

SITE PLAN	BEXHILL
RR/2019/2289/P	92 London Road, The Sussex Hotel.



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Not To Scale

Rother District Council

Report to - Planning Committee
Date - 13 August 2020
Report of the - Executive Director
Subject - Application RR/2019/2289P
Address - 92 London Road
The Sussex Hotel
London Road
BEXHILL
Proposal - Proposed Extension & Change of Use of Hotel/Public House to form Offices at Ground Floor and 10 No. Self-Contained Flats at First and Second Floor

[View application/correspondence](#)

RECOMMENDATION: It be **RESOLVED** to **REFUSE (FULL PLANNING)**

Head of Service: Tim Hickling

Applicant: Mr M. Lear Fondare Developments
Agent: Mr Andrew Gerken Pump House Designs
Case Officer: Mr T. Hardwick
(Email: terry.hardwick@rother.gov.uk)
Parish: BEXHILL
Ward Member(s): Councillors C.A. Bayliss and P.C. Courtel

Reason for Committee consideration: Member referral: Councillor C.A. Bayliss requests that the Committee consider the benefits of bringing the property into beneficial use at the earliest opportunity

Statutory 8 week date: 28 February 2020
Extension of time agreed to: 16 August 2020

This application is included in the Committee site inspection list.

1.0 SUMMARY

- 1.1 This is the site of the Sussex Hotel in London Road, Bexhill. The property was trading as a public house, with hotel rooms until June 2019. It is currently vacant.
- 1.2 The application seeks change of use of the ground-floor of the building to Class A2 Financial and Professional Services and of the second and third

floors to 10 self-contained flats. A substantial three storey extension would be added at the rear, which would extend all three floors of the building and would extend across a large part of the yard at the back of the property.

- 1.3 Rother Local Plan Core Strategy Policy EC6 and Development and Site Allocations (DaSA) Local Plan Policies DEC3 and DCO1 seek to protect existing employment, community, commercial and tourism-related sites unless it can be shown that there is no demand for such uses or for alternative commercial or community use. Policy DCO1 sets out the tests that need to be applied to assess this issue: in particular, it requires evidence of a comprehensive and sustained marketing campaign over a period of, normally, at least 18 months which demonstrates that there is no demand for the existing use (or for an alternative commercial or community facility, where appropriate); and evidence that shows that the unit is not capable of being financially viable, including for alternative commercial or community facilities.
- 1.4 In this case, the site has been advertised for an insufficient period to show there is no demand for the lawful uses of the premises, or for alternative commercial or community facilities. The site was marketed (for sale) with vacant possession for six to seven months between February and August 2018, with no enquiries from public house users (the particulars stated that the public house was trading and popular with locals). It was then bought by the Applicant. Further marketing of the ground floor only (to let) for office, retail or unspecified leisure use has been undertaken from August 2019 onwards. However, this excludes the existing public house/hotel use and does not help substantiate the case that there is no demand for those existing uses. More recently, following discussion with officers, the premises have been marketed directly to a specific audience, including certain hotel groups, again with no result. As a result, the Council has sought special consultant advice of its own on the strength of the case that has been made in support of the change of use sought. The advice received is that further information/work is necessary and, as it stands, the case in support of change of use is inadequate. This has been communicated to the Applicant but has not been robustly challenged.
- 1.5 Neither has convincing evidence been submitted that shows that the premises are incapable of being financially viable. A certain amount of confidential financial information has been provided from 2017 which indicates that the public house/hotel use was only marginally profitable then, subject to the manager not drawing a salary. However, this only covers a short period of time and cannot, therefore, be taken as evidence of a lack of financial viability more generally.
- 1.6 It is important that existing employment sites or sites in use for employment or tourism-related purposes or for community use are only released for other purposes where there is clear evidence to support this. This is to protect jobs, to support the local economy and social infrastructure and to retain facilities that support the town's role as a destination for visitors.
- 1.7 Clear justification against Policy DCO1 is required if the changes of use are to be permitted. The Applicant has been advised what is needed but there has been no substantive response. The application, therefore, falls to be considered as it stands.

