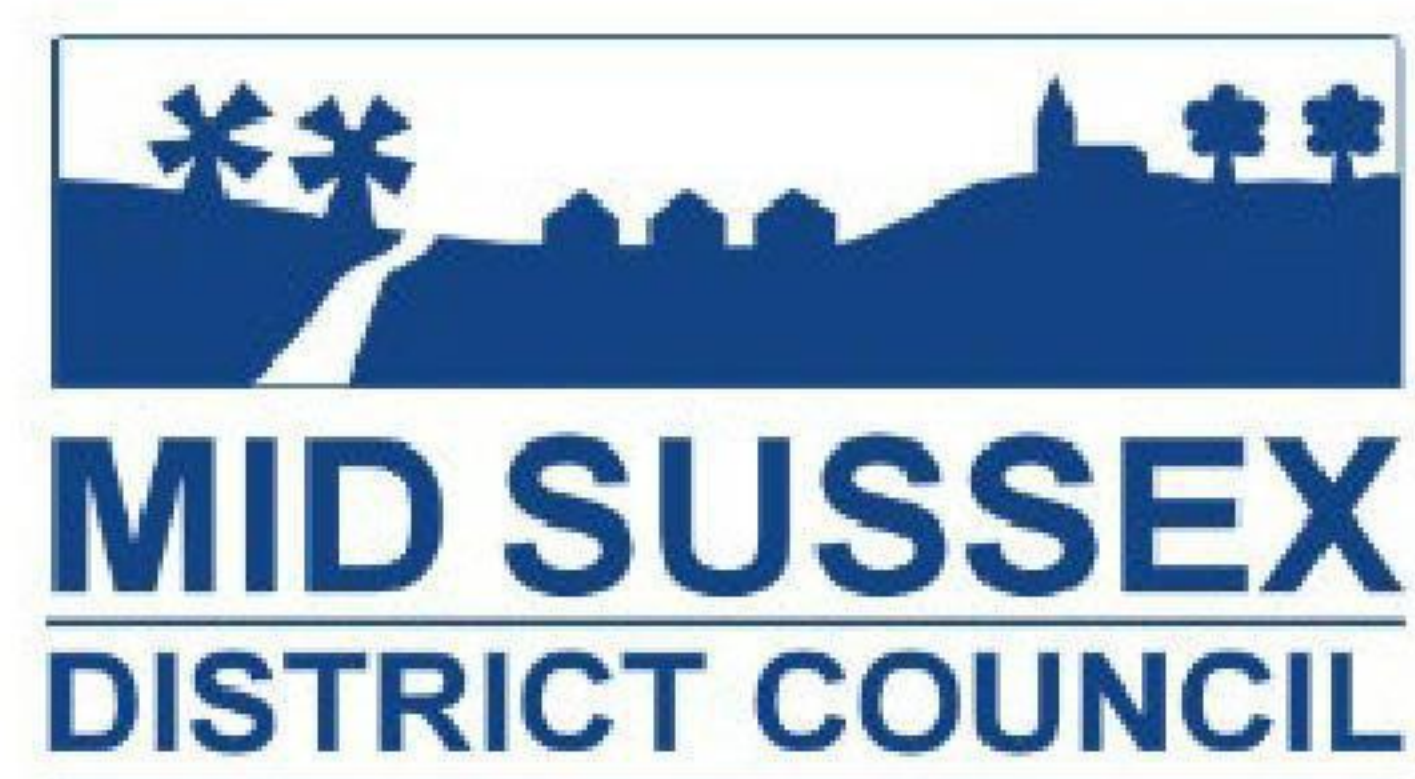


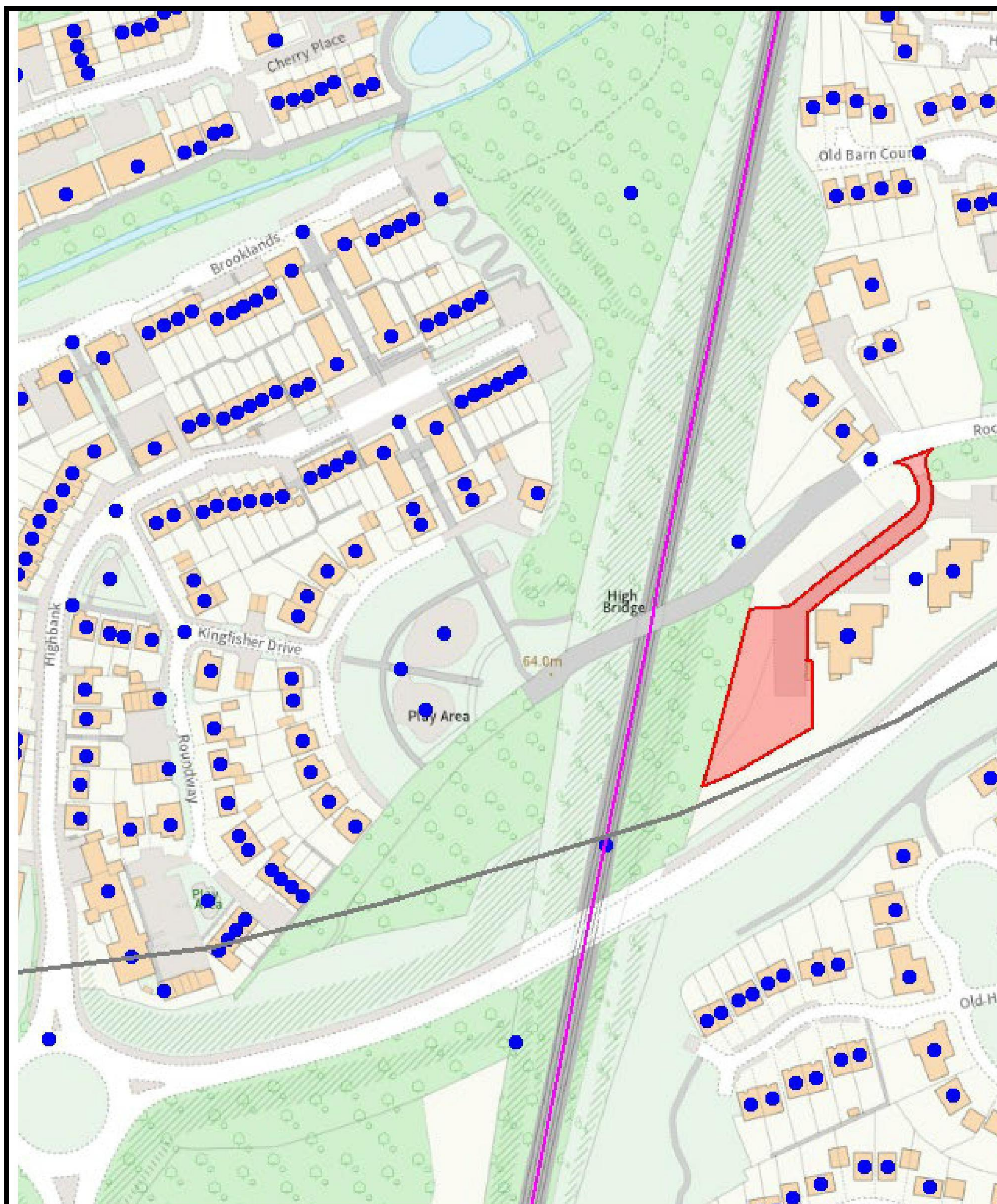
Planning Committee



Recommended for Refusal

13th August 2026

DM/25/2720



Site:	Kilnwood Apartments Rocky Lane Haywards Heath West Sussex RH16 4XL
Proposal:	Proposed 6 two-bedroom apartments within a 3-storey apartment block (revised plans and further information received 16.12.2025, 18.12.2025 and 20.05.2026)
Applicant:	Mr Cross
Category:	Minor Dwellings
Target Date:	21st August 2026
Parish:	Haywards Heath
Ward Members:	Cllr Duncan Pascoe / Cllr Richard Bates /
Case Officer:	Caroline Grist

