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NJA Ref: 19/335

16 April 2022

FINAL COMMENTS

Dear Ms Ball

PINS Ref: **APP/Y3805/W/23/3334241**
Appellant: **SD Holdings Ltd**
Site: **53 South View Road, Southwick, West Sussex, BN42 4TS**

Thank you for your letter dated 5 April. On behalf of the Appellant, please find enclosed final comments in respect of the Council's Statement of Case and third party representations.

If you have any queries or require any further information, please do not hesitate to contact me.

Yours sincerely

NJA

Nikolas J. Antoniou
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Chartered Town Planner
For and on behalf of NJA Town Planning Ltd

RTPI Chartered Town Planner

Appeal Ref: **APP/Y3805/W/23/3334241**

Appellant: SD Holdings Ltd
Site: 53 South View Road, Southwick, West Sussex, BN42 4TS

APPELLANTS' FINAL COMMENTS

The Appellant has had an opportunity to study the representations of the Council and third parties and would offer the following observations and comments. The Appellant is aware that he cannot introduce new material or put forward arguments that should have been included in the earlier statement.

Comments on the Local Authority's Statement

The Appellant is firstly concerned that the Council has sought to reintroduce concerns regarding drainage but has not officially sought to change its position on the reasons for refusal and therefore the Appellant is left unclear whether the Council is objecting on drainage grounds or not. The Appellant provided a very detailed drainage assessment undertaken by GTA Civils and the Council concurred at that time with the conclusions. The Council has provided a document titled 'additional comments' which it is assumed from the Council's drainage consultant (although that is not stated), although there are no observations from the Local Lead Flood Authority or the Environment Agency or Southern Water. If the Inspector shares the Appellant's concerns regarding the Council's position on drainage matters, then the Appellant invites the Inspector to allow the Appellant sufficient time to submit a further statement solely on drainage matters in response. This request is made because the time available to comment in detail on these points has been limited to only 14 days which is considered insufficient to respond in detail to what is equivalent to the Council introducing a fourth reason for refusal.

It is suggested by the Council that all of the drainage matters should be revisited again should permission be granted. However, it is a fundamental tenet of planning that you effectively can't by the use of conditions, take away the ability the implement the permission that has been given. The Appellant maintains that this matter has been resolved.

The Appellant notes that the Council concedes it can only now demonstrate a 3.5 year supply of housing which is significantly worse that at the time of the previous appeal (where a 5 year supply was identified) and at the time this proposal was determined by the Council (4.8years) and therefore the planning balance as set out at paragraph 11 of the NPPF is still triggered. Unless the Council is able to demonstrate that the any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole then permission should be granted. The Council statement is very brief on the implications of paragraph 11 and neither the Inspector nor the Appellant are provided with any weighted assessment as to how it has reassessed the planning balance.

Turning to the Council's comments on the impact of the proposals on the character of the area, the Appellant is surprised the Council continues to raise concerns regarding the bulk of the development given that the surrounding streets are largely continuous forms of development in the form of terraces or closely packed semi-detached units. There is largely no views into any backlands. Thus, the public visual context is what is derived from the main streets. The proposed flats whilst different doesn't depart from the overall character of those developments from the main streets.

The Council continues to reference views from the main street but such views would be fleeting and would provide little opportunity for comparison. Furthermore, the orientation of the proposed flats is such that the hipped end is presented to the street and the second block would not be visible behind the easternmost block.

In terms of the criticism of the visual impact of the parking court the Council doesn't appear to give any weight to the significant space for landscaping to the immediate east of the court. Also, by proposing two blocks of flats there is now a significant increase in the amount of 'green' space when compared to the previous scheme.

On the issue of residential amenity, it is noted that the Council remains silent on the Appellant's observation that the Council's concerns are not supported by their own officers with both the Private Sector Housing Team and Environmental Health officers not raising any objection. Furthermore, the Council has also remained silent on the Appellant's comments regarding the previous Inspector's comments on the impact on 57-61 Southview Road, and how these comments might be applied to this proposal (suggesting that there is no unacceptable harm).

Comments on third party representations

K Adsett – 62 Southview Rd

The Appellant has considered very carefully the previous appeal decision and has sought to develop a scheme that addresses the previous concerns.