- 1.8 The proposed changes of use are, therefore, considered to be unacceptable because there is inadequate evidence to justify loss of the existing uses.
- 1.9 One further point that should be mentioned is the fact that the Applicant has cited the change of use of “The Smuggler” public house in Pett Level (RR/2019/1336/P) as evidence of an inconsistency in approach in applying DaSA Local Plan Policy DCO1. The change of use sought there was from public house to doctor’s surgery and café. Planning permission was granted for change of use without marketing and financial evidence being critical to the case because the change was from one community use to another (albeit with a small part of the premises to be used as a café). The justification for that decision was discussed in the report for that application. It explained that should a proposal come forward for a non-community use, such as residential, *‘then the policy approach as set out in DCO1 would need to be met’*. The critical difference between that proposal and the proposed change of use at The Sussex Hotel is that the proposal at The Sussex Hotel would replace a community use (a public house) and a tourism use (nine bedroom hotel), both of which are defined in Policy DCO1 as uses of ‘social and economic value’ with mainly residential use, and a Class A2 use at ground level, which in the absence of insufficient evidence to support this, would be contrary to Policy EC6 and DaSA Local Plan Policies DEC3 and DOC1. The two cases are not, therefore, comparable and there is no inconsistency of approach in the circumstances that apply in the two cases.
- 1.10 The application was originally submitted with inadequate amenity-space for use by occupiers of the flats, but this has now been remedied by the submission of revised plans that enlarge the open amenity-area to be provided and provide separate covered cycle-storage. Satisfactory living conditions would now be provided for occupiers.
- 1.11 An additional factor is that the Council does not currently have a 5-year supply of land for housing. This subsequently triggers the application of the “tilted balance” under Paragraph 11 of the National Planning Policy Framework.
- 1.12 It is, nonetheless, considered that the adverse impacts of allowing the development would outweigh the benefits of securing the 10 units of market housing that the proposals would deliver when considering the National Planning Policy Framework as a whole.
- 1.13 Refusal of planning permission is, therefore, recommended on the grounds that the proposal would be contrary to Rother Local Plan Core Strategy Policy EC6 and DaSA Local Plan Policies DCO1 and DEC3.

1.14 **PROPOSAL DETAILS**

PROVISION	
No of houses	10
No of affordable houses	0
CIL (approx.)	£18,886 – based on 311sqm
New Homes Bonus (approx.)	£52,135

2.0 SITE

- 2.1 The application site is that of the Sussex Hotel, which, while trading until June 2019, is currently closed and boarded-up. The property lies on the north-eastern side of London Road, close to its junction with King Offa Way (A259) and Combe Valley Way (A269).
- 2.2 The hotel use included a large bar at ground floor, with nine hotel rooms and a manager's flat in the upper two floors.
- 2.3 The building has three storeys, with the second-floor contained within the roof-space, served by front and rear-facing dormers and windows set into the front and rear-facing gables.
- 2.4 The property is served by a vehicle-access that runs down the eastern side of the building to a car-park providing space for the parking of up to nine cars for use by those staying in the hotel rooms and to a rear mews of four houses, which also have rights of use over the vehicle-access to enter and leave to and from London Road.
- 2.5 To the south of the site are residential properties and to the north is a used vehicles showroom.
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3.0 PROPOSAL

- 3.1 The application seeks the following:
- the addition of a three storey rear extension of twin hip-roofed design (max depth 15.3m), extending over a large part of the rear yard, and the provision of an open-amenity area for flat-dwellers across the back of the premises;
 - use of the extended ground floor for Class A2 Financial & Professional Services;
 - use of the extended first and second floors of the building to provide 10 1-bed self-contained flats.
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4.0 HISTORY

- 4.1 RR/2002/2860/P Demolish Existing Toilets, Erection of Single Storey Extension. Approved.
- 4.2 RR/2003/3459/P Demolition of Outbuilding & Erection of 4 Two Bedroom Starter Homes with Car-Parking and Nine Parking Spaces. Approved.
- 4.3 RR/2003/1627/P Outline: Demolition of Existing Garage & Erection of 4 x 2 Bed Starter Homes with 6 Car Park Spaces. Approved.
- 4.4 RR/2018/2966/P Proposed Alterations & Improvements to Hotel and Extension to form five Self-Contained Flats. Refused.
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- 4.5 RR/2019/1693/P Proposed Extension & Change of Use of Hotel/Public House to Form Public House at Ground Floor and 10 No. Self-Contained Flats at First and Second Floors. Withdrawn.
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5.0 POLICIES

