

Report to	Planning Committee
Date	12 April 2018
By	Director of Planning
Local Authority	Lewes District Council
Application Number	SDNP/17/03100/FUL
Applicant	Cross Stone Regeneration Ltd
Application	Construction of three blocks with 41 residential units (C3), new business floorspace (B1a/B1c) together with associated parking, external amenity space and landscaping
Address	Land at Units 6-8 Brooks Road, Lewes, East Sussex

Recommendation:

- 1. That planning permission be granted subject to the conditions set out at section 11 of this report and a legal agreement to secure:**
 - four affordable dwellings;**
 - £18,137 towards Lewes Car Club;**
 - a travel plan; and**
 - off-site highway works on Brooks Road (or payment in lieu).**
- 2. That authority be delegated to the Director of Planning to refuse the application with appropriate reasons if the legal agreement is not completed or sufficient progress made within 3 months of the 12 April 2018 Planning Committee meeting.**

Executive Summary

The planning committee considered the application at the December 2017 meeting where it was resolved to defer the application “in order that further assessment of the following be obtained to better inform a decision:

- 1. Viability (to include increase of affordable housing provision);**
- 2. Access (to include confirmation of all means of access to the site); and**
- 3. Landscaping (improvement of external landscaping)”.**

The applicants have subsequently provided additional information to seek to address the matters raised and a further consultation has been undertaken. The application therefore now:

- 1. Includes a viability assessment that has been independently reviewed concluding that the initial offer of three affordable units “is appropriate in the circumstances”. Notwithstanding this the applicants have amended the proposal to include four affordable units;**
- 2. Proposes a planning condition to secure two additional pedestrian access points following the applicants gaining agreement in principle with the adjacent landowner, Tesco; and**
- 3. Includes additional external landscaping.**

The application is recommended for approval subject to a legal agreement (to secure four affordable dwellings, a contribution to Lewes Car Club, a travel plan and off-site highway works on Brooks Road) and the conditions listed in section 11 of this report.

- 1. Introduction**
 - 1.1 This report follows the planning committee resolution in December 2017 to defer the determination of the application to allow additional information to be submitted. The previous report and update sheet are included at **Appendix 2** and, accordingly, this report will set out how the applicants have sought to address the three specific matters the committee raised.
- 2. Site Description**
 - 2.1 This is detailed in **Appendix 2**.
- 3. Relevant Planning History**
 - 3.1 This is detailed in **Appendix 2**.
- 4. Proposal**
 - 4.1 The previous description of the development (**Appendix 2**) is still relevant with the exception of the following:
 - The proposal now includes 4 affordable units (3 x 1 bed and 1 x 2 bed);
 - Pedestrian access is now proposed to the north west, to Brooks Close, and to the south-west to Tesco car park; and
 - Additional external landscaping is proposed most notably in front of the units at the western end of Brooks Road.
- 5. Consultations**
 - 5.1 The initial consultee responses on the application are summarised in **Appendix 2**. The following additional comments were received to the further consultation:
 - 5.2 **ESCC Archaeologist:** No objection subject to conditions.
 - 5.3 **ESCC Highways:** No objection subject to conditions.
 - 5.4 **LDC Regeneration and Investment:** Maintain their objection regarding the lack of affordable housing (as set out in **Appendix 2**).
 - 5.5 **Southern Water:** No objection subject to a condition.
- 6. Representations**
 - 6.1 The responses received to the application prior to the December 2017 Planning Committee meeting are set out in **Appendix 2**. Additional responses received are set out below:
 - 6.2 **Friends of Lewes:** Object.
 - The proposal does not provide a policy compliant level of affordable housing;
 - The emerging Lewes Neighbourhood Plan proposes to allocate sufficient housing to meet the housing need so there is no overriding need for housing on this site;
 - The site could be better used for a mix of commercial development and parking for tourist coaches; and
 - The additional viability information submitted includes abnormal costs and a benchmark value that are too high.
- 7. Planning Policy Context**
 - 7.1 As stated in **Appendix 2**.
- 8. Planning Policy**
 - 8.1 As stated in **Appendix 2**.
- 9. Planning Assessment**
 - 9.1 This report focusses on the reasons for deferral raised at the December 2017 Planning Committee and should be considered compositely with the previous report and update sheet as attached at **Appendix 2**.

