

Parish: Selsey	Ward: Selsey South
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**SY/18/00951/FUL and SY/18/00952/LBC**

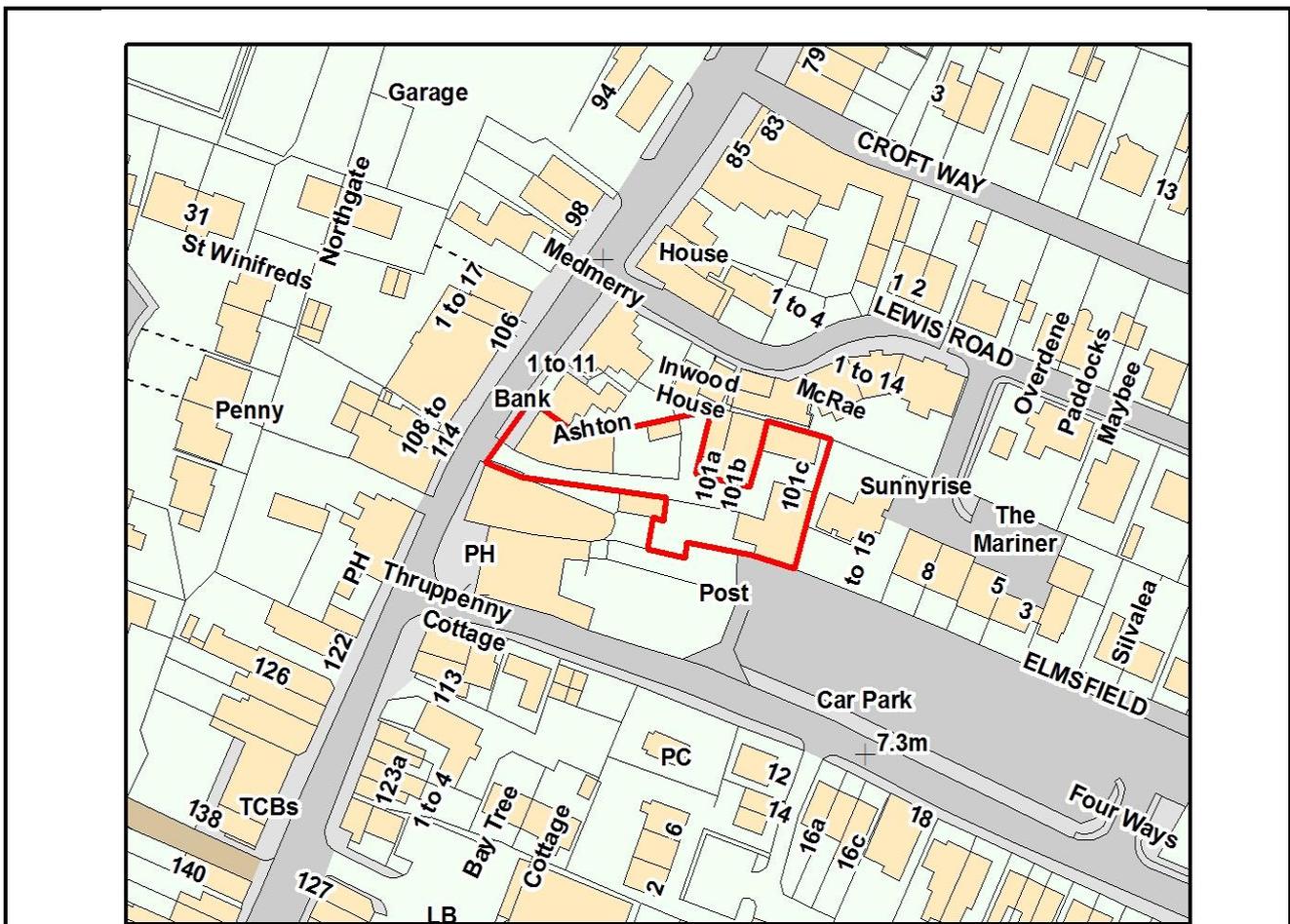
**Proposal** Erection of 8 dwellings, including demolition of existing buildings, provision of parking and new paved access, together with a new pedestrian route from East Street public car park to the Pavilion Theatre and High Street.

**Site** 99 - 101 High Street Selsey Chichester West Sussex PO20 0QL

**Map Ref** (E) 485377 (N) 93277

**Applicant** Jalan Properties Limited - The Alan Noi Trust

**SY/18/00951/FUL: RECOMMENDATION TO REFUSE**  
**SY/18/00952/LBC: RECOMMENDATION TO REFUSE**



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## **1.0 Reason for Committee Referral**

- 1.1 Red Card: Cllr Purnell - Exceptional level of public interest

## **2.0 The Site and Surroundings**

- 2.1 The site is located to the east of the High Street in the settlement of Selsey. The site comprises a number of single storey buildings to the rear of 99-101 and 103 High Street, Selsey (also known as the Pavilion Theatre). Vehicular access is available between 99-101 and 103 High Street. The front half of the site falls within the Selsey Conservation Area and 99-101 High Street is a Grade II Listed building. 103 High Street is recognised as a positive building within the Selsey Conservation Area Character Appraisal and considered as a non-designated heritage asset.
- 2.2 A single storey building located along the eastern boundary of the site is used for storage purposes related to an existing business within the High Street and the remainder of the land within the site is used for storage and parking. Contained within the land to the rear of 99-101 High Street is an MOT garage; however this is excluded from the application site.
- 2.3 The surrounding area is characterised by a mixture of commercial and residential development. The Pavilion Theatre is located to the west of the site at 103 High Street, the East Street public car park is located to the south, and residential development is located along the northern and eastern boundaries.