- 5.1 The following policies of the Rother Local Plan Core Strategy Plan (2014) are relevant to the proposal:

- PC1: Presumption in Favour of Sustainable Development
- OSS2: Use of Development Boundaries
- OSS3: Location of Development
- OSS4: General Development Considerations
- BX1: Overall Strategy for Bexhill
- BX3: Development Strategy
- SRM1: Towards a Low Carbon Future
- SRM2: Water Supply and Wastewater Management
- CO6: Community Safety
- LHN1: Achieving Mixed and Balanced Communities
- EC3: Existing Employment Sites
- EC6: Tourism Activities and Facilities
- EN3: Design Quality
- EN7: Flood Risk and Development
- TR3: Access and New Development
- TR4: Car Parking

- 5.2 The following policies of the DaSA Local Plan (adopted 16 December 2019) are relevant to the proposal:

- DRM1: Water Efficiency
- DCO1: Retention of Sites of Social or Economic Value
- DHG3: Residential Internal Space Standards
- DHG4: Accessible & Adaptable Homes
- DHG7: External Residential Areas
- DEC3: Existing Employment Sites and Premises
- DIM1: Comprehensive Development
- DM2: Development Boundaries
- DEN5: Sustainable Drainage
- DHG3: Residential Internal Space Standards
- DHG4: Accessible and Adaptable Homes
- BEX16: London Road – Sackville Road Enhancement Area

- 5.3 The National Planning Policy Framework and Planning Policy Guidance are also material considerations.
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6.0 CONSULTATIONS

Consultations

- 6.1 Highways England: **NO OBJECTION**

- 6.2 East Sussex County Council (ESCC) (Highway Authority): **NO OBJECTION**, subject to conditions being applied to any planning permission granted relating to:
- the provision of parking;
 - the provision of parking for cycles;
 - the provision of a vehicle turning-head; and
 - development being undertaken in accordance with a Construction Management Plan which shall previously have been submitted to and agreed by the Local Planning Authority.
- 6.3 ESCC (Lead Local Flood Authority): **NO OBJECTION** in principle, subject to any planning permission being granted with conditions relating to:
- the capacity of the public surface water sewer to accommodate run-off from the site, details of which are to be submitted to and agreed in writing by the Local Planning Authority;
 - the provision of a maintenance and management plan for the entire drainage system, up to the connection point to the mains sewer, which is to be submitted to and agreed in writing by the Local Planning Authority; and
 - prior to occupation of the development, the provision of written and photographic evidence (to the Local Planning Authority) that shows that the drainage system has been constructed as per the final detailed drainage design.
- 6.4 ESCC Fire Brigade: **NO RESPONSE**
- 6.5 ESCC Police: **NO RESPONSE**
- 6.6 Clinical Commissioning Group: **NO RESPONSE**
- 6.7 Southern Gas Pipelines: **NO RESPONSE**
- 6.8 Southern Water Services: **NO OBJECTIONS**. Following comments:
- Any new connection to the public foul and surface water sewer will need to the subject of a formal application to Southern Water.
 - Any planning permission to be subject to a Condition requiring details of the proposed means of foul and surface water disposal to be submitted to and agreed in writing by the Local Planning Authority, in consultation with Southern Water.
 - Any planning permission to be subject to an Informative relating to any connection that may need to be made to the public sewerage system and the means of disposal of surface water from the development.
- 6.9 Rother District Council Planning Strategy: **OBJECTS** on the following grounds:
- The current proposal seeks Class A2 (Financial and Professional Services) use at ground floor, amounting to 410sqm of employment space. The proposal would, however, also result in the *loss of about 300sqm of employment space* too, which was part of the previous public

house use, plus the *loss of the tourist accommodation* provided by the hotel rooms;

- The application property has *not been marketed for the existing employment and tourism uses over a sufficiently long period* to justify use for alternative employment purposes and loss of the tourism-related use as a hotel, which would be contrary to DaSA Policies DEC3 and DCO1.

