Executive Summary

The application is for the change of use of the existing vacant Court buildings to a D2 use (leisure and assembly).

The existing building is within Lewes Town Centre and the Lewes Conservation Area.

The proposed use is considered to be acceptable and would contribute to the vitality and viability of Lewes town centre. It would also help to reinforce Lewes as a principle leisure, cultural and visitor destination. The scheme is therefore recommended for approval.

The application is reported to committee due to the number of representations received.

1. Site Description

1.1 The application site is located within Lewes in East Sussex at the junction of Court Road and Friars Walk within Lewes town centre. The 0.2ha flat parcel of land is currently occupied by the 1,886m² former Magistrates Court that has been redundant since April 2011. The site had previously housed a railway station which was demolished in 1986 and replaced with the purpose built Magistrates Court.

1.2 The site, encompassed by a pedestrian walkway, is located in an urban context enclosed on three sides by built form. To the north of the site lies the grade II listed Fitzroy Memorial Library (also known as Fitzroy House), to the west, across Friars Walk, is a terrace of three-storey office accommodation, to the east the town centre car park and to the south, beyond Court Road, a further private car park with residential accommodation beyond.

1.3 The site lies in the area designated by the Lewes District Local Plan 2003 as town centre - but outside of the area defined as primary shopping frontage - occupying a position adjacent to Cliffe High Street and approximately 475m from the railway station and 225m from the bus station. Those accessing the site are most likely to arrive either by foot, train or via motor vehicle with the Town Centre car park located to the immediate east of the site.

1.4 The site lies within the Lewes Conservation area and in Environment Agency flood designation 3a but outside of the Lewes Air Quality Management area.
2. **Relevant Planning History**

2.1 Consent was granted in 1984 for the demolition of the former railway buildings and 1a and 1b Friars Walk and for the erection of the Magistrates Court. This was supplemented, in 1987, by a consent for the demolition of a former goods shed and the construction of a secure car park for the Magistrates Court.

2.2 An application was refused in December 2013 by the SDNPA planning committee for the demolition of the existing courthouse buildings and redevelopment of site for the erection of a mixed-use development comprising flexible retail and leisure uses (use class A1, A2, A3, A4, D1 or D2) at ground floor and a 62-bed hotel on first and second floors (use class C1).

2.3 The reasons for refusal were:

1. The design of the proposed development, by reason of its materials, massing and expanse of flat roof would result in a building lacking in local character and distinctiveness that does not preserve or enhance the historic character and appearance of the Lewes Conservation Area or conserve or enhance the landscape character of the South Downs National Park. This is contrary to Saved Policies ST3 and H5 of the Lewes District Council Local Plan 2003, Core policy 11 of the emerging Lewes Joint Core Strategy and the NPPF.

2. Measures have not been put in place to mitigate the impact of the development through a restriction on business/hotel parking permits and to secure contributions towards cycling infrastructure, the public realm, an amendment to the traffic regulation order and a future audit of the travel plan. This is contrary to A New Approach to Development Contributions Update 2012 (East Sussex County Council) and the NPPF.

2.4 An application to list the building was rejected by English Heritage on 13 August 2014 for the following principle reasons:

1. Date/selectivity: the building, of c.1985-86, falls some way short of the high designation threshold for buildings of less than 30 years of age;

2. Architectural interest: although demonstrating the return to a historic style for a law court, the design is not itself particularly accomplished or innovative in the national context;

3. Function and planning: a relatively small magistrates’ court with limited facilities (three courtrooms only, and waiting rooms instead of the usual public hall) which demonstrates little if any functional innovation in its planning.

2.5 On 12 December 2014 the Planning Committee resolved to grant planning permission, subject to conditions and a Section 106 Agreement, for SDNPA/14/01650/FUL which proposed the demolition of the courthouse building and redevelopment of the site with a mixed-use development comprising flexible retail and leisure uses (use classes A1, A2, A3, D1 or D2) at ground floor and a hotel on the first and second floors (use class C1). At the time of writing the legal agreement was still awaiting completion.

3. **Proposal**

3.1 The application seeks planning permission for the change of use of the existing vacant Magistrate’s Court building to Class D2 assembly and leisure uses. No external alterations are proposed to the building.