The concerns raised by residents about surface water disposal are understandable given the wet winter but as the Council originally acknowledged the proposed scheme of surface water disposal will provide betterment over the existing arrangements. Surface water will upon the implementation of the scheme be managed which it is not at present. Southern Water have advised that there is capacity at an agreed flow rate for surface water to be added to the existing network. The issues Southern Water highlight in correspondence with residents are related not to the normal working capacity of the sewer but localised issues elsewhere where surface water in getting into the sewer in an uncontrolled manner, thereby causing localised issues.

In respect of foul water, the Appellant has a right under the Water Industries Act to connect which Southern Water must accommodate. The Appellant is willing to accept a condition which requires details of the foul water infrastructure required to serve this development and which can be reasonably related to the development. However, it is not the responsibility of the Appellant to address wholesale any existing infrastructure deficiencies.

Representations of Mr & Mrs Attwood – 39 Southview Road; Mr Attwood – 23 Southview Road; Mrs A Avis – 8 The Green; Mrs R Avis – 33 Underdown Road; Adur Flood Watch; Mr R Aslett – 75 Underdown Road; Ms Ash – 33 The Green; Mr J Burt – Underdown Road; Ms K Brandon – 12 Southview Road; Mr Branchdale - 31 Underwood Road; Mr T Bran – 25 Roman Way; Mr D Betts – 11 Oldfield Crescent; Ms T Blackman – 54A Underdown Road; Mr R Betts – 11 Oldfield Crescent; Ms E Battie – 42 Southview Road; Mrs G Beadle – 36 Southview Close; Mr A Beal – 28 Underdown Road; Ms L Chapman – 37 Southview Road; A Doo – 15 Southview Road; Major East – 41 Southview Road; Mr A Edmonds – 67 Underdown Road; Mr T Elliot – 23 Cross Road; Mrs E Edwards – 31 Southview Road; Mr R Dean – 52 Southview Road; Mr N De Jersey – 77 Underdown Road; Mr R Debaes – 63 Underdown Road; Mrs G Fitzgerald – 33 Southview Road; Miss N Foster – 34A Phoenix Way; Mr G Jones – 28 Southview Road; Mr R Gogarty – 2 cross

Road; Mrs L Goodall – 29 Friar Road; Stephen Farrell - 58A Southview Road; C Farrell – 64 Cross Road; Miss J Fell - 18 Southview Road; Mrs L Fensome - 42 Cross Road; Mrs & Mr Guy - 44 Southview Road; Mrs B Groves - 32Phoenix Way; D Grainger – 38a Phoenix Way; Ms K Grummett - 26 Cross Road; Mrs M Hallett - 39 Underdown Road; Miss S Harber - The Crescent; Mrs R Hedgecock - 5 Downland Avenue; Mr & Mrs Hampson – 20 Cross Road; Mr D Hyttner - 38 Underdown Road; Louise Nicola Jepson - 52,Southview Road; Mr & Mrs O'Malley; Mrs Jennings – 67 Southview Rd; Ms A Johal - 9 Park Lane; Jaime Eve Jepson - 52,Southview Road; Mr & Mrs Sneyd – 46 Southview Road; Mr R Jones – 50 Southview Road; Mr & Mrs Jordan - 36 Cross Road; Ms K Gregory – 64 Southview Road; Mr C Kaye - 98 Underdown road; Mr R Knight - 54 Roman Way; Mr P Lacey - 2 Spinnals Grove; Mr & Mrs S Lee - 54 Southview Road; Amelia Leigh - 43 Southview Road; Ms O'Brien – 61 Roman Way; Mrs S Older - 61 Southview Road; Mrs I Martin - 59 Southview Road; Mr T Mansfield - 68 Southview Road; Mrs H McKay - 5 Cross Rd; Mrs W Macdonald - 14 Underdown Road; Miss M Monit - 36A Phoenix Way; Mr G Meeney - 3 Southview Close; Dr A Middleton - Drayton Lodge Southview Road; Miss A McWade - 27A Underdown Road; Miss C Pattinson - 48 Underdown Road; Miss K Page - 52 Underdown Road; Mrs J Perkins - 20 Underdown Road; Mrs S Pouteau - 25 Southview Road; Mr B Price - 72 Underdown Road; Ms N Praud - 3 Twitten Close; Mr & Mrs Pouteau-Bowyer - 12A Cross Road; Mrs E Price - 72 Underdown Road; Mr N Prier - 9 Sandown Road; Mr & Mrs Pryor - 73 Southview Road; Mr & Mrs Rhodes - 16 Underdown Road; Mrs & Mr Ritchie - 74 Underdown Road; Mrs 7 Mr Reid - 52 Roman Way; Mrs A Rawson - 152 Old Shoreham Road; Miss M Southgate - 12 Cross Road; Mr J Smith - 62 Underdown Road; Mr M Slagter - 47 Cross Road; Mrs S Sinclair - 22 Roman Way; Southview Area Residents Association; Ms R Sergeant - 50 Roman Way; Mrs C Stevenson - 46 Phoenix Way; Mr N Stewart - 82 Cross Road; Mr & Mrs Tolman - 88 Underdown Road; Dr C Taylor – 2a Southview Rd; Mr A Woolgar – 8 Sandown Road; Mr & Mrs Wales - 44 Cross Road; Mr & Mrs Tweed – 14 Cross Road; Mr S House - 70 Underdown Road; Mrs D Wiggs - 58B Underdown Road; Mr B Freeman - 5 Manor Way, Lancing; Mrs B Gravett - 32 Underdown Road.

Comments regarding flooding are addressed above and in the original statement. Some of the representations make reference to consultation responses from the previous proposals and apply them to the current proposals. That is the incorrect approach to take since both the proposed development and the proposed drainage strategy are very different. The Council has also recommended a number of conditions regarding both surface water and foul water disposal. The Appellant has commented on some of these conditions above.

Reference has also been made to the ecological value of the site in some of the representations. However, these representations do not acknowledge the survey work that has been undertaken both on the arboricultural and ecological matters and the proposed mitigation measures contained within these studies. In respect of the protected tree specific protection measures during construction are proposed. Reference has also been made to the site as if it is a space accessible to the public, this is not the case, it is private land.

Regarding the architectural style it is acknowledged that the apartments do not follow the exact style of the adjoining streets but that doesn't make the design unacceptable but rather introduces variety. The Appellants has sought to develop a design which improves the ratio of building footprint to non-building areas, with a height not dissimilar to surrounding development. The front projections provide a degree of added visual interest and the materials selected are appropriate for the locality. The new building at the entrance is clearly contemporary with the surrounding style.

Clearly the site is part of the urban area, and the Council did not identify any concerns relating to how the appeal proposals relate to the neighbouring properties since separation distances are within acceptable tolerances and the orientation of the buildings has been arranged to maintain acceptable levels of privacy. Whilst the Appellant understands that those residents who abut the site would not wish to look at the proposed development, that is not the relevant test. The test is to establish using the guidelines available whether there is any significant harm to residential amenity, which in this case there is not. Furthermore, the proposed activity is clearly appropriate for its location.

In respect of highway considerations, the Appellant has sought to demonstrate how the proposal would not cause any significant highway concerns subject to the creation of the required visibility splays. The level of extra traffic generation is minimal in comparison to the existing levels of traffic and would not materially impact upon the level of traffic on adjoining streets or air quality levels. It should be noted that the Council's Environmental Health team did not object to the development on air quality grounds. The length of the construction phase for this scale of development would be less than 12 months. In terms of parking the proposals would provide adequate curtilage parking which is marked improvement over the existing situation where most properties are reliant on on-street parking.

In respect of Infrastructure considerations, this development will be subject to the Community Infrastructure Levy which is intended to ensure smaller developments such as this one contribute to the cost of infrastructure such as schools.

Some comments have been made regarding the loss of the existing properties but these comments fail to recognise that these works will facilitate the delivery of a net increase of homes which are needed to meet the housing need of the area.

Mr K Coleman – 21 Mayfield Close

Whilst Mr Coleman's desire to see the land used for an alternative purpose is understood, this not a matter for this appeal given the lack of any specific policy allocating this land for such a purpose. Instead, the Appellant is entitled to have planning permission for the development of this land unless it can be demonstrated that there are sound planning reasons for withholding such permission.

Suggested Conditions

No.3: Given the site is not located in any designated area the requirement to submit details of the matters listed is considered excessive.

No.5: As per No.3.

No.11: The Appellant has already raised a concern that the Council is seeking to replay the testing that has already been carried out and agreed and that if by chance this required alterations to the scheme, this would bring the requirements of this condition into conflict with Condition 2.

For the reasons outlined above and in the Appellant's Statement of Case it is respectfully requested that the appeal be allowed.