6.10 DaSA Policy DEC3, which updates Core Strategy Policy EC3, seeks to protect land and premises currently (or last) in employment use, including tourism-related use, by retaining them in such use, unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes (or would cause serious harm to local amenities).

6.11 DaSA Policy DCO1 then goes on to set-out the tests that need to be satisfied if the case is to be made that there is no reasonable prospect of the employment and tourism uses continuing in such use, namely that:

6.12 Employment sites and tourist accommodations play an important social and economic role within the District, making a positive contribution to maintaining and developing sustainable communities.

6.13 The supporting information submitted with the application indicates that property has been advertised for sale in its current use for a period of six months before being purchased. DaSA Policy DCO1, however, requires 18 months, including for other commercial or community uses. That has not been done.

6.14 Neither has evidence been submitted that would indicate that the premises is not capable of being financially viable for its existing/last use (public house/hotel) or for alternative commercial or community use. Normally this would require the submission of financial accounts covering the last three years that the uses were operating full-time (DaSA Policy DCO1(ii)). That has not been done.

6.15 In summary, therefore, the application fails the evidential requirements of DaSA Policy DCO1 if a lack of alternative social or economic use and loss of the hotel/tourist is to be accepted.

6.16 Planning Notice

6.16.1 Three letters have been received in relation to the proposal as originally submitted

- difficulties of access for people living behind the hotel whose only access is through the hotel car-park;
- difficulties of access for emergency vehicles during construction;
- disruption to residents;
- where will vans, delivery vehicles, visitor vehicles, skips and staff toilets be parked?
- increased traffic at the traffic light junction between London Road, King Offa Way and Coombe Valley Way;
- drivers frustrated by the delays at the traffic lights may divert along Chepbourne Road to avoid the lights; and

- all the building work proposed will be an accident waiting to happen.
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7.0 LOCAL FINANCE CONSIDERATIONS

- 7.1 The proposal is for a type of development that is Community Infrastructure Levy (CIL) liable. The total amount of CIL money to be received is subject to change, including a possible exemption, but the development could generate approximately £18,886 (based on 311sqm).
- 7.2 The proposal is one that would provide New Homes Bonus (subject to review by the Government). If New Homes Bonus were paid it could, assuming a Band B property, be approximately £52,135 over four years.
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8.0 APPRAISAL

- 8.1 Issues to be considered include:

- background;
- the acceptability in principle of the proposed A2 use (Financial & Professional Services) at ground floor and of the C3 general purpose market-flats at first and second floors;
- design and impact on the character and appearance of the locality;
- provision of parking and highway impact;
- provision for the handling and collection of refuse and re-cycling;
- living conditions for potential residents and occupiers of neighbouring properties;
- residential amenity;
- five year land supply for housing; and
- planning balance and conclusion.

8.2 Background

- 8.2.1 This is a revised application following the withdrawal of a previous application (RR/2019/1693/P) and the refusal of planning permission for another (RR/2018/2966/P).
- 8.2.2 Withdrawn application (RR/2019/1693/P) sought planning permission for an extension at the rear and the change of use of the hotel/public house to form a public house at ground floor and 10 self-contained flats at first and second floor.
- 8.2.3 Refused application RR/2018/2966/P was rejected on three grounds:
- there would be a reduction in the number of bedrooms from nine to seven, together with a reduction in the size of the public house use and back-of-house facilities, which would erode the size, quality and operational efficiency of the public house and hotel. Moreover, the introduction of residential use would likely curtail the public house and hotel uses reasonable commercial activities and would be harmful to the level of amenity to be enjoyed by residents and could result in the loss of the commercial use;

- an appropriate level of amenity could not be provided for potential residents of the flats; and
- no parking would be provided for the five flats proposed, which would increase the pressure for on-street parking in an area where there is insufficient space, to the detriment of highway safety and the obstruction of the free flow of traffic.

8.3 Principle

8.3.1 The essential first issue is the acceptability in principle of the proposed new uses of the building.

8.3.2 The three key policies that apply in this are Rother Local Plan Core Strategy Policy EC6 and DaSA Local Plan Policies DEC3 and DCO1.