Viability

- 9.2 Following the previous planning committee the SDNPA instructed an independent review of the applicant's viability report. Whilst this highlighted concerns with both the abnormal costs and benchmark land value utilised by the applicants report it considered that, when abnormal costs and a benchmark land value that were considered reasonable were utilised, the conclusions were the same, namely that the provision of three affordable units was the maximum viable provision. The key reasons that additional affordable units could not be provided were the accepted abnormal costs (specifically remediation of contamination and drainage) and the cross-subsidy required to deliver the commercial units.
- 9.3 Notwithstanding the conclusions of the report further negotiations have taken place and the applicants have agreed to offer one additional affordable unit so that the provision is now four units representing 9.75% of the residential units proposed. This is considered in accordance with Core Policy I of the Lewes Joint Core Strategy, Policy SD28 of the emerging SDNPA Local Plan and the NPPF which accept that there may be acceptable reasons, including the presence of normal costs and the need to cross-subsidise other preferable forms of development, to not deliver a policy compliant level of affordable housing.
- 9.4 A S106 agreement is proposed to be utilised to secure the affordable housing and a mechanism inserted to require a further review of viability if development does not commence within two years of the date of decision.

Pedestrian Access

- 9.5 The applicants had initially indicated an aspiration to provide pedestrian access to the north-west of the site, to Brooks Close and to the south-west, to Tesco car park. It is considered that the delivery of these access points is required to provide an acceptable level of pedestrian permeability. Accordingly, following the deferral further dialogue has taken place between the applicants and Tesco resulting in an agreement in principle. This has provided a reasonable level of confidence that the additional pedestrian accesses can be provided and a condition is therefore proposed to secure both the accesses and the timing of their delivery prior to the first occupation of the development. This is considered in accordance with Core Policy 13 of the Lewes Joint Core Strategy, Policy SD20 of the emerging SDNPA Local Plan and the NPPF.

Landscaping

- 9.6 Additional landscaping has been provided along Brooks Road and in front of the proposed unit where the view westwards along Brooks Road terminates. This is considered to soften the appearance of the otherwise dominant hard landscaping and further integrate the contrasting characters of the proposed residential and commercial units and the existing neighbouring retail and warehousing units. This is considered in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

Conditions and Legal Agreement

- 9.7 Conditions are proposed to both agree final details of the proposals and secure the timely delivery of key elements of the proposal. These are set out in detail in Paragraph 11 of this report.
- 9.8 A S106 agreement is proposed to secure the delivery and operation of the affordable housing, delivery of off-site highway works (or payment in lieu), financial contribution to Lewes Car Club and commitment to a travel plan.

10. Conclusion

- 10.1 Following the deferral of the application at the December 2017 Planning Committee the applicants have submitted additional information to address the reasons for deferral.
- 10.2 It is considered that the proposal has now demonstrated that it includes the maximum viable amount of affordable housing whilst both improved pedestrian permeability and additional landscaping have been secured.

- 10.3 The proposal is therefore considered to be in accordance with the development plan in these regards and there are no other material considerations to indicate otherwise.

11. Reason for Recommendation and Conditions

- 11.1 The application is recommended for approval subject to a legal agreement to secure:

- four affordable dwellings;
- £18,137 towards Lewes Car Club;
- a travel plan; and
- off-site highway works on Brooks Road (or payment in lieu);

and the following conditions:

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

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended) to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. 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.

3. The B1a and B1c uses, hereby permitted, shall only be used for these uses as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To ensure the site contributes to the vitality of Lewes Town Centre in accordance with Core Policy 4 of the Lewes Joint Core Strategy, Policy SD34 of the emerging SDNPA Local Plan and the NPPF.

4. The ground floor shall only be subdivided for the B1a and B1c uses, hereby approved, as shown on the approved ground floor plan 101PI2 dated 02.02.2018.

Reason: To ensure that the proposal includes a variety of unit sizes in accordance with Core Policy 4 of the Lewes Joint Core Strategy, Policy SD34 of the emerging SDNPA Local Plan and the NPPF.

5. The B1a and B1c uses, hereby approved, shall only be open to members of the paying public between the hours of 08:00 to 19:00 Monday to Saturday and 09:00 to 17:00 hours on Sundays, Public Holidays and Bank Holidays. No servicing or deliveries shall be allowed outside of these hours.

Reason: To protect the amenity of the occupants of the neighbouring residential units in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

6. Development shall not proceed above slab level until details of any ventilation mechanisms for the B1a and B1c units, hereby approved, have been submitted to and approved, in writing, by the South Downs National Park Authority. Any details agreed shall be implemented prior to the first occupation of the units and maintained as such.

