Sara Harvey

From: Sent: To: Cc:

Subject:

Attachments:

Dear Matt,

Ed Freeman

12 February 201614:19

Matt Shillito

James Brown; Chris Rose

RE: Knowle, Sidmouth - Pegasuslife Proposals for the Knowle and Use Class - UNCLASSIFIED:

KnowleUseClassletter .doc

Further to previous discussionsand your attached e-mail please find attached our letter of response on the issue of use class and affordable housing requirements.

Pleaselet me know if you wish to discussthe letter or have a further meeting to discussthe issues raised. Regards.

Ed Freeman

Service Lead - Planning

East Devon District Council

e-mail - [efreeman@eastdevon.gov.uk](mailto:efreeman@eastdevon.gov.uk)

Tel: 01395 517519

From: Matt Shillito••••••••••••

Sent: 20 January 2016 20:56

To: Ed Freeman; James Brown

Cc: Mick Marran; Christine McNulty; Guy Flintoft; Burgess, Jane E.

Subject: Knowle,Sidmouth - Pegasuslife Proposals for the Knowle and Use Class

Dear Ed and James

Further to our last Pre-App meeting, please find attached a revised letter (and attachments) providing additional information about Pegasusl.ife's proposals for the Knowle to inform our discussions about Use Class.

Matt Shillito

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150

office: 020 7089 2121

e-mail:•••••••••

website: [www.uooa1as.co.uk](http://www.uooa1as.co.uk)

Address: 19 Maltings Place, 169 Tower Bridge Road, London, SE1 3JB

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Date:

Contact number: Email:

Direct Fax:

Reference:

21 December 2016

01395 517519

[efreeman@eastd evon .gov. u k](mailto:efreeman@eastd)

15/0283/PRE

Tibbalds

19 Maltings Place

169 Tower Bridge Road

London

SEl 3JB

East Devon District Council l<nowle, sldmouth, EXlO SHL

DX 48705 Sidmouth



Tel: 01395 516551

Email: [csc@eastdevon.gov.uk](mailto:csc@eastdevon.gov.uk) [www.facebook.com/eastdevon](http://www.facebook.com/eastdevon)

[www.twitter.com/eastdevon](http://www.twitter.com/eastdevon)

Dear Mr Shillitoe

Proposed redevelopment of the Council Offices -Knowle

PegasusLife Development Model and Use Class

I refer to your covering email and the attached information submitted on 20 January 2016 which set out in detail the nature and use of the proposed development that Pegasus life seek to provide on the Council Offices Site in Knowle, Sidmouth.

We have now had an opportunity to consider the submission in detail, and have sought Counsel Opinion in respect of matters concerning "the planning unit", the resulting use class and whether the scheme should be required to provide affordable housing in light of the newly adopted Policies of the East Devon Local Plan 2013-2031.

We have noted that there have been numerous appeal decisions, counsel opinions and different approaches by different local authorities to schemes such as this including a number that you have drawn to our attention. Having reviewed many of these cases it is clear that the only constant between all of these decisions and opinions is that every case has to be considered on its own merits based on the accommodation to be provided and its use and layout on the site. It is therefore the general principles established through case law that have informed our consideration rather than any specific case.

In terms of the proposed development it is recognised that at least one occupier per unit would be aged over 60 (unless a residing spouse or partner has died), that the typical age profile of occupiers is mid 70's and that there is a mandatory well being care and support package. In addition we note that there is also a range of additional personal care and support services

available which can be bought in by residents but would be secured and managed by Pegasus life.

East Devon - an outstanding place

Chief Executive: Mark R Williams Deputy Chief Executive: Richard Cohen

f"~) INVESTORS I Gold

~~ IN PEOPLE

It appears to us that there are two key issues that affect the use of the proposed units and the definition of the planning unit. The first being the extent of care being provided and whether this leads to a C2 use class and the second is whether the proposed communal facilities mean that the planning unit should be defined as being wider than each individual apartment such that a sul• generis use would be established.

In terms of the first of these issues it is clear from the submitted details that each apartment will be a self contained unit that provides all of the services and facilities for independent living. Fundamentally purchasers of the properties would be buying an apartment with its own front door behind which will be a lounge, kitchen, bathroom and bedroom/s. While residents will be required to pay for a mandatory well-being care and support package the care facilities provided by this package would be limited to a 24 hour emergency call system and a staffed office to help residents to organise care. These are care facilities that are readily available to residents of houses and apartments across the district and do not mean that the residents are any more "in-care" than many residents of homes elsewhere in the district. A greater level of care can be brought in and it is acknowledged that Pegasus Life will help to facilitate this but fundamentally the provision of this care would not differ markedly from how care can be brought in and provided to residents of any dwelling.