8.3.3 The detail of these policies is set-out under the *Planning Strategy* consultation response above.

8.3.4 In summary:

- Core Strategy Policy EC6 (iv) supports proposals that do not result in the loss of tourism accommodation, unless there is no prospect of its continued use;
- DaSA Policy DEC3 sets-out the Council's commitment to retain premises in or last in employment use (including those in tourism-related use) in such use, unless it can be demonstrated there is no reasonable prospect of it being retained in such use (or it would cause serious harm to local amenity); whilst
- DaSA Policy DCO1 sets out the evidential requirements to justify loss of such uses (18 months comprehensive and sustained marketing at a realistic valuation or evidence to justify lack of financial viability for the existing use).

8.3.5 In this case, the property has not been marketed for the requisite 18 months.

8.3.6 The application is supported by a Marketing Report prepared by the Marketing Agent, Savills. This confirms that they marketed the property (for sale with vacant possession) with a trading 'popular with locals' public house/hotel use between February 2018 and August 2018 on their website, on other websites and it was listed in various e-campaigns and monthly property listings. They advise that a number of developers did show an interest, one of whom was the Applicant, who bought the property, bringing the marketing to a close.

8.3.7 The Agent states that the property had been circulated to a wide audience at a time when market conditions were "indifferent" as a result of political and social trends, including the competition from supermarkets retailing cheap alcohol and branded restaurants offering "eating out" deals and discounts. These factors, they say, have resulted in a large number of public houses/restaurants coming to the market due to publicans and restaurateurs failing to make a viable living from their businesses. These trends have made the viability of premises such as the Sussex Hotel marginal, compounded by the highly competitive nature of some of the managed

house pub chains and casual dining restaurants, which have made it even more difficult to profit from this type of operation.

- 8.3.8 Their conclusion is that it is not surprising that there has been only limited interest for public house/hotel use. Nor, they say, were any offers received based on another commercial use and the 14 expressions of interest that were received were from developers looking to redevelop to residential housing/flats.
- 8.3.9 Further marketing of the ground floor only (to let) for office, retail or unspecified leisure use has been undertaken from August 2019 onwards. However, this excludes the remaining public house/hotel use and does not help substantiate the case that there is no demand for the existing uses. More recently, following discussion with officers, the premises have been marketed to a specific audience, including certain hotel groups, again with no result. As a result, the Council has sought special consultant advice on the strength of the case that has been made in support of the change of use sought. The advice received is that further information/work is necessary. This has been communicated to the Applicant but there has been no substantive response.
- 8.3.10 Neither has convincing evidence been submitted that shows that the premises are incapable of being financially viable. A certain amount of confidential financial information has been provided from 2017 which indicates that the public house/hotel use was only marginally profitable then, subject to the manager not drawing a salary. However, this only covers a short period of time and cannot, therefore, be taken as evidence of a lack of financial viability more generally, especially having regard to Policy DCO1.
- 8.3.11 The starting point for reaching a decision on this issue, however, has to be Core Strategy Policy EC6 and DaSA Policies DEC3 and DCO1. The purpose of these policies is to protect the District's employment base, the local economy, social infrastructure and tourist facilities, which is important both in terms of supporting the local economy and in ensuring that the town can provide hotel rooms and related facilities for visitors to the town and wider district. The application clearly fails the policy tests that apply - that is, 18 months of a comprehensive and sustained marketing campaign that *'clearly indicates a lack of demand for the existing use or as an alternative commercial or community facility'* and evidence that clearly demonstrates that the premises is not, or is not capable of being, financially viable.
- 8.3.12 For these reasons, it is considered that the proposed change of use should be refused. In addition, Policy DEC3 explains that even in the case where it is accepted that an employment, including tourism use has no reasonable prospect of continued use and a community, tourism or employment use cannot be retained, that alternative community uses or affordable housing (in line with Policy DHG1) should be prioritised before market housing only is considered. The case to allow loss of the public house/hotel use in favour of market housing and A2 Financial and Professional Services is not substantiated in accordance with the requirements of Core Strategy Policy EC6 and DaSA Policies DEC3 and DCO1.
- 8.3.13 The Applicant has cited the case of the change of use of The Smuggler public house in Pett Level from public house to doctors surgery and café as