Link to Planning Documents:

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=T4JGDKKT0D200>

1.0 Purpose of Report

- 1.1 To consider the recommendation of the Interim Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

2.0 Executive Summary

- 2.1 This application seeks planning permission to erect a three-storey block of flats, containing 6 dwellings, with associated access, parking and landscaping on an area of land to the west of Kilnwood Apartments that is within the built up area boundary of Haywards Heath. It follows the refusal of similar applications for 9 dwellings in April 2021 (DM/20/3456) and February 2022 (DM/21/3763). The 2022 application was also dismissed at appeal by the Planning Inspectorate.
- 2.2 The application is before committee as the decision is finely balanced.
- 2.3 Planning legislation requires the application to be determined in accordance with the Development Plan unless material circumstances indicate otherwise. In this part of Mid Sussex, the development plan comprises the Mid Sussex District Plan and the Haywards Heath Neighbourhood Plan. The 'in accordance' determination is one in accordance with the development plan when read as a whole.
- 2.4 For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP4, DP5, DP6, DP21, DP27, DP30, DP31, DP38, DP39, DP40 and DP41 and Neighbourhood Plan policies E7 and T3.
- 2.5 Although the application must be assessed against the policies of the development plan taken as a whole, this assessment has identified conflict with the development plan. This

being in respect of policies DP26 and DP37 of the Mid Sussex District Plan and policies E9 and H8 of the Haywards Heath Neighbourhood Plan.

- 2.6 As a result, it is considered that the application conflicts 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'.
- 2.7 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.
- 2.8 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.
- 2.9 Weighing against the application is the impact the development would have on the character of the area, the loss of agreed landscaping and the harmful layout of the scheme. Whilst the block of flats would reflect the design of the existing buildings, it is to be sited in an area of landscaping associated with the existing development that was also intended to soften its appearance and assist in creating a semi-rural appearance. The scheme would re-locate the apartment block further back within the site; however this part of the site has a more prominent position through its higher land level when viewed from Rocky Lane. Additionally, the proposed siting and revised form of the new block is such that it would appear cramped and contrived, due to its position so close to the western boundary and the lack of space available. Given the pattern of development and character along Rocky Lane, the introduction of a further block of flats is considered to have a significantly harmful impact on the character and appearance of the surrounding area. Whilst landscaping has been proposed; it cannot be guaranteed to remain in perpetuity and there are concerns that there would be future pressure on its retention due to the site layout. It is therefore considered that the landscaping would not mitigate the harm that has been identified.
- 2.10 The proposed layout also gives rise to concerns regarding the impact to future resident's amenity, for those living in the ground floor flats. Two parking spaces are proposed in close proximity to the eastern elevation, where there is only one bedroom window. This would cause noise and disturbance, which could also be at night, outside of the resident's control. The lack of defensible space would further give rise to a perception of overlooking. The two bedrooms on the western side of the building are to be within close proximity of boundary planting, which would affect the light and outlook available to these rooms.
- 2.11 These factors weigh heavily against the proposed development.
- 2.12 Weighing in favour of the scheme is that the development would provide 6 no. residential units in a sustainable location, within the built-up area, at a time when the Council is unable to demonstrate a five-year supply of housing. However, given the number of dwellings proposed it is advised that this weight would be limited.
- 2.13 Furthermore, relevant contributions to infrastructure, including a commuted sum for an affordable dwelling, would be provided. The proposal would result in the employment of

contractors for the duration of the build with the increased population likely to spend in the local community, albeit such benefits would be limited given the modest nature of the proposal. It would also have a positive benefit through the delivery of a net gain in biodiversity.

- 2.14 Whilst the proposal would result in the loss of existing car parking for the existing development, concerns raised by local residents in respect of highways safety are not supported by the Local Highways Authority and therefore your officers do not consider that an objection should be raised to this development on highways grounds.
- 2.15 The development would have a positive impact through the delivery of a net gain in biodiversity. The development is considered to have a neutral impact in respect of a number of issues including on drainage and sustainability and there should be no likely significant effects on the Ashdown Forest SPA and SAC.
- 2.16 In weighing up these issues, when taken together, it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal. Overall, the proposal is in conflict with the development plan and the planning balance is considered to fall in favour of refusing planning permission. It is therefore Officer's recommendation that planning permission should be refused.

3.0 Recommendation

- 3.1 Recommend permission is refused for the reasons outlined at Appendix A.

4.0 Summary of Representations

- 4.1 Twenty nine representations were originally received in response to the application. Twenty one of these responses are in support of the proposed development, noting that:

- Proposal will fit comfortably;
- The site is under developed;
- Will have a design, build and layout similar to the existing blocks;
- Well designed scheme;
- Provide for quality, modern living;
- In keeping with the overall layout;
- No views will be blocked;
- Provide more housing;
- Council cannot demonstrate a five year land supply;
- Will add better secretary for residents to the area;
- Cannot understand why permission has not been previously granted;
- No further blocks will be allowed in the future

- 4.2 The remaining responses, in summary, raised the following issues:

- Proposal would be contrary to policies DP21 and DP26 of the Mid Sussex District Plan;

- Proposal would be contrary to policies E9 and H8 of the Haywards Heath Neighbourhood Plan;
- If there was a Local Plan in place and five year housing land supply there would be no need for this development;
- Proposal did not form part of the original permissions for this site;
- Previous similar application has been refused;
- Blocks were originally agreed as there would only be three blocks and they would not look out of place;
- Will result in a loss of agreed landscaping;
- Will overdevelop the site;
- Location of block will make western end of the development appear cramped;
- The block is in a prominent position, on high ground, ahead of the established building line;
- Scheme does not appear well thought through or aesthetically pleasing;
- Will not be in keeping with the character of the area;
- Further erode the surrounding countryside views;
- Will alter the character of the area, which currently benefits from open natural landscape;
- Views to the South Downs will be further impacted;
- Impact the view for those in the nearby area;
- Too close to railway embankment;
- Loss of light for those facing the new building and overshadowing;
- Currently insufficient parking available and no more is proposed;
- Concern surrounding current parking available for the flats, as there overspill such as onto Old Rocky Lane;
- Should be car parking spaces proportionate to the new build;
- Parking and number of cars gives rise to safety concerns for other cars, cyclists and pedestrians using surrounding footpaths;
- Should be a full risk assessment on current car usage;
- Construction concerns surrounding parking, highway safety, impact to ancient woodland, noise, dust, dirt and disturbance that will be harmful to residents health and wellbeing;
- Contractor concerns;

- Will cause issues for residents;
- Loss of green space, adjacent to ancient woodland, that supports wildlife;
- Removing trees and established shrubbery would damage a habitat;
- Will increase demand on existing infrastructure, including waste and parking;
- Will intensify noise, waste and general day-to-day pressure on the site;
- Should approve developments that take place all at the same time

4.3 A further consultation was issued, following the submission of revised plans and updated information, and a further three representations were received. One noted their support for the application, whilst the others were in objection and reflected the above recorded concerns.

5.0 **Summary of Consultees**

5.1 A summary of the consultees final position can be found below. Details of their full comments can be found on the public planning file.

Southern Water

No objection subject to condition

Network Rail

No objection. Informatives recommended.