3.2 The applicants advise that it is their intention to use the site for purposes previously carried out on the Phoenix Industrial Estate as much of those facilities were destroyed by fire. Those activities included:

- Studio facilities for the preparation of productions for: Film, Radio, Theatre and Television
- Music lessons and tuition
- Ballet and Dance lessons and tuition
- Rehearsal facilities including for programmes such as the New Sussex Opera, the Orchestra of the Age of Enlightenment and Brighton Festival
- A meeting place for local groups and societies to discuss arts, theatre and cultural projects
- A venue for Talks, Lectures and Seminars
3.3 The building provides floorspace over two floors. No details have been provided of how it is proposed to configure and use this floorspace although, in their transport assessment, the applicants advise that the most intensive use of the courtrooms would take place in the evenings when a maximum of two of the courtrooms would be used for theatre productions or other similar performances. These productions would cater for audiences of between 50 and 70 people maximum and would typically start at 7.30 pm and finish by 10.30 pm. Typically these performances would occur on Thursdays, Fridays and Saturdays.

3.4 A typical daytime use of the site would be as follows:

- Room 1 - dance & ballet in one room on 2 days per week. Approximately 20 adults/children attending.
- Room 2 – rehearsals with LRT studio staff and actors only. Approximately 10 staff. Non-public event.
- Room 3 – crèche ancillary to proposed use, for centre staff and LRT only

3.5 The applicants anticipate that they will provide employment for approximately 40 people, rising to 60 after a year’s operation.

4. Consultations

4.1 Environment Agency: No objection.

4.2 County Highway Authority: accept that the proposal is likely to generate less traffic movements than the existing use. Due to the nature of the development a significant number of persons are also likely to be local and could therefore travel by other non-car modes of transport. However, it is observed that the proposal does not provide for any dedicated on-site cycle parking spaces although this could be provided for within the rear yard area. A suitably worded planning condition is proposed to address this matter.

4.3 The Theatres Trust: welcome and support the application commenting that:

“A venue of this nature in the centre of Lewes would add to the town’s cultural life as well as creating business not only for the proposed cultural facility, but also for nearby shops, cafes and restaurants.”

And:

“The Theatres Trust … advises you to grant planning permission as it will ensure the company can successfully continue its contribution to the local community, arts and culture by supporting the health and well-being of the public.”

4.4 LDC Environmental Health: No objection in terms of noise and amenity subject to conditions

5. Representations

5.1 The South Downs Society: support the application and comment further that:

“This application by Lewes Repertory Theatre CIC is in accord with both the purposes and the additional statutory duty in that it would conserve a building of quality in the Lewes conservation area and national park, would no doubt – through its accommodation for arts and theatre groups – promote the enjoyment and understanding of the special qualities of the national park, and contribute to the social and economic well-being of the communities in the park”.

5.2 Friends of Lewes: Have no objections to the proposed change of use and welcomes the fact that alternative uses for the building are being considered.

5.3 Lewes Town Council: Support the concept of community use proposed in the application, and note that this could be a practical interim use pending any further development.

5.4 In addition, 64 representations have been received in support of the application including one that was wrongly classified as an objection. The following points have been raised:

- The proposal is preferable to the alternative proposal for redevelopment of the site
- The proposal will ensure retention of the existing building
• The creation of a community, cultural, arts and activity centre is welcomed
• The scheme is a more sustainable solution than the demolition and reconstruction proposed by the alternative redevelopment scheme for the site
• No works are proposed to the building therefore, there will be no visual impact to the town centre conservation area.
• The proposal, in the centre of Lewes, would add to the town’s cultural life
• It will assist economic and social regeneration in the Lewes area by providing employment.
• It will provide a guidance and monitoring centre for disabled people seeking self-employment, leading in turn to even more vacancies.
• It will provide training in Digital Streaming Technology, and opportunities for work towards attaining NVQ Accreditation.

5.5 **The Ministry of Justice**, as owners of the property, have advised that they have exchanged contracts with another party so that only that party may implement a planning permission on the site. Further, the site has been mothballed since closure and due to investigative works and the lack of maintenance, the building is not in occupiable condition.

