a heritage statement.

The Councils Conservation Officer has no objections subject to planning conditions for the submission of details. Their comments are as follows:

'I consider that the proposal is acceptable, but given the apparent lack of certainty regarding whether the existing dormers will be retained and repaired or rebuilt, I would recommend an appropriate condition.

The proposal is therefore considered to preserve the character and appearance of the building, the terrace of which it is part, and the wider Conservation Area. This meets the requirements of District Plan Policy DP34 and the relevant paragraphs of the NPPF.'

This stance is agreed with, the external alterations propose like for like replacement casements and use of the same materials where it is necessary to repair. It is therefore considered that the proposed development will meet the requirements of the above relevant policies as stated by the Conservation Officer.

Space Standards

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan supports this.

Technical Nationally Described Housing Standards requires a 1 bed, 1 person flat to have a minimum internal gross floor area of 39 sqm. Flat 1 as proposed would provide a floor area of 42 sqm. For a 2 bed, 3 person flat it should have a minimum gross internal floor area of 61 sqm. Flat 2 is proposing 55 sqm. Flat 3 is on the second floor is a one bed flat and is proposing 35.6 sqm. These figures are quoted on the amended floor plans and within the amended planning statement. The agent has confirmed that while two of the flats fall slightly under the space standards, the individual rooms are compliant.

Having regard for the above, it is therefore considered that the proposed development does not comply with policy DP27 and the Government's Technical Housing Standards - Nationally Described Space Standards.

In addition, Policy DP28 of the District Plan relates to accessibility and requires all development to meet and maintain high standards of accessibility so all users can use them safely and easily. In respect of larger developments (5 or more dwellings) there is a requirement for 20% of dwellings to meet Category 2 - accessible and adaptable dwellings under Building Regulations - Approved Document M Requirement M4(2).

The scheme is exempt from provision of Category 2 because it is flatted residential buildings of fewer than 10 dwellings. That said, the Planning Statement does confirm that the main residential pedestrian access will have a level threshold.

As such, this complies with policy DP28.

Housing Mix

Policy DP30 of the District Plan states that to support sustainable communities, housing development will provide a mix of dwelling types and sizes from new development that reflects current and future housing needs.

The proposal is to provide a total of 3 flats, comprising 2 no. one bed flats and 1 no. two bed flat.

The proposed development complies with DP30 and will provide a mix of smaller dwelling types that meets the needs of the community, which is positive in the planning balance.

Residential Amenity

DP26 states that in terms of amenity the development will be permitted provided it:

'does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);'

Paragraph 125 c of the NPPF gives substantial weight to the value of using suitable brownfield land within settlements for homes, and proposals should be approved unless substantial harm would be caused.

The tests are, therefore, whether the proposal would constitute significant harm under DP26 and also whether it would amount to substantial harm under the NPPF, in terms of impact on residential amenity for the occupants of nearby properties.

The MSDG SPD also states:

'Principle DG45: Privacy of existing and future residents

Applicants will need to demonstrate how privacy will be achieved between new and existing developments.

The following elements can have an impact on privacy:

- o The relationship of buildings to each other including the positioning and design of windows and doors;*
- o The topography and relative height of adjacent buildings;*
- o The provision of good noise insulation;*
- o The relationship of the parking, gardens, front defensible space, balconies with the adjacent buildings; and*
- o The position and arrangement of habitable rooms.*

Direct overlooking of private amenity space from habitable rooms in neighbouring properties should normally be avoided.

Set-back upper floors, recessed balconies and generous internal courtyards can all help to deliver higher densities whilst respecting privacy. Because they are usually more visible, the privacy of ground floor flats should particularly be considered, and the provision of dedicated private rear gardens will often be necessary.'

Privacy/Overlooking

In terms of privacy and overlooking, and especially in a built up town centre environment, there is always likely to be a certain amount of mutual overlooking and loss of privacy. However, as said above the test is whether the design would constitute substantial or significant harm for the residential amenity of nearby properties.

There are no additional windows proposed on the rear or west facing side elevations. There is also a privacy screen proposed of 1.8m high by 1m wide to mitigate the impact of any overlooking from the terrace area proposed at first floor.

As such, the proposed development would not result in any direct overlooking and loss of privacy and would not amount to either significant or substantial harm.

Outlook

The proposed development involves conversion and reconfiguration of the existing building envelope and would not therefore result in increased building mass/volume.

It is not considered that, in terms of overpowering effect and outlook and when viewed by the occupants of adjoining and nearby properties, there would be any significant or substantial harm caused by the development proposal.