With regard to the second key issue it is clear that the proposed apartments will be provided with an unusually high level of communal facilities which form part of the care and support package. These facilities are however separate from each apartment which of themselves in our opinion form separate planning units by virtue of including all of the facilities required for independent living. The communal facilities some of which we understand would be available to the wider community would also therefore form separate planning units. In this respect the scheme is similar to other high end apartment developments where extensive communal facilities are provided and a mandatory service charge is sought for their repair and maintenance but residents are still fundamentally living in their own dwelling house.

In reaching our decision we have paid particular regard to the issues highlighted above but have also considered a variety of other issues such as the fact that care would be provided by an outside company, there is no trained carer on site, only one resident needs to be aged 60 or more and they do not need to be "in-care" to qualify for residency, the form and layout of the proposed accommodation etc. Our conclusion based on this assessment and a Counsel opinion is that the proposed units should be classed as C3 (dwelling houses).

Turning to the issue of affordable housing the newly adopted policy of the East Devon Local Plan (Strategy 34) sets out a target of 50% affordable housing for residential development in Sidmouth. The presumption is that such affordable housing should be provided on site. As a result we will be seeking on-site provision of affordable housing in this case. We appreciate that the provision of your mandatory well-being care and support package is likely to be unviable to a registered provider but can see no reason given the layout of the proposed units on the site why your care and support package would have to apply to all residents. The facilities could still be available to residents of the affordable units on the same basis as they will be available to the wider community. We would however accept that it would be appropriate for the affordable units to

also be age restricted and we believe that there is sufficient demand in the local area to fill the affordable units. Strategy 34 does allow for an offsite contribution of equivalent value to be provided where the inability to make provision on-site can be justified through evidence from Registered Providers or for other planning reasons. We would be open to considering a case for provision to be made off-site but as detailed above the presumption is that provision should be made on-site in the first instance and so the onus would be on yourselves to demonstrate to us why this would not be possible. You should also note that Strategy 34 is predicated on ensuring that developments are viable and so in the event that you believe that our requirements are unviable we are willing to consider a suitable robust and independent viability assessment. Our usual practice is to obtain an independent appraisal of such viability information through the District Valuer. We must advise at this stage that we would expect the cost of the District Valuer to be borne by the developer.

We understand that both the assessment that the scheme constitutes a C3 use and the level of affordable housing sought will come as a disappointment but we can assure you that these issues have undergone a very detailed consideration by Officers with appropriate independent legal opinion. To date we believe that we have had meaningful and constructive discussions and look forward to these continuing in respect of this issue.

We trust this sets out in detail our considered opinion on both the use class issue and the need for affordable housing but if you have any queries on this matter please do not hesitate to contact us.

Yours sincerely

Ed Freeman

Service Lead Planning Strategy and Development Management

Sara Harvey



From: Sent: To:

Subject:

Matt Shillito

10 March 2016 10:16

James Brown

The Knowle, Sidmouth

Hi James

I hope you are well. I have a couple of questions that we need your advice on regarding the proposed redevelopment of the Knowle:

I. Affordable housing: If the development was a C2 nursing home use would there be an affordable housing requirement under Strategies 34 and 36 of the Local Plan?

2. CIL: The Inspector's report on the draft CIL charging schedule (15th January 2016) refers to two CIL Viability Assessments undertaken on behalf of the Council to inform the preparation of the charging schedule - one in January 2013 and an update in December 2014. I've been carefully through the evidence base on the Council's website and found the January 2013 document but can't find the December 2014 update anywhere. Is there any chance you could track that down for me?

I'd be grateful if you could look into these questions and get back to me as soon as you are able. Many thanks.

Regards

Matt

Matt Shillito

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150 office: 020 7089 2 l 21

e-mail:



website: www .tibbalds.co.uk

Address: l 9 Maltings Place, 169 Tower Bridge Road, London, SE 1 3JB

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Sara Harvey

From: Sent: To: Subject:

James Brown

11 March 2016 11 :39

'Matt Shillito'

RE: The Knowle, Sidmouth

Hi Matt

While the Local Plan policy is considered open to interpretation, we have currently taken the view that a genuine C2 use should not attract an affordable housing contribution.