6. **Planning Policy Context**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the Lewes District Council Local Plan 2003 and the relevant policies to this application are set out in section 7, below. The emerging Lewes Joint Core Strategy is currently in the course of examination and has been the subject of public consultation. Therefore, it carries some weight in decision-making.

**National Park Purposes**

6.2 The two statutory purposes of the SDNP designation are:
• To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
• To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

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

**National Planning Policy Framework and Circular 2010**

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

6.5 Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires that “special attention shall be paid to the desirability of preserving or enhancing the character of the area”.

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

**The South Downs Partnership Management Plan**

6.7 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan. The following policies are relevant:
• Policy 1: Conserve and enhance the landscape
• Policy 3: Tranquility
• Policy 9: Protection of the significance of the historic environment
7. **Planning Policy**

7.1 The following saved policies of the Lewes District Local Plan 2003 are relevant to this application:

- E5: Town Centres
- ST2: General Infrastructure
- ST3 and ST4: Design, Form & Setting Of Development
- ST5: Access For People With Limited Mobility
- ST11: Landscaping Of Development
- H4: Conservation Areas
- H5: Development in Conservation Areas
- H7: Traffic In Conservation Areas
- T1: Travel Demand Management
- T7: Provision For Cyclists
- T14: Vehicle Parking

7.2 The relevant policies of the emerging Joint Core Strategy are:

- CP4: Encouraging economic development and regeneration,
- CP6: Retail and sustainable town and local centre,
- CP7: Infrastructure
- CP8: Green Infrastructure,
- CP9: Air Quality,
- CP10: Natural environment and landscape character,
- CP11: Built and historic environment and high quality design,
- CP12: Flood risk,
- CP13: Sustainable travel
- CP14: Renewable and low carbon energy

7.3 The following Supplementary Planning Guidance is relevant to this application:

- Lewes Conservation Area Character appraisal 2007. The site falls within area 2: Lower High Street of the Lewes Town Centre Conservation Area. The application site is mentioned in the appraisal as one of a number of large modern buildings that have impinged on the streetscene.
8. **Planning Assessment**

The major development principle

8.1 Paragraph 116 of the NPPF states that:

“Planning permission should be refused for major developments in designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”.

8.2 Due to the urban location of the site, the uses proposed and the lack of external, physical development in the proposal, it is considered that there would be no significant impact upon either the landscape or recreational opportunities and, therefore, the proposal does not constitute major development within the meaning of Para 116 of the NPPF.

**The proposed use**

8.3 The site is within the defined town centre boundary but outside the Primary Shopping Area. Local Plan policies seek to direct such leisure and cultural facilities to the town centre but away from the Primary Shopping Area so that they support the wider function, vitality and viability of the town. This is echoed in emerging policy CP6 of the JCS and policy E5 of the Local Plan. Policy CP7 which relates to infrastructure outlines that new community facilities should be located within the defined planning boundaries where they will be most accessible.

8.4 The site is well serviced by bus routes and is located about 100 metres southwest of the towns’ bus station. Further, the railway station is located about 0.5 kilometres to the southeast of the site. Moreover, there is a town centre car park immediately to the rear of the site. The site is therefore considered to be in a highly accessible area of the town and the town centre. The proposed development would help to reinforce Lewes as a principle leisure, cultural and visitor destination with a development which reflects the diverse character of Lewes. No off-street visitor parking is proposed within the site however, given its highly accessible location and the likelihood that the use will be less intensive than the historic and authorised use of the site, this is considered to be acceptable. Notwithstanding the above it is considered that the scheme should make provision for cycle parking to further increase accessibility by sustainable transport means. This can be secured by way of a suitably worded planning condition.

8.5 The proposed use is considered to be acceptable in this town centre location.

8.6 The planning application is solely concerned with change of use of the existing building: No external alterations or new building is proposed as part of the application. The scheme therefore presents no issues in terms of landscape, natural beauty, wildlife or residential amenity.

9. **Conclusion**

9.1 The site is located in the heart of Lewes town centre, surrounded by mixed commercial developments and within one of the most urbanised settings to be found within any National Park.