Reason: To protect the amenity of the occupants of the neighbouring residential units in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

7. Development shall not proceed above slab level until samples of the external materials to be used have been submitted to and approved, in writing, by the South Downs National Park Authority. The details approved shall be implemented and maintained as such.

Reason: To secure a high quality design in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

8. Development shall not proceed above slab level until details of all external lighting have been submitted to and approved, in writing, by the South Downs National Park Authority. The details approved shall be implemented and maintained as such.

Reason: To safeguard the character of the area and the dark night skies of the National Park in accordance with Policy SD8 of the emerging SDNPA Local Plan and the NPPF.

9. All new electricity and telephone lines shall be laid underground unless otherwise agreed, in writing, by the South Downs National Park Authority.

Reason: To safeguard the character of the area in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

10. Development shall not proceed above slab level until details of soft and hard landscape works have been submitted to and approved, in writing, by the South Downs National Park Authority. These details shall include:

- i) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
- ii) A schedule of landscape maintenance for a minimum period of 5 years;
- iii) Details of all external hard-surfacing; and
- iv) A timetable for the implementation of all landscaping details.

Reason: To safeguard the character of the area in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

11. The landscaping scheme approved under condition 10 shall be implemented in accordance with the details and timetable approved under that condition and thereafter shall be maintained. If within a period of five years after planting any tree or plant is removed, dies or becomes seriously damaged, defective or diseased another tree or plant of the same species and size as that originally approved shall be planted at the same place, within the next planting season, unless otherwise agreed in writing by the South Downs National Park Authority.

Reason: To safeguard the character of the area in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

12. The vehicular and cycle parking spaces, as shown on approved plan 101P12 dated 02.02.2018, shall be constructed prior to the first occupation of any of the commercial or residential units hereby permitted. The parking spaces shall be maintained as such.

Reason: To ensure that the development provides adequate parking for its users and to encourage sustainable modes of transport in accordance with Core Policy 13 of the Lewes Joint Core Strategy, Policy SD22 of the emerging SDNPA Local Plan and the NPPF.

13. No development above slab level shall proceed until a plan showing the provision of electric car charging points, including their specification, has been submitted to and approved, in writing, by the South Downs National Park Authority. The electric car charging points shall be installed prior to the first occupation of the residential units, hereby permitted, in accordance with the approved details and maintained as such.

Reason: To support sustainable modes of transport in accordance with Core Policy 13 of the Lewes Joint Core Strategy, Policy SD19 of the emerging SDNPA Local Plan and the NPPF.

14. No development shall proceed until details to secure pedestrian access between the application site and the adjacent land to the north-west and south-west have been submitted to and approved, in writing, by the South Downs National Park Authority. The pedestrian accesses shall be implemented in accordance with the approved details and maintained as such.

Reason: To ensure that the site provides pedestrian permeability to promote sustainable modes of transport in accordance with Core Policy 13 of the Lewes Joint Core Strategy, Policies SD5 and SD22 of the emerging SDNPA Local Plan and the NPPF.

15. The development, hereby permitted, shall not be first occupied until the pedestrian accesses, as approved under condition 14, have been constructed and made available for public access.

Reason: To ensure that the site provides pedestrian permeability to promote sustainable modes of transport in accordance with Core Policy 13 of the Lewes Joint Core Strategy, Policies SD5 and SD22 of the emerging SDNPA Local Plan and the NPPF.

16. No development shall proceed until a Written Scheme of Archaeological Investigation and the timing of the post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been submitted to and approved, in writing, by the South Downs National Park Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD16 of the emerging SDNPA Local Plan and the NPPF.

17. The development, hereby permitted, shall be undertaken in accordance with the mitigation and enhancement recommendations of the submitted Ecology Partnership Report dated January 2017.

Reason: To safeguard protected species on the site and provide ecological enhancements in accordance with Core Policy 10 of the Lewes Joint Core Strategy, Policy SD9 of the emerging SDNPA Local Plan and the NPPF.

18. No development shall proceed until the following components of a scheme to deal with the risks associated with contamination of the site have been submitted to and approved, in writing, by South Downs National Park Authority:

- i) A preliminary risk assessment identifying:
 - a) All previous uses;
 - b) Potential contaminants associated with those uses;
 - c) A conceptual model of the site indicating sources, pathways and receptors;
 - d) Potentially unacceptable risks arising from contamination at the site; and
 - e) A programme of water quality monitoring pre and post construction.
- ii) A site investigation scheme, based on i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The site investigation results and the detailed risk assessment ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken; and
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The details shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy SD55 of the emerging SDNPA Local Plan and the NPPF.

19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the South Downs National Park Authority) shall be carried out until a scheme for the mitigation of the contamination has been submitted to and approved, in writing, by the South Downs National Park Authority. The mitigation shall be undertaken in accordance with the approved details.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy SD55 of the emerging SDNPA Local Plan and the NPPF.

20. No development shall proceed until a Construction Environment Management Plan (CEMP) has been submitted to and approved, in writing, by the South Downs National Park Authority. The CEMP shall include:
- i) Hours of operation;
 - ii) Traffic management (including a workers' travel plan and the size and routing of vehicles and measures to avoid peak traffic flow times where possible);
 - iii) Provision of parking for contractor's vehicles to prevent any on-street parking during construction;
 - iv) The location of any construction compound;
 - v) Wheel washing facilities to safeguard the highway network from deposition of mud and spoil;
 - vi) Measures to minimise construction noise and vibration, dust, air pollution and odour including those effects from the decontamination of the land;
 - vii) Temporary site security fencing including decorative displays;
 - viii) Arrangements for loading and unloading of plant and materials;
 - ix) Control of artificial illumination; and
 - x) A scheme for recycling/disposing of waste resulting from demolition and construction work.

The CEMP shall be implemented as approved.

Reason: To protect the amenity of the occupants of the neighbouring residential units and safeguard the management of the local highway network in accordance with Core Policies 11 and 13 of the Lewes Joint Core Strategy, Policies SD5 and 19 of the emerging SDNPA Local Plan and the NPPF.

21. No development shall commence above slab level until a schedule of measures to mitigate against the impacts of noise on the occupiers of the residential units, hereby permitted, has been submitted to and approved, in writing, by the South Downs National Park Authority. The details shall be implemented as approved.

Reason: To protect the amenity of the occupants of the residential units in accordance with Core Policy 11 of the Lewes Joint Core Strategy, Policy SD5 of the emerging SDNPA Local Plan and the NPPF.

22. No development shall proceed until the following have been submitted to and approved, in writing, by the South Downs National Park Authority:
- i) Evidence, in the form of hydraulic calculations, of the discharge rates (including those with a 1 in 100 plus climate change annual probability of occurrence) of the surface water runoff the proposed development will be limited to;
 - ii) Details of the attenuation tank; and
 - iii) A maintenance and management plan for the drainage system;

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

Reason: To minimise the risk of flooding and ensure that risks to water quality are minimised in accordance with Policies 49 and SD50 of the emerging SDNPA Local Plan and the NPPF.

23. The development, hereby permitted, shall be carried out in accordance with the recommendations of the submitted Flood Risk Assessment (FRA) (HOP, May 2015 Document Ref: 14776- 03-500).

Reason: To minimise the risk of flooding and ensure that risks to water quality are minimised in accordance with Policies 49 and SD50 of the emerging SDNPA Local Plan and the NPPF.

24. No piling/investigation boreholes using penetrative methods shall be undertaken unless approved, in writing, by the South Downs National Park Authority.

Reason: To and ensure that risks to water quality are minimised in accordance with Policy and SD50 of the emerging SDNPA Local Plan and the NPPF.

25. No development above slab level shall proceed until a schedule of measures to minimise energy consumption and maximise renewable energy generation have been submitted to and approved, in writing, by the South Downs National Park Authority. The details shall be implemented and maintained as approved.

Reason: To ensure the development contributes to the management of the effects of climate change in accordance with Core Policy 14 of the Lewes Joint Core Strategy, Policy SD51 of the emerging SDNPA Local Plan and the NPPF.

12. Crime and Disorder Implication

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

13. Human Rights Implications

- 13.1 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.

14. Equality Act 2010

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

15. Proactive Working

- 15.1 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 the provision of pre-application advice from a SDNPA Development Management Officer and meetings to discuss the proposals.

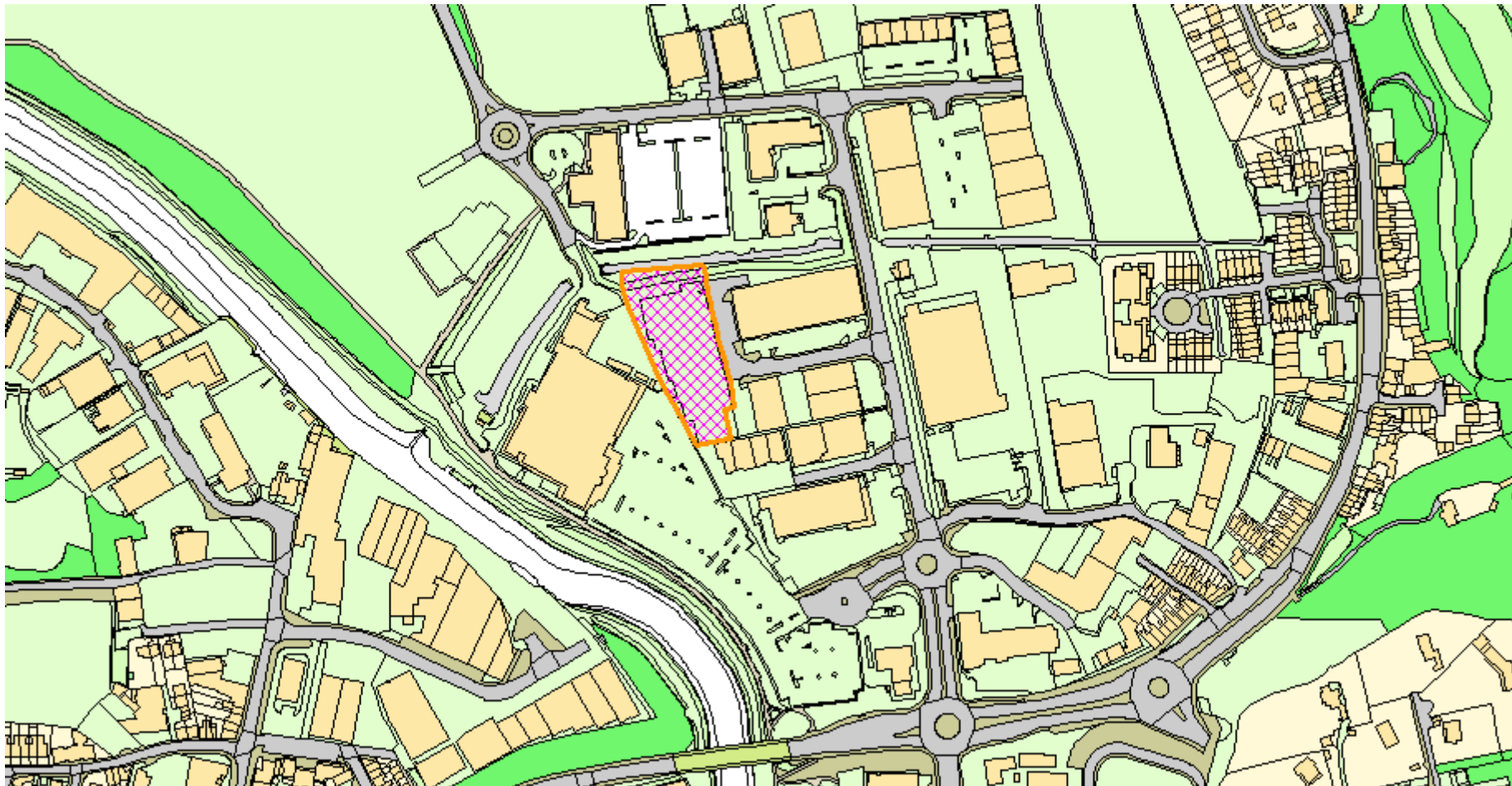
TIM SLANEY

Director of Planning

South Downs National Park Authority

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Appendices	<ol style="list-style-type: none">1. Site Location Map2. Committee Report PC77/17 and Update Sheet from Planning Committee Meeting held on 14 December 2017
SDNPA Consultees	Legal Services, Development Manager.
Background Documents	<p>All planning application plans, supporting documents, consultation and third party responses</p> <p>http://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ORN2VETUJT400</p> <p>National Planning Policy Framework (2012)</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf</p> <p>South Downs National Park Partnership Management Plan 2013</p> <p>https://www.southdowns.gov.uk/national-park-authority/our-work/key-documents/partnership-management-plan/</p> <p>South Downs National Park Local Plan – Pre-Submission Version September 2017</p> <p>https://www.southdowns.gov.uk/planning/national-park-local-plan/</p> <p>Lewes District Joint Local Plan 2016</p> <p>http://www.lewes-eastbourne.gov.uk/_resources/assets/inline/full/0/257159.pdf</p> <p>Lewes Neighbourhood Plan</p> <p>https://www.southdowns.gov.uk/planning/planning-policy/neighbourhood-planning/neighbourhood-development-plans/lewes-neighbourhood-plan/</p>

Site Location Map



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