WSCC Highways Authority

No objection subject to condition

WSCC Minerals and Waste

No comment

WSCC Planning

S106 contributions sought:

Library - £2,384

Primary Education - £15,529

Secondary Education - £15,256

TAD - £10,368

Ecology

No objection subject to conditions

District Licencing Officer

No objection subject to condition

MSDC Section 106 & Infrastructure Manager

S106 contribution sought:

Community Buildings - £7,709

Equipped Play Space - £10,745

Other Outdoor Play - £8,550

Formal Sports - £7,661

Local Community Infrastructure - £5,483

MSDC Drainage Engineer

No objection subject to condition

MSDC Contaminated Land

No objection subject to conditions

MSDC Environmental Protection

No objection subject to conditions

MSDC Tree Officer

Objection. Loss of parking will place further pressure on landscaped areas and spaces in and around buildings. Will result in the removal of a buffer between the development and railway and it will not be possible for approved landscaping to be implemented. The development is closer to protected trees. The approved landscaping and spacing between buildings will provide greater screening in future, as well as their current contribution, and this is an elevated site. Trees have been removed to facilitate the approved car parking. Whilst no high-quality trees are to be removed, concerns around the cramped nature of the building, between a tree buffer and existing building. Will be significant impact on the landscape views and the space and planting between buildings will be diminished. There will not be adequate space for trees to develop to their full potential.

MSDC Housing

S106 contribution sought:

Affordable housing - £63,000 (equates to 1 x 2 bed flat)

MSDC Street Naming and Numbering

Informative recommended.

6.0 Town/Parish Council Observations

- 6.1 The Town Council supports this application. However, the Town Council also has concerns regarding the lack of parking provided by this proposal, particular the potential for overflow parking on Rocky Lane. In addition, the Town Council reiterates its concerns about the lack of affordable housing on site, but notes that this position is likely to have altered due to the size and aggregation of the development and the provision of a financial contribution by the developer via a Section 106 agreement.

7.0 Introduction

- 7.1 Planning permission is sought to construct six apartments, within a single three storey building, with associated access, parking and landscaping.

8.0 Relevant Planning History

- 8.1 DM/15/5107 - Outline application including access details for the development of up to 30 residential dwellings including vehicular access, open space, sustainable urban drainage systems; and associated landscaping, infrastructure and earthworks. Permitted.
- 8.2 DM/16/5547 - Reserved Matters application for 30 residential units including details of appearance, landscaping, layout and scale. Permitted.
- 8.3 DM/16/5543 - Discharge of planning conditions, including landscaping, relating to planning application DM/15/5107.
- 8.4 DM/17/2583 - Variation of Condition 2 relating to planning application DM/16/5547 to substitute plan drawings to provide 14 no. additional parking spaces. Permitted.
- 8.5 DM/19/4731 - Erection of 5 no. three storey dwellings along with associated access, landscaping and parking. Refused.
- 8.6 DM/20/3456 - Erection of 9 apartments within a single three storey building, along with access, parking and landscaping. Refused.

Reason for refusal:

The development would have a significantly harmful impact on the semi-rural character of the area, through the urbanisation of a prominent location that also impedes views to the South Downs along Rocky Lane. The scheme would also result in the loss of agreed landscaping that formed part of the Kilnwood Apartments development. The proposal therefore fails to accord with policies DP26 and DP37 of the Mid Sussex District Plan, policies E9 and H8 of the Haywards Heath Neighbourhood Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.

- 8.7 DM/21/3763 - The proposal is to erect 9 apartments within a single three storey building, along with access, parking and landscaping. Refused. Dismissed at appeal.

Reason for refusal:

The development would have a significantly harmful impact on the semi-rural character of the area, through the urbanisation of a prominent location that also impedes views to the South Downs along Rocky Lane. The scheme would also result in the loss of agreed landscaping that formed part of the Kilnwood Apartments development, which was integral to mitigate its impact on the character of the surrounding area. The proposal therefore fails to accord with policies DP26 and DP37 of the Mid Sussex District Plan, policies E9 and H8 of the Haywards Heath Neighbourhood Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.

9.0 Site and Surroundings

- 9.1 The application relates to an area of land, 0.2 hectares in size, located to the west of Kilnwood Apartments. It is within the built-up area of Haywards Heath, as defined by the Mid Sussex District Plan, and forms part of the original site for the adjacent apartments.
- 9.2 To the south of the site is the A272, with the London-Brighton railway line to the west. To the north is the Old Rocky Lane alignment, which also serves a small cluster of dwellings opposite the site. These dwellings include the Grade II listed Old House Cottages; however, due to the position of the proposed development, it is considered that the setting

of the listed building would not be affected. Beyond the A272, to the south, is a recent residential development known as 'The Beeches'.

- 9.3 The site slopes to the south/southwest and trees along the northern boundary of the site, to the west of the access and from Old Rocky Lane, are subject to a Tree Preservation Order (TP/15/0009). The site lies approximately 1km from Haywards Heath town centre.

10.0 Application Details

- 10.1 Planning permission is sought to erect six, two-bedroom apartments, as well as associated access, parking and landscaping works. The site predominantly differs from previous applications in that the apartment block would be sited further north, the building has a smaller footprint and the number of flats has been reduced from nine to six.
- 10.2 The apartments have been designed to replicate the scale and appearance of the existing buildings. They are to be three stories in height, with a low-pitched roof and a contemporary finish, using brick as the main facing material alongside aluminium finishing to the windows and balconies. Two apartments are to be located on each floor, with each having two bedrooms, one of which would have an en-suite, a kitchen and living area, and bathroom.
- 10.3 In terms of parking the proposed site plan shows 50 vehicular parking spaces across the whole development, thirteen of which are identified for the existing block of affordable housing. No additional bicycle spaces are proposed.
- 10.4 Landscaping is proposed to the south of the apartment block and shown along the western boundary.

11.0 Legal Framework and List of Policies

- 11.1 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 11.2 Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:
- 11.3 *'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,*
 - b) And local finance considerations, so far as material to the application, and*
 - c) Any other material considerations.'*
- 11.4 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.'*
- 11.5 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.
- 11.6 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.

- 11.7 Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan and Haywards Heath Neighbourhood Plan.
- 11.8 National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

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

Relevant policies:

DP4 - Housing

DP5 - Planning to Meet Future Housing Need

DP6 - Settlement Hierarchy

DP21 - Transport

DP26 - Character and Design

DP27 - Dwelling Space Standards

DP30 - Housing Mix

DP31 - Affordable Housing

DP37 - Trees, Woodland and Hedgerows

DP38 - Biodiversity

DP39 - Sustainable Design and Construction

DP40 - Renewable Energy Schemes

DP41 - Flood Risk and Drainage

Site Allocations DPD

- 11.10 The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.
- 11.11 There are no relevant policies.

Haywards Heath Neighbourhood Plan

- 11.12 The Haywards Heath Neighbourhood Plan was made in December 2016.

Relevant policies:

Policy E7 - Flooding and Drainage

Policy E9 - Design

Policy H8 - Housing Development within the Built up Area Boundary

Policy T3 - Car Parking

Other Material Considerations

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

- 11.13 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 hearings were concluded on 19th March 2026. The District Plan remains at Examination until the Inspector has published his report, until that time 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

DPS6 - Health and Wellbeing

DPN1 - Biodiversity, Geodiversity and Nature Recovery

DPN2 - Biodiversity Net Gain

DPN4 - Trees, Woodland and Hedgerows

DPB1 - Character and Design

DPT1 - Placemaking and Connectivity

DPH1 - Housing

DPH3 - Sustainable Development - Inside the Built-up Area

DPH7 - Housing Mix

DPH8 - Affordable Housing

DPH11 - Dwelling Space Standards

DPI1 - Infrastructure Provision

DPI2 - Planning Obligations

Mid Sussex Design Guide Supplementary Planning Document (SPD)

- 11.14 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.