evidence of inconsistency in the application of the tests set-under DaSA Local Plan Policy DCO1 because no marketing and financial viability information was required in that case. There is no inconsistency in approach in the application of DaSA Local Plan Policy DCO1. The change of use sought there was from public house to doctor's surgery and café. Planning permission was granted for change of use without marketing and financial evidence being necessary because the change was from one community use to another (albeit with a small part of the premises to be used as a café). The justification for that decision was discussed in the report for that application. It explained that should a proposal come forward for a non-community use, such as residential, *'then the policy approach as set out in DCO1 would need to be met'*. The critical difference between that proposal and the proposed change of use at The Sussex Hotel is that the proposal at The Sussex would replace a community use (a public house) and a tourism use (nine bedroom hotel), both of which are defined in Policy DCO1 as uses of 'social and economic value' with mainly residential use, and a Class A2 use at ground level, which in the absence of insufficient evidence to support this, would be contrary to Core Strategy Policy EC6 and DaSA Local Plan Policies DEC3 and DOC1. The two cases are not, therefore, comparable and there is no inconsistency of approach in the circumstances that apply in the two cases.

8.4 Design & Impact on Character & Appearance of the Locality

- 8.4.1 The proposals include the erection of a three storey rear extension, extending across most of the back of the property and covering most of the yard, save for the provision of a rectangular 50sqm amenity/cycle-store area across most of the back of the extended property.
- 8.4.2 The extension proposed would, at up to 15.3m, be very deep.
- 8.4.3 It would not, however, be excessive in the context of its surroundings because the adjoining property to the north (No. 94) has already been extended out at the rear at the same depth and with similar two storey/three storey height and bulk. It should also be noted that the existing building is large, in particular, it is very high (between about 7.2m and 7.9m to eaves and between about 12.25m and 12.6m to ridge). So, the eaves and ridge heights of the proposal simply reflect the existing building, with the ridge height being up to 0.5m lower than the main roof.
- 8.4.4 The extension would not be visible from the street either, being contained entirely at the rear of the building and screened from the north by the extension at the rear of No. 94.
- 8.4.5 The proposal would also relate satisfactorily to the design and appearance of the existing.
- 8.4.6 In conclusion, notwithstanding the height and bulk of the extension, its design would be acceptable and it would have only limited impact in its surroundings and on its character and appearance.

8.5 Parking & Highway Impact

- 8.5.1 The Highway Authority takes the view that there will be no significant increase in the demand for car-parking over and above what is currently associated with the site's use as a public house and hotel and there is no justification for any objections on parking grounds.
- 8.5.2 Storage space for 13 cycles is required; space for 10 would be provided, which needs to be increased. There is scope to achieve this; and this could be made a requirement of a planning condition if planning permission was to be granted.
- 8.5.3 There is scope to turn a vehicle at the rear of the building, so vehicles will be able to enter and exit in forward gear.
- 8.5.4 A disabled person car-parking space would be provided on the forecourt, for which no space for turning within the site would be available. The Highway Authority, nonetheless, takes the view that, although this would not be ideal and would result in a vehicle having to reverse into and out of the site, this would not be so significant a highway hazard as to warrant rejection of the proposal on those grounds.
- 8.5.5 The Highway Authority also takes the view that this is a sustainable and accessible location, within walking distance of local amenities and with easy access to public transport (there is a bus-stop outside the site from where there are frequent services linking to Hastings and Eastbourne); in addition, the site is within walking distance of Bexhill railway station, which gives access to local towns and to the national rail network. This is, therefore, a location where access to a car is not essential.
- 8.5.6 The Highway Authority nonetheless considers that, if planning permission is granted, this should be subject to a condition that requires the submission and agreement of a Travel Plan covering both residential and business use and provides incentives for residents to use public transport or cycling options.
- 8.5.7 It also requires the submission of a Construction Management Plan, to be secured by planning condition, if planning permission is granted.
- 8.5.8 Subject to those issues being addressed, no concerns arise in terms of the provision for parking and the highway impact of the development.

8.6 Refuse & Recycling

- 8.6.1 As originally submitted, the application provided no facilities for waste management.
- 8.6.2 The Council's requirements are for bin-storage to be provided on flat-ground, with dropped kerbs or ramps if there is a change of levels, and located within 20m of the vehicle access. For a development of 10 flats, a bin-storage area capable of accommodating four x 1,100 litre bins is required, two for recyclable waste, two for non-recyclable waste. Commercial waste from the A2 office use would be handled separately.