9.2 The proposed development would re-use an existing building. The proposed use is considered appropriate for this sustainable location and would contribute to the vitality of Lewes and would help to reinforce Lewes as a principle leisure, cultural and visitor destination.

9.3 The proposed uses are considered appropriate for this sustainable town centre location and would contribute to the vitality of Lewes as both a key service centre and tourism hub within the National Park.

9.4 No changes are proposed to the external appearance of the building so there are no adverse impacts for the character and appearance of the town centre Conservation Area or the wider National Park.
10. **Recommendation and conditions**

10.1 It is recommended that planning permission be granted subject to the following conditions:

**Plans**

1. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading “Plans Referred to in Consideration of this Application”.
   
   **Reason:** For the avoidance of doubt and in the interests of proper planning.

**Timing**

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   
   **Reason:** To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Uses**

3. The ground floor shall only be used for D1 or D2 uses as defined by the Town and Country Planning (Use Classes) Order 2005 (as amended), except as otherwise agreed by the South Downs National Park Authority.
   
   **Reason:** To ensure that the development, in this town centre location, contributes to the vitality and viability of Lewes town centre in accordance with Saved Policy E3 of the Lewes District Local Plan 2003, emerging Joint Lewes Core Strategy and the NPPF.

4. The development shall not be occupied until a cycle parking area has been provided in accordance with details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.
   
   **Reason:** In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.

5. All new electricity and telephone lines shall be laid underground.
   
   **Reason:** To safeguard the landscape character of the South Downs National Park and the character and appearance of the Lewes Conservation Area in accordance with Saved Policies H5 and ST3 of the Lewes District Council Local Plan 2003 and the NPPF.

**Environmental Health**

6. Prior to the installation of any external plant equipment an acoustic impact report addressing the impact of each individual piece of equipment, in accordance with BS 4142:1997, shall be submitted to and agreed, in writing, by the South Downs National Park Authority. The external plant shall be implemented as agreed.
   
   **Reason:** To safeguard the amenity of the adjoining residential properties in accordance with Saved Policy ST3 of the Lewes District Council Local Plan 2003.

7. Prior to the use hereby approved a management plan, to include an acoustic impact report demonstrating that, at the nearest residential property, noise from the use is no greater than 30dB(A) in accordance with BS 4142:1997, shall be submitted to and agreed, in writing, by the South Downs National Park Authority.
   
   **Reason:** To safeguard the amenity of the adjoining residential properties in accordance with Saved Policy ST3 of the Lewes District Council Local Plan 2003.

And the following informatives:

**Gas Services**

- The applicant should note the presence of a low, medium and intermediate pressure gas main in the proximity to the application site. Southern Gas Networks advise that there should be no mechanical excavations taking place above or within 0.5m of the low pressure system, 0.5m of the medium pressure system and 3m of the intermediate pressure system. For further
information please contact Southern Gas Networks via e-mail at plantlocation@sgn.co.uk or via telephone at 0141 418 4093.

**Signage**
- For the avoidance of doubt advertisement consent will be required for the erection of any advertisements. There should be a minimum of 2.1m between the footway/verge and the underside of projecting signs. No sign should exceed the level of illumination recommended by the Institute of Lighting Engineers technical report No.5.

**Cycle parking**
- In accordance with the East Sussex County Council’s adopted parking standards this development proposal should be provided with 4 long term and 4 short term cycle parking spaces. These parking facilities should be covered and secure and located within the site in a convenient location for users.

11. **Crime and Disorder Implication**
11.1 It is considered that the proposal does not raise any crime and disorder implications.

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

13. **Equalities Act 2010**
13.1 Due regard, where relevant, has been taken to the South Downs National Park Authority’s equality duty as contained within the Equalities Act 2010.

14. **Proactive Working**
14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included facilitating a group community workshop led by CABE, encouraging and advising on amended plans and giving the opportunity to provide additional information to seek clarification on a number of issues.

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Appendices
1. Site Location Map

SDNPA Consultees Director of Planning & Legal Services

**Background Documents**

Application Documents:
http://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N3CHAITU02B00

Lewes District Shopping and Town Centres Study 2012
http://www.lewes.gov.uk/Files/plan_LD_Shoppping_and_town_centre_study.pdf
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