

<b>Application Number</b>	<b>21/00661/FUL</b>
<b>Site Address</b>	<b>Land to rear of 56-60 Lowesmoor, WORCESTER, WR1 2SE</b>
<b>Description of Development</b>	Demolition of existing flat roof extensions and provision of residential scheme for 16 apartments.
<b>Expiry Date</b>	16 November 2021
<b>Applicant</b>	c/o Agent
<b>Agent</b>	Mr James Dorey
<b>Case Officer</b>	Andrew Thompson
	andrew.thompson@worcester.gov.uk
<b>Ward Member(s)</b>	Cathedral Ward
<b>Reason for Referral to Committee</b>	Major Application
<b>Key Issues</b>	The principle of development and whether the proposal would be sustainable form of development having regard to the 3 dimensions of sustainable development in terms of its economic role, social role and environmental role.
<b>Web link to application</b>	<a href="https://plan.worcester.gov.uk/Planning/Display/21/00661/FUL">https://plan.worcester.gov.uk/Planning/Display/21/00661/FUL</a>
<b>Recommendation</b>	<b>The Corporate Director - Planning and Governance recommends that the Planning Committee refuses planning permission for the reasons set out in Section 9 of this report.</b>

## 1. Background

- 1.1 The application was registered on 17 August 2021 and was due for a decision on 16 November 2021. An extension of time has not been agreed.
- 1.2 The application has been referred to the Planning Committee as it is outside the scope of the adopted Scheme of Delegation.

## **2. The site and surrounding area**

- 2.1 The application site is a total of 0.05ha (500sqm) and is currently used for car parking and servicing to frontage properties on Lowesmoor. The site also includes an existing single storey building which would be demolished as part of the proposals.
- 2.2 The application site lies to the south of Lowesmoor frontage properties which includes the Firefly Public House with the rear of Asda and St Martins Gate to the south of the application site. The Firefly Public House has a beer garden and external fire escape adjacent to the application site.
- 2.3 Access is to the southwest which is also includes access for disabled parking provision for the Asda store which is located opposite the application site. The site is currently bordered by metal palisade fencing.
- 2.4 The application site is located in the Worcester City Air Quality Management Area.
- 2.5 In terms of Heritage Assets, the site is located in Lowesmoor Conservation Area which is designated as Heritage at Risk by Historic England and in an Archaeological Sensitive Area. The Firefly Public House (54 Lowesmoor) and Elim Pentecostal Church (62-64 Lowesmoor) are Grade II Listed which form part of the frontage properties. There are also a number of Listed Properties on the opposite side of Lowesmoor including 49, 51A, 51B, and 53 (The Pig and Drum) and 55 and 57 Lowesmoor.
- 2.6 The application site is located in Flood Zone 1 (lowest risk of flooding).



**Figure 1 – Location Plan**

## **3. The proposals**

- 3.1 The application proposals are for 16 apartments following demolition of the single storey building. The proposals would be over 3 and 4storeys at the front with a two-storey development to the rear. It should be noted that the rear element contains rooms in the roof to create duplex apartments or maisonettes with rooflights providing light into these bedrooms and bathrooms. It is noted that no car parking is proposed and the proposals show bin and cycle storage alongside a plant room to the front elevation.
- 3.2 The applicant, in the Design and Access Statement, sets out that the proposed development seeks to maximise the site area whilst respecting the surrounding properties and the indented boundary profile line. The scheme is essentially composed of two blocks; the first block facing St Martins Quarter and a second smaller block tucked between the first block and the rear of no's 56-60 Lowesmoor.
- 3.3 Further the applicant continues that the front four and three storey block is positioned directly on the site boundary creating a street frontage in line with the neighbouring boundary wall. At the rear this block is set back from the existing 1.8m (6ft) high brick boundary wall by approx 7.5m, creating a 120sqm courtyard.
- 3.4 The applicant sets out that the second, smaller two storey block sits perpendicular to the first and has a south facing aspect only. This forms a 5m deep light well between the properties on Lowesmoor and the development.
- 3.5 Access to the development is provided via a recessed entrance door from the pedestrianised zone and leads into a central circulation core which serves both front and rear accommodation blocks. The 2-bed apartment is located at ground floor in the rear block and at first floor level are two 1 bed maisonettes whilst 13 one bed apartments are located in the front block.
- 3.6 The applicant sets out the external design proposals seek to conserve and enhance the character of the Lowesmoor Conservation Area by utilising design features present within local architecture. The basic elevational form takes reference from the adjacent properties, notably the roof lines; eaves detail, regularity and size of window apertures-mimic.
- 3.7 Multi-gables reflect the roofscape evident within the locality, with a brick header course to the eaves and gable ridge to compliment the detailing associated with The Vinegar Works. The standing seam roofs and arrangement of roof lights are also a nod to the industrial character of the surrounding buildings and all reminiscent of traditional Victorian architecture.
- 3.8 In contrast the applicant highlights that the approach to the window design is a more contemporary one. All windows are proposed to be aluminium powder coated casement opening units with slimline frame sections to maximise light levels in all rooms. The tall, fixed windows with side vents mimic the repetition of apertures of the industrial buildings within St Martins Quarter. The external design also includes feature soldier courses between windows, which the applicant considers enhances the texture and provides interest to the basic elevation form. The recessed downpipe detail provides security and keep the elevations clutter free.
- 3.9 The applicant highlights that whilst including traditional Victorian building forms within the design, the materiality and construction details of the proposed elevations seek to express a more contemporary appearance.
- 3.10 The applicant concludes that the overall effect of these design decisions creates properties with a distinctive architectural language. Blending the strength and robustness of the Victorian built form with the clean and crisp lines offered by modern construction techniques and materials.

3.11 The application is accompanied by a full set of plans together with a suite of supporting documents that include:

Location Plan – Drawing Number 2098 1000  
Block Plan - Drawing Number 2098 1020  
Site Plan - Drawing Number 2098 1010  
Proposed Floor Plans  
Proposed Elevations  
Topographical Survey  
Existing Survey Elevations – Drawing Number BA31471020/02  
Existing Elevations - Drawing Number 2098 2000  
Design and Access Statement  
Air Quality Assessment  
Energy Statement  
Noise Impact Assessment  
Geo-Environmental Assessment  
Planning Statement  
Desk Based Archaeological Assessment  
An Updated Noise Assessment

The applicant also includes the pre-application advice received prior to the submission of the application.

3.12 In accordance with Article 15 (7) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), full details of the application have been published on the Council’s website. As such, Members will have had the opportunity to review the submitted plans and documents in order to familiarise themselves with the proposals prior to consideration and determination of the application accordingly.

#### **4. Planning Policy**

4.1 The Town and Country Planning Act 1990 (‘the Act’) establishes the legislative framework for consideration of this application. Section 70(2) of the Act requires the decision-maker in determining planning applications/appeals to have regard to the Development Plan, insofar as it is material to the application/appeal, and to any other material consideration. Where the Development Plan is material to the development proposal it must therefore be taken into account. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application/appeal to be determined in accordance with the Plan, unless material considerations indicate otherwise.

4.2 Paragraph 200 of the NPPF states that “Local Authorities are called to look for opportunities for new development within conservation areas and the setting of heritage assets to enhance or better reveal their significance” and that “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area” (paragraph 130). This is further reflected in South Worcestershire Development Plan policies SWDP 6 and SWDP 24 which seek to protect and enhance designated and non-designated heritage assets and guide against development that would cause substantial harm to the significance of any heritage asset and policy SWDP 21 which sets generic design principles for development proposals. Policy SWDP 21 requires that all development will be expected to be of a high design quality and integrate effectively with its surroundings and that development proposals must complement the character of the area.

Furthermore, proposals should respond to surrounding buildings and the distinctive features or qualities that contribute to the visual and heritage interest of the townscape, frontages, streets and landscape quality of the local area and states that the scale, height and massing of development must be appropriate to the setting of the site and the surrounding landscape character and townscape, including existing urban grain and density.

4.3 The key legal provisions relating to the consideration of heritage assets in the planning system are s72 (1) and s66 (1) of the Planning Listed Buildings and Conservation Areas Act 1990 which state that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" and "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".

4.4 The Development Plan for Worcester now comprises:

- The South Worcestershire Development Plan (SWDP) which was adopted February 2016, and;
- The Worcestershire Waste Core Strategy, which was adopted on December 2012.

### **South Worcestershire Development Plan**

4.5 The following policies of the SWDP are considered to be relevant to the proposal:

SWDP 1 Overarching Sustainable Development Principles  
SWDP 3 Employment, Housing and Retail Provision Requirement and Delivery  
SWDP 4 Moving Around South Worcestershire  
SWDP 5 Green Infrastructure  
SWDP 6 Historic Environment  
SWDP 7 Infrastructure  
SWDP 9 Creating and Sustaining Vibrant Centres  
SWDP 13 Effective Use of Land  
SWDP 14 Market Housing Mix  
SWDP 15 Meeting Affordable Housing Needs  
SWDP 21 Design  
SWDP 22 Biodiversity and Geodiversity  
SWDP 24 Management of the Historic Environment  
SWDP 27 Renewable and Low Carbon Energy  
SWDP 28 Management of Flood Risk  
SWDP 29 Sustainable Drainage Systems  
SWDP 30 Water Resources, Efficiency and Treatment  
SWDP 31 Pollution and Land Instability  
SWDP 37: Built Community Facilities  
SWDP 39: Provision for Green Space and Outdoor Community Uses in New Development

### **The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027**

4.6 The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

WCS1 (Presumption in favour of sustainable development)  
WCS3 (Re-use and recycle)  
WCS17 (Making provision for waste in new development)

## **Material Considerations**

### **1. National Planning Policy Framework**

### **2. National Planning Practice Guidance**

### **3. Supplementary Planning Documents**

4.7 The following Supplementary Planning Documents (SPD) are relevant to the application proposals: -

- South Worcestershire Design SPD
- Planning for Health in South Worcestershire SPD
- Developer Contributions SPD
- Affordable Housing SPD
- Renewable and Low Carbon Energy SPD

### **4. Other Material Considerations**

4.8 The following Documents are also considered relevant to the application proposals: -

- Worcestershire's Local Transport Plan (LTP4) 2018 – 2030
- Worcestershire County Council Streetscape Design Guide (2020)
- Worcester City Masterplan (2019)
- Lowesmoor Conservation Area Appraisal (2017)

### **5. Relevant Legislation**

4.9 The following legislation is also relevant and has been taken into account when considering this application:

Town and Country Planning Act 1990 (as amended)  
Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)  
Human Rights Act 1998  
Accessibility and Equalities Act 2010  
Section 17 of the Crime and Disorder Act 1998  
Flood and Water Management Act 2010  
Air Quality (England) 2000 Regulations

## **5. Relevant Planning History**

5.1 The site is situated within St Martin's Quarter, a retail led scheme anchored by Asda, that was the subject of planning application P06D0250. Planning permission was granted upon completion of a Section 106 Agreement that was completed on 11 March 2008. Corresponding Conservation Area and Listed Building consents were also granted in February 2007 for the demolition of 19 unlisted buildings across the site (LPA ref: L06D0039) and internal and external alterations to the New filling shed (Vinegar Warehouse) (LPA ref: L06D0038) and internal and external alterations to 18/20 Silver Street (LPA ref: L06D0040).

5.2 There have been further applications for the variation and removal of certain conditions of these consents, amendments to the approved scheme, conversion of buildings and for development of sites adjacent to St Martin's Quarter.

5.3 Planning permission and listed building consent has also been granted for the conversion of the upper floor offices and roof space of 58-60 Lowesmoor to 3no. self-contained flats under application P06D0503 with amendments granted in 2009.

- 5.4 More recently, planning permission and listed building consent has been granted for a first-floor extension and internal alterations to provide a new meeting hall and improved internal facilities, in addition to re-roofing of the Elim Pentecostal Church at 62-64 Lowesmoor (LPA ref: 20/00619/FUL and 20/00620/LB).

### **Pre-application Engagement**

- 5.5 The applicant engaged in a pre-application consultation with officers in early 2021 (reference: 21/00008/PA).

## **6. Consultations**

- 6.1 Formal consultation, including display of site notices, has been undertaken in respect of the application. The following comments from statutory and non-statutory consultees and interested third parties have been received in relation to the original and amended proposals and are summarised as follows:

**Neighbours and other third-party comments:** 11 Objections have been received from the local residents and nearby occupiers (including the Firefly Public House) objecting to the proposals on grounds relating to the following matters:

- The Firefly is a community public house and a valuable meeting place. The apartments, if approved, will impinge upon the freedom of live music entertainment. The live music does not create a noise nuisance but invariably will once apartments are directly adjacent.
- The proposed development falls within the Lowesmoor conservation area and in my opinion the height and size of the building is overbearing and does not fit in with surviving medieval plot pattern.
- Shoehorning new homes in directly adjacent to two established late-night venues is for the benefit of either the new residents or owners, staff and clientele of said venues. The noise impact assessment contains a number of flaws which mean it is not an accurate representation of the real noise levels the site would experience.
- The noise assessment was done during the period when venues were only partly open. Therefore, the Firefly was running at reduced capacity and table service only and The Flag wasn't even open. The noise sensors were conveniently tucked around the corner behind the two-storey extension at the back of the Firefly and hence shielded from most of the noise from the Firefly beer garden, The Flag (if it had been open) and the busy thoroughfare linking Asda and Lowesmoor.
- The nighttime economy in Lowesmoor provides a valuable amenity to both local residents and the wider population of Worcester and any development which could put this under threat should at the very least be subject to a realistic assessment of the harm it may do.

**Worcester City Council Conservation Officer:** The application site is unlisted and situated in the Lowesmoor conservation area. There are three listed buildings in the immediate vicinity: 54 Lowesmoor (The Firefly); 64 Lowesmoor (Elim Pentecostal Church), and Dancox House (listed as The Vinegar Works): all are grade II. Of these, the first and last are the most directly affected by these proposals.

This officer knows the site well from visits to the Army Reserve Centre. It's currently a rather scrappy site, left over from the redevelopment of the former Hill & Jones vinegar works into the St Martin's Gate centre, and, as such is it possibly ripe for some level of improvement. The question is therefore whether this proposal is appropriate for the application site?

While the proposed development would have a less than significant impact in the context of the Lowesmoor conservation area, because of its location at the rear of the street frontage buildings, its proposed height and scale would cause harm when it was viewed from Pheasant Street. Also, as the building would be situated along a pedestrian/delivery access to the St Martin's Gate retail park, it would be much more visible than if it was to the rear of a building in a conservation area beside which such access was not possible.

Overall, the opportunity to neaten up this application site is welcomed; but it is considered that the current proposals represent over development here. In particular they would harm the setting of The Firefly and detract from the significance both of this and of the Elim Pentacostal Church. This officer therefore objects to the current proposals.

**Worcester City Council Archaeology Adviser:** Although there is a very brief heritage statement with the application, this does not address archaeological issues, such as the Roman road which may cross the site, or the remains of medieval industries. An archaeological desk-based assessment or evaluation, as appropriate, should be submitted, otherwise the application should be refused as non-compliant with NPPF para 194 and SWDP24. [An archaeological assessment has subsequently been submitted]

**Worcester City Council Landscape and Biodiversity Adviser:** As long as there is no work to the existing larger buildings, the flat roof items are unlikely to harbour wildlife. No objections in principle, however 4 storeys is too high and out of character here, being essentially visually attached to the Lowesmoor frontage and not any larger buildings much more set back here.

**Worcestershire County Council (Highway Authority):** No objection subject to conditions. The proposed development of 16 apartments in Lowesmoor has been put forwards as a 'parking free' development and details of the sustainable credentials of the city centre site have been provided in the submitted Technical Note. Also, there are parking restrictions in place in the vicinity of the site, therefore it is considered that the criteria in the Streetscape Design Guide have been met. Moreover, the Technical Note makes reference to the private car park to the rear of the proposed site which is said to be 'no longer in use' and it has been observed that the car park is empty, and the gates are locked. Therefore, it is accepted that there will be no displacement of existing parking as a result of the proposal and the Highway Authority has no objection. Cycle parking (17 spaces) is to be provided with further details required and it is expected that Welcome Packs will be provided to future occupiers to promote the sustainable travel options. Guidelines for producing a welcome pack will be provided separately for the applicant's attention.

**Worcestershire County Council – Education** - A development of this type and size is unlikely to have a notable impact on local education infrastructure. As a result, no education contribution will be required for this site.

#### **Worcestershire Regulatory Services**

**Noise, Nuisance and Pollution:** We have reviewed 'Noise Impact Assessment: Proposed Residential Development Land to the rear of 56-60 Lowesmoor, Worcester' Ref: 9031/BL prepared by Acoustic Consultants Ltd.

A Noise Impact Assessment (NIA) has been commissioned due to the development's proximity to a Public House and Church. Patron, music and worship noise have been identified as significant sources that could impact upon future residents. In order to avoid future nuisance complaints and onerous conditions being placed upon existing businesses it is critical that any proposed mitigation measures within any new residential dwellings are robust. WRS have concerns regarding the measurement locations chosen to carry out the environmental survey. Location A and B have been carried out at first floor level, in a location which appears to be screened from Public House/Beer Garden noise by existing buildings, and as such are not deemed representative. Consequently, WRS are unable to fully support the conclusions drawn within the report.

An updated Noise Assessment has been submitted.

**Air Quality:** The Air Quality Assessment is appropriate and WRS agree with the methodology and conclusion, therefore WRS have no adverse comments to make for Air Quality. WRS recommend that conditions are added in the event planning permission is granted.

**Contaminated Land:** No objection subject to conditions. There are no direct records to suggest a definite on-site risk of residual ground contamination, however the lack information on pre-mapping usage, the inner-city context, plus previous findings at adjacent sites, suggests that this is possible. Bedrock mudstone may pose a risk of elevated sulphates to foundation concrete, as could the anticipated made ground cover. It is recommended that sulphate testing be completed to assess such risks and to inform concrete foundation design. Some site investigation is recommended.

**Planning Policy:** subject to consideration of detailed aspects there is no objection to this planning application from a planning policy perspective. However, particular consideration should be given to the requirements of SWDP 31 in terms of any adverse impacts relating to the effective operation of neighbouring land uses.

**Canal and Rivers Trust:** No comment

**West Mercia Constabulary Crime Risk Manager:** Secured by Design (SBD) is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention in the built environment for residential properties. The proposed development is situated within the heart of Worcester City centre therefore appropriate levels of security for the proposed development of residential apartments is required. There are no details within the Design and Access Statement of security, therefore I am unable to make a comprehensive assessment of the application. Secured By Design 27:14-27:17 provides the physical security requirements for communal entrance doorsets with electronic visitor door entry system serving 10 dwellings or more. I wish to emphasise that tradesperson release mechanisms are not permitted under SBD guidelines, and I would not like to see such a device used on this development. The delivery of mail should follow the guidelines outlined in section 32 of the SBD guide. I note that cycle storage has been proposed, cycle thefts are a concern in Worcester therefore I would encourage the use of secure cycle storage and controlled access into the area. All residential doors should be dual certified for both security and fire, the doors should meet security standard PAS24:2016 or equivalent and have the appropriate fire rating. Details of guidance for residential developments can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

**Conservation Advisory Panel:** The Panel commenting that its 'industrial scale and form' fitted well in this context.

Final material choices will be important. Some discussion followed about parking, but it was noted that the Highway Authority accept the site as parking free. The panel agreed that the scheme was modern in appearance and style but fitted well with the neighbouring buildings.

- 6.2 Members have been given the opportunity to read all representations that have been received in full. At the time of writing this report no other consultation responses have been received. Any additional responses received will be reported to members verbally or in the form of a late paper, subject to the date of receipt.
- 6.3 In assessing the proposal due regard has been given to local resident's comments as material planning considerations. Nevertheless, decisions should not be made solely on the basis of the number of representations, whether they are for or against a proposal. The Localism Act has not changed this, nor has it changed the advice that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission unless it is founded on valid planning reasons.

## **7. Planning Assessment**

7.1 Policy SWDP1 of the South Worcestershire Development Plan sets out overarching sustainable development principles and these are consistent with the Framework. The various impacts of the development have to be assessed and the benefit and adverse impacts considered, to establish whether what is proposed is sustainable development. Taking the above matters into account the main issues raised by the proposal relate to the principle of development and whether the development would be sustainable, having regard to the 3 dimensions of sustainability set out in the Framework. The key determining issues are:

- The Principle of Development
- Design and Layout
- Heritage Considerations
- Residential Amenity of Future Residents
- Impact on Neighbouring Residents and Commercial Occupiers
- Noise and Air Quality
- Biodiversity
- Climate Change
- Highways, Access and Car Parking Considerations
- Planning Obligations

### **The Principle of Development**

7.2 The site comprises a brownfield site which, in accordance with the expectations of the NPPF, makes the most effective use of land by re-using previously developed land. As such it is considered that the submitted proposal accords with the broad aims of the NPPF and is consistent with the development strategy and settlement hierarchy set out in policy SWDP 2 by making best use of accessible, available and environmentally acceptable brownfield land, focusing development on the urban area, in a location at the heart of the settlement at the top of the hierarchy.

- 7.3 The site is located within St Martin's Quarter comprising a mixture of retail and non-retail uses with residential, and retail uses further afield in Lowesmoor and Pheasant Street. The application proposals would be located in a sustainable location and therefore would be appropriate in principle for residential use subject to the consideration of detailed matters.
- 7.4 Notwithstanding the above, it is important to consider whether the development of this site would have an appropriate impact on the overall character of the surrounding area, be of appropriate design, respect neighbouring residents' amenities, and whether a site of this size has the capacity to deliver a high-quality residential development which meets the needs of future occupants amongst other material considerations are an influence on the matters of consideration. Therefore, whilst there is no objection in principle to the development, the consideration of detailed measures should be considered in full and considered as part of the planning balance. These are set out below.

### **Design and Layout**

- 7.5 Policy SWDP 21 and the NPPF set out that proposals should achieve a high-quality design. In particular Paragraph 130 sets out the following criteria for development. It aims that development will create places that:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.6 Whilst the Conservation Advisory Panel comments are noted and did not raise any concerns with regard to the proposal, Officers consider that the proposals are contrived and taking account of the proximity to the site boundary would not integrate well to the surroundings. It is noted that efforts have been made to add contemporary touches and ethos however it is considered that this has not been done successfully, particularly in terms of the scale and mass in relation to the more significant building of the Firefly Public House (54 Lowesmoor) and the historic buildings to which the proposals will form a close physical relationship.



**Figure 2 – Extract of the Proposed Block Plan**



**Figure 3 and 4 – CGIs from the Design and Access Statement**

- 7.7 The proposed public frontage would also be dominated by non-active frontages formed by the plant room, cycle store and bin storage and therefore there would be no significant active frontage to the development on this key walkway.
- 7.8 Overall, it is considered that whilst there is a clear ethos to the proposals, these have been contrived into the site and do not form a high-quality design solution applicable to the site. It is considered that the proposals are an overdevelopment and cramped form of development that would not achieve a high quality of design. As such the proposals are contrary to Policy SWDP 21 and the aims and objectives of the National Planning Policy Framework, in particular the criteria set out in Paragraph 130.

### **Heritage**

- 7.9 With regard to heritage assets, Policy SWDP 6 of the Local Plan states:

*'A. Development proposals should conserve and enhance heritage assets, including assets of potential archaeological interest, subject to the provisions of SWDP 24. Their contribution to the character of the landscape or townscape should be protected in order to sustain the historic quality, sense of place, environmental quality and economic vibrancy of south Worcestershire.*

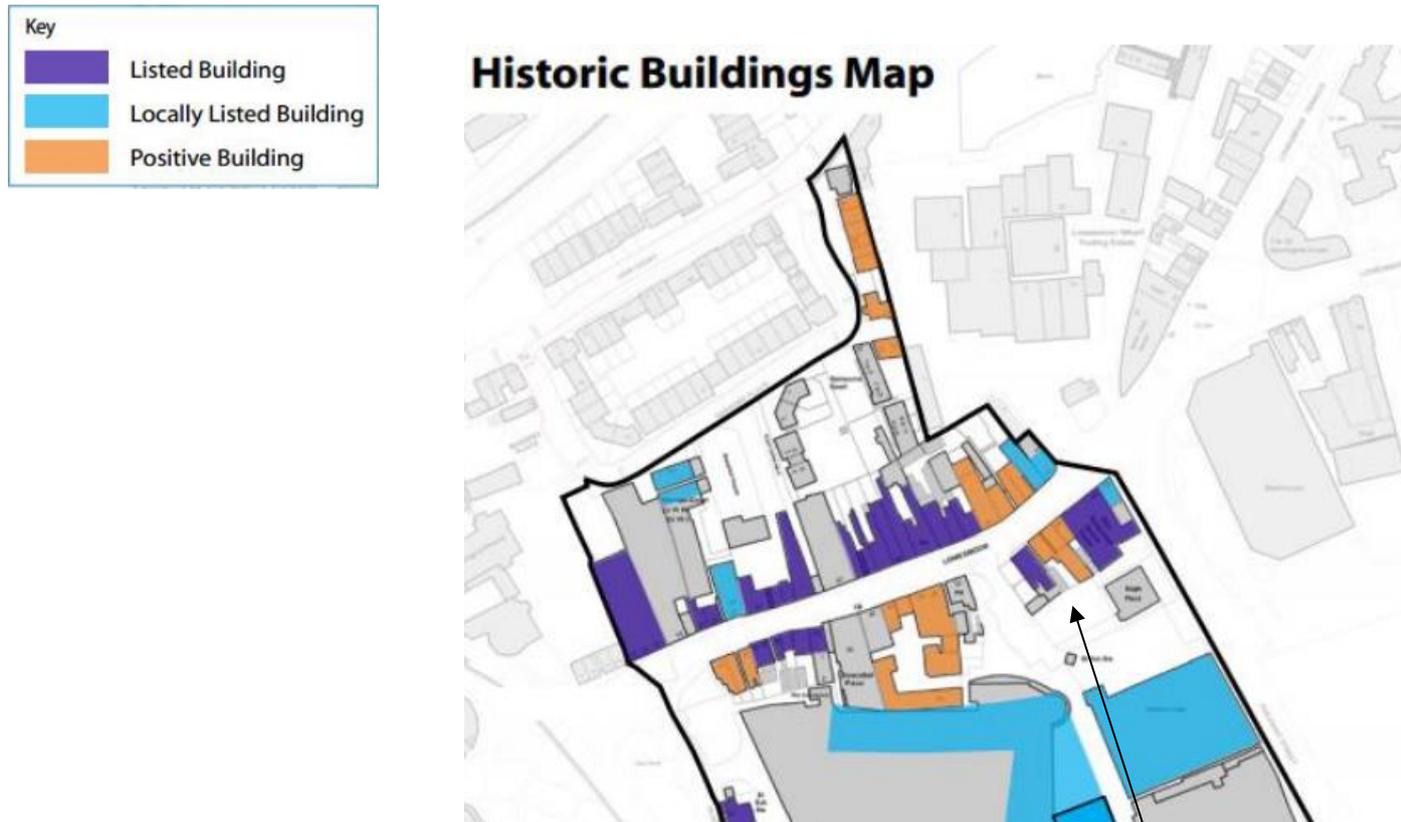
*B. Development proposals will be supported where they conserve and enhance the significance of heritage assets, including their setting. In particular this applies to:*

*i. Designated heritage assets; i.e. listed buildings, conservation areas, scheduled monuments, registered parks and gardens and registered battlefields, as well as undesignated heritage assets.*

*ii. The historic landscape, including locally distinctive settlement patterns, field systems, woodlands and commons and historic farmsteads and smallholdings'.*

- 7.10 Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 states 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.
- 7.11 Section 69 of the Planning (Listed Buildings & Conservation Areas) Act 1990 defines a conservation area as '*An area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance*'; and Section 72 of the same Act requires the local planning authority, in the exercise of powers in respect of buildings or land within a Conservation Area to give special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 7.12 Paragraph 199 of the NPPF states '*When considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting*'. The latter is of most relevance here. Further, paragraphs 201 and 202 of the NPPF make a distinction between substantial harm or total loss of significance of a designated heritage asset and less than substantial harm to significance.
- 7.13 Development within Conservation Areas should preserve or enhance the character and appearance of the Conservation Area in accordance with Policies SWDP 6 and SWDP 24 of the Local Plan and Section 16 of the National Planning Policy Framework, while development near listed buildings should not adversely impact upon the setting of those listed buildings.
- 7.14 As stated within the Lowesmoor Conservation Area Appraisal, the Elim Pentecostal Church is the only building in religious use within the conservation area. This 1830s chapel was set up to cater for the spiritual and physical welfare of the local watermen and dock labourers following the construction of the Worcester and Birmingham Canal. Grade II listed, the chapel is an imposing single storey building with an attractive stuccoed classical façade. Set within the tightly knit building line of brick terraces the building creates a notable variation and contrast in the street scene in relation to both scale and tone.
- 7.15 The Appraisal continues that No.54 and No.64 Lowesmoor are examples of buildings which still retain their original Georgian "house" facade. No. 54 is grade II listed and is noticeably taller in the street scene being of three storeys in height plus attic and set over a basement.

The raised ground floor is approached up a flight of steps sheltered beneath a deep porch which surrounds a Georgian door case, set back from the established building line of the street behind a front area enclosed by a set of historic railings. These subtle but slightly grander displays of architecture indicate a building of higher status reflected in the built form and architectural embellishments. The additional height and elongated sash windows give this building a vertical emphasis. No.64 is a Grade II building sited adjacent to the chapel with traditional sash windows, dentilled eaves and fanlight. Below is a plan of the historic context from the Lowesmoor Conservation Area Appraisal.



**Figure 5 - Extract from Lowesmoor Conservation Area Appraisal (Application Site)**

- 7.16 The proposals in our view would harm the setting of the Firefly and compete for significance to the street scene and locality to the detriment of the listed building. In relation to the Elim Pentacostal Church, the "two storeys" rear element is of particular concern in particular how this relates to and adjoins the listed building.
- 7.17 Whilst the proposals would not be significant in the context of the Conservation Area due to its position to the rear of the frontage properties, the height and scale of the proposals would cause harm when viewed from Pheasant Street.
- 7.18 Individually each harm perhaps is best categorised as less than substantial although there is a case for higher categorisation of harm to the Firefly Public House due to the impact on the interpretation and competing scale and proportions of the proposal against the heritage asset and the impact on the cast iron railings which also form part of the List description. Each harm should be considered individually but also be accounted for in terms of the cumulative impact.
- 7.19 A desk-top archaeological assessment has now been submitted. If the application was successful, a planning condition would be necessary.

7.20 Overall, it is considered that the proposals would cause less than substantial harm to each of the Heritage Assets, in weighing the public benefits of the proposals the harm would not be outweighed by these benefits and as such the proposals would be contrary to Policies SWDP 6 and SWDP 24 and the aims and objectives of the National Planning Policy Framework.

**Residential amenity for future occupiers**

7.21 Policy SWDP 21 requires that new development provides an appropriate standard of living for future residents. It is noted that the Local Planning Authority has not adopted the national space standards into policy which would be a requirement if to be used as a reason for refusal.

7.22 The national space standard for a 2bed 4-person unit would be 70sqm plus 2sqm for storage and a 1 bed 2 person unit would be 50sqm plus 1.5sqm for storage. The space outlined for each unit is as follows:

Unit Number	Area (sqm)	No of beds	Aspect
1	74.36	2b4p	Single
2	50.19	1b2p	Single
3	51.2	1b2p	Single
4	60.45	1b2p	Single
5	58.71	1b2p	Single
6	50.19	1b2p	Single
7	51.2	1b2p	Double
8	51.04	1b2p	Double
9	50.17	1b2p	Single
10	50.19	1b2p	Single
11	51.2	1b2p	Double
12	51.04	1b2p	Double
13	50.17	1b2p	Single
14	50.19	1b2p	Single
15	51.2	1b2p	Single
16	51.04	1b2p	Double



**Figure 6 – Ground Floor Plan**

- 7.23 The adopted policies are consistent with paragraph 130 of the NPPF that requires planning policies and decisions, amongst other matters, to ensure a high standard of amenity for existing and future users of land and buildings.
- 7.24 Whilst the proposals are close to above space standards, it is important to consider the quality of accommodation. The ground floor properties (Units 1-3), being single aspect and facing north/northeast would be poor quality accommodation by reason of the lack of light and the courtyard, particularly to the rear of the two-storey element would also be dark and poor in quality.
- 7.25 To the first and second floor elements of the rear element for the same reasons (units 4 and 5) raise the issue of the lack of meaningful outlook for these properties. There would also be a degree of interlocking between the rear element and the main building meaning that there would be an awkward relationship that would not provide an appropriate level of amenity. Indeed, some of the properties on the taller element would be able to look into the bedrooms of the rear element (via the rooflights) affording little to no privacy to these spaces.
- 7.26 Whilst the neighbouring site has been developed to some degree, the proposals are also reliant on 3<sup>rd</sup> party land for outlook and light to the south and east elevation which would also be inappropriate. The amenity space would be dark and largely unusable for any meaningful activity.
- 7.27 The introduction of the proposed development could give rise to potential noise and disturbance for the occupiers of the surrounding properties as a result of demolition works, the movement of construction and related traffic, construction works. This is noted and could be managed through the construction process.
- 7.28 Overall, therefore the proposals would not create a high-quality residential environment for future occupiers and would be contrary to Policy SWDP 21 and the aims and objectives of the National Planning Policy Framework.

## **Impact on neighbouring amenity**

- 7.29 Policy SWDP 21 requires that new development provides an appropriate standard of living for existing residents and that development sits harmoniously with the surrounding uses. The comments of local residents have been carefully considered. Worcester Regulatory Services have raised concerns with regard to the noise assessment carried out.
- 7.30 The Firefly Public House is a community public house with licences for live music, there is a lively beer garden and fire escape in close proximity to the proposals. In light of this and the close proximity to the external area, the proposals would not be considered to form an appropriate relationship to neighbouring properties. There is very limited space to introduce mitigation due to the development being up to the boundaries of the application site with the beer garden. Further it is also noted that the Elim Pentecostal Church is also a noisy environment.
- 7.31 It is noted that an Updated Noise Assessment has been provided with an updated assessment and monitoring carried out between 12:30 hours on Thursday 18th November 2021 and 14:05hours on Sunday 21st November 2021. The microphone was positioned out at ground level adjacent to the rear boundary of the Firefly. The main noise source was public house noise, including patrons and amplified music.
- 7.32 Mitigation measures including construction specification, windows and attenuated ventilation are required to control external noise to the dwellings. Windows would therefore need to be shut to achieve the appropriate noise specification. With the mitigation measures installed to habitable rooms of the dwellings in the rooms noted above, the predicted internal noise levels are below British Standard 8233:2014 and WHO (1999) criteria and, within NR20.
- 7.33 In addition to the above there are also residential properties above shops on the frontage properties to Lowesmoor. The impact of the proposals, in particular from the rear element, would not be well considered.
- 7.34 Further the proposals include principal windows and fenestration to the rear (East) elevation. There is limited space to the boundary of the application site and therefore this may also impact on the future development potential of the neighbouring site on Pheasant Street.
- 7.35 Overall, whilst noise mitigation could achieve a level of amenity internally that would mitigate the noise from the Firefly, the impact of such mitigation on future residents should be carefully considered, in particular the need to keep windows shut. The impact of the proposals and the relationship to the Firefly and the relationship of the rear element (Units 4-5) have not be well considered and it is considered that these would all be contrary to Policy SWDP 21 and the principles of high quality design in the NPPF.

## **Biodiversity**

- 7.36 Policy SWDP22 requires development to ensure there is no harm to protected species. Further the Framework sets out the requirement for biodiversity net gain which will become statute in November 2023 through the implementation and Royal Assent of the Environment Act 2021.
- 7.37 The proposals at this time do not include any provision for biodiversity net gain. The proposed landscaping in the rear courtyard would not be of sufficient quality to provide a sustainable enhancement due to the aforementioned issues of darkness and sunlight. As such appropriately positioned bird and bat boxes would be necessary as a condition should planning permission be granted.

## **Climate Change Mitigation**

- 7.38 The application site is located in Flood Zone 1 and therefore would be at the lowest risk of flooding. The current application site is hardsurfaced and therefore there would be an opportunity to improve surface water drainage through the use of permeable paving.
- 7.39 As stated above, the ground floor properties (Units 1-3), being single aspect and facing north/northeast would be poor quality accommodation by reason of the lack of light and the courtyard, particularly to the rear of the two-storey element would also be dark and poor in quality. To the first and second floor elements of the rear element for the same reasons (units 4 and 5) raise the issue of the lack of meaningful outlook for these properties. There would also be a degree of interlocking between the rear element and the main building meaning that there would be an awkward relationship that would not provide an appropriate level of amenity. This means that the proposals would be reliant on artificial light as in order to maintain privacy or the future residents would need to keep curtains or blinds shut for a majority of the time.
- 7.40 The energy statement in the submission and considered that the proposals would deliver a modern standard of development. However, the proposals do not include the provision for at least 10% renewable energy on the plans or elevations. The Energy Statement sets out that Photovoltaic panels offer an immediate, appropriate solution for this site. The number of panels can be scaled to achieve the 10% reduction in energy. This will need to be confirmed by survey before installation and would be a condition should planning permission be granted.
- 7.41 Overall, whilst the orientation and layout would mean that the proposals are more reliant on artificial light and potentially also ventilation. The proposals therefore would need to enhance the level of photovoltaic but there are significant concerns with regard to the proposals and how they have taken account of the orientation and design of the proposals.

## **Access and Highway Safety**

- 7.42 Policy SWDP 4 and the NPPF sets out to reduce the reliance on the private car which in turn tackles climate change and promotes the use of sustainable modes of transport. The NPPF and the requirement of legislation states that the decisions should be made in accordance with the Development Plan unless material circumstances indicate otherwise. The NPPF and on site observations are a material consideration.
- 7.43 Whilst the current rear yard (catering for c.12-16 spaces for frontage properties) has been recently padlocked and unavailable, there is also relatively recent evidence from a recent site visit and other sources that the car park was in use relatively recently. Further there is no obstacle or physical measure preventing the car parking coming back into use. As such this displacement of car parking would be a matter of judgement.
- 7.44 The frontage properties would be otherwise serviced either on street or in the area in front of the application site in front of the disabled parking provision. Further the servicing of the application proposals would also need to take place on street.
- 7.45 For completeness Paragraphs 107 and 108 of the NPPF state:
107. If setting local parking standards for residential and non-residential development, policies should take into account:
- a) the accessibility of the development;
  - b) the type, mix and use of development;

- c) the availability of and opportunities for public transport;
- d) local car ownership levels; and
- e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

108. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of the Framework).

- 7.46 William Davis Ltd (and others) vs Charnwood (2017) EHC 3006 (Admin) discussed the role of Policy vs SPDs or guidance (the case itself discussed housing mix). It is clearly the expectation the NPPF that in setting standards (e.g. housing mix, space standards or parking standards) this can only be done by policy and not guidance and should be tested through examination of the evidence.
- 7.47 As such in the application of the Streetscape Design Guide as another material consideration therefore carries limited weight as amendments since its original adoption have not been through consultation. It does not carry the weight of a Supplementary Planning Document.
- 7.48 As such, the LPA and Highway Authority cannot apply the maximum standard as a requirement. Flexibility and site circumstances should be considered in the context of Policy SWDP 4 of the Development Plan. Policy SWDP 4 (in particular Part A and B) support a reduction the level of parking provision. This is in keeping with national policy and the aims of Government and also managing traffic, climate change and other matters such as air quality and pollution.
- 7.49 In accordance with Para 111 of the NPPF, Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. This is not the case in this instance and the case for cumulative or severe impacts has not been demonstrated by the highway authority.
- 7.50 In this instance, taking account of the comments of highway officers, the circumstances on site, the existing parking provision and the lack of controls introduced through traffic regulation orders and the above in relation to the Design Guide, the proposals are in accordance with Policy SWDP 4 of the Development Plan and the aims and objectives of the NPPF.