8.6.3 The application has now been amended to show two bin-storage areas for the flats at the side of the building, each capable of accommodating two x 1,100 litre bins. There would be a separate bin-storage area for the A2 use, also at the side of the building. All storage areas would be within 25m of the carriageway on London Road and 20m of the vehicle access where it enters the site. It is not anticipated that collection vehicles would enter the site.

8.6.4 If planning permission is granted, the provision of the refuse/recycling facilities before first occupation of the flats and first commencement of the A2 use would need to be secured by planning condition. There would also be a need for screening around the storage areas and the detail of this would also need to be secured by condition. Subject to this, no concerns arise in relation to refuse/recycling.

8.7 Living Conditions for Potential Residents & Impact on Amenity of Neighbours

8.7.1 *Living Conditions for Potential Residents*

8.7.2 There are three issues for potential residents:

- the availability of private useable amenity space;
- the need to provide a satisfactory noise environment for occupiers; and
- the extent of compliance with the national Technical Housing Standards, adherence to which is a requirement of DaSA Policy.

Amenity Space

8.7.3 DaSA Policy DHG7 (External Residential Areas) sets out the Council's approach to the provision of external areas to serve residential development. There is no specific requirement in respect of flats, beyond a requirement for "an appropriate level of usable communal amenity-space".

8.7.4 The application now makes provision for an amenity-space of 50sqm in the form of a rectangular area at the rear of the extended building. This would equate to an average of 5sqm per flat and, subject to satisfactory treatment of the area, which could be made the subject of a planning condition if permission was to be granted, this is considered satisfactory.

8.7.5 As to access to public open-space beyond the site, there is The Down public park on the opposite side of the traffic-light controlled junction between London Road, King Offa Way and Coombe Valley Way, which is within a short walking distance. However, this does not compensate for what is not provided within the development. Residents need to have adequate open-space on site to enjoy and an area in which to hang washing to dry, which would be provided satisfactory, now that the application has been amended.

Noise Environment for Occupiers of Proposed Flats

8.7.6 The proposal would introduce A2 Financial & Profession Services at ground floor. A2 use is not inherently noisy and would normally be a day-time use, when many of those living in the flats above could be expected to be awake and carrying out day-to-day tasks (i.e. work, care responsibilities, etc.), at least Monday to Friday.

- 8.7.7 However, the possibility of noise transmission between the ground floor A2 use and the flats at first floor cannot be discounted either. However, this would be covered by the building regulations.
- 8.7.8 The proposal would also create 10 flats, additional to the A2 use, partly within the original building which, because of its age, is not built to modern standards of sound insulation. Nonetheless, all flats to be created can be expected to be built to appropriate standards, and would be subject to the building regulations.
- 8.7.9 It is not expected that noise for people living here would be a matter for concern.

Compliance with National Technical Standards

- 8.7.10 DaSA Local Plan Policy DHG3 (Residential Internal Space Standards) adopts the Government's nationally described space standard - "Technical Housing standards - nationally described space standard".
- 8.7.11 All flats would comply with or exceed the standards.

Impact on Residential Amenity

- 8.7.12 The main impact arises from the large extensions that are proposed at the rear of the building.
- 8.7.13 The impact will be in two directions: towards the terrace of houses at the rear of the site (Sterling Mews); and towards the next-door property to the south-east of the site (No. 90 London Road), which is a three-storey property that has been divided into flats.
- 8.7.14 The Sterling Mews houses will look towards the rear elevation of the extended property. They already look onto the back of the property as existing, which is a very significant feature in the aspect from windows in their front elevation. The current separation distance is about 36m; this will reduce to about 21m once the extension has been added.
- 8.7.15 However, although this will be a noticeable reduction, the 21m gap that will remain is not considered to be so close as to render the proposals unacceptable in terms of their impact on aspect enjoyed at the front. To put this into context, DaSA Policy DHG7 requires rear gardens for new development to be at least 10m deep, which gives a back-to-back separation at least 20m. The relationship here is front-to-rear, which at least avoids the harmful effects on the sensitive rear garden environment.
- 8.7.16 Regarding impact on No. 90, to the south-east of the site, it is mainly the flat in the ground floor of the building that is affected because it has several windows in the flank of an outshoot at the rear of the property that will look towards the flank of the proposed extension. These windows have a north-easterly aspect onto the side of the property as existing.
- 8.7.17 The issue is whether the further impact of the extension proposed would be beyond acceptable tolerances.

8.7.18 The view is taken this would not be so. The access-way separating the two properties is about 6m wide and widens deeper into the site; in addition, the affected windows are about a further 2.1m in from the boundary, giving total separation of more than 8m. The rooms affected (a kitchen, a bedroom and bathroom), along with a conservatory at the rear, have poor aspect onto the side of the existing property and enjoy only limited levels of lighting at present. It is considered that such further impact as will result will be insignificant in that context.

8.7.19 Impact on residential amenity overall is, therefore, considered to fall within acceptable tolerances in the context of the heavily built-up nature of the location.

8.8 Housing Land Supply, Planning Balance & Conclusion

8.8.1 The Council does not currently have a 5-year supply of land for housing (3.7 years supply as of April 2019).

8.8.2 This means that the Local Plan policies most relevant to the determination of the application have to be regarded as out-of-date and triggers the “tilted balance” under Paragraph 11 of the National Planning Policy Framework in favour of granting planning permission for new housing unless, as stated at sub-paragraph d(ii)....

“the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework as a whole.”

8.8.3 Therefore, a judgement on where the balance of public advantage lies needs to be made.

8.8.4 On the one hand, the proposals would provide 10 flats, which in the context of the Council’s current under-supply of land for housing is welcome.

8.8.5 On the other hand, there is the issue of protecting existing employment and tourism-related sites, to maximise jobs and ensure the availability of tourist facilities in support of the town’s role as a destination for visitors.

8.8.6 It is important that such facilities are protected and, if their loss is to be accepted, that this be properly substantiated based sound evidence. The evidence provided does not do this.

8.8.7 The site is in the London Road-Sackville Road Enhancement Area, in recognition of the fact there is scope for townscape improvements in the locality (DaSA Local Plan Policy BEX16 applies). The proposals could well result in some improvement in the appearance of the property but that has to be subject to the requirements of other policies being satisfied.

8.8.8 It is, accordingly, recommended that planning permission be refused on grounds that the proposal would result in the unjustified loss of an employment/tourism facility.

RECOMMENDATION: REFUSE (FULL PLANNING)

REASON FOR REFUSAL

1. The proposal would result in the loss of an existing community and tourism site in respect of which insufficient evidence has been submitted to justify this. In particular, the premises have not been the subject of a comprehensive and sustained marketing campaign for a sufficient period or sufficiently widely to support the contention that there is no demand for the existing use (or as an alternative appropriate commercial or community facility). Neither has enough financial information been submitted to demonstrate convincingly that the use of the premises as a public house/hotel is not capable of being financially viable. It is important that existing employment, community and tourism-related premises are retained in such use to protect the District's employment and economic base, social infrastructure and facilities that serve the needs of visitors to the town, unless there is clear evidence of lack of demand. In addition, the use of the upper floors as market housing is proposed without apparent consideration of enabling development or alternative community uses or affordable housing. The proposal would, therefore, be contrary to the requirements of Policy EC6 of the Rother Local Plan Core Strategy and Policies DCO1 and DEC3 of the Rother District Council DaSA Local Plan (adopted 16 December 2019).

NOTE:

1. This refusal relates to the proposals as shown on the following plans and described within the listed supporting documents:
5912-19-1D
5912-19-2B
5912-19-3B
5912-19-4B
5912-19-5-C
5912-LBP-B
5912-19-RCS-B
5912-CIL Questions
5912-Assessment of Significance-A
5912-Design & Access Statement-A
Planning Statement 24 04 2020
Marketing Report CLM Planning 05 06 2020
Updated Fondare Planning Statement
Savills Marketing Report & Sales Details
Highway Statement
Maintenance Schedule

NATIONAL PLANNING POLICY FRAMEWORK: In accordance with the requirements of the Framework (paragraphs 186 and 187) and with the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.