

Report to	<b>Planning Committee</b>
Date	<b>13 October 2022</b>
By	<b>Director of Planning</b>
Local Authority	<b>Chichester District Council</b>
Application Number	<b>SDNP/22/02466/FUL</b>
Applicant	<b>Montpelier Estates</b>
Application	<b>Development of a residential care home (Uses Class C2) and part reconfiguration of the existing car park</b>
Address	<b>The Grange Development Site, Midhurst, Bepton Road, Midhurst, West Sussex GU29 0HD</b>

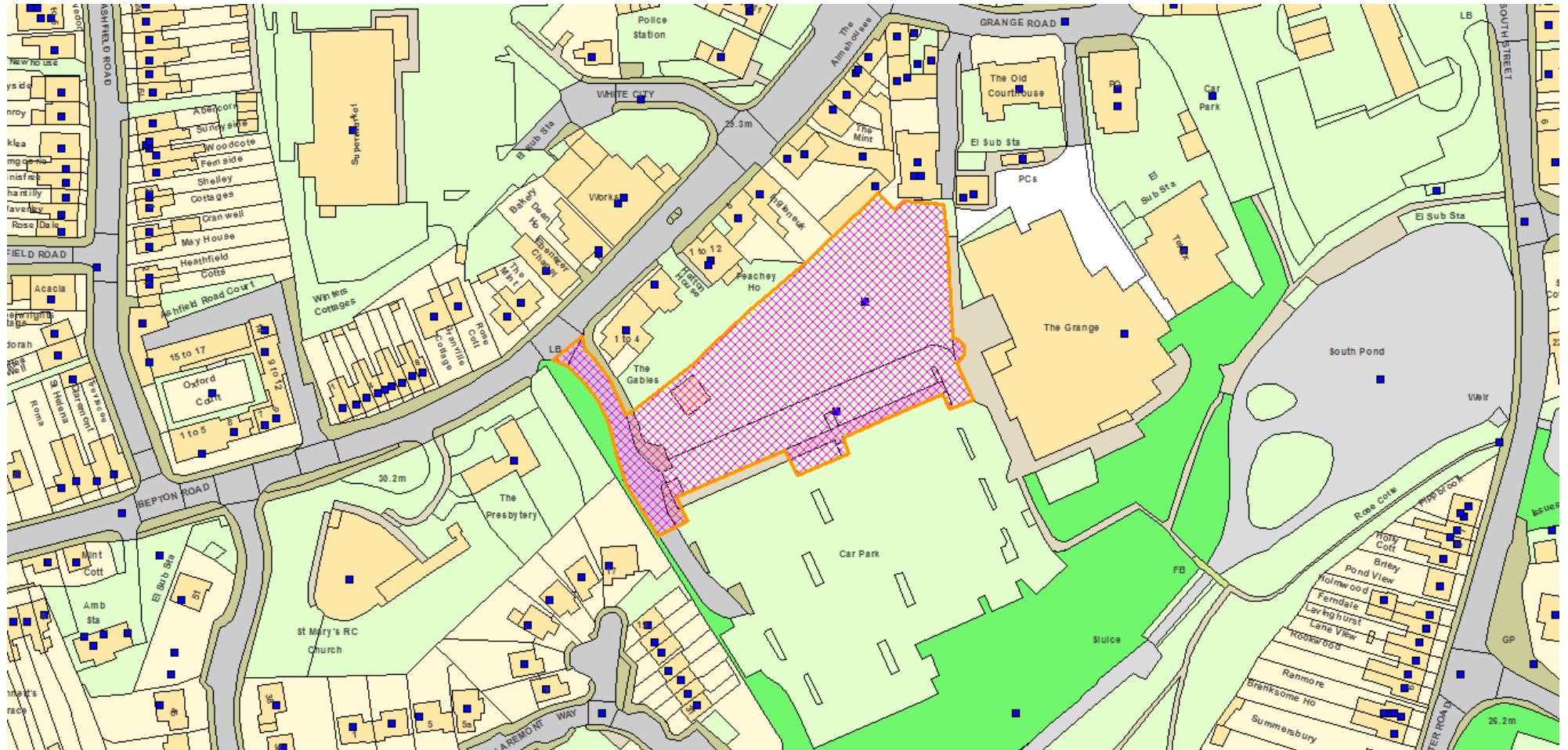
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**Recommendation:**

**That planning permission be refused for the reasons outlined in Paragraph 9.1 of this report.**

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## Site Location Map



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## Executive Summary

### Key Matters

- The site is within the settlement boundary of Midhurst and is in the defined centre boundary. The site is not specifically safeguarded or allocated for any town centre use.
- The proposal is for a 62 bedroom care home 2.5 storeys high, with associated facilities, parking and landscaping. The proposals extend across an area of the existing car park at The Grange Centre and involve a new landscaped parking area. Plans also show potential green infrastructure linkages between the site and the more established mature vegetation at the opposite southern end of the existing car park but there is limited detail about this.
- The design of the proposal is considered to be unacceptable. It has not sufficiently adopted a landscape led approach and the scale and design of the building would have a detrimental impact upon the Midhurst townscape and character and appearance of the conservation area. Furthermore, it would harm the amenity of neighbouring properties due to its siting, scale and design.
- The scheme does not successfully and holistically integrate a suitable surface water management strategy with other aspects of the scheme (i.e landscape and amenity spaces) to better achieve on site infiltration, in order to further deliver a landscape led nature based and ecosystems services approach.
- The proposal would also fail to achieve water neutrality in regard to impacts upon the Arun Valley Special Protection Area/Special Area of Conservation.
- The scheme would deliver upon an acknowledged demand for this type of accommodation and generate employment. However, these socio-economic benefits are not outweighed by the environmental aspects of sustainable development insofar as the design approach, ecosystems services and biodiversity net gain which are at the forefront of the Local Plan and First Purpose of a National Park are sub-standard.