Daylight and Sunlight

The application is accompanied by a daylight and sunlight assessment (issue no. 2).

Given the above, there would be no loss of daylight or sunlight.

As such, there would be no significant or substantial harm resulting from the proposed development in terms of overshadowing and loss of daylight/sunlight.

Noise, Air and Light Pollution

The proposal would result in the net increase of 2 small flats and a smaller commercial/retail unit.

The Council's environmental health officers have commented that the application proposal is acceptable subject to planning conditions. Their comments in respect to the applicant's acoustic report, are as follows:

'The report shows that on the façade overlooking Royal George Road, the daytime sound levels were recorded at 62dB LAeq,16 hour (07:00-23:00 hours), and the nighttime sound levels were recorded at 54dB LAeq, 8 hours (23:00-07:00 hours). Sound levels reduced by up to 17dB around other facades of the building. As part of the design, no bedrooms overlook the busier Royal George Road, indicating good acoustic design.

Additionally, the report shows that the proposed first-floor terrace/external amenity area is likely to meet BS8233:2014 and WHO Guidelines for Community Noise (1999, revised 2018).

In order to protect future residents, the building can use standard thermal double-glazing products with an Rtraffic of at least 25dB(A). The report notes that some of the windows will need replacing as they are in poor condition. Additionally, acoustic through-frame trickle vents with a Dnew +Cttr rating of at least 33dB are recommended for alternative ventilation methods.

Enhanced soundproofing is required between the ground floor commercial space and the ground floor residential space (horizontal soundproofing) and first-floor habitable rooms (vertical soundproofing) due to the potential noise from the commercial unit. The required sound insulation performance is a minimum of 48dB DnTw+Ctr between the ground floor commercial and the ground floor flat 1 and first-floor flat 2.'

Therefore, proposed residential and shop units are not likely to result in either significant or substantial harm.

There will be a neutral impact in terms of air and light pollution.

As such, the application proposal is considered to be acceptable having regard to residential amenity and would not amount to significant or substantial harm all in accordance with the criteria of relevant policies DP26, MSDG principles and national policy contained within the NPPF.

Transport

MSDP Policy DP21 requires that;

'Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026, which are:

- o A high quality transport network that promotes a competitive and prosperous economy;*
- o A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- o Access to services, employment and housing; and*
- o A transport network that feels, and is, safer and healthier to use.*
- o To meet these objectives, decisions on development proposals will take account of whether:*
- o The scheme is sustainably located to minimise the need for travel noting there might be circumstances where development needs to be located in the countryside, such as rural economic uses (see policy DP14: Sustainable Rural Development and the Rural Economy);*
- o Appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking, have been fully explored and taken up;*

o The scheme is designed to adoptable standards, or other standards as agreed by the Local Planning Authority, including road widths and size of garages;

The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development and the availability and opportunities for public transport; and with the relevant Neighbourhood Plan where applicable;

o Development which generates significant amounts of movement is supported by a Transport Assessment/ Statement and a Travel Plan that is effective and demonstrably deliverable including setting out how schemes will be funded;

o The scheme provides appropriate mitigation to support new development on the local and strategic road network, including the transport network outside of the district, secured where necessary through appropriate legal agreements;

o The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;

o The scheme protects the safety of road users and pedestrians; and

o The scheme does not harm the special qualities of the South Downs National Park or the High Weald Area of Outstanding Natural Beauty through its transport impacts.

Where practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.

Neighbourhood Plans can set local standards for car parking provision provided that it is based upon evidence that provides clear and compelling justification for doing so.'

BHNP policy S4 is essentially for new housing developments stating that new housing developments must comply with the new parking standards for Burgess Hill. It states in part that the design should allow ease of access from driveways and accessibility to parking areas without causing obstruction. Policy S4 sits under Core Objective CO9 to ensure that adequate parking is provided for all new development.

The site will retain 3 car parking spaces on the hard surfaced areas around the building to the front and side. The WSCC Car parking calculator indicates that the proposed development requires the provision of 4 spaces. However, the LHA (WSCC) considers that this would not give rise to highway safety or capacity concern. The LHA have stated that the planning authority may wish to give consideration to residential amenity in this respect, given the restriction of on street parking in the vicinity, but also notes that the site is sustainably located so the location is accessible to pedestrians, cyclists and public transport which also negates the need for the use of the car.

The LHA has requested a planning condition for the provision of secure cycle parking on site.