Development Infrastructure and Contributions Supplementary Planning Document (SPD)

Affordable Housing Supplementary Planning Document (SPD)

- 11.15 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.
- 11.16 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
- 11.17 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.'*
- 11.18 Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.
- 11.19 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.'
- 11.20 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.'
- 11.21 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.
- 11.22 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 Planning Policy Guidance

National Design Guide

- 11.23 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.
- 11.24 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.

Technical Housing Standards

12.0 Assessment

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

- The principle of development;
- Design and impact on the character of the area;
- Impact on the amenities of neighbouring properties;
- Space standards;
- Highway impact and parking provision;
- Ashdown Forest;
- Sustainability;
- Drainage;
- Affordable Housing;
- Infrastructure;
- Impact on Ecology;
- Biodiversity Net Gain; and
- Planning Balance and Conclusion.

Principle of development

- 12.2 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.
- 12.3 In terms of policy designations, the starting point for this assessment is that the application site falls within of the built-up area of Haywards Heath as defined by the District Plan.
- 12.4 As the proposed development is within the built-up area of Hayward Heath, a Category 1 settlement, the principle of additional windfall housing development is acceptable under Policy DP6 of the District Plan which states:

'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design), and not cause harm to the character and function of the settlement.'

The growth of settlements will be supported where this meets identified local housing, employment and community needs. Outside defined built-up area boundaries, the expansion of settlements will be supported where:

- 1. The site is allocated in the District Plan, a Neighbourhood Plan or subsequent Development Plan Document or where the proposed development is for fewer than 10 dwellings; and*
- 2. The site is contiguous with an existing built up area of the settlement; and*
- 3. The development is demonstrated to be sustainable, including by reference to the settlement hierarchy.*

The developer will need to satisfy the Council that:

- The proposal does not represent an underdevelopment of the site with regard to Policy DP26: Character and Design; or*
- A large site is not brought forward in phases that individually meet the threshold but cumulatively does not.'*

- 12.5 As such the principle of development is considered to be acceptable subject to compliance with policy DP26.
- 12.6 As per planning legislation, a decision must be made in accordance with the development plan unless there are any material planning considerations which indicate otherwise
- 12.7 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.
- 12.8 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).
- 12.9 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 or 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’.

- 12.10 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.
- 12.11 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.
- 12.12 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.
- 12.13 In light of the above, this development needs to be considered in the context of the presumption in favour of sustainable development. If a development is found to be sustainable, that would weigh heavily in favour of granting permission in the paragraph 11(d) balance. If however the development is not found to be sustainable, that is not the end of the matter; the Local Planning Authority still need to go through the weighing up process between the positive benefits of the scheme against any harm that may be caused, having particular regard for the key policies indicated in paragraph 11(d)(ii).
- 12.14 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.
- 12.15 Policies DP4 (Housing) and DP6 (Settlement Hierarchy) are relevant to this application. These policies are considered to be policies relating to the supply of housing and as such can be considered to be out-of-date, having regard to the NPPF tests. As such, these policies can be given limited weight in the determination of the application.
- 12.16 Therefore the key test that must be undertaken when assessing this application is as set out within para 11(d) of the NPPF.
- 12.17 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 the character of the area

- 12.18 Policy DP26 of the Mid Sussex District Plan states:

‘All development and surrounding spaces, including alterations and extensions to existing buildings and replacement dwellings, will be well designed and reflect the 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 (see Policy DP27);*
- 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+ unit) schemes will also normally be expected to incorporate a mixed use element;*
- optimises the potential of the site to accommodate development’.*

12.19 Policy DP37 of the Mid Sussex District Plan supports the protection and enhancement of trees, woodland and hedgerows and, in particular, ancient woodland will be protected.

12.20 Policy E9 of the Haywards Heath Neighbourhood Plan states:

‘Developers must demonstrate how their proposal will protect and reinforce the local character within the locality of the site. This will include having regard to the following design elements:

- height, scale, spacing, layout, orientation, design and materials of buildings,*
- the scale, design and materials of the development (highways, footways, open space and landscape), and is sympathetic to the setting of any heritage asset,*
- respects the natural contours of a site and protects and sensitively incorporates natural features such as trees, hedges and ponds within the site,*
- creates safe, accessible and well-connected environments that meet the needs of users,*

- *Will not result in unacceptable levels of light, noise, air or water pollution,*
- *Makes best use of the site to accommodate development,*
- *Car parking is designed and located so that it fits in with the character of the proposed development. Proposals affecting a listed building, conservation area, building of local interest or public park of historic interest or their setting should preserve or enhance their special interest and/or distinctive character.'*

12.21 Policy H8 of the Neighbourhood Plan states:

'Housing development within the Haywards Heath built-up area boundary, as defined, will be permitted including infill development and change of use or redevelopment to housing where it meets the following criteria:

- *The scale, height and form fit unobtrusively with the existing buildings and the character of the street scene.*
- *Spacing between buildings would respect the character of the street scene.*
- *Gaps which provide views out of the Town to surrounding countryside are maintained.*
- *Materials are compatible with the materials of the existing building.*
- *The traditional boundary treatment of an area is retained and, where feasible reinforced.*
- *The privacy, daylight, sunlight and outlook of adjoining residents are safeguarded'*

12.22 In terms of the Mid Sussex Design Guide SPD, principle DG3 relates to working with a site's natural features and resources. It sets out that:

'The landscape characteristics should be considered from the outset of the design process. The existing natural landscape informs the existing character of most sites. It should be retained as much as possible so that it shapes the form of new development and is incorporated to enhance its setting while reducing its impact on the wider landscape. This includes the consideration of the topography, trees and vegetation, orientation, landform, geology, watercourses / drainage, field patterns, boundaries and ecology.

The integration of the natural features provides the basis for a green infrastructure network that should underlie new schemes and enable them to contribute positively to the sustainability agenda and give them a sense of place, while also reducing the impact of the built form on the wider landscape.

The provision of green infrastructure is increasingly important in addressing the effects of climate change as it can help mitigate flooding, maintain biodiversity and play a role in reducing urban air temperatures. Green infrastructure also encourage healthy lifestyles by enabling outdoor activities.'

12.23 Principle DG7 is considered to be relevant and states

'Views across the open countryside from elevated locations in the District, especially in the High Weald and South Downs National Park, are an important part of the District's character and must be retained. Developments, particularly at a larger scale, must be carefully managed to minimise adverse impacts. New buildings should not obscure or

cause adverse impact on these existing views and attention must be given to reduce the impact of development against the skyline or ridgelines of hills.

Development proposals should soften their appearance within the landscape by minimising their visual impact through integrating them within the existing landform and with the careful siting of buildings and landscape.

Applicants should identify important views into and out of their site. This may include long distance views to landscape features or buildings or shorter distance views to attractive or distinctive townscape. Where appropriate development should be laid out so that these views are retained and where possible enhanced to improve legibility whilst ensuring that new development is appropriately screened so as not to impact on views towards the site.'

12.24 Principle DG38 sets out key considerations in terms of building design:

'Applicants should establish an architectural approach and identity in the design of building that is borne from the place.

The facade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings. However, this should not result in pastiche replicas of traditional buildings. Instead a re-interpretation of key aspects of their form should be demonstrated.

Good architecture involves the successful co-ordination of proportions, materials, colour and detail. Buildings should therefore be holistically designed with each part in harmony with its whole while appropriately responding to both its context and modern living requirements. This includes:

- The elevational treatment and overall façade design;*
- The placement, proportions and design of windows, doors and balconies;*
- A roofscape and form that creates a harmonious composition and minimises the visual impact of downpipes and guttering;*
- The appropriate incorporation of dormer windows and chimneys;*
- An appropriate palette of good quality materials that are preferably locally sourced.'*

12.25 In terms of tree planning and soft landscaping principle DG27 is also relevant and states:

'Trees and soft landscape make an important contribution to the character of an area by providing both physical and visual amenity, improving biodiversity and enhancing sense of place. They have a strong impact on people's well-being, soften the impact of buildings and structures, and indicate the passage of the seasons through their growth and change through the year, and should therefore be incorporated throughout new development.