## **3.0 The Proposal**

- 3.1 The application seeks full planning permission and listed building consent for the erection of 8 dwellings, including demolition of existing buildings, provision of parking and new paved access, together with a new pedestrian route from the East Street public car park to the south of the site. It is proposed that the pedestrian access would link the car park to the Pavilion Theatre and the High Street.
- 3.2 The proposals would utilise the existing access from the High Street and provide four two and half storey buildings containing a total of 8 residential units. The proposed buildings would incorporate gabled ends and dormer windows in the roof slope. The development would incorporate amenity areas for each unit (balcony or garden), parking areas, individual bin and cycle stores, landscaping and a blocked paved pedestrian route from the southern boundary of the site through to the East Street car park.
- 3.3 The development would provide 4 x three bedroom units (first and second floors) and 4 x two bedroom units (at ground floor level). The development would be served by a total of 9 parking spaces and would result in a density of 90 dwellings per hectare.

## **4.0 History**

None relevant to the application.

## 5.0 Constraints

Listed Building	YES
Conservation Area	YES
Rural Area	NO
AONB	NO
Tree Preservation Order	NO
EA Flood Zone	NO

## 6.0 Representations and Consultations

### 6.1 Parish Council

There being no grounds for objection Selsey Town Council supports this application.

### 6.2 WSCC- Highways (summarised)

No objection, subject to conditions. The impact of the proposal on the area will see overall benefits from a highways perspective. The development will generate some additional traffic movements to the site however these will be minimal, and existing un-safe reversing movements in relation to the open builders yard will cease.

Provision for cars to enter the site, park, turn and exit in forward gear should be provided with a swept path analysis diagram; to be submitted to the LPA. The car parking spaces are accessible and in line with current guidance of 2.4m x 4.8m. These would be fitted with EVC points, in line with recent government guidance within the NPPF to encourage sustainable transport options. Safe and secure cycle parking should also be provided for each dwelling.

The proposed pedestrian link would provide a direct route from the existing car park to the High Street, however as the road is not maintained by WSCC it would not be considered a public right of way and therefore any access created would be permissive and the responsibility of the landowner. Providing a link will introduce new patterns of movement to the space which is shared by the existing MOT garage. Manual for streets guidance 11.4 recommends 'streets should not just be designed to accommodate motor vehicles. It is important that designers place a high priority on meeting the needs of pedestrians and cyclists'.

### 6.3 CDC Waste and Recycling

Amended Plans - 21/09/18

I have reviewed the amended plans, I would like to request that all bins are presented on collection days just inside their property boundaries at the closest point to the public highway. I can see from the plans the bins are screened from the road, and in some set back from the road. In these instances it would be the responsibility of the resident to move the bin out on collection day. We always try to discourage the need to reverse and this stance is still the case. I note the developers point that collections from some business is already being carried out by a freighter which reverses in to the site. Therefore I would like noted that if we should experience

difficulties in reversing into this site in the future the council reserves the right to adjust the collection point for the bins.

#### Original Comments

- Our freighter should not have to reverse over excessive distances and all turning areas should be sufficient enough to cater for our large refuse freighters. If there is insufficient room for a turning area to be incorporated into a mews/dead end road we would require a communal collection point for bins at the entrance to the road.
- No turning head within Theatre lane and a bin holding area has been made available approximately half way down the lane on the right hand side. However the distance from the High Street to this holding area is excessive and is required to be shortened to within 25 metres of the High Street to be acceptable.
- All road surfaces should be constructed in a material suitably strong enough to take the weight of a 26 tonne vehicle. Concrete block paving should be discouraged.
- To prevent access issues please may I insist that either parking restrictions are put in place, or adequate visitor parking is provided to prevent visitors from parking at the side of the road.

#### 6.4 CDC - Environmental Health

Comments on Amended Plans and Acoustic Report:

Objection - Our department does not object to the principle of residential development at the application site, however cannot support the proposed current design and positioning of dwellings and would recommend refusal until such a time as appropriate alterations are made.

In particular, it is considered that the design and positioning of units 7 and 8 are contrary to the "agents of change" principles introduced in paragraph 182 of the National Planning Policy Framework (NPPF, July 2018) where existing businesses, such as pubs, should not have unreasonable restrictions placed on them as a result of development permitted after they are established. There are concerns with the orientation of habitable rooms from units 1 and 2 also with this regard.

Further comments are provided to offer clarity to our department's position and also to offer context.

- From August 2017 to August 2018 our department has received numerous complaints with regard to music noise and patron noise from the Crown Pub, High Street, Selsey which is next to the application site to the south. Complaints were from six different neighbouring households.
- Our department conducted noise monitoring next to the pub's rear beer garden from 1am to 2am Sunday 5<sup>th</sup> August 2018 during a music event at the pub. Excessively loud bass music was evident and there was a continued babble of raised voices from the beer garden. This was accompanied by shouts, screams, swearing and football song chanting from the beer garden until 2am. Music noise and patron noise had the potential to cause a public nuisance and the pub was notified.

- The pub introduced a number of noise control measures. At expense, a lobby door was fitted to the rear, filters were fitted to the bass speakers and the rear beer garden was closed to patrons from 11pm.
- Subsequent noise monitoring took place on Sunday 28<sup>th</sup> October 2018 from 00.40am to 01.20am at the same monitoring location which happened to be on the application site. The music bass levels had reduced up to 22dB and the rear beer garden was closed. Music noise from the pub was still audible but not at such a level as to give rise to public nuisance at neighbouring dwellings. Patron activity was evident from the front of the pub.
- The Crown Pub has music events up to 1am, most weekends, in accordance with their premises licence. They hold temporary events under (TENS) up until 2am and can hold up to 14 of these in a year. The pub attracts a younger clientele in the evening and night, hosting DJs playing dance music. These events are well frequented.
- The beer garden is currently utilised up until 11pm with a rowdy crowd in the summer months.
- The pub has worked hard to control noise from the establishment and complaints have stopped, to date, from neighbouring residents.
- The applicant's attached Noise Assessment details that an "adverse impact" is predicted to the north façade of units 7 and 8 from noise from the MOT garage. For this reason, it has been proposed to largely place non-habitable rooms to the north façade and have the main living spaces and bedrooms to the rear south facades. In addition, unit 8 is to have a first floor roof terrace garden to the south, directly overlooking the Crown's beer garden. The sensitive living areas and outdoor amenity area shall be facing the pub and located only meters away from the beer garden.
- To reiterate the pub's beer garden is not a sedate outdoor drinking area, it accommodates rowdy behaviour at times. This is not deemed an appropriate mix for very nearby residential living. The pub hosts a number of all-day charitable music events during the year and the beer garden is full at these times.
- The Noise Assessment has relied on historic data from a pub beer garden in Brighton and not in-situ measurements. Specific measurements have not been taken during a music event at the Crown Pub that accounts for low level bass frequencies that are more likely to cause disturbance.
- Regardless, it is less to do with absolute noise levels from the pub and more to do with the amenity that shall be provided to the proposed dwellings, in particular units 7 and 8.
- The Noise Assessment proposes enhanced acoustic glazing and ventilation to the habitable rooms facing the pub. The ventilation proposed is acoustic trickle vents or MVHR, neither mode of ventilation offers thermal cooling. In the warmer summer months, when the beer garden is at the busiest, it is

inevitable south facing windows of units 7 and 8 will be open for ventilation to cool rooms. An adverse noise impact is likely under these circumstances.

- There is also concern for noise disturbance from the pub, during events, at the habitable rooms facing south from units 1 and 2. Noise mitigation to these units should also be reviewed.
- Reference is made once again to paragraph 182 of NPPF (2018), where it is stated that “where the operation of existing business could have significant adverse effect on new development, the applicant (or agent of change) should be required to provide suitable mitigation”. It is not considered the applicant has demonstrated suitable noise mitigation in this instance.
- It is considered the Crown Pub’s music events and pub garden activities will have an adverse noise impact on future residents, particularly at units 7 and 8. It is feared the pub’s current activities would give rise to nuisance at an element of proposed dwellings and to avoid such nuisance would place unreasonable burden on the pub and jeopardise the current business model. This directly conflicts with national planning policy.

As previously indicated, contaminated land considerations shall have to be accounted for at site.

Our department would be happy to discuss the above comments, should clarity be required. We would be happy to liaise with the applicant or commissioned consultants, to explore more favourable site designs and mitigation options.

#### Original Comments

Objection – Noise Impact Assessment is required prior to determination.

It is considered that in this instance, where it is proposed to redevelop commercial land and buildings and introduce 8 flats, and whilst considering neighbouring noise sources, that a noise assessment shall be required to ensure the provision of residential amenity in accordance with recognised British Standards.

The extent of any noise control will not be known until a thorough noise impact assessment has been completed, which considers all potential noise sources. Whilst visiting site it is evident that there are a number of noise sources, namely the High Street and neighbouring existing commercial businesses.

Paragraph 123 of the National Planning Policy Framework (2012) states existing business wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. A robust, noise impact assessment taking in to account the surrounding activities will safeguard this requirement.

## 6.5 CDC – Estates

We are in discussions with the adjoining land owner regarding the grant of a licence permitting the land owner to remove a section of the wall to create the pedestrian access referred to. The licence, if granted, can be terminated by the Council on terms to be agreed so this access must not be relied upon in connection with the proposed development. Alternative access must be available to the development.

It is recommended that, in the event that planning permission is granted, a condition is included to ensure that the applicant obtains landowners consent prior to taking any access over the Council's adjoining land.

### 6.6 2 no. Third party letters of objection have been received concerning;

- a) Access to the existing MOT would be affected by the proposed increase in cars and pedestrian movements. The movement of MOT vehicles would conflict with pedestrians using the new footpath
- b) Access to the site would be severely narrowed by the new footpath.
- c) The safest route through to East Street is via the Zebra crossing.
- d) Development would block light and views to and from neighbouring windows, especially at Grant Close.
- e) Security lighting would be consistently activated by pedestrians using the footpath

### 6.7 15 no. Third party letters of support have been received relating to;

- a) This development would assist with delivering the Pavillion Theatre. Without development of the site the theatre could not be redeveloped.
- b) The development would bring forward new access routes from the car park which would improve pedestrian safety and ease of access for wheelchair users.
- c) The proposal is excellent and complimentary to the area and theatre.
- d) New houses would revitalise the area and contributes towards the 'Selsey Vision.'
- e) Development would generate revenue and reform an empty area as well as provide a community asset with the pavilion and help to revitalise the high street.

### 6.8 Applicant/Agent's supporting information

The applicant's agent has provided the following response to Officer's request for further marketing information/justification:

- The proposals accord with the principles of making effective of land described in para 118D and E of the revised NPP to promote and support the development of under-utilised land and buildings, (for example building on or above service yards) and support opportunities to use the airspace above existing residential and commercial premises for new homes...consistent with the prevailing height and form of neighbouring properties.'
- The vitality of Selsey town centre is re-enforced by the proposals for the Theatre and effective use of land that provides the community service of a flexible theatre would accord with sustainable development policy.
- The proposals make use of the air space above existing commercial land and properties.

- This proposal for 253m<sup>2</sup> of commercial floor space and un-neighbourly uses to be replaced by 720m<sup>2</sup> of good quality carefully designed residential floor space to be supported.

Within correspondence dated 08/10/18 it is stated that the existing commercial building for carpet storage and associated HGV movements are harmful whereby:

- The carpet business is aware of the proposals and is prepared to relocate their storage when necessary.
- The applicant is aware that suitable storage space regularly becomes available in several locations close to Selsey.
- The existing warehouse is not well suited to its use because HGVs have to reverse turns across the High Street footway and through the site.
- The building does not provide any direct employment of staff; the site is used for the storage of new carpets and old carpets, the latter are collected by HGVs
- The development of the Theatre is dependent on the creation of a safe pedestrian route which involves the demolition of the carpet storage building.

Following a meeting with the applicant and applicant's agent, the current occupier of the existing storage warehouse within the site, Flawless Finish submitted a representation (via the agent) confirming that:

'I can confirm that delivery access by HGVs to the warehouse is not ideal, and causes issues for delivery drivers and other users of the road, whilst deliveries are taking place. As and when appropriate I will be relocating my warehousing requirements to more suitable premises. This will not affect the way my shop on the High Street operates, nor will it create loss of jobs. This is because the warehouse is purely for storage and provides no direct employment from within.'

## **7.0 Planning Policy**

### **Chichester Local Plan 2014-2029:**

Policy 1 Presumption in Favour of Sustainable Dev

Policy 2 Dev Strategy and Settlement Hierarchy

Policy 8 Transport and Accessibility

Policy 33 New Residential Development

Policy 39 Transport, Accessibility and Parking

Policy 42 Flood Risk

Policy 48 Natural Environment

Policy 49 Biodiversity

Policy 51 Development and Disturbance of Birds in Pagham Harbour Special Protection Area

### **Selsey Neighbourhood Plan 2017**

Subject to the incorporation of the recommendations made in the Examiners Report dated 02/10/18, the following policies are relevant:

Policy 001 – Design and Heritage

Policy 002 – Historic Environment (recommended for amendment)

Policy 003 – Settlement Boundary  
Policy 004 – Temporary Agricultural Workers  
Policy 005 – Society  
Policy 006 – Selsey Town Hall  
Policy 007 – Infrastructure  
Policy 008 – Transport (recommended for deletion)  
Policy 009 – Transport (recommended for deletion)  
Policy 010 – Selsey Town Hall  
Policy 011 – Economy  
Policy 012 – Economy  
Policy 013 – Economy

National Policy and Guidance

Section 12 and 16 of the National Planning Policy Framework  
Other Local Policy and Guidance

Consideration has also been given to:

- Surface Water and Foul Drainage SPD
- CDC Waste Storage and Collection Guidance
- Selsey Conservation Area Appraisal
- Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Support communities to meet their own housing needs
- Support and promote initiatives that encourage alternative forms of transport and encourage the use of online services
- Promote and increase sustainable, environmentally friendly initiatives in the district
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

## **8.0 Planning Comments**

The main considerations are:

- i) Principle of residential development and loss of employment use
- ii) Layout, design and impact on the character and appearance of the area
- iii) Impact on the Historic Environment
- v) Impact on amenity of neighbouring properties
- vi) Highway Safety
- vii) Waste Storage / Collection
- viii) Noise
- ix) Contamination / Drainage
- x) Biodiversity
- xi) Other Matters

i) Principle of residential development and loss of employment use

- 8.1 The application site is located within the settlement boundary of Selsey which is identified as a Settlement Hub within the Chichester Local Plan (CLP). It is therefore within a location where new development to reinforce the role of the settlement as a centre providing a range of homes, workplaces and social and community facilities is supported by policy 2 of the CLP, subject to compliance with other policies of the Development Plan. The provision of new dwellings in a town centre location would be acceptable in principle; However, the existing site contains a business unit used for carpet storage associated with an existing business located on the High Street, Selsey. The proposal would involve the loss of this B8 storage unit and therefore Policy 26 of the CLP is relevant to the determination of the application.
- 8.2 Policy 26 of the CLP seeks to protect existing employment sites and indicates that planning permission will be granted for alternative uses on land or floorspace currently or previously in employment generating uses where "it has been demonstrated (in terms of the evidence requirements accompanying this policy) that the site is no longer required and is unlikely to be re-used or redeveloped for employment uses". No such marketing evidence has been provided with the application, nor has any information regarding the relocation of this business been documented.
- 8.3 The applicant and their agent have relied on the general encouragement of national policy (the NPPF) in making effective use of land and the representation made by the current tenant of the site that relocation would be possible to suggest that the current proposals are acceptable. Notwithstanding the agent's submissions and representations made by the occupier of the existing storage unit on the site, the unit is in existing use and clearly serves a purpose for an existing business along the High Street. Even if the unit is surplus to the current occupier's business, the policy seeks to safeguard the provision of employment land rather than individual businesses and the details submitted do not demonstrate that there is no longer a demand for this employment site.
- 8.4 The appropriate method of establishing whether there is still a business demand for such a unit in this location would be to market it for freehold sale or rent. The NPPF is a material consideration and does not change the starting point for determining planning applications in accordance the Development Plan, which includes the Local Plan policies. In this instance Policy 26 of the Local Plan is relevant, and it has not been satisfied; the proposals would result in the loss of a business unit, which has not been justified on any sound basis, including the requirement for an appropriate level of marketing. The proposals would therefore conflict with the aims of this policy and therefore the loss of employment floorspace is unacceptable in this regard.

8.5 Whilst the proposal would result in the provision of additional housing units in a sustainable location, the Council is presently able to demonstrate a 5 year housing land supply, and therefore the dwellings are not required to meet an identified need. The development would not therefore constitute a benefit that would outweigh the loss of the existing employment site. In addition, part of the applicant's justification for the proposed development is the provision of the pedestrian link between the East Street Public Car Park and the High Street. Whilst the potential benefits of this link are recognised; it would provide a direct link without the need to cross main roads, this would not outweigh the fundamental concerns about the loss of employment, particularly in conjunction with the concerns about the design of the scheme and the limited improvement for the users of the proposed link as set out in the report below. Therefore, in conclusion the proposed development would conflict with policy 26 of the CLP as a result of the unjustified loss of an employment use, and there are no overriding benefits that would outweigh this identified harm.

iii) Layout, design and impact on the character and appearance of the area

8.6 Policy 33 seeks to ensure that proposals respect and enhance the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale, neighbouring and public amenity and detailed design.

8.7 The site is surrounded by residential and commercial development including the Theatre and shops located along the High Street. To the north lies Lewis Close which comprises three storey residential development. To the east lies Grant Close which comprises two storey flatted development. To the south lies the parking area to the rear of the theatre and the East Street Car Park. Lewis Close and Grant Close are both areas of high density residential properties, and therefore whilst a high density development may be appropriate in the local context, the policy also requires a high quality design. In addition, new development should respond to the positive attributes of an area, which include the characteristics and features of the Conservation Area and the setting of 99-101 High Street which is a Grade II Listed Building.

8.8 It is considered that the proposed layout would be congested and represents an overdevelopment of the site. Given the narrow and constrained nature of the application site, which excludes the existing MOT station, all of the development would line the perimeter of the site, whereby units 1 and 2 would be located between 1.5-2.4m from the northern boundary, units 3-4 would be located between 3.4m – 3.5m from the northern boundary, units 5-6 would extend up to the southern boundary and units 7-8 would be provided with an awkward ground floor extension that would wrap the southern boundary and leave a small gap of only 1.1m between the southern boundary and the other parts of the building. Between gaps in the built form parking spaces would be provided as well as bin and cycle stores, leaving minimal space for amenity land, gardens or meaningful landscaping.

- 8.9 There would also be limited space to manoeuvre a vehicle in and out of the proposed parking spaces as demonstrated on the proposed 'Access, Turning and Boundary Treatment' plan. In particular the reversing in and out of the parking spaces adjacent to Unit 1 and 2 would be constrained by the width of the access road and positioning of bollards along this part of the southern boundary of the site. Furthermore parking spaces would be constrained by the positioning of the MOT station and its parking area adjacent to parking spaces allocated for units 2 and 7, whereby their turning areas would overlap this neighbouring land. Turning areas would therefore be limited and tight and this further indicates that the development would be cramped and congested in this respect, albeit it is recognised that the Local Highway Authority does not raise an objection on this basis nor on the safety of the highway network, but rather that the scheme provides poor amenity for future users.
- 8.10 For the reasons set out above the proposals represent an overdevelopment of a constrained site in terms of its size and shape, whereby the combination of the volume of built form together with the areas of hard surfacing dominates the site. There would be little space remaining for garden or soft landscape areas, resulting in a cramped and congested layout, which would be detrimental to the character and appearance of the area, contrary to Policy 33 of the Local Plan.
- 8.11 The proposals have been amended during the course of the application in order to seek to address Officers concerns and to take account of the Acoustic Report and the noise mitigation recommended. Units 1 and 2 would contain characterful features such as brick and flint elevations, quoining detail and flat roof dormers in order to provide a focal point of the site. However, the combination of the two and a half storey scale of the building, coupled with the multiple and contrasting features and materials such as glass balustrading, quoining and zinc dormer roofs is considered to be overcomplicated and inappropriate for the context of the site. In order to relate more sympathetically with its context, Officers are the view that the detail on the proposed buildings should be simple, two storey, which should not compete with neighbouring buildings and should achieve an appropriate hierarchy with the taller and more dominant buildings along the High Street. On this basis the proposed scale and design of Unit 1 and 2 would be dominant and harmful to the character and appearance of the area and would represent a poor design solution for the site.
- 8.12 Plots 3-6 comprise 2 x two storey buildings, which incorporate a shallow pitched slate roof and brick elevations. In contrast to Units 1 and 2 these dwellings would contain limited additional features which result in bland frontages and minimal windows facing internally within the site as a result of incorporating the recommendations of the Acoustic Report. Paragraph 130 of the National Planning Policy Framework encourages development to take the opportunity available to improve the character and quality of the area. It is not considered that the appearance of Units 3-6 takes the opportunity to improve the character and quality of the site. Units 7 and 8 are proposed within a two and a half storey building facing over the East Street Car Park. The northern elevation facing into the site contains limited windows in order to mitigate against the noise impacts from the MOT garage to the north and the Theatre to the west. The lack of architectural detailing on these units, which would be highly visible from the public realm is also not considered to represent a high quality design solution for the site and would not take the opportunity to improve the character and quality of the area.

8.13 It is considered that the proposals represent poor quality and incongruous design that fails to take the opportunity available to improve the character and quality of the area (as required by paragraph 130 of the NPPF) and would not respect or enhance the character of the surrounding area and the site which would be contrary to Policy 33 of the Local Plan. Whilst it is recognised that the site is constrained by the shape and size of the plot and by existing and neighbouring development, the amount of development proposed is considered to be excessive and as a result the proposed layout would be contrived and congested which together with their design, would not deliver a high quality form of development. On this basis the proposals would be contrary to Policy 33 of the Local Plan and would Section 12 (Achieving well-designed places) of the NPPF.

iv) Impact on the Historic Environment

8.14 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA) to 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 whilst Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In addition, the NPPF stresses the importance of protecting heritage assets, stating that LPA's should take account of the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities and to the desirability of new development making a positive contribution to local character of a place. Furthermore, policy 47 of the Local Plan requires new development to recognise, respect and enhance local distinctiveness, the character of the area and heritage assets.

8.15 No. 99-101 High Street is a Grade II Listed Building, which fronts the High Street. The building is a two storey brick built building with a long single storey rear extension that projects into the site. Given their close proximity there would be a clear physical relationship between the Listed Building and the application site. Whilst it is considered that two storey buildings on the site would be unlikely to result in harm to the setting of the Listed Building, the amount of development proposed coupled with the congested layout, and concerns about the quality of the design would result in harm to the setting of the Listed Buildings. The harm to the setting of the Listed Building is considered to amount to less than substantial harm when interpreting paragraph 196 of the NPPF. However this harm is not outweighed by the public benefits of the proposal for all the reasons set out within this section of the report. The proposals would not conserve the historic character of the listed buildings and their settings, and would fail meet the requirements of Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and would conflict with Policy 47 of the Local Plan.

8.16 The site partly lies within the Selsey Conservation Area which incorporates a number of Listed Buildings along the High Street, as well as the Pavilion Theatre; a building identified as a positive building, and considered to be a non-designated heritage asset. The proposed dwellings would be located outside of the Conservation Area, however they would impact on its setting. This part of Conservation Area is identified

as being character area 2 with the ten Listed Buildings identified as its 'special interest' within the Conservation Area Appraisal.

8.17 The proposed design of the scheme, including the layout and the appearance of the dwellings is not considered to be acceptable. As a result it is considered that the proposals would result in harm to the setting of the Conservation Area and would fail to comply with Policy 47 of the Local Plan.

iv) Impact on amenity of neighbouring properties

8.18 The site is bounded to the north and east by residential development. These are flatted developments that fall within the immediate vicinity of the site. The Council's 'Design Guidelines for Alterations to Dwellings & Extensions' states that a distance of 21 metres minimum is normally required between the first floor habitable rooms of houses in a back to back situation, or 30 metres where a full three storey development is proposed. In the case of two storey developments with dormer windows in the roof a distance of 25 metres is recommended. In this instance the proposals are for two storey buildings with dormer windows in the roof, which requires a back to back distance of 25m.

8.19 The distance between Units 1/2 and the rear of 'Bromley' located along Lewis Road to the north is 9.3m. Whilst the northern elevation of these units facing Bromley would only contain windows serving bathrooms and the stairwell, and could contain obscure glazed windows, there would still be a perception of overlooking and loss of amenity to neighbouring properties to the north, which is further indicative of a congested and over developed form of proposal. The provision of a balcony up to the northern boundary, would also result in loss of privacy for the future residents of Units 1 and 2 as the residents occupying the second floors of Bromley would directly overlook the balcony.

8.20 The building containing Units 3/4 would be located 5.0m from the neighbouring building to north. There are habitable windows located within the neighbouring building that would fall in close proximity to the proposed development. Whilst no windows are located in the northern elevation of units 3/4, the close proximity of the two buildings, coupled with the use of a balcony would result in inter-looking between the occupiers of both developments. In addition such close proximity between the two buildings and use of balcony, would have an overbearing and visually oppressive relationship which would be detrimental to the amenities of the occupiers of both properties. In particular the balcony and proposed amenity yard serving unit 3 would be significantly overlooked by the development to the north, which would be detrimental to the amenities of the occupiers of Unit 3. Furthermore the side elevations of Units 3 and 4 would be located 3.8m from the side elevation of Grant Close. The neighbouring property has provided photographs of the views from the first floor bedroom window, which would look directly at this side elevation. Due to the close proximity between the two buildings and scale of the proposed development, it is considered that the proposed development would reduce a significant amount of light and outlook to the neighbouring property, which would be detrimental to the amenities of this property.

8.21 Units 5/6 would be located in the south east corner of the site and within 1.0m of the eastern boundary. The rear elevation of 1-14 Grant Close is located approximately 4.6m from the side elevation of units 5/6, and at an oblique angle. Whilst the proposed building would be sited in close proximity to the eastern boundary, its siting to the south west of the neighbouring property coupled with there being no windows proposed in this elevation would ensure that there would be no direct overlooking to the first and ground floor of the neighbouring building. Units 7/8 would be sufficiently distanced from the surrounding properties and oriented such that they would not result in any loss of amenity to these neighbouring properties.

8.22 The proposals provide very little useable amenity space for the proposed units. The site lies in close proximity to the town centre and local parks and therefore the provision of limited amenity space is not a reason for refusal in itself. However given the close proximity of habitable spaces and areas to the neighbouring boundaries, including the public house to the west, MOT garage and neighbouring properties, the proposed development would not provide a high quality living environment for future occupiers.

8.23 Due to the siting of the proposed development along the site boundaries and its two storey scale, the proposals are considered to result in a visually oppressive and overbearing impact to neighbouring properties which would be detrimental to the occupiers of the neighbouring development and the proposed development. In addition, the proposal would not result in a high quality living environment for future occupiers. On this basis the proposals would be contrary to Policy 33 of the Local Plan, the Council's Design Guidance for Alterations to Dwellings and Extensions and paragraph 117 of the NPPF.

v) Impact on Highway Safety

8.24 Policy 39 of the Local Plan seeks to ensure that new development has acceptable parking provision, and safe access and egress to the highway. The proposed development would utilise the existing accesses from High Street. The site would provide a total of 9 parking spaces. WSCC Parking Standards requires the provision of two spaces per unit. However WSCC Highways has confirmed that 9 spaces is an acceptable level of parking provision for the proposed use in this sustainable location. Furthermore the applicant has submitted tracking diagrams to demonstrate that vehicles can turn and exit the site in the forward gear. Notwithstanding that the vehicle tracking indicates that cars would reverse over third party land, this is more indicative that the site is cramped and overdeveloped than indicating a severe highway safety issue because vehicles could make more manoeuvres to turn if necessary. Therefore the size and number of parking spaces for this development is considered to be acceptable.

8.25 WSCC Highways has raised no objection to the application regarding the impact of the additional residential development on the local highway network. In particular WSCC Highways note that there will be overall benefits from a highways perspective, alleviating existing un-safe reversing movements in relation to the commercial use of the site. The advice from WSCC Highways recommends conditions securing an appropriate parking layout, as well as details of bicycle parking. Subject to compliance with the requested conditions it is not considered that the proposed use

would result in a severe highway impact or inappropriate parking behaviour. On this basis the proposals would comply with Policy 39 of the Local Plan.

vi) Waste Storage and Collection

8.26 The proposed development would generate an additional waste container storage and collection requirement of 16 no. 2 wheeled 240 litre bins. These bins are to be stored within the curtilage of each Unit. No central collection point within the site is proposed. The applicant's agent has confirmed that the existing arrangement for a refuse lorry to reverse into the site to collect the bins would be continued, as is the case for the existing commercial uses of the site. Generally, the reversing of waste collection vehicles should be avoided, and such vehicles should not reverse further than 12m in accordance with BS5906 2005. The distance from the High Street to Units 3-6 at the eastern end of the site is 70m, which is well in excess of the 12m recommended. If a refuse vehicle were to reverse 12m this would mean the distance required to collect bins from Unit 3-6 would be approximately 60m, which would be in excess of the 25m drag distance limit for collection crews. However the Council's Waste Team have confirmed that provided residents are provided with refuse and recycling storage and bins are wheeled to the highway and wheeled back on collection days then no objection will be raised to the proposals. On this basis it is considered that it would not be reasonable to resist the proposal on this basis given that there are potential solutions and no objection from the Council's waste team.

viii) Noise Impacts

8.27 The site is adjacent to a number of residential properties, however it also lies in close proximity to commercial noise sources such as the MOT garage and noise sources along the High Street, including the Theatre itself which will host events. The Environmental Health Officer considered that a Noise Impact Assessment was required in order to assess the impact of the extent of any noise control measures.

8.28 An Acoustic Report was submitted with the revised proposals to the layout and design of the scheme received on 14/01/19. The Environmental Health Officer (EHO) has objected to the application on the basis of inadequate noise mitigation relating to Units 1/2 and 7/8. The Acoustic Report recommends that all habitable rooms are located to the south and minimal windows in the northern elevation for Units 7 and 8 in order to avoid adverse noise impacts from the MOT garage. However a balcony is proposed on the western elevation of unit 7/8 which would be located in close proximity to the beer garden for The Crown pub, which hosts late night events and has a history of noise complaints. Furthermore the Acoustic Report recommends triple glazing and acoustic trickle vents which do not offer thermal cooling, meaning that in the summer months the south facing windows are likely to be open and vulnerable to adverse noise impacts from the beer garden.

8.29 Habitable rooms are also located in the southern elevation of Units 1 and 2 which face towards the beer garden and would therefore be vulnerable to adverse noise impacts. It is on this basis that the EHO considers that music events and activities from the beer garden from the Crown Pub would have an adverse noise impact on future residents, particularly at units 7 and 8.

8.30 The proposed development would therefore fail to provide adequate noise mitigation for units 1/2 and 7/8 by reason of their close proximity to neighbouring noise sources, their orientation and design. Due to the nature of the concerns it would not be possible to overcome these issues by imposing a condition requiring alternative measures; the scheme would need to be re-designed to 'design out' the noise impacts. The proposal therefore would not provide a high quality living environment for future occupiers of these units. On this basis the proposals are considered to be contrary to paragraph 182 of the National Planning Policy Framework and Policy 33 of the Chichester Local Plan 2014-2029.

ix) Contamination

8.31 Given the previous uses of the site for commercial/industrial uses including a builder's yard there is considered to be potential for land contamination at the site. The Environmental Protection Team considers that these sources of contamination can be mitigated through a suitably worded condition. In addition given that the former uses were commercial/industrial, it is considered unlikely the development would have a significant impact on local air quality. In the event the proposal was recommended for approval a construction management plan would be recommended to manage covers dust control and noise from construction.

x) Ecology

8.32 The site is located within 3.4km buffer zone of the Pagham Harbour Special Protection Area, where any net increase in new dwellings would be subject to a s106 agreement and contribution to offset any harm to protected bird species as a result of new dwellings. An appropriate assessment relating to the impacts of the development has been carried out and it is considered that the entering into of a legal agreement to secure a financial contribution to offset the impact provides adequate mitigation. However due to officer concerns relating to other planning issues arising from the application, this payment has not been sought during the course of the application. In the event permission is refused and the application proceeds to appeal, this can be secured at that stage. The proposal would however be contrary to policy 51 within the CLP.

xi) Other Matters

8.33 The applicant has stated within their submission that 'Planning permission for the mews development will enable the Pavilion Theatre/cinema to move forward and turn a dream in reality.' Furthermore the applications for residential development and the works to the theatre are stated as being 'linked.' However the application for the Pavilion Theatre development was determined positively on its own merits. It is not considered that the successful function and public access to the Theatre is dependent alone on the proposed development for the 8 dwellings. Neither does it justify approving development that otherwise fails to comply with the Development Plan. Furthermore, the Council's Estates Team have not confirmed whether or not they would support the proposed pedestrian link through to the Council owned car park. The proposals are considered unacceptable in terms of its cramped layout, inappropriate design and adverse impacts on neighbour amenity. These issues outweigh the moderate benefits of the proposals.

## Conclusion

8.34 Based on the above assessment, it is considered the proposals would result in the inappropriate and unjustified loss of a business use on the site. In addition the amount of development proposed is considered to be excessive for the constraints of the and as a result the proposed layout would be contrived and congested which together with their design, would not deliver a high quality form of development and would result in harm to the setting of nearby Listed Buildings and the Conservation. Furthermore the proposals would On this basis the proposals would be contrary to Policy 33 of the Local Plan and would Section 12 (Achieving well-designed places) of the NPPF. Furthermore the proposals would result in an overbearing form of development and an unacceptable perception of overlooking and loss of privacy to both the neighbouring properties and would not provide a high quality living environment for future occupiers including noise pollution. A financial contribution to offset the impact on Pagham Harbour Special Protection Area has also not been provided. On this basis the proposals fail to comply with the policies of the Development Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There are no material considerations, including the provision of public footpath through the site which would outweigh the conflict with these Development Plan policies and therefore the application recommended for refusal.

## Human Rights

8.35 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to refuse is justified and proportionate

## RECOMMENDATION

REFUSE for the following reasons:-

1. The proposed development would result in the unacceptable loss of an existing employment unit which has not been justified through a marketing and viability assessment that demonstrates the employment unit is no longer required. The proposal is, therefore, contrary to Policy 26 of the Chichester Local Plan 2014-2029, and there are no benefits that would outweigh the loss of the employment use.
2. The proposed development, by way of its contrived and congested layout, inappropriate scale and poor architectural detailing, and lack of appropriate landscaping would fail to meet the highest standard of design and would not respect or enhance the character of the surrounding area, including the setting of nearby Listed Buildings and the adjacent Conservation Area. The proposals would not take the opportunity to improve the character and quality of the area. The cramped and poor quality design would result in an incongruous development that would cause harm to the character and appearance of the area and setting of the adjacent heritage assets, which would be contrary to Policies 33 and 47 of the Chichester Local Plan 2014-2029, paragraphs 130 and 196 of the NPPF and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The proposed development by reason of its close proximity to neighbouring dwellings combined with the proposed scale and height of units 1-4 and incorporation of balconies would result in an overbearing form of development and an unacceptable perception of overlooking and loss of privacy to both the neighbouring properties and the future occupiers of the development from neighbouring development. The proposal is therefore contrary to Policy 33 of the Chichester Local Plan 2014-2029 and paragraph 117 of the NPPF.
4. The proposed development fails to provide adequate noise mitigation for the siting and design of units 1/2 and 7/8 whereby their close proximity to neighbouring noise sources would not provide a high quality living environment for future occupiers of these units. On this basis the proposals are considered to be contrary to paragraph 182 of the National Planning Policy Framework and Policy 33 of the Chichester Local Plan 2014-2029.
5. The site is located within 3.4km buffer zone of the Pagham Harbour Special Protection Area where it has been identified that the net increase in residential development results in significant harm to those areas of nature conservation due to increased recreational disturbance. The applicant has failed to make sufficient mitigation against such an impact and therefore the proposal is contrary to Policy 51 of the Chichester Local Plan Key Policies 2014-2029. The development would therefore contravene the Conservation of Habitats and Species Regulations 2017 and the advice in the National Planning Policy Framework.

#### Informatives

The applicant is advised, in the event of an appeal against this refusal of planning permission, that on receipt of a Unilateral Undertaking under S.106 of the Town and Country Planning Act 1990 (as amended) and the payment of the contribution towards the mitigation strategy required for the Pagham Harbour Special Protection Area. Reason for refusal 5; would be withdrawn by the Local Planning Authority. Full details of the Unilateral Undertaking and the contribution requirements are available upon request.

For further information on this application please contact Robert Sims on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P74QRAER0XW00>