The LHA does not consider the proposal to have an unacceptable impact on highway safety and there are no transport grounds to resist the proposal. As such, from a transport point of view the proposal is considered to be acceptable and in accordance with the criteria of relevant policies.

Flood Risk and Drainage

Policy DP41 relates to flood risk and drainage and requires development to demonstrate it is safe across its lifetime and not increase the risk of flooding elsewhere.

The proposed development will utilise the both the foul and surface water drainage systems.

There will be no additional roof area, all roofs will drain into the existing rainwater pipes.

The Council's drainage engineers have reviewed the information submitted and have no objection on flood risk grounds.

Given the above and subject to the planning condition for the approval of further details, the proposed development is acceptable in relation to this issue and satisfies the criteria of relevant planning policies (DP21 of the MSDP) as mentioned above.

Sustainability

MSDP Policy DP39 states;

All development proposals must seek to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate the following measures:

- *Minimise energy use through the design and layout of the scheme including through the use of natural lighting and ventilation;*
- *Explore opportunities for efficient energy supply through the use of communal heating networks where viable and feasible;*
- *Use renewable sources of energy;*
- *Maximise efficient use of resources, including minimising waste and maximising recycling/ re-use of materials through both construction and occupation;*
- *Limit water use to 110 litres/person/day in accordance with Policy DP42: Water Infrastructure and the Water Environment;*
- *Demonstrate how the risks associated with future climate change have been planned for as part of the layout of the scheme and design of its buildings to ensure its longer term resilience.*

Principle DG37 of the Council's Design Guide deals with 'sustainable buildings and states;

The Council welcomes innovative and inventive designs that respond to the sustainability agenda by minimising the use of resources and energy both through building construction and after completion.

It lists a number of issues that designers should consider, including, amongst others, the incorporation of renewable energy technologies.

Paragraph 164 (b) of the NPPF seeks to ensure new development helps, *'to reduce greenhouse gas emissions, such as through its location, orientation and design.'* In determining planning applications paragraph 166 (b) expects new development to, *'take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

In terms of location, the site is situated in a sustainable town location within walking/cycle distance of local services and amenities. Cycling is a viable option in the area. The site is also well connected by public transport, with regular buses available from Royal George Road. Burgess Hill Train Station is situated approximately 1.4km east of the site.

In terms of design and construction, the planning statement confirms that;

'The re-use of this building, rather than redevelopment very much accords with this policy. Water usage within the apartments will also be limited to 110l per person per day.'

There are windows on all sides of the building which maximises the sunlight into habitable rooms, thus providing a degree of natural warmth to the rooms.

The proposal is therefore compliant with the above relevant policies.

(Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

The proposed development is outside the 7km zone of influence and as such, mitigation is not required.

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development.

No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Biodiversity Net Gain

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

Other

The Planning Statement confirms that the proposal will limit water consumption to 110 litres per person per dwelling a day. The existing mains water connection to the Site will be reused so there is sufficient water supply to the site to provide for occupants ongoing water demand. This is in accordance with Policy DP42.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP1, DP17, DP21, DP26, DP27, DP28, DP29, DP30, DP35, DP38, DP39, DP41, and DP42 and Neighbourhood Plan policies H1, S3 and S4.

As a result, it is considered that the application complies with the development plan when read as a whole. This is not the end point as planning law requires that 'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise'.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, it follows that the relevant policies for the supply of housing from the development plan are out-of-date (footnote 8 of paragraph 11 NPPF). As such, reduced weight should be given to these policies.

In these circumstances paragraph 11 of the NPPF provides for a presumption in favour of sustainable development which means that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole (having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination), or specific policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development.

Paragraph 125 (applies only on brownfield in bua) states in part (at criteria c) that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused. In this case substantial harm has not been demonstrated and as such substantial weight needs to be given in the planning balance to the value of developing this brownfield site.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, the proposal would result in the provision of 2 new dwellings which will make a positive contribution to the district's housing supply and requirement. The proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community.

The proposed development of this brownfield site in a built up area will ensure that para 125 c of the NPPF is met. This is positive in the planning balance.

The proposal would have a neutral effect in terms of design/character, the Conservation Area, transport, neighbouring amenity and drainage. There will be no likely significant effect on the Ashdown Forest SPA and SAC and the impact on the Ashdown Forest.

It has been identified that two of the proposed flat do not comply with the national space standards, this weighs against the development and should be given moderate weight.

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

There are no other material considerations that would alter the above planning balance.

Overall, the planning balance is considered to fall significantly in favour of granting planning permission.

Decision: Permission

Case Officer: Rachel Richardson