From the outset, there should be a clear landscape strategy that is an integral part of the design of new development covering all streets and public spaces while accounting for the growing process. Consideration must also be given to the future maintenance of trees and plants in the design. Native trees and shrubs and longer-lived species should be selected where possible and appropriate as they support a greater variety of wildlife, are often more suited to local conditions and better reflect the character of the wider countryside'.

12.26 It then sets out that trees and soft landscaping should be selected and located according to a range of features including the growing space available, the final height and spread,

existing species in the locality, the character of the area, ensuring overlooking of shared spaces and minimising overshadowing.

12.27 Also of relevance is paragraph 139 of the NPPF which, in part, states that:

‘Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.’

12.28 It also makes clear that significant weight should be given to development that reflects local design policies and government guidance on design as well as those schemes that also are outstanding or innovative, providing they fit in with the overall form and layout of surroundings.

12.29 Paragraph 140 of the NPPF also sets out

‘Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).’

12.30 The application site relates to an area of land to the west of Kilnwood Apartments, which formed part of that development site. It currently forms part of the landscaping for this development and sapling trees, for example, have been planted as part of this.

12.31 Two previous applications have been considered for a block of housing at the western end of the site, within the approved area of landscaping. Both applications were refused due to the impact of the development on the character of the surrounding area, with the refusal reason for DM/21/3763 reading as follows:

‘The development would have a significantly harmful impact on the semi-rural character of the area, through the urbanisation of a prominent location that also impedes views to the South Downs along Rocky Lane. The scheme would also result in the loss of agreed landscaping that formed part of the Kilnwood Apartments development, which was integral to mitigate its impact on the character of the surrounding area. The proposal therefore fails to accord with policies DP26 and DP37 of the Mid Sussex District Plan, policies E9 and H8 of the Haywards Heath Neighbourhood Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF’.

The 2021 application was also dismissed at appeal.

12.32 A key element of the Kilnwood Apartments development was its relationship with surrounding landscape. Whilst now within the built-up area boundary for Haywards Heath, the character of this area is not overly residential, with surrounding development set back and away from the A272 by landscaping, creating a semi-rural appearance. The prominent ridge-line and semi-rural position of this site makes the landscaped thresholds agreed in the previous scheme necessary to ensure that new development is suitably softened so it sits comfortably in its immediate semi-rural context and not inappropriately impede upon wider views of the South Downs. The existing development was therefore intentionally designed to provide generous landscaping within the development. The Inspector noted that the existing built form sits comfortably on its plot, behind proportionate landscaped areas.

12.33 The current application positions the block of flats some 8.15 metres behind the frontage of the scheme considered under application DM/20/3456. It would sit some 3.53 metres behind application DM/21/3763 and, on this position, the Inspector recorded:

‘However, even though the development would be set back further on the plot than an earlier proposal for the site, it would nonetheless be a building of some scale and mass that would be set forward from the existing buildings and be relatively close to the A272. As such, whereas the dwellings on the other side of the A272 are set down from the road, due to the rising topography along the highway from the roundabout at Highbank towards the appeal site, the proposal would appear overly prominent in this specific location to those passing by, whether by car, train or foot, and to those living on the other side of Rocky Lane. Moreover, whether the immediate surrounding area can be described as semi-rural or not, the maturing landscaped site provides a soft transition to the built environment found to the rear of Old Rocky Lane. Indeed, the erosion of this verdant space which was provided as part of the ‘Kilnwood Apartments’ development, and relative proximity of the neighbouring buildings, would result in a cramped and urban type development in comparison to the existing built form...’

- 12.34 It is acknowledged that the block of flats would be smaller and positioned further back, however, the design intent is still to reflect the existing development design. As such, whilst fewer flats are proposed it would remain of a similar height as the previous buildings considered and positioned forward of the neighbouring block. Additionally, the latest position of the building has resulted in it being sited closer to the western boundary, where the railway line is. The initial response from Network Rail set out that a 3-metre gap would be required between the building and the site boundary, to maintain the safety of the applicants, groundworkers during development, future site users and Network Rail staff in the case of an operational incident. This has resulted in revised plans amending the form of the block to accommodate this.
- 12.35 Whilst it is noted that the new smaller, block of flats will be set further back and of a design consistent with the existing buildings, it is Officer’s view the proposal would still undermine the relationship of the existing development with the landscape. It would still inappropriately intrude into the defined landscaped areas around the apartment blocks, which were established by the 2017 permission, that the Inspector identified as being proportionate to the existing buildings. The proximity of the development to the western boundary is such that it appears uncomfortably close, with no great spacing available. This is inconsistent with the other apartment blocks, including block A at the eastern end of the site, where the built form is set further away from the site boundary and creates a more spacious character. Furthermore, the revised plans, taking into account the comments from Network Rail, have highlighted the lack of space available and the revised building form presents a cramped and contrived form of development. The proposed building would also remain sited in a prominent position, due to the rising topography along the highway which results in the site being at a higher land level.
- 12.36 With regards to the impact on views to the South Downs, the Inspector set out:
- ‘Turning to the views to the South Downs from the appeal site. I acknowledge that there would only be glimpses of the proposed development from wider viewpoints. However, in spite of a number of landscape ‘detracting items’ such as the well-used highway, railway cutting, fencing and bridge, I noticed at my site visit that large sections of the surrounding South Downs can be seen not only directly from the appeal site but also when travelling along the A272. Indeed, notwithstanding the benefits of natural surveillance along the footpaths and railway bridge on Old Rocky Lane, in this specific and elevated location next to the highway, the proposed building would serve to hinder wide-reaching views to the South Downs from both the appeal site and the A272’.*
- 12.37 It is considered that the proposed position of the development, in comparison to the appeal scheme, is such that it would not significantly alter the Inspector’s conclusions.
- 12.38 The proposal would therefore have an inappropriately urbanising impact upon this semi-rural site contrary to the aims of the policies of the District Plan outlined above and the Design Guide principles.