### **I. Site Description**

- 1.1 The site is south of the main shopping high street. It comprises of vacant brownfield land, previously occupied by the former leisure centre, and part of the existing large public car park which serves the adjacent Grange Community and Leisure Centre and the wider town centre. It is within the Midhurst conservation area. The nearest listed building is located approximately 50m to the north (The Almshouse Grade II), which faces onto Bepton Road.
- 1.2 The site is a reasonably flat and irregular shaped area of land. Currently there is high timber hoarding surrounding the site of the former leisure centre, whilst the car park area of the site remains in use. The site has become somewhat overgrown with some grassed/scrub areas around existing trees. Trees with the site range in quality and species with five of them categorised as higher value trees and worthy of retention.
- 1.3 Vehicular access to the site is via Bepton Road (A286). It is also readily accessible for pedestrians to/from various locations including Grange Road, Chichester Road/South Pond, a path to the south of the Grange Car Park and Bepton Road.
- 1.4 Immediately north of the site there are residential and commercial properties which face onto Bepton Road and range from 2-2.5 storeys high. Some of these properties have a rear parking courtyard which backs onto the site. The Bepton Road properties exhibit a variety of gables, brick and stone work, hanging tiles and traditional architectural features. East of the site is the large two storey Grange Centre which is of a more modern design with timber cladding and an asymmetrical standing seam roof. To the south, the large car park extends towards a belt of trees and watercourse, which links with the pond further east.
- 1.5 The former buildings on site were demolished as part of a wider redevelopment of the Leisure Centre and reformation of a public car park, granted planning permission in 2013 (ref SDNP/01179/FULNP). The former Grange was a two storey brick and clad building of modern appearance and higher prefabricated/box profile material and forms at the rear,

which included a hall. The site was landscaped with small area of grass and car parking to the front, with a gradual shallow slope up to the entrance which has been re-graded as part of the wider development of the area and car park.

## 2. Relevant Planning History

- 2.1 **11/01179/FULNP** (CDC): Construction of a New Community Leisure Centre incorporating cafe, library, offices, multi-functional community facilities and sports accommodation. Remodelling of the existing town centre car park to increase capacity to 303 spaces – **Approved** 09/11/2011.
- 2.2 **11/01180/FULNP** (CDC): Erection of 16 new dwellings with private parking and landscaping. – **Approved** 18/03/2013. This Permission has expired.
- 2.3 SDNP/18/04617/PRE: Residential nursing home. Principle would likely be acceptable but concerns raised about the scale and design and unlikely to gain officer support.
- 2.4 **SDNP/21/03423/OUT** (SDNPA): Outline application for development of a residential care home (Uses Class C2) and part reconfiguration of the existing car park, with approval sought pertaining to the access, appearance, layout and scale of the development – **Withdrawn**.
- 2.5 **SDNP/21/04615/FUL**: Development of a residential care home (Uses Class C2) and part reconfiguration of the existing car park. This scheme comprised 69 units, more than currently proposed, within a more contemporary designed building. This previous application was agenda item 7 of the SDNPA 20<sup>th</sup> January Planning Committee but the Applicant **withdrew** the application prior to the meeting taking place.

## 3. Proposal

- 3.1 The application proposes a 2.5 storey care home (Use Class C2) which would be staffed 24 hours a day and comprise of 62 en-suite bedrooms plus associated facilities. The scheme includes new formal garden space around the building and landscaped public space between the building and The Grange. New car parking is proposed at the western end of the site along with new landscaped parking area for the part of the site which covers the existing car park.

### Layout and architecture

- 3.2 The proposed building has a broadly 'T-shaped' footprint, with three wings, which would be set back within the site with a new central landscaped open space between the building and the leisure centre and car park, which it would face towards. The building would occupy the eastern side of the site with new car parking on the western side. The application site also encompasses part of the existing car park and the proposals here involve a new landscaped parking area.
- 3.3 In front of the building and adjacent to the leisure centre, would be a landscaped garden and terraces with the majority of this area bordered by a wall and railings. There would be a pedestrian access within the boundary onto central public space where a new landscaped seating area would be created. This would also link with a new public garden area adjacent to the building which would lead through to its entrance and parking area on the western side.
- 3.4 The building would have a broadly traditional architecture, including some contemporary elements, with pitched roofs and gables of varying heights and sizes. The second floor would be integrated within the roof space and dormer windows, of pitched and flat roof designs, would be prevalent on its north and south elevations. Brick chimneys on all elevations would project above ridge heights. A large central gable feature, with a balcony at first floor level, would be on the south elevation (facing The Grange). There would also be a communal terrace at the second floor on the north (rear) elevation.
- 3.5 Predominantly red brick is proposed for all elevations with some elements of stone and render for the ground and first floors. The roofs would be tiled and tile hanging is proposed at the first floor and within some of the second floor gables, whilst other gables would have various architectural detailing and materials. Stone and brick detailing is proposed above

ground floor doors and windows and stone above first floor windows. On the western elevation, a large gable with bay windows accentuate the building's entrance. Timber framed windows and doors painted white are proposed, apart from fire escape doors which would be grey aluminium.

- 3.6 Internally, non-domestic staff facilities include offices, kitchen, staffroom and laundry space primarily within a basement and on the ground floor. On the ground floor, there would be an open plan entrance lobby with reception area and café/bistro also open to the public, plus a cinema, fitness suite and dining rooms/lounges for residents. On first floor, a hair salon, spa, library, further lounge/day rooms and dining space are proposed, whilst further lounge and dining areas would be on the second floor, one of which would have a roof terrace. Bedrooms would be on all floors and served by central corridors, stairs and lifts. Bedroom sizes and layouts would accommodate resident's varying needs.