### **Planning obligations**

- 7.51 It is recognised that new development can create the need for new or improved infrastructure and community facilities. Planning obligations mitigate the impact of development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2012 and as policy tests in the National Planning Policy Framework.

7.52 In accordance with Community Infrastructure Levy Regulations 2012, the applicants are willing to enter into a legally binding agreement to deliver contributions to provide improvements to the infrastructure that the development will impact upon. This legal agreement will be made under Section 106 of the Town and Country Planning Act 1990 (as amended).

7.53 The following Heads of Terms have been identified:

Affordable Housing – 30% of the total development – in this case 5 properties

Public Open Space - Contributions of £21,428.55 towards open space and a further £16,737.60 towards future maintenance of open space in accordance with the Developer Contributions SPD.

7.54 As the application is recommended for refusal a Draft Heads of Terms for a s106 Agreement has not been agreed with the applicants however should an appeal be submitted contributions and affordable housing provision would need to be secured through a s106 Legal Agreement or Unilateral Undertaking.

### **Human Rights Issues**

7.55 Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.

7.56 The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

7.57 As part of the consideration of this application, human rights issues have been considered in so far as they are relevant. It is considered that an appropriate balance between the interests and rights of the applicants (to enjoy their land subject only to reasonable and proportionate controls by a public authority in the public interest) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties) has been achieved with conditions controlling the development where necessary

### **Public Sector Equality Duty**

7.58 In making this decision, the council has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.59 These considerations are relevant to the duties that decision makers have under s149(1) of the Equality Act 2010.

## **8. Conclusion and planning balance**

- 8.1 The NPPF identifies a series of the components that are considered critical to achieving sustainable development.
- 8.2 The Council can currently demonstrate in excess of a 5-year housing land supply, and therefore, its relevant housing policies are not out of date. Where a development is found to be sustainable development, a presumption in favour applies. In accordance with Policy SWDP1 the decision taker should grant planning permission for such developments, unless material considerations indicate otherwise or, where specific policies in the Development Plan or material considerations indicate development should be restricted.
- 8.3 This development would assist in delivering the objectively assessed housing need for South Worcestershire over the plan period to 2030 ensuring that there is an adequate supply of land for housing. It would also make a meaningful contribution towards affordable housing need. These are factors in support of the development to which substantial weight should be attached.
- 8.4 The proposed development would result in some economic benefits; employment during construction and thereafter upon the occupation of the dwellings it is likely that the occupants would contribute towards maintaining the vitality of local services and facilities. For this role of sustainable development, the balance would clearly be in favour of granting planning permission.
- 8.5 With regard to the social role, the delivery of affordable homes in this location would contribute to the continued economic and social sustainability of the City. There will also be benefits in the open space enhancements.
- 8.6 In respect of potential adverse impacts, the proposal has been found to cause harm to heritage assets of the Conservation Area and nearby and adjacent neighbouring Listed Buildings, create a poor quality residential environment for future occupiers of the development, impact on the neighbouring public house in terms of its operations and is considered to be of poor quality design and layout.
- 8.7 Accordingly, it is considered that the harm and adverse impacts significantly and demonstrably outweigh the positive elements of the proposals and are contrary to policy.
- 8.8 Taking the overall planning balance, all comments received as part of the consultation process and considering all material planning issues, the adverse impacts of the development significantly and demonstrably outweigh the benefits and for the above reasons and those set out below, the proposals are recommended for refusal.

## **9. Recommended Reasons for Refusal**

1. The proposals by reason of its layout, scale and mass, inactive frontages to the proposed front elevation and proximity to the boundaries with neighbouring development would result in a contrived and poorly considered development that would cause harm to the character of the area and adversely impact on existing commercial operations, e.g., the Firefly Public House and Elim Pentecostal Church and are considered to be an overdevelopment of the site. The proposals would potentially impact on the long-term viability of the evening economy and community assets such as the Firefly Public House (54 Lowesmoor).

The proposals are therefore considered to be contrary to Policies SWDP 21 and SWDP 37 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework which requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, are sympathetic to local character and history, including the surrounding built environment and landscape setting, and establish or maintain a strong sense of place.

2. The layout of the proposed development and the scale of the development would result in harm to the amenities of existing neighbouring residential occupiers but also would fail to provide an appropriate residential environment for future residential occupiers by reason of overlooking, interlooking between residential properties, a poor quality and contrived layout (in particular Units 1-5) and dark external and internal space which would be reliant on artificial light. The proposals are therefore considered to be contrary to Policy SWDP 21 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework which requires development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
3. The proposals by reason of the scale, mass and layout of the proposals would result in harm to Lowesmoor Conservation Area and Listed Buildings at 54 and 64 Lowesmoor and their setting which would not be outweighed by the public benefits of the proposals. The proposals are contrary to Policies SWDP 6, SWDP 21 and SWDP 24 of the South Worcestershire Development Plan and the aims and objectives of the National Planning Policy Framework which seek to preserve and enhance heritage assets.
4. Through the absence of a completed s106 Legal Agreement or Unilateral Undertaking, the proposals would fail to deliver planning contributions towards Public Open Space and Affordable Housing which would be necessary to make the development acceptable. As such the proposals are considered to be contrary to Policies SWDP 5, SWDP 7, SWDP 15, and SWDP 39 of the South Worcestershire Development Plan and Affordable Housing and Development Contributions Supplementary Planning Documents.