- 12.39 Objection has also been raised by the Council's Tree Officer firstly due to potential future pressure on landscaped areas and the spacing between buildings, arising from an overall loss of parking spaces. Concern has also been raised due to the removal of approved landscaping, between the development and the railway, removing their ability to develop to their full potential and provide a buffer to the railway. The position of the building is also closer to the TPO trees to the north and the approved landscaping in this area can also no longer be implemented as approved. Trees have also been removed to facilitate the approved car parking area.
- 12.40 The Tree Officer notes that the site is elevated and the approved landscaping and spacing between buildings would provide greater screening of the existing development in the future, as well as the current contribution that they make.
- 12.41 Lastly it is advised that, whilst no high-quality trees are to be removed, there are concerns regarding the cramped nature of the building, sited between a tree buffer and an existing building. This would result in a significant impact on the landscape views and the space and planting between buildings would be diminished. The Tree Officer advises that there would not be adequate space for the trees to develop to their full potential.
- 12.42 The Inspector was persuaded by the Tree Officer under the previous scheme who raised concerns, amongst other matters, that there would be insufficient space to provide adequate screening or softening for the proposed landscaping scheme.
- 12.43 Responses have been submitted from the developer in response to the Tree Officer's comments which can be viewed on the planning file. It has been advised that this does not affect the overall, original representation made by the Tree Officer.
- 12.44 Overall, the proposed development is to be situated in an area of landscaping for the existing apartments that was to assist in softening its appearance and providing a cohesive scheme in the context of this semi-rural area. In terms of design, it is considered that, as the proposed block of flats would replicate the existing development, no objections on this matter are raised. In terms of the impact on the character and appearance of the surrounding area, it is noted that the proposed building would be smaller and positioned further back within the site. However, the application site is still situated on a higher land level, when viewed from Rocky Lane, and given the height and position of the new block it is considered that it would have greater visual prominence and would appear dominant in views from Rocky Lane. Whilst it is acknowledged that there is now established development to the south of Rocky Lane, it is set away from the highway by a grassed area and at a lower level, thereby reducing its visual impact. Furthermore, the latest scheme would present a cramped and contrived form of development that would not reflect the spacing of the existing buildings or the approved landscaping.
- 12.45 In terms of the landscaping proposed, whilst the set back of the development allows further landscaping to the south, planning conditions can only protect landscaping for the first five years of the development. Furthermore, there could likely be future pressure on the landscaping as the planting along the western boundary, as it matures, would be within close proximity to the proposed building, where the only bedroom windows are proposed for this ground floor flat. As such it is considered that the landscaping proposed would not provide adequate mitigation to address the impacts of the proposed development on the character and appearance of the surrounding area. It is therefore concluded that the proposed development would not comply with policies DP26 and DP37 of the Mid Sussex District Plan, policies E9 and H8 of the Haywards Heath Neighbourhood Plan and the Mid Sussex Design Guide.

Impact on the amenities of neighbouring properties

- 12.46 Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do '*...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'.

- 12.47 Policy H8 states that proposals should "safeguarded" adjoining neighbours amenity whereas policy DP26 of the MSDP states that development should 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. There is therefore some conflict between the District Plan and Neighbourhood Plan in this respect. 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. As such, policy DP26 of the MSDP is considered to take precedence and therefore the test in this instance is whether the development causes significant harm to neighbouring amenities as outlined above.
- 12.48 The proposed development is to be sited to the west of the existing block of flats, block C, and have a separation distance of some 15.0 metres. Furthermore, the proposed flats are to continue the staggered arrangement of the existing development. Given the position of the new flats in relation to the existing and the separation distance proposed it is considered that there would not be a significant impact in terms of loss of light or outlook to existing residents. In terms of overlooking, due to the arrangement of the blocks and the windows within, there would not be any significant loss of privacy to existing or future residents.
- 12.49 In terms of the amenity for future residents, there are concerns in relation to the ground floor flats. To the east of the new block, two parking spaces are proposed adjacent to the building. Within the building a bedroom is proposed closest to these spaces and the only window associated with this room would face onto this parking. No parking allocation is indicated and, as such, any resident could choose to park in this space at any time. This would cause noise and disturbance to a bedroom, which could occur at any time including at night. Additionally, there is no defensible space between the parking and the bedroom window, which would be unsatisfactory for any future resident, and there would be perceived overlooking concerns when using the bedroom.
- 12.50 Concern also arises regarding both ground floor bedrooms on the western side of the building. This is due to the proximity of the planting shown along the western boundary and this poor arrangement would affect the light and outlook available to these rooms.
- 12.51 It is noted that the railway line and a main road are within close proximity to the new block of flats. An Acoustic Assessment has been submitted as part of this application as well as further information in response to the initial comments received from the Environmental Protection Officer. Whilst the Environmental Protection Officer is not fully satisfied on this matter, given the planning history, no objection has been raised providing a condition is attached to ensure that the recommendations set out in this report are complied with as well as stipulating that the internal noise levels meet World Health Organisation Guidelines on Community Noise and BS8233:2014 standards.
- 12.52 A number of representations have been made by residents regarding the impact of the building works on their amenity. Conditions have been recommended by the Environmental Protection Officer relating to construction and delivery hours as well as to prevent burning from taking place on site. A Construction Management Plan is also recommended, which would also assist on this matter. It is therefore considered that these conditions would reasonably control the construction period of the proposed development, to ensure that there would not be an unreasonable impact to neighbours, and can be enforced against if necessary.

- 12.53 It is therefore considered that the layout of the proposed development would cause significant harm to the future occupiers of the ground floor flat. As such the scheme would fail to comply with policy DP26 of the Mid Sussex District Plan and H8 of the Haywards Heath Neighbourhood Plan.

Highway impact and parking provision

- 12.54 Policy DP21 the Mid Sussex District Plan states that:

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

- A high quality transport network that promotes a competitive and prosperous economy;*
- A resilient transport network that complements the built and natural environment whilst reducing carbon emissions over time;*
- Access to services, employment and housing; and*
- A transport network that feels, and is, safer and healthier to use.*

To meet these objectives, decisions on development proposals will take account of whether:

- 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);*
- 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;*
- 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;*
- 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;*
- 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;*
- The scheme avoids severe additional traffic congestion, individually or cumulatively, taking account of any proposed mitigation;*
- The scheme protects the safety of road users and pedestrians; and*

- *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.'

12.55 In addition, policy T3 requires sufficient on-site car parking and states:

'Planning applications which result in the loss of existing off-street parking provision will be resisted unless it can be demonstrated that the development will enhance the vitality and viability of the town centre and, where possible, such schemes should aim to improve parking provision in the town centre. Development outside the defined town centre boundary should provide on-site parking in accordance with the standards adopted by MSDC'.

12.56 Paragraph 116 of the NPPF is relevant in respect of transport matters and states that:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios'.

12.57 The Kilnwood Apartments development has 30 residential flats that, under DM/16/5547, originally had 41 car parking spaces secured. This level of parking was increased under DM/17/2583 and a further 14 car parking spaces were provided, bringing the total level to 55. This was based on 13 unallocated parking spaces for the 9 affordable two-bedroom units and 42 allocated parking spaces for the 21 private market two-bedroom units. There are therefore 4 spaces remaining for overspill/visitor parking to this site.

12.58 The submitted application proposes that 13 car parking spaces are to be allocated for the affordable housing, with the remaining 37 spaces to be used by the rest of the development. There are nine affordable housing units and further 27 flats within the rest of the blocks. As such, whilst there would be a loss of five parking spaces, 50 car parking spaces would be retained to accommodate all 36 flats.

12.59 The Highways Authority have confirmed that the Parking Standards would set out the following requirements for 36 two-bedroom flats:

- 40 spaces if all spaces are unallocated, or
- 48 spaces if every dwelling has one allocated space.

12.60 It is therefore advised that 50 spaces would be considered sufficient from a highways perspective. In addition, no objection has been raised regarding the proposed access arrangements or cycle provision and it is advised that the proposal would not have an unacceptable impact in terms of highway safety.

12.61 Given the response made by the Highways Authority, whilst it is noted that objections have been made relating to parking and highways safety, it is therefore concluded that the development would supply sufficient parking and would not result in any highways safety concerns. As such the proposal would accord with policy DP21 of the Mid Sussex District Plan and T3 of the Haywards Heath Neighbourhood Plan.

Standard of accommodation

- 12.62 The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015 and sets out space standards for all new residential dwellings to secure a satisfactory standard of accommodation for future residents. Policy DP27 of the District Plan seeks to ensure that Dwelling space standards comply with The Government's Technical Housing Standards - Nationally Described Space Standards document, which sets out space standards for all new residential dwellings to secure a satisfactory standard of accommodation for future residents.
- 12.63 The plans show that the proposed scheme can achieve these standards and the application therefore complies with Policy DP27 of the Mid Sussex District Plan.