With respect to CIL, I have looked through the document library (see link below) and cant find it! I have therefore asked colleagues and will come back to you

[http://eastdevon.gov.uk/planning/planning-policy/document-libraries/community-infrastructure-levy-ci](http://eastdevon.gov.uk/planning/planning-policy/document-libraries/community-infrastructure-levy-cil)l•

document/

Kind Regards

James

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) [www.eastdevon.gov](http://www.eastdevon.gov) .uk

From: Matt Shillito



Sent: 10 March 20:i.biu:1b

To: James Brown

Subject: The Knowle, Sidmouth

Hi James

I hope you are well. I have a couple of questions that we need your advice on regarding the proposed redevelopment of the Knowle:

l. Affordable housing: If the development was a C2 nursing home use would there be an affordable housing requirement under Strategies 34 and 36 of the Local Plan?

2. CIL: The Inspector's report on the draft CIL charging schedule (15th January 2016) refers to two CIL Viability Assessments undertaken on behalf of the Council to inform the preparation of the charging schedule - one in January 2013 and an update in December 2014. I've been carefully through the evidence base on the Council's website and found the January 2013 document but can't find the December 2014 update anywhere. Is there any chance you could track that down for me?

I'd be grateful if you could look into these questions and get back to me as soon as you are able. Many thanks.

Regards

Matt

**MattShillito**

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150 office: 020 7089 2121

e-mail:



website: [www.tibbalds.co.uk](http://www.tibbalds.co.uk)

Address: 19 Mattings Place, 169 Tower Bridge Road, London, SE **1** 3JB

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Sara Harvey

From: Sent: To:

Subject:

Matt Shillito

29 March 201618:11



James Brown

The Knowle - Planning Application Submission

Dear James

I wanted to let you know that we will be submitting the planning application for the Knowle on behalf of our clients PegasusLlife on Thursday 31st March. We will submit it via the planning portal but Iwill also follow with three hard copies as requested.

We will be submitting the proposal as a C2 scheme and expect to follow-up with further information to confirm our position that the proposed development constitutes a C2 use after the application has been submitted. Iwould be grateful if you could you confirm that you will not withold registration or validation of the application pending receipt of that further information.

Many thanks.

Regards

Matt

Matt Shillito

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150 office: 020 7089 2121

e-mail:



website: [www.tlbbalds.co.uk](http://www.tlbbalds.co.uk)

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Sara Harvey

From: Sent: To:

Subject: Attachments:

Matt Shillito

22 April 2016 10:05

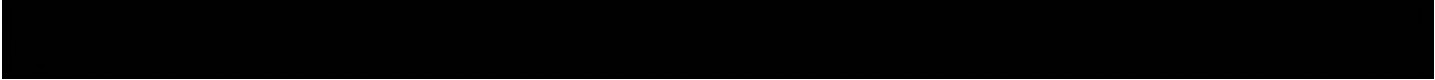


James Brown

Re: The Knowle, Sidmouth Planning Application

The Knowle $106 List.docx

Hi James



I will be in touch shortly regarding the final item on your list - Use Class.

Matt Shillito

Associate Direclar

far Tibbalds Planning and Urban Design lid

mablle: 07468437150

office: 020 7089 2121

e-ma:······

website[:www.tibbaldsco.uk](http://www.tibbaldsco.uk)

Address: 19 Mailings Place, 169 Tower Bridge Road, London, SE1 3J8

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On 21 April 2016 at 17:22, Matt Shillitc



Hi James

vrote:

Thanks very much for your email.

I've attached a link to electronic copies of a set of revised and additional drawings (together with a new drawing issue list) to address a number of the items from your email below, as follows:



With respect to items *5* (S 106 Heads of Terms) and 9 (Use Class), I am still working on these and will be in touch as soon as Ican.

In the meantime if any of the above or attached is not clear please let me know.

All the best. Download

Regards

Matt

**Matt Shillito**

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150 office: 020 7089 2121

e-mail:



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On 19 Apr 2016, at 22:38, James Brown [<JBrown@eastdevon.gov.uk>](mailto:JBrown@eastdevon.gov.uk) wrote:

Dear Matt

Thanks for the email. I have provided an update to each point as appropriate. I trust that this will now clarify our position and look forward to receiving the additional plans and information as necessary.