#### Sustainability of the building

- 3.7 The building is proposed to achieve the BREEAM 'Excellent' rating which involves a range of credits to be achieved from energy and water efficiency measures to materials, which are included in the BREEAM Pre-Assessment report submitted. A green roof is proposed on the northern side of the building. No.4 electric vehicle charging points are proposed, along with infrastructure to be installed for additional EV charging in the future.

#### Access and vehicle parking

- 3.8 Vehicular access would be via the existing entrance from Bepton Road and existing car park on the western side of the site. The scheme would have 36 spaces which includes retaining some existing parking within the car park. Additionally, there would be a delivery/minibus pick up-drop off space and 6 cycle spaces. The wider public car park could also still be used.

#### The landscape scheme

- 3.9 A formally laid out landscape scheme is proposed around the building, public space and car park. It involves retaining existing trees on the western part of the site but otherwise other lower quality trees are lost. The new planting scheme involves new tree planting, boundary hedging with a mix of native and evergreen species, shrub planting around pathways and the car parking, plus lawns. The hard landscaping includes resin bound gravel paths, which predominantly would create a walk around the site, paved surfacing immediately around the building and for the terraces, and tarmac road and footway in the areas of the site that extend over the existing car park.

#### Foul and surface water drainage

- 3.10 Foul drainage would utilise the existing main network. Surface water is proposed to be managed by connecting into the existing drainage network that runs through the car park to the stream further south. On site, underground attenuation tanks are proposed to manage the water flow into the existing drainage network. On site, a small swale in the northern part of the site is proposed. Porous paving is also proposed for the on site parking spaces. An underground rain water harvesting tank is also proposed to serve the building.

## **4. Consultations**

### **4.1 Arboricultural Officer:** Comments.

- Need to secure appropriate temporary protection during construction and permanent mitigation for retained trees; protective fencing shown excludes 4 retained trees which need protection and plan needs to be amended.

### **4.2 Archaeology:** No objection, subject to condition.

### **4.3 Design Officer:** Objection;

- The proposed building is too large for the site, unacceptable amount and quality of usable communal amenity space.
- The building has some successful elements such as the use of strong gables, articulation of the building lines but the traditional approach adopted includes contemporary

elements which result in the building being neither one or the other; the material palette also fails to root the building in Midhurst.

- Proposal engages more with the existing parking area and created additional space but this does not achieve additional amenity space for the building nor take opportunities to enhance green infrastructure links beyond the site. New landscaping in public realm is small but welcomed.
- Risks creating an oppressive relationship with neighbours to the north due to its footprint and height.
- The scheme fails to be landscape led and fails to capitalise on potential wider green infrastructure and ecosystems services benefits. Need to explore green infrastructure and SuDs solutions
- Recommend the building be reduced in size and materials better reflecting the local palette, and improve the sustainable construction of the proposal in terms of multifunctional SuDS, further green roof and clarify sustainability of materials.

#### 4.4 **Drainage (surface water): Comments.**

- If investigations of the ground conditions (winter ground water monitoring and winter percolation testing) preclude onsite infiltration then no objection to using the existing surface water network, provided the Applicant can evidence that drainage provision as provided at the time of the 2011 redevelopment and it is of a suitable condition and capacity.
- Drainage scheme should follow the SUDS hierarchy with on-site infiltration the first choice. If site investigations conclude that this is not viable, then infiltration should still be used to the extent that it may be possible and the proposed strategy of attenuation tanks below ground to manage surface water entering an existing drain would be acceptable.
- The submitted drainage strategy relies upon underground plastic crates to manage surface water entering any existing drainage pipework and rain water harvesting tank. Applicant should re-visit whether features like rainwater gardens and open water features could be incorporated into the strategy to improve the amenity of the site.

#### 4.5 **Ecology:** No objection, subject to condition.

#### 4.6 **Economic Development (CDC):** Support.

- The development should not conflict with other local businesses/services.
- The supermarket offer in Midhurst has improved and this site is no longer a viable commercial option.
- Would not want to see the leisure and community facilities at The Grange affected.
- Access between the car park and town centre must not be physically or visually blocked.

#### 4.7 **Environment Agency:** No response.

#### 4.8 **Environmental Health:** No objection, subject to conditions.

#### 4.9 **Highways Authority:** No objection, subject to condition.

#### 4.10 **Historic Buildings Officer (SDNPA):** Objection.

- Support Design Officer's comments.
- Adverse impact upon the character and appearance of the Conservation Area.
- Proposals would not impact upon the setting of the closest listed building.
- If minded to approve, high quality materials and finishes need to be achieved.

#### 4.11 **Landscape Officer:** Comment - Defer to Design Officer's views given the context of the site.

4.12 **Lead Flood Authority (West Sussex County Council):** Comment – more information required.

- The drainage hierarchy should be followed and infiltration should be investigated.
- In the spirit of SuDS, implementation and betterment for surface water systems on the new developments should be sought; including rain gardens, permeable paving, swales for example.
- Site within Flood Zone I but mapping suggests it is at moderate risk from groundwater flooding. Modelling suggests the site is also at high risk from surface water flooding.
- The Flood Risk Assessment acknowledges that the site is at high risk from surface water flooding; needs to be carefully evaluated to ensure the risk is less than mapping suggests or that suitable mitigation can be achieved.
- Surface water flood risk may require further modelling of the existing site and the proposed. If a surface water flood risk is determined, will need to know how the proposed development will be protected, what mitigation will be provided and how will flood extents change post development.

4.13 **Midhurst Town Council:** Objection.

- Contest the need for this type of development; likely to be serving London/South East market and further skews Midhurst's population towards retired people.
- Unlikely to be affordable for local people in need.
- Question the ability to staff the building given housing shortage locally for key workers.
- Will create extra demand upon existing overstretched local health services and facilities.
- Its impact as a community asset would not be significant and The Grange already caters for older people.
- Revised design and materials improve upon previous proposals and more relevant to Midhurst, but concern about the building's bulk and its overbearing impact upon neighbouring properties.
- Water neutrality not satisfactorily addressed; question figures on water usage and vague offsetting measures proposed. Offsetting needs to be secured via Legal Agreement.
- Foul water drainage issues in the area and concerned about capacity.

4.14 **Natural England:** Comments.

- Further information required on water calculations, occupancy data and proposed mitigation to consider any likely adverse effect(s) on the integrity of the Arun Valley Special Protection Area (SPA)/Special Area of Conservation (SAC).
- Site within 6km of the Singleton and Cocking Tunnels SAC; the development could have an impact upon bats (eg. external lighting) and SDNPA needs to assess any likely significant effect upon the SAC.

4.15 **Southern Water:** Comments.

- Desktop study indicates that additional foul sewerage from the development may lead to an increased risk of foul flooding from sewer network.
- Any network reinforcement necessary will need to be provided by Southern Water and the Developer will need to engage with them to deliver network improvements.
- Suggest condition that occupation of the development should align with the delivery by Southern Water of any sewerage network reinforcement, to ensure adequate waste water network capacity is available.

## 5. Representations

### Objections

5.1 11 objections have been received (including from the Midhurst Society) which raise the following concerns:

- Need not satisfactorily demonstrated; already sufficient provision for this type of accommodation in Midhurst and wider area; other development still not fully sold.
- Midhurst already has an older than average population; need affordable housing and for younger key workers.
- Inappropriate use of the site and not identified for a care home in the Local Plan.
- Land in this central location could be put to better community or economic uses; eg affordable live/work units.
- Need a development which supports local businesses and encourages people to visit/shop.
- Site remains viable for a commercial development – eg. another supermarket which would draw people into the town and improve its economic viability.
- Offers no benefits to Midhurst; against aspirations for Midhurst to be a vibrant town.
- Concern about recruiting staff, who would need to be sought from a wider catchment area and rely on private cars; resultant traffic congestion and parking demand.
- Risk new facility will destabilise existing health and care organisations competing for staff.
- Impact on local healthcare services and facilities.
- Fees for residents unaffordable for local people.

### Amenity

- Loss of privacy, daylight/sunlight.
- Poor outlook from neighbouring property towards the site.
- Impact from noise, odour and lighting upon neighbouring property.
- Not ideal location for health and well-being of future residents; poor amenity from noise and disturbance.

### Design

- Scale of the building and overdevelopment; too many units.
- Pastiche and mediocre architecture on a prominent site.
- Not in keeping with the conservation area.
- Duplicates facilities - Bistro/café already exists in The Grange.
- Support SDNPA Design Officer's views.

### Environment

- Water neutrality needs to be addressed.
- Impact on sewerage system capacity.
- Impact on Conservation Area.
- Impact from increased traffic and parking.

5.2 **Chichester District Council (as landowner):** Comments.

- Site currently owned by CDC and there is a conditional contract in place for its purchase.



- CDC own The Grange car park and are willing to work with the Applicant regarding the proposed works to the existing car park.
- Reference to water saving measures and water neutrality are noted. Whilst CDC are willing to discuss the Applicant's proposals, CDC does not have the housing stock and The Grange is operated by the third party organisation.

## **6. Planning Policy**

### **6.1 Relevant sections of the National Planning Policy Framework 2021**

- Section 2 – Achieving sustainable development
- Section 12 – Achieving well designed places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

### **6.2 Most relevant policies of the adopted South Downs Local Plan (2019) (a longer list of other relevant policies can be found in Appendix I)**

- SD4 – landscape character
- SD5 – Design
- SD9 – Biodiversity
- SD10 – International Site
- SD36 – Town and Village Centres
- SD45 – Green infrastructure
- SD50 – Sustainable Drainage Systems

### **6.3 Relevant supplementary planning documents and technical advice notes**

- Sustainable Construction SPD
- Design Guide SPD
- Parking for Residential and Non-Residential Development SPD
- Habitats Regulations Assessments (HRA's) Technical Advice Note
- Ecosystems (non-householder) Technical Advice Note
- Dark Night Skies Technical Advice Note

### **6.4 Relevant policies of the South Downs Management Plan (2020-2025)**

- Policy 1
- Policy 9
- Policy 50

## **7. Planning Assessment**

### **Principle of development**

- 7.1 Initially, it is noteworthy to clarify that previous SDNPA decisions, appeals and other case law have considered when this type of residential accommodation falls into the C2 (Residential institution) Use Class or more conventional housing (Use Class C3). A C2 use can be justified through relatively low levels of care. It is clear in this case that the proposed accommodation, level of care, the facilities and layout of the scheme all demonstrably fall within Use Class C2. Consequently, also SD28 does not apply and there is no requirement to provide affordable housing.
- 7.2 Given the site's location well within the settlement policy boundary of Midhurst and that it is previously developed land, policy SD25 supports development of such sites in principle. This

is subject to being (1) a scale and nature appropriate to the character and function of the settlement in its landscape context; (2) makes best use of suitable and available previously developed land in the settlement; (3) and is an efficient and appropriate use of land. In these respects, as below, the use is acceptable and makes an efficient use of land. However, as detailed in the assessment below, concerns are raised about the development's scale and design approach and there is, therefore, some conflict with SD25 in these regards, in addition to being contrary to policies SD4, SD5 and SD15 in particular.

- 7.3 The site is also within Midhurst's defined town centre boundary. The public car park and pedestrian links provide good access to/from the high street. Policy SD36 allows proposals where they promote or protect the hierarchy of identified centres, including Midhurst as a Market Town Centre. Policy SD37 supports the vitality and viability of the retail function of market towns.
- 7.4 No policy allocates or safeguards the site for a specific use, albeit supporting paragraph 7.160 of the SDLP outlines that the site was included in the town centre boundary to encourage a new medium sized supermarket. This site has previously generated much local interest for new retail development, however, there have been limited third party representations compared to previous applications. Nonetheless, the aspirations in paragraph 7.160 are afforded some limited weight but in the absence of any proposal for new retail development historically and more general permissive policy for a wider range of town centre uses the proposals need to be considered on their merits.
- 7.5 The proposed C2 use could be appropriate for a town centre in this location in the absence of a firm policy requirement to safeguard the site for other uses and taking into consideration additional economic and social benefits from the C2 use, which could contribute to the viability and vitality of the town centre from staff, residents and visitors. Whilst these benefits may not be as pronounced as a new retailer in this location, they are positive and not contrary to the SDLP. In these respects, there is not an in principle objection for the redevelopment of the site for a care home in the context of town centre related policies.

#### Care Use demand

- 7.6 The SDLP does not detail a specific number of care spaces required during the plan period but SD27 identifies a need for older people's housing and an indicative demand for approximately 90 homes per annum. More specifically, and relevant, SD27 identifies a need for more specialist accommodation including extra care – which typically fall within a C2 use. The evidence base which underpinned the SDLP shows there is increasing demand for such accommodation and the National Park has a higher than average proportion of older people within its demographics which is expected to grow.
- 7.7 The concerns of the Town Council and other representations about further development of this nature are acknowledged, however, on the basis of the SDNPA's available evidence there is considered to be sufficient demand for the proposals and there is not a policy position of safeguarding this site for other uses.

#### Major development

- 7.8 The scheme is not considered major development for the purposes of paragraph 177 of the NPPF and its footnote (no.60) and policy SD3. This is a matter of judgement based on the scale, character, nature and setting of the development and whether there would be a significant adverse impact on the purposes for which the National Park has been designated or defined.
- 7.9 In this instance, the site is located within the urban context of Midhurst. It is not discernible from elevated wider vantage points and given the overall scale of development and its surrounding built context there would not be a significant adverse impact upon the National Park landscape and the purposes for which the area has been designated or defined to conclude that this is major development.

## Design considerations

### Layout

- 7.10 The scheme proposes 62 bedrooms which is less than the previous application (69). The footprint, siting and orientation of the building has sought to make best use of the site to accommodate this scale and type of development. However, as a consequence of this the space on site around the building has to work quite 'hard' to accommodate other aspects of the scheme – most notably amenity space. This is evident with elements of the north elevation and east elevations being very close to site boundaries (1.5m and 2.1m respectively at closest points) with 2.5-3 storey heights and amenity space on these sides of the building would be constrained in size, usability and attractiveness/quality.
- 7.11 Private and public outdoor space on the southern side of the building is positive regarding making best use of sunlight and linking with open space in front of The Grange. However, the amount of outdoor space overall is insufficient nor of a sufficiently high quality, as reinforced by the Design Guide SPD. Given residents' likely greater reliance on the open space as their probable sole means of amenity space and enjoyment of the outdoors this is an important issue and such concerns are reflected in the Design Officer's comments.
- 7.12 West of the building, the space would be used for pathways and car parking primarily. There would be some limited amenity space around existing trees to be retained, which currently contribute to the character and appearance of the area, however it would not be particularly usable.
- 7.13 As a result of accommodating the parking and retaining the trees, the building would be confined to the eastern part of the site and given its overall scale and the aforementioned issues it would appear cramped and fail to integrate successfully within the townscape. Its scale and mass has sought to be broken up by the shape of the building's footprint, with different sized set backs, projecting wings, orientations and gabled roof heights which is positive but, nonetheless, it would still be sited uncomfortably on this part of the site to the detriment of the character and appearance of the area and townscape.
- 7.14 Given the scale of the building, opportunities for achieving a more landscape-led and ecosystems services approach become more limited. Whilst a new landscape scheme is proposed this is very formalised and disconnected across the site and the scheme is notably absent of any meaningful SUDs scheme that links with the landscaping whereby there is a lack of a holistic approach to considering biodiversity net gain, ecosystems services and surface water management. Rather, a more conventional means of managing surface water is proposed and such opportunities are missed, to the detriment of the scheme and contrary to SD5, SD45, SD50 and the Design Guide SPD.

### Architecture

- 7.15 A traditional style of architecture using a variety of gables is supported. The scheme incorporates positive precedents of materials and architectural detailing seen in Midhurst. In combination of utilising the roof space for the second floor its overall massing has sought to be broken up, albeit it remains a large single building. There would also be contemporary aspects to the architecture which would create a mix of the two approaches. Whilst not objectionable per se, in this case the building would neither be authentically traditional nor contemporary overall.
- 7.16 The Design Officer comments that it "is a safe, but unmemorable design, which tries to minimise the impacts of a large building." In these respects and taking into consideration the views of the conservation officer it is considered that the building's architecture would not conserve or enhance the character and appearance of the conservation area and townscape for the reasons outlined and this impact is exacerbated by the building's scale and cramped siting.

### Design summary

- 7.17 The approach has not been sufficiently landscape led and the siting, scale, and architecture of the building would result in a cramped form of development and would not positively contribute to the character and appearance of the area and townscape. Furthermore, the

scheme fails to incorporate a sufficient and meaningful landscape and SUDS strategy to deliver multiple benefits such as good biodiversity net gain. Reasons for refusal are therefore recommended in these regards.

#### Sustainability

- 7.18 The building is proposed to achieve the Excellent BREEAM rating, which accords with policy SD48 and is to be commended. A 50sqm solar panel array is proposed but it is unclear what impact this would have on CO2 emissions from the building and whether this meets a further 20% reduction on CO2 required by the Sustainable construction SPD. Nonetheless, planning conditions could ensure sustainability standards were met if the application was recommended for approval.
- 7.19 One aspect of the Sustainable Construction SPD only partly addressed is the provision of green roofs. Whereas the SPD requires 10% of all roof space to be green roof, 7% is proposed with limited apparent opportunity to incorporate more within the building's design. Whilst a judgement can be made as to whether further provision is required, in this instance the green roof appears isolated from being able to contribute to a site wide SUDS strategy, which is an important aspect of the environmental attributes of new schemes as outlined above.
- 7.20 The electric vehicle charging points and passive provision (i.e infrastructure installed for future use) for future charging points is supported.

#### Cultural heritage

- 7.21 The site is located within the Midhurst conservation area, which is accompanied by a character appraisal dated 2012. The proposal would neither preserve or enhance the character and appearance of the conservation area by virtue of its siting, scale and design.
- 7.22 The harm would be 'less than substantial' in regard to the NPPF, whereby the impacts need to be weighed against the public benefits of the proposal. In this instance, there are some public benefits which can be considered, including the increase in specialist elderly care places, economic and social benefits derived from the construction and operation of the scheme. However, these are not sufficient to overcome the impact upon the conservation area.
- 7.23 It is considered that the setting of the closest listed building (The Almshouse) would be preserved as the proposals are a reasonable distance away and in between which there are intervening properties and limited views. This is also the conclusion of the Conservation Officer.

#### Neighbour Amenity

- 7.24 The main issue concerns the relationship between the proposed building and properties on Bepton Road, which back onto the site. Distances between the building and the northern site boundary and properties beyond vary but are insufficient, with a 11.3m distance between the building and neighbouring property Peachey House being of particular concern.
- 7.25 Given the length of the building (50m) and roof heights of between 9.8m to 12m it would have a considerable presence alongside the northern site boundary close to adjacent properties. In addition, this elevation would have numerous bedrooms with single aspect windows that could be predominantly occupied throughout the day and providing the sole means out outlook for residents, plus there is a second floor communal terrace close to the boundary also.
- 7.26 Due to the siting, scale and design of the building it would unduly impact upon the amenity of neighbouring properties in terms of loss of privacy/overlooking, outlook, and have an overbearing impact particularly where the building is at its closest to the boundary opposite Peachey House. For these reasons a reason for refusal is recommended.
- 7.27 The proposals are unlikely to generate significant noise levels with the exception of building services plant. A condition could be applied to ensure that noise from all plant installed at the premises is kept to an acceptable level and therefore the proposals is not considered to result in an undue impact from noise and disturbance.

## Ecology

- 7.28 The ecologist has not objected and recommended a condition to secure biodiversity enhancements. However, it is considered that the scheme could improve upon biodiversity net gain and multiple benefits for the reasons outlined above (see paragraph 7.14). Given the current condition of the site, the development has the potential to deliver biodiversity net gain as submitted. Considering the scheme holistically, however, a landscape led and ecosystems services approach hasn't been fully adopted within the scheme which has been compounded by the scale of the building. A specific reason for refusal on biodiversity is not proposed. Instead, it has been included in reason for refusal no.3 regarding a lack of a holistic strategy of linking together sufficient biodiversity net gain with the landscape and surface water strategies in order to achieve a landscape-led and ecosystems services approach.

## Surface Water Management

- 7.29 The Drainage Strategy and Flood Risk Assessment propose below ground attenuation (storage tanks) that would then discharge into an existing surface water drainage network that has claimed to be installed during the 2011 re-development.
- 7.30 The SUDS hierarchy outlines that on site infiltration of surface water is the first preference and so the above primary approach is disappointing and does not follow the SUDs hierarchy. Whilst a swale is proposed in the northern side of the site, which would be connected to underground tanks via pipework, this is an isolated feature and appears tokenistic in terms of achieving a well joined up Suds strategy across the whole site. Furthermore, the drainage strategy appears to rule out other features like rain water gardens which could achieve other benefits to biodiversity.
- 7.31 Consultee advice has raised the need for further infiltration testing and subject to these results then a more informed strategy could be devised. The County Council (Lead Flood Authority) recommend that further information is required, whilst the District Drainage Officer recommends securing details via condition.
- 7.32 Ultimately, the proposals should demonstrate the drainage hierarchy has been followed and undertake soakage testing to evidence whether the discharge of a portion of the water can be drained from within the site. Furthermore, the proposed scheme of SuDS is considered to be poorly designed with a single swale and there appears to have been a missed opportunity to consider holistically how the surface water strategy could link with the landscape scheme to deliver multiple benefits (enhancing biodiversity), the amenity of open spaces. The size of the building in particular curtails these opportunities being realised.
- 7.33 Furthermore, the green roof on the northern side of the building also appears to be disconnected with the drainage strategy and this is a missed opportunity. In these respects, the surface water strategy has not followed a landscape led approach, nor the SUDs hierarchy, particularly where it has been proposed to pipe the water off site without fully investigating the potential for on site infiltration. Furthermore, whilst permeable paving is proposed for the car park, water would similarly be piped into the underground storage tanks and then released into existing drainage.

In summary, a reason for refusal is recommended regarding surface water management and the SUDS hierarchy, in the context of the scheme not delivering a landscape-led approach.

## The Conservation of Habitats and Species Regulations 2017 (as amended) - Water Neutrality

- 7.34 Midhurst and the surrounding area of Chichester district is supplied with water from the Sussex North Water Resource Zone. This supply is sourced from abstraction points in the Arun Valley Special Protection Area/Special Area of Conservation and Ramsar site.
- 7.35 Natural England's published Position Statement outlines it cannot be concluded that the existing abstraction within the Sussex North Water Supply Zone is not having an impact on the Arun Valley sites and development within this zone must therefore not add to this impact. The Position Statement is a material consideration.

- 7.36 If an application cannot demonstrate water neutrality is achievable then development will not meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). These Regulations place a duty on planning authorities to determine the potential for likely significant effects upon internationally designated sites and secure mitigation as necessary if achievable.
- 7.37 Where proposals are likely (without mitigation) to have significant effects on international sites, the local planning authority is required to undertake an Appropriate Assessment in order to ascertain whether there would not be adverse impacts upon the integrity of the international site and whether the proposal demonstrates that impacts would be avoided or adequately mitigated against.
- 7.38 In this instance, it is clear that the proposed development will create a greater demand for water use and there is, therefore, a need to demonstrate how this water usage could be off set. The Water Neutrality Statement provided briefly outlines options of retrofitting works to reduce water usage in existing local authority properties, business premises, schools, leisure centres, installing water meters and rain water harvesting could offset the development. The Statement also states that the details, design and implementation of a program for such works shall be agreed with the local planning authority prior to occupation.
- 7.39 The Statement does not progress these potential measures in any further detail and there is a distinct lack of any firm plans in place to deliver any of these proposed measures or evidence that these have even been discussed with the local authority for instance, that could then be subsequently secured via a S106 Legal Agreement. CDC's own representation also rules out any potential retrofitting housing stock.
- 7.40 In the absence of any confirmed plans, the scheme cannot achieve water neutrality and therefore conflicts with policies SD9 and SD10 and the Regulations. It would not be appropriate to condition this requirement as mitigation needs to be secured prior to the granting of planning permission under the Habitats Regulations. Therefore, a reason for refusal is recommended.

The Conservation of Habitats and Species Regulations 2017 (as amended) - Bats

- 7.41 The site is also within the wider vicinity of the Singleton and Cocking Tunnels SAC, as raised by Natural England. It is considered that given the town centre location of the scheme and that a suitable external lighting scheme could likely be achieved, a reason for refusal on this issue has not been recommended.

Highways considerations and parking provision

- 7.42 The site is within a sustainable location with good access to a range of services and facilities and bus services. The site also affords short walking distances to the public rights of way network. The site is also located adjacent to a large public car park and, realistically, given the type of use, shift patterns of work, visiting hours etc. the majority of visits would be via the private car.
- 7.43 The access with Bepton Road is not proposed to be changed and the scheme would utilise the car park access. Given the nature of the use, additional vehicular activity generated would unlikely impact upon highways safety nor a particularly material change in the character of traffic of the general area. The proposed level of parking is also considered acceptable. The Highway Authority raises no objection in regard to the scheme having a 'sever' impact on the highway network. Conditions to secure the access and parking be laid out in accordance with the submitted plans and retained would required if the application was approved.

Dark Night Skies

- 7.44 The application is supported by an external lighting strategy, with details of internal and external lighting. Mitigation of the effects of new lighting could be managed via condition in regard to its coverage and design.

## Archaeology

- 7.45 The site is identified as having a high potential for archaeological remains to be present. The County Archaeologist has not objected subject to a suitable condition concerning suitable evaluation, assessment and mitigation including a watching brief.

## **8. Conclusion**

- 8.1 A C2 use for the site is acceptable in principle as there is no policy requirement to safeguard the site for other uses, nor is there considered to be an in principle objection for a care home in this location.
- 8.2 However, the development fails to achieve a landscape led approach and make a positive contribution to the character and appearance of the conservation area and townscape of Midhurst, given the overdevelopment of the site by virtue of the siting, scale, and design of the proposals. Opportunities to maximise multiple benefits around surface water management, landscape strategy, ecosystems services and biodiversity net gain are not fully considered and are constrained by the siting and scale of the building. Furthermore, concerns are raised regarding impacts upon the amenities of neighbouring properties.
- 8.3 Suitable measures to offset the future water demand of the development have not been secured, in order to comply with the Conservation of Habitats and Species Regulations 2017 (as amended).
- 8.4 The development is therefore contrary to the SDLP and there are not considered to be material considerations which would justify a departure from it. Furthermore, the development fails to meet the First Purpose of a National Park and the Habitats Regulations.

## **9. Reason for Recommendation**

- 9.1 It is recommended that the application be **REFUSED** for the reasons set out below:
1. The siting, scale, bulk and massing of the proposals would result in an excessively large building which would be an overly cramped form of development that would not sympathetically integrate with the surrounding character and appearance of the area. Insufficient high quality amenity space would be created due to the building's siting and scale, which demonstrates that it cannot be satisfactorily accommodated within the site. Furthermore, due to siting, scale, form, bulk and massing and architecture of the proposed building it would not make a positive contribution to the character and appearance of the area, local distinctiveness nor sense of place. For these reasons, the proposals would also fail to preserve or enhance the character and appearance of the conservation area and there are no overriding public benefits that would outweigh this harm. Therefore, a high quality landscape-led design has not been achieved and the proposals are contrary to policies SD1, SD2, SD4, SD5, SD12, SD15, SD25, SD45 of the South Downs Local Plan 2019, the National Planning Policy Framework (2021), the Design Guide SPD (2022) and the First Purpose of a National Park.
  2. The siting, scale, and design of the building would have an overbearing and unneighbourly impact upon neighbouring properties adjacent to the northern site boundary and would also result in an unacceptable loss of their privacy and outlook. The proposals are, therefore, contrary to policy SD5 of the South Downs Local Plan 2019, the Design Guide SPD 2022 and the National Planning Policy Framework 2021.
  3. The proposed surface water drainage strategy fails to achieve a well designed integrated SUDS scheme across the site which, in the absence of further infiltration testing, supports on site infiltration in the first instance whilst enhancing open space amenity, sufficient biodiversity net gain, and the landscape strategy to deliver a landscape-led and ecosystems services approach. The proposals are, therefore, contrary to policies SD1, SD2, SD4, SD5, SD9, SD25, SD45, SD50 of the South Downs Local Plan 2019, The Design Guide SPD 2022, the National Planning Policy Framework 2021 and the First Purpose of a National Park.

4. Insufficient information has been provided to demonstrate, with a sufficient degree of certainty, that the proposed development would not contribute to an existing adverse effect upon the integrity of the internationally designated Arun Valley Special Protection Area and Special Area of Conservation by way of mitigating increased water demand. Furthermore, in the absence of clear mitigation, such measures have not been secured via a S106 Legal Agreement to ensure they are implemented. The proposals, therefore, fail to mitigate against its direct impacts and is contrary to policies SD1, SD9 and SD10 of the South Downs Local Plan 2019, the National Planning Policy Framework (2021), the Conservation of Habitats and Species Regulations 2017 (as amended), and the First Purpose of a National Park.

**TIM SLANEY**

**Director of Planning**

**South Downs National Park Authority**

Contact Officer: Richard Ferguson

Tel: 01730 819268

Email: [Richard.Ferguson@southdowns.gov.uk](mailto:Richard.Ferguson@southdowns.gov.uk)

SDNPA Consultees Legal Services, Development Manager

Background Documents: [All planning application plans, supporting documents, and consultation and third party responses](#)

[National Planning Policy Framework \(2021\)](#)

[South Downs Local Plan \(2014-33\)](#)

[South Downs National Park Partnership Management Plan](#)

[SDNPA Supplementary Planning Documents and Technical Advice Notes](#)

[Midhurst Conservation Area Character Appraisal and Management Plan](#)

[Natural England's Position statement Water Neutrality Sept 2021](#)



### **Information concerning consideration of applications before committee**

Officers can confirm that the following have been taken into consideration when assessing the application:-

#### **National Park Purposes**

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage;
- To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

If there is a conflict between these two purposes, greater weight shall be given to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in a National Park, whereby conservation takes precedence. There is also a duty upon the National Park Authority to foster the economic and social wellbeing of the local community in pursuit of these purposes.

#### **National Planning Policy Framework and the Vision & Circular 2010**

The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It was first published in 2012. Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010.

The Circular and NPPF confirm that National Parks have the highest status of protection in relation to landscape and scenic beauty. The NPPF states at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks and that the conservation and enhancement of wildlife and cultural heritage are important considerations which should also be given great weight in National Parks. The scale and extent of development within the Parks should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

#### **Major Development**

Paragraph 177 of the NPPF confirms that when considering applications for development within the National Parks, permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

For the purposes of Paragraph 177 whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

For the purposes of this application, assessment as to whether the development is defined as major for the purposes of Para 177 is undertaken in the Assessment Section of the main report.

#### **The Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

A screening opinion has concluded that for reasons of scale, use, character and design and environmental considerations associated with the site, the proposals are not EIA development within the meaning of the relevant 2017 legislation. Therefore, an EIA is not required.

#### **The Conservation of Habitats and Species Regulations 2017**

Following a screening of the proposals, it is considered that a likely significant effect upon a European designated site, either alone or in combination with other proposals, would not occur given the scale, use, and location of what is proposed. Consequently, an Appropriate Assessment under a Habitats Regulation Assessment is not required.

#### **Relationship of the Development Plan to the NPPF and Circular 2010**

The development plan policies listed within the reports have been assessed for their compliance with the NPPF and are considered compliant with it.

## **The South Downs National Park Partnership Management Plan 2020-2025**

The Environment Act 1995 requires National Parks to produce a Management Plan setting out strategic management objectives to deliver the National Park Purposes and Duty. National Planning Policy Guidance (NPPG) states that Management Plans “contribute to setting the strategic context for development” and “are material considerations in making decisions on individual planning applications.” The South Downs Partnership Management Plan as amended for 2020-2025 on 19 December 2019, sets out a Vision, Outcomes, Policies and a Delivery Framework for the National Park over the next five years. Relevant Policies are listed in each report.

### **South Downs Local Plan**

The South Downs Local Plan (SDLP) was adopted by the Authority in July 2019. All development plan policies are taken into account in determining planning applications, along with other material considerations.

The Planning and Compulsory Purchase Act 2004 S38 (6) confirms that “If regard is to be had to the development plan for the purpose 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”.

### **All Relevant Policies of the South Downs Local Plan which are of relevance to this application**

- Core Policy SD1 - Sustainable Development
- Core Policy SD2 - Ecosystems Services
- Strategic Policy SD4 - Landscape Character
- Strategic Policy SD5 - Design
- Strategic Policy SD9 - Biodiversity and Geodiversity
- Strategic Policy SD10 - International Sites
- Development Management Policy SD11 - Trees, Woodland and Hedgerows
- Strategic Policy SD12 - Historic Environment
- Strategic Policy SD19 - Transport and Accessibility
- Strategic Policy SD20 - Walking, Cycling and Equestrian Routes
- Development Management Policy SD22: Parking Provision
- Strategic Policy SD25 - Development Strategy
- Strategic Policy SD27 – Mix of Homes
- Strategic Policy SD45 - Green Infrastructure
- Strategic Policy SD48 - Climate Change and Sustainable Use of Resources
- Strategic Policy SD49: Flood Risk Management
- Strategic Policy SD50 – Sustainable Drainage Systems
- Development Management Policy SD54 Pollution and Air Quality
- Development Management Policy SD55 – Contaminated Land

### **Legislation for heritage assets**

The Planning (Listed Buildings and Conservation Areas) Act 1990 places a series of duties on planning authorities when determining applications for planning permission and listed building consent.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states “in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving

the building or its setting or any features of special architectural or historic interest which it possesses.”

Section 72 of the Town and Country Planning (Listed Buildings and Conservation Area) Act 1990 (as amended) relates to conservation areas. It requires “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

### **Human Rights Implications**

These planning applications have 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.

### **Equality Act 2010**

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

### **Crime and Disorder Implication**

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

### **Proactive Working**

In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF.