Affordable Housing

- 12.64 Policy DP31 of the Mid Sussex District Plan seeks to secure 30% affordable housing from developments containing 11 or more dwellings of which 75% would be social rented and 25% shared ownership.
- 12.65 Whilst the proposed development would only provide six new dwellings, consideration must be given to its context within the Kilnwood Apartment site and if these schemes should be aggregated.
- 12.66 Case Law establishes that the following criteria can be considered when considering if schemes can be aggregated:
- Ownership;
 - Whether the areas of land could be considered to be a single site for planning purposes; and
 - Whether the development should be treated as a single development.
- 12.67 These criteria are not mandatory or exhaustive, as there may be other relevant matters, and their consideration is a matter of planning judgement.
- 12.68 In terms of the development plan, whilst policy DP31 does not specifically reference aggregating sites, there are thresholds that set out when affordable housing will be sought for all residential developments. The phrase 'residential developments' is not defined, but the supporting text of DP31 does state that this would include *'any other developments where there is an increase in the number of residential units on the site'*. The word 'site' is again not defined and is not restricted, for instance, to an application site. It can therefore be considered that this application for further development is an increase in the number of residential units on the wider site area, having regard to the case law criteria above and any other relevant considerations.
- 12.69 In terms of the above criteria, the application site is within the same ownership as the larger application site and the proposed development would benefit from the existing infrastructure found there.
- 12.70 In terms of the site, it falls within the red line application site for the previous applications and was part of the same planning unit. There was never any physical barrier or separate access to the smaller application site area to suggest any separation or independence between the two areas. This 4th block is proposed to be constructed in an area of the original permission where there should be an extended and strengthened woodland belt and an informal woodland recreation area. Whilst the parties may not have intended to always include a fourth block, this is not considered to be particularly relevant as it is clear that this area was always part of the wider site.

- 12.71 This smaller site would use the same access, internal road and parking. The building would look the same as the other buildings on the site and is set out in such a way that it appears to be a natural continuation of the buildings and the site. There is no physical barrier or separate access or alternative layout/design, such as the 5 dwellings applied for under DM/19/4731, that sets this building apart from the other blocks. It would appear to be part of the same development to anyone looking at it. Whilst the current blocks are complete and occupied, it is likely to be the same developer that will implement this permission and it is quite usual for development to be constructed in phases and for these to be completed and occupied at different times. There is significant interdependence with the remainder of the site for access and other infrastructure, including the landscaping elements. The proposed development would not be developed wholly independently.
- 12.72 It is therefore considered that the facts of the case point to this being a single site and, as such, affordable housing should be provided. The Housing Manager has confirmed that if this block were to have formed part of the original development an additional affordable housing unit would have been required. The applicant has stated that they would be willing to provide a commuted sum, in lieu of affordable housing. The Housing Manager has confirmed that the amount would be £63,000, the equivalent of a two-bedroom flat, and the commuted sum would be acceptable.
- 12.73 The Applicants have confirmed agreement to providing affordable housing. The proposal therefore complies with Policy DP31 of the Mid Sussex District Plan.

Infrastructure contributions

- 12.74 Policy DP20 seeks to ensure that development is accompanied by the necessary infrastructure. Policy DP20 sets out that infrastructure will be secured through the use of planning obligations. The Council has approved three Supplementary Planning Documents (SPDs) in relation to developer obligations (including contributions). The SPDs are:
- Position Statement 2: Infrastructure,
 - Development Viability SPD, and
 - Affordable Housing SPD
- 12.75 The National Planning Policy Framework sets out the government's policy on planning obligations in paragraphs 56 and 58, which states:
- '56. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*
- and:
- '58. Planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
 - b) directly related to the development; and*
 - c) fairly and reasonably related in scale and kind to the development.'*
- 12.76 These tests replicate the statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (CIL Regulations).

12.77 Having regard to the relevant policies in the District Plan, the SPDs, Regulation 122 and guidance in the National Planning Policy Framework, the infrastructure set out below is to be secured through a planning obligation.

12.78 *County Council Contributions*

Library: £2,384 - additional facilities at Haywards Heath Library.

Primary Education: £15,529 - additional facilities at Holy Trinity CE Primary School, Cuckfield or another primary school in the planning area of Haywards Heath/Cuckfield.

Secondary Education - £15,256 - additional facilities at Warden Park Secondary Academy or another secondary school in the planning area of Haywards Heath/Cuckfield.

TAD: £10,368 - either the Haywards Heath Circular Route, which is a priority scheme in the WSCC Walking and Cycling Strategy 2016-2026, or any other local scheme to improve sustainable methods of transport in the vicinity of the site.

12.79 *District Council Contributions*

Equipped Play Space: £10,745 - Improvements to Acre Close Play area and /or Pinewood Way Play Area.

Other Outdoor Play: £8,550 - Improvements to Sandy Vale Open Space, and/or other outdoor provision at Victoria Park, Haywards Heath.

Formal Sport: £7,661 - Improvements to sport and ancillary facilities at Victoria Park, Haywards Heath and/or St Francis Sports Ground and/or the Dolphin Leisure Centre, Haywards Heath.

Community Buildings: £7,709 - Improvements to Ashenground Community Centre, Southdown Close, Haywards Heath and/or Haywards Heath Methodist Church, Perrymount Road, Haywards Heath and/or Clair Hall, Perrymount Road, Haywards Heath.

Local Community Infrastructure: £5,483 - cycle routes and/or allotments and /or additional cemetery facilities and/or provision of country park in Haywards Heath.

12.80 It is considered that the above infrastructure obligation would meet policy requirements and statutory tests contained in the CIL Regulations.

12.81 The Applicants have confirmed agreement to the contributions. The proposal therefore complies with Policy DP20 of the Mid Sussex District Plan.

Sustainability

12.82 Policy DP39 of the Mid Sussex District Plan 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'.*

12.83 Paragraph 161 of the NPPF states:

'The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

12.84 Paragraph 166 states:

'In determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'

12.85 A statement has been submitted as part of this application setting out sustainability measures that include:

- Taking a fabric first approach to the development,
- Top soil will be reclaimed and re-used where possible for landscaping,
- The construction methods and approach to materials sourcing will support waste minimisation,
- The dwellings will be designed to minimise heat loss through the fabric wherever possible,
- Water and sanitary fittings are to reduce water consumption and will include water efficient taps, shower heads and toilets, and
- The inclusion of solar panels and air source heat pumps.

12.86 It is therefore considered that the proposal complies with the relevant criteria policy DP39 of the District Plan and the requirements of the NPPF, consequently the proposal is considered to be acceptable in sustainability terms.

Drainage

12.87 Policy DP41 of the District Plan requires development proposals to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. In areas that have experienced flooding in the past, use of

Sustainable Drainage Systems should be implemented unless demonstrated to be inappropriate.

- 12.88 The Drainage Engineer has considered the submitted details and has raised no objection and considers that this matter can be suitably dealt with by condition, so there should be no conflict with this policy.
- 12.89 In view of the above it is considered that the proposal complies with Policy DP41 of the Mid Sussex Development Plan.

Ashdown Forest

- 12.90 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).
- 12.91 The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment process for the Mid Sussex District Plan. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.
- 12.92 A Habitats Regulations Assessment screening report has been undertaken for the proposed development.

Recreational disturbance

- 12.93 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.
- 12.94 In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan, 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.
- 12.95 The proposed development is outside the 7km zone of influence and as such, mitigation is not required.

Atmospheric pollution

- 12.96 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.
- 12.97 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 screening report

- 12.98 The screening 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.
- 12.99 No mitigation is required in relation to the Ashdown Forest SPA or SAC.
- 12.100 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.

Impact on Ecology

- 12.101 Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) lists species of animal (other than birds) which are provided special protection under the Act. Under Section 13 of the Act, all wild plants are protected from being uprooted without the consent of the landowner. In addition to the protection afforded by the Act, certain species are also covered by European legislation. These species are listed in Schedule 2 of the Conservation (Natural Habitats, 7c.) Regulations 1994 (as amended).
- 12.102 Policy DP38 of the Mid Sussex District Plan states:

'Biodiversity will be protected and enhanced by ensuring development:

- Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- Protects existing biodiversity, so that there is no net loss of biodiversity. Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*
- Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- Promotes the restoration, management and expansion of priority habitats in the District; and*
- Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*

Designated sites will be given protection and appropriate weight according to their importance and the contribution they make to wider ecological networks.

Valued soils will be protected and enhanced, including the best and most versatile agricultural land, and development should not contribute to unacceptable levels of soil pollution'.

- 12.103 The Ecologist has been consulted during the application process and have considered the documents provided. It is advised that sufficient information has been submitted to

determine the application and no objections have been raised regarding the impact of the proposed development on ecology. Conditions have been recommended to ensure that the development is to be carried out in accordance with the submitted measures, to secure the proposed mitigation as well as a Construction and Environmental Management Plan.

- 12.104 With regards to great crested newts, the application has been reviewed by the District Licencing Officer. No objection has been raised in this regard, subject to the inclusion of a condition that would require a Precautionary Working Methods Statement to be submitted.
- 12.105 It is noted that representations have referred to an area of ancient woodland near the site, however there are no registered areas of ancient woodland in the vicinity of the site.
- 12.106 It is therefore considered that, subject to the inclusion of recommended conditions, the proposal would be acceptable with regards to ecological matters.

Biodiversity Net Gain

- 12.107 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 is deemed to have been granted subject to the biodiversity net gain condition for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.
- 12.108 The biodiversity net gain condition is set out in the Town and Country Planning Act 1990, Schedule 7A, Part 2, 13 (2). It states:

'The condition is that the development may not be begun unless—

- a) a biodiversity gain plan has been submitted to the planning authority (see paragraph 14), and*
- b) the planning authority has approved the plan (see paragraph 15).'*

- 12.109 The statutory Biodiversity Metric has been submitted as part of this application as well accompanying ecological reports. This sets out that a net gain of biodiversity is predicted for the proposed development of 0.07 Habitat Units (15.99%). The Ecologist has confirmed that they support the submitted documents in this regard and are satisfied that sufficient information has been provided at this stage. As such no objection has been raised and the proposal would fulfil its requirements with regards to Biodiversity Net Gain.

13.0 Planning Balance and Conclusion

- 13.1 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 Haywards Heath Neighbourhood Plan.
- 13.2 For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP4, DP5, DP6, DP21, DP27, DP30, DP31, DP38, DP39, DP40 and DP41 and Neighbourhood Plan policies E7 and T3.
- 13.3 Although the application must be assessed against the policies of the development plan taken as a whole, this assessment has identified conflict with the development plan. This

being in respect of policies DP26 and DP37 of the Mid Sussex District Plan and policies E9 and H8 of the Haywards Heath Neighbourhood Plan.

- 13.4 As a result, it is considered that the application conflicts 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'.
- 13.5 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.
- 13.6 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.
- 13.7 Weighing against the application is the impact the development would have on the character of the area, the loss of agreed landscaping and the harmful layout of the scheme. Whilst the block of flats would reflect the design of the existing buildings, it is to be sited in an area of landscaping associated with the existing development that was also intended to soften its appearance and assist in creating a semi-rural appearance. The scheme would re-locate the apartment block further back within the site; however, this part of the site has a more prominent position through its higher land level when viewed from Rocky Lane. Additionally, the proposed siting and revised form of the new block is such that it would appear cramped and contrived, due to its position so close to the western boundary and the lack of space available. Given the pattern of development and character along Rocky Lane, the introduction of a further block of flats is considered to have a significantly harmful impact on the character and appearance of the surrounding area. Whilst landscaping has been proposed; it cannot be guaranteed to remain in perpetuity and there are concerns that there would be future pressure on its retention due to the site layout. It is therefore considered that the landscaping would not mitigate the harm that has been identified.
- 13.8 The proposed layout also gives rise to concerns regarding the impact to future resident's amenity, for those living in the ground floor flats. Two parking spaces are proposed in close proximity to the eastern elevation, where there is only one bedroom window. This would cause noise and disturbance, which could also be at night, outside of the resident's control. The lack of defensible space would further give rise to a perception of overlooking. The two bedrooms on the western side of the building are to be within close proximity of boundary planting, which would affect the light and outlook available to these rooms.
- 13.9 These factors weigh heavily against the proposed development.
- 13.10 Weighing in favour of the scheme is that the development would provide 6 no. residential units in a sustainable location, within the built-up area, at a time when the Council is unable to demonstrate a five-year supply of housing. However, given the number of dwellings proposed it is advised that this weight would be limited.
- 13.11 Furthermore, relevant contributions to infrastructure, including a commuted sum for an affordable dwelling, would be provided. The proposal would result in the employment of

contractors for the duration of the build with the increased population likely to spend in the local community, albeit such benefits would be limited given the modest nature of the proposal. It would also have a positive benefit through the delivery of a net gain in biodiversity.

- 13.12 Whilst the proposal would result in the loss of existing car parking for the existing development, concerns raised by local residents in respect of highways safety are not supported by the Local Highways Authority and therefore your officers do not consider that an objection should be raised to this development on highways grounds.
- 13.13 The development would have a positive impact through the delivery of a net gain in biodiversity. The development is considered to have a neutral impact in respect of a number of issues including on drainage and sustainability and there should be no likely significant effects on the Ashdown Forest SPA and SAC.
- 13.14 In weighing up these issues, when taken together, it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal. Overall, the proposal is in conflict with the development plan and the planning balance is considered to fall in favour of refusing planning permission. It is therefore Officer's recommendation that planning permission should be refused.

APPENDIX A – REASONS FOR REFUSAL

Conditions

1. The development would have a significantly harmful impact on the character of the area, through the urbanisation of a prominent location that also impedes views to the South Downs along Rocky Lane. The scheme would also result in the loss of agreed landscaping that formed part of the Kilnwood Apartments development, which was integral to mitigate its impact on the character of the surrounding area. The proposed layout would also represent a cramped and contrived form of development that would not reflect the spacing of the existing buildings or the approved landscaping. The proposal therefore fails to accord with policies DP26 and DP37 of the Mid Sussex District Plan, policies E9 and H8 of the Haywards Heath Neighbourhood Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.
2. The proposed layout would cause significant harm to the amenities of future residents of the ground floor flats. Parking spaces are proposed in close proximity to the only window associated with a bedroom and no defensible space has been provided, resulting in noise, disturbance and overlooking to this future resident. The windows associated with the bedrooms in the western flat are to be sited in close proximity to planting and this poor arrangement would lead to a lack of light and outlook. The proposal therefore fails to accord with policies DP26 and DP37 of the Mid Sussex District Plan, policies H8 of the Haywards Heath Neighbourhood Plan, the Mid Sussex Design Guide SPD and the relevant provisions of the NPPF.
3. The proposal does not satisfy the requirements of Policies DP20 and DP31 of the Mid Sussex District Plan in respect of affordable housing and infrastructure requirements to

service the development as supplemented by the Council's Supplementary Planning Documents,' Development Infrastructure and Contributions' SPD (2018).

Human Rights Implications

The 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.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Existing Site Plan	DA2401-P-02_A		16.12.2025
Proposed Site Plan	DA2401-P-03_B		16.12.2025
Proposed Floor Plans	DA2401-P-04_B		16.12.2025
Proposed Elevations	DA2401-P-05_B		16.12.2025
Street Scene	DA2401-P-06_B		16.12.2025
Location and Block Plan	DA2401-P-01_A		16.12.2025