Many thanks

James

**From:** Matt Shillito



**Sent:** 15 April 20lb .1:,;:,"t

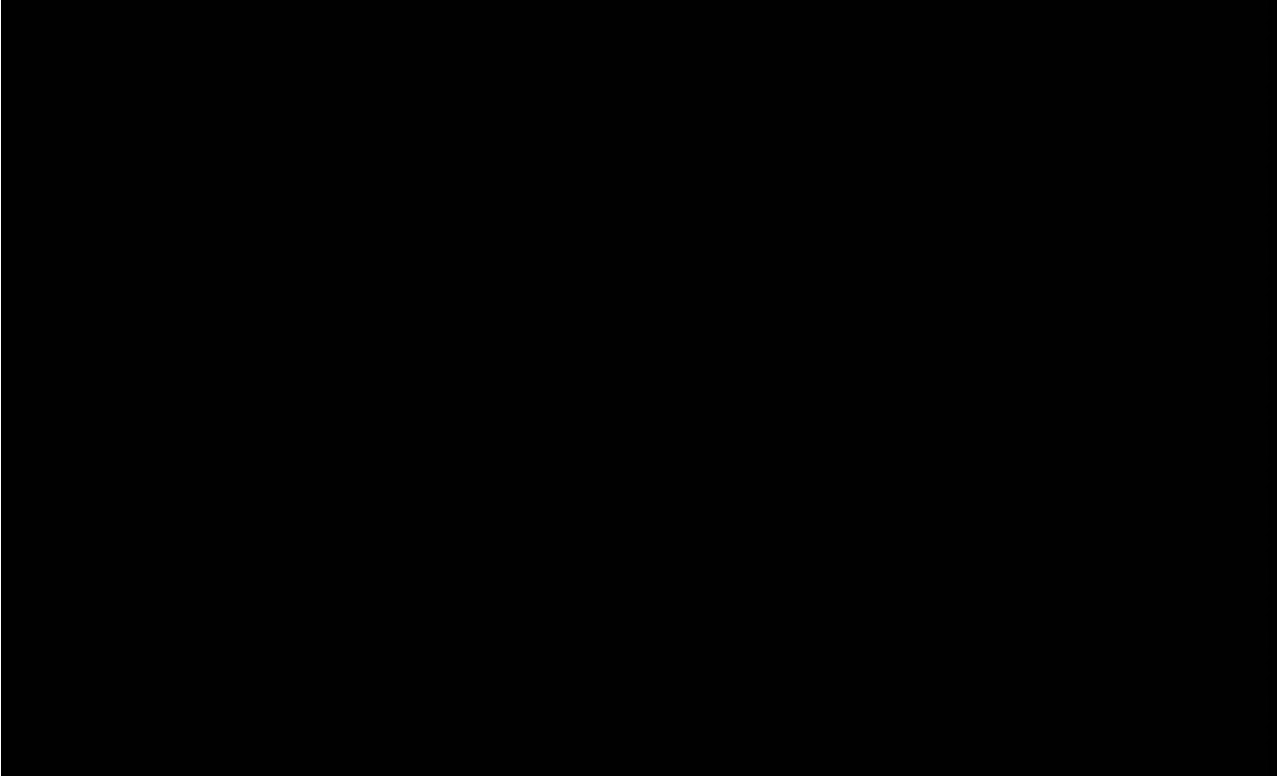
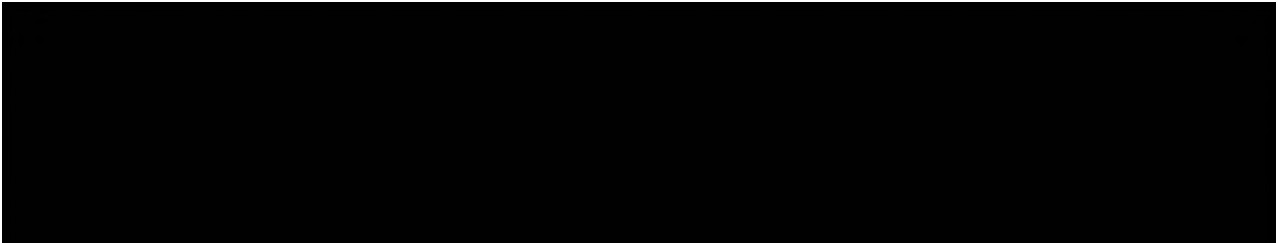
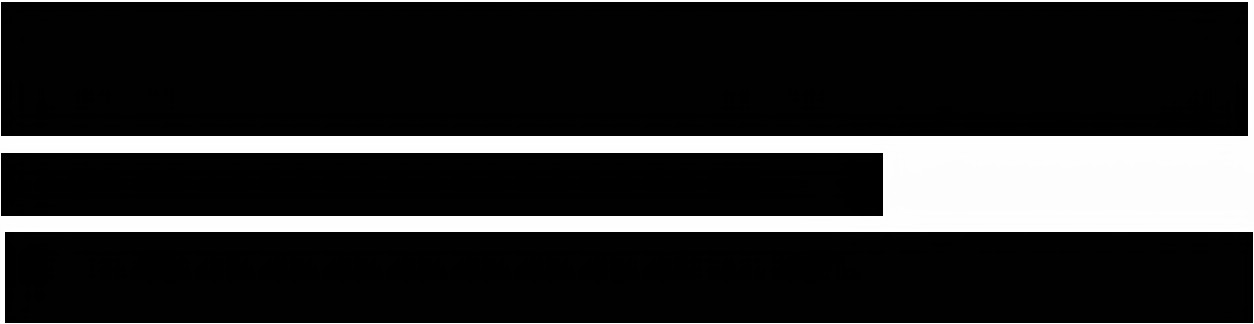
**To:** James Brown

**Subject:** Re: The Knowle, Sidmouth Planning Application

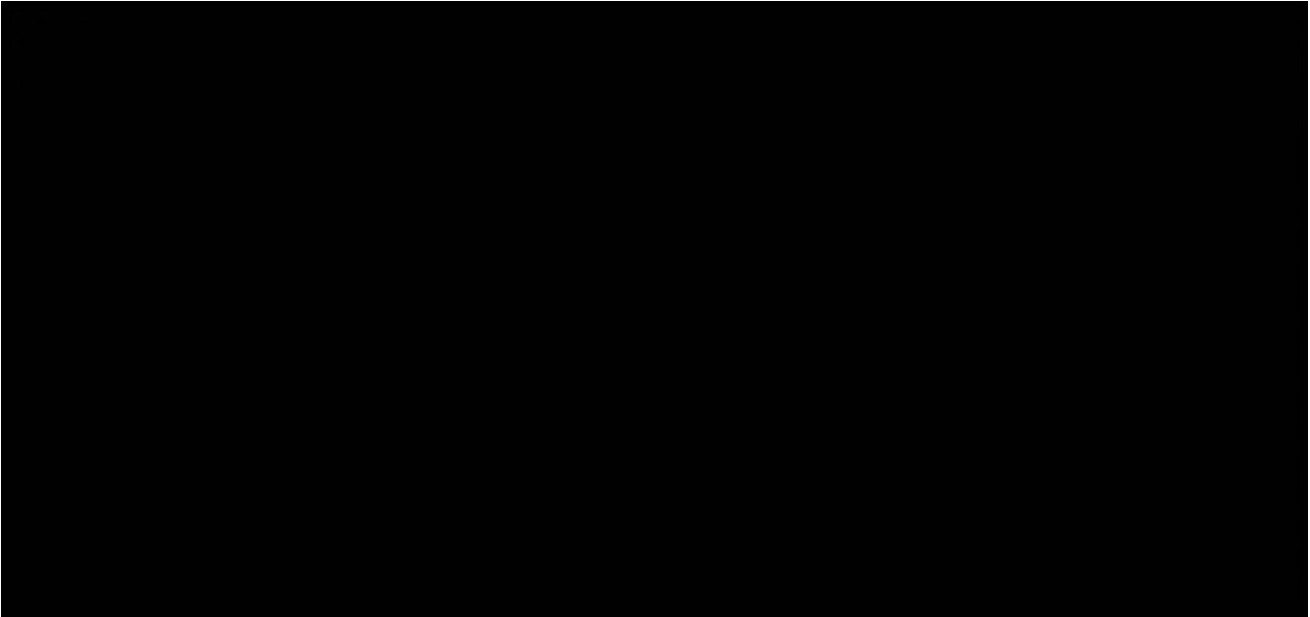
Dear James

Thanks for your email. I've consulted with our clients and the consultant team and provided response to each of your points below. Please could you review these and get back to me at your earliest convenience.

Many thanks.



4



9. Statement of C2 use/C3 use. Based on the pre application previously provided it appears that the application is premised on a C2 use but we are currently unable to any justification or evidence for this. It is usual practice to include a reference within the application description and therefore this issue does need to be resolved at the earliest opportunity. To set it to one side doesn't really help as members of

the public and consultees do need to be clear what type of accommodation they are commenting on.

Section 1.2 of the Planning, Design and Access Statement describes the proposed development as a C2 use and provides detailed information on the nature of the proposals, including the type of accommodation and the various supporting facilities and services, by way of justification and evidence.

The description of development clearly describes the proposal and provides sufficient clarity about the nature of the project for the public and consultees. We don't believe that the inclusion of a reference to a Use Class in the description of development is either necessary or a validation requirement.

As I indicated previously I do believe that to not state the use class within the description allows the application to be open to interpretation/misinterpretation - without the use being agreed between us at this stage we will not be able to assist with any enquiries we get from interested parties or consultees (our previously considered opinion that the development is a C3 use currently remains}. If we do omit a use class from the description then it is very likely that we would need to consult again on the application in due course when this is resolved to ensure full transparency and allow people to comment on an accurate description and the use that is actually proposed - whatever this ends up being. This will undoubtedly extend the determination period for the application but provided your clients are

happy to work with us and allow us this time then we are prepared to advertise when valid using the description as originally set out. I would however encourage early discussions to try and resolve this important and currently outstanding issue.

Matt Shillito

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150

office: 020 7089 2121

e-mail:



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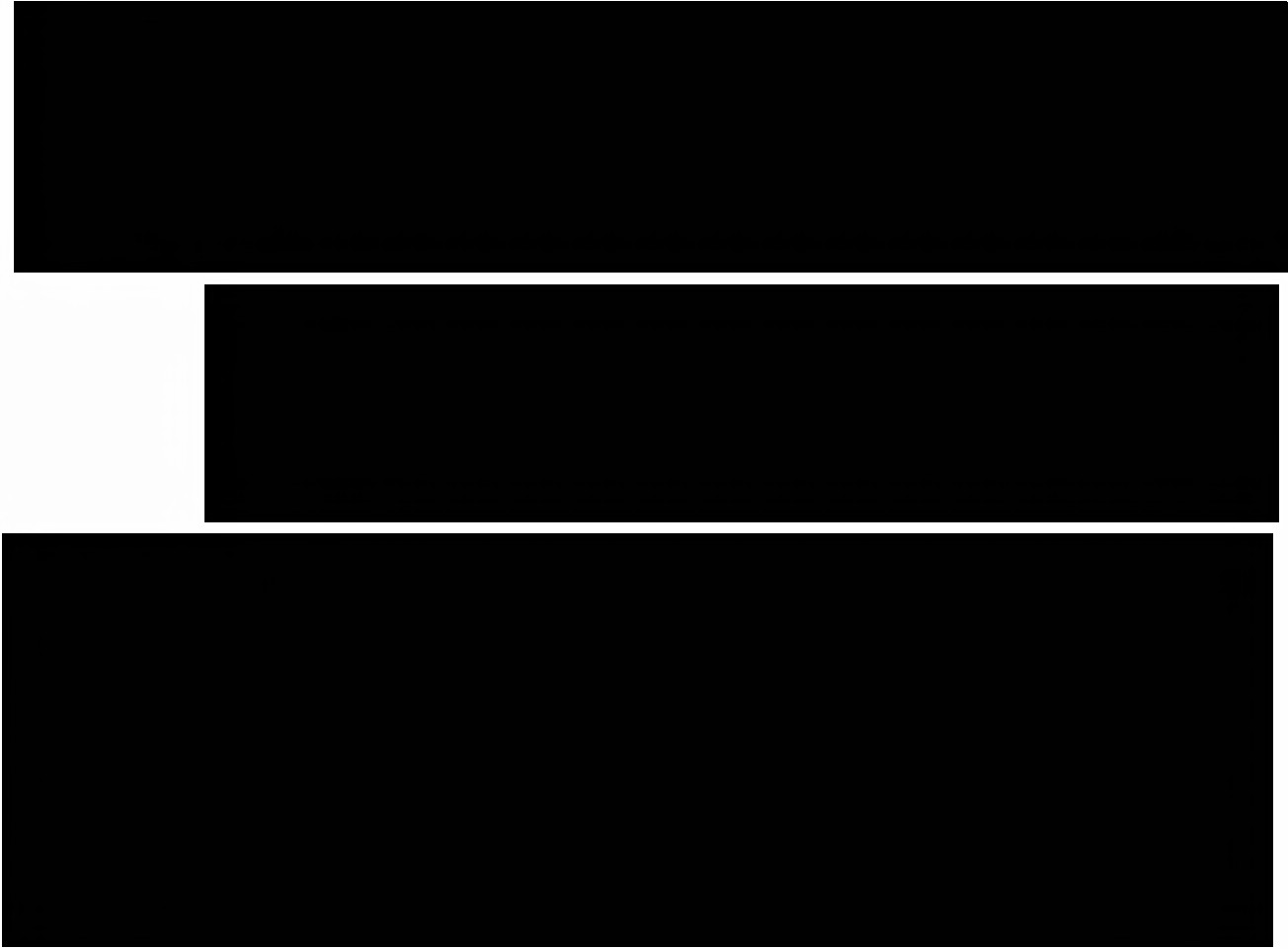
*New London Awards 2013, Overall Winner - Tybalds Estate Regeneration New London Awards 2014, Mixed-Use Winner - Faircharm Creative Quarter Supporter of Architects Journal Women in Architecture Partnership Programme 2014*

On 11 April 2016 at 14:02, James Brown [<JBrown@eastdcvon.gov.uk>](mailto:JBrown@eastdcvon.gov.uk) wrote:

Dear Matt

Thanks for the copies of the plans as submitted - they were received this morning in some very impressive boxes!

Having reviewed the contents I must advise that the application is currently invalid pending the submission of some additional and updated information set out below:



9. Statement of C2 use/C3 use. Based on the pre application previously provided it appears that the application is premised on a C2 use but we are currently unable to any justification or evidence for this. It is usual practice to include a reference within the application description and therefore

this issue does need to be resolved at the earliest opportunity. To set it to one side doesn't really help as members of the public and consultees do need to be clear what type of accommodation they are commenting on.

I look forward to hearing from you and receiving three copies of the additional information requested. If you have any queries please do not hesitate to contact me

Kind Regards

James Brown

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

**From:** Matt Shillito



**Sent:** 08 April 2016 1::i:1tj

**To:** James Brown

**Subject:** Re: The Knowle, Sidmouth Planning Application

Hi James

I'd hoped to get them couriered to you overnight last night but instead they are on their way over the weekend. Be with you on Monday.

Have a good weekend.

MattShlltlto

Associate Dlrector

for Trbbalds Planning and Urban Design ltd

mobile; 07468 437150 office: 020 7089 2121

**e-mauiiiiilili•••••**

webs le; ~-•.!QQi1111u9.,..K

Address: 19 Mailings Place, 169 Tower Bridge Road, London. SE1 3JB

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On 8 April 2016 at 15:09, James Brown [<JBrown@eastdevon.gov.uk> wrote:](mailto:JBrown@eastdevon.gov.uk)

Hi Matt

Have you a better idea of the likely date for the paper copies of the application? Many thanks

James

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

From: James Brown

Sent: OS April 2016 16:48

To: 'Matt Shillito'

Subject: RE: The Knowle, Sidmouth Planning Application

That's better- thanks for sorting. Regards

James Brown

From: Matt Shillitc

Sent: OS April 20lb lb:"lb



To: James Brown

Subject: Re: The Knowle, Sidmouth Planning Application

Hi James

Glad that you have been able to access the application. I've attached a pdf of the form, revised to identify PegasusLife as the applicant (not sure why Iwas down as that) and me as the contact for a site visit.

The documents are being printed and will be with you before the end of the week. In the meantime if you need anything else just let me know.

Regards

Matt

Matt Shillito

Associate Director

for Tibbalds Planning and Urban Design Ltd

mobile: 07468 437150 office: 020 7089 2121

e-mail:



website: [www.t1bbalcts.co.uk](http://www.t1bbalcts.co.uk)

Address: 19 Maltings Place, 169 Tower Bridge Road, London, SEl 3JB

Appointed to the HCA Multidisclpllnary Panel 2014-2018: [www.tibbaldsmvltidlsciolinary.co.uk](http://www.tibbaldsmvltidlsciolinary.co.uk)

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*New London Awards 2013, OverallWinner - Tybalds Estate Regeneration*

*New London Awards 2014. Mixed-Use Winner-Falrcharm Creative Ouarter*

*Supporter of Arc/Jitects Journal Women in Architecture Partnership Programme 2014*

On 5 Apr 2016, at 14:10, James Brown [<JBrown@eastdcvon.gov.uk>](mailto:JBrown@eastdcvon.gov.uk) wrote:

Hi Matt

We have finally managed to get accessto the documents on the portal and while I have started to look through these and will do so in more detail in the next day or so wanted to check one thing up front. Currently the form indicates that you are

acting as both applicant and agent - is this right?

Also I note that I am down as the contact for a site visit. As I am the planner considering the application it might be sensible if the details provided here were left blank or be someone from your team - possibly yourself as agent? I am probably being pedantic but it helps to demonstrate the transparency that we are all quite rightly having to work to here that the site visit needs to be arranged through the applicant or land owner rather than the planner.

If you intend to amend the application form I am happy that an amended form is sent as a pdf directly to me.

Many thanks

James

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) www .eastdevon.gov. u k

**From:** Matt Shillito

**Sent:** 04 April 201b 1.1:::,::,



**To:** James Brown

**Subject:** Re: The Knowle, Sidmouth Planning Application

Hi James

That's strange. The portal was having a few glitches last week after its re• launch but it should work - there are a lot of files but they are all under 5mb and we've uploaded larger applications before. It might be worth trying again later today or tomorrow.

[Message clipped]

10

Heads of Terms for a s106 agreement Land at the Knowle, Sidmouth, Devon Subject to agreement

• Restriction on the use of the property as an assisted living community for older people providing accommodation, services and facilities;

• Age restriction on occupancy - 60 years plus;

• Requirement for a health assessmentprior to occupation to determine level and type of personal care;

• Procurement of the services of *a* partner domiciliary care agency registered with the Care

Quality Commission;

• Provision of a range of wellbeing services and facilities to residents;

• Access by the public to the wellbeing suite and restaurant subject to terms to be agreed;

• Landscapeimprovements;

• Establishment of a management company and operation of the wellbeing facilities and restaurant on a not for profit basis

• Use of permissive paths

HOTS- Sidmouth d3

Sara Harvey

From: Sent: To: Cc:

Subject:

Ed Freeman

17 M:n, ?01,; 1 i;·Afi



James erown; t-'lanningCentral

RE: Knowle Planning Application 16/0872/MFUL - UNCLASSIFIED:

Dear-

I can confirm that your reading of the letter is correct and there remains a concern whether or not the use of the dwellings would be C2 or C3. We are currently reviewing the documents submitted with the application to understand how this issue has been addressed and therefore whether the view that was expressed as part of the pre-application discussion stands or whether we are now satisfied that the use is C2 as PegasusLife suggest.

I hope these comments are helpful. Regards.

Ed Freeman

Service Lead - Planning

East Devon District Council

e-mail - [efreeman@eastdevon.gov.uk](mailto:efreeman@eastdevon.gov.uk)

Tel: 01395 517519

From:



Sent: lb May LUlb 1u:u:,

To: Ed Freeman

Subject: Knowle Planning Application 16/0872/MFUL

Dear Mr Freeman, I have recieved a copy under the FOi of a letter that you wrote to Tibbalds, (Mr Shillitoe), on 12th February 2016, ref 15/0283/PRE,in connection with the classification of the proposed dwellings in the Pegasus application.

You replied to them that you considered the dwellings to be class C3 and that 50% affordable housing would apply on the site.

Pegasus assert that the dwellings are class C2, and that the provision of affordable housing does not apply.

Will you please clarify the situation for me, noting any changes your view and if so what has made you change your mind.

Copies of any back up correspondence would be helpful



**Sara Harvey**

From: Sent: To:

Subject:

Ann Woodland

19 May 2016 10:20

James Brown

FW: 16/0872/MFUL - Council Offices Knowle Sidmouth EX10 8Hl- UNCLASSIFIED:

-----Original Message----• From: Tracey Wakeling

Sent: 19 May 2016 09:37

To: Planning Central

Subject: FW: 16/0872/MFUL - Council Offices Knowle Sidmouth EX10 SHL - UNCLASSIFIED:

-----Original Message----• From: Paul Lowe

Sent: 19 May 2016 09:28

To: Planning Emails

Cc: Melissa Wall; John Golding

Subject: RE: 16/0872/MfUL - Council Offices Knowle Sidmouth EX10 BHL - UNCLASSIFIED:

Please see response below.

We note that this application doesn't appear to make any provision for much needed affordable housing in Sidmouth or East Devon. The application appears to only provide accommodation suitable for a privately owned assisted living community for older people, that comprises extra care, staff accommodation and communal facilities.

If it's considered that this planning application meets C2 planning use class, and in particular an extra care development. Then consideration should be given to conditioning planning approval that secures an extra care development in perpetuity.

If however this planning application is deemed not to meet C2 planning use class then Strategy 34 of the new Local Plan should apply, namely 50% affordable housing should be provided on site. A tenure mix of 70/30% in favour of rented accommodation, the remaining as shared ownership or similar affordable housing product as defined in the National Planning Policy Framework document or relevant policy at the time will be sought. Once completed the affordable homes should be transferred to and managed by a preferred Registered Provider. All affordable homes should be constructed to Building Regulations M4(2) or the relevant standards at the time of determination.

A nomination agreement should be in place that enables the Local Authority or a preferred Register Provider to nominate individuals from the Common Housing Register, preference going to those with a local connection to Sidmouth, then cascading to East Devon.

Any deviation from the amount of affordable housing sought must be evidenced by a

viability assessment. Without submitting a viability assessment the council will not be in

a position to enter into discussions regarding the affordable housing element. In

addition, an overage clause will be sought in respect of future profits and affordable

housing provision, where levels of affordable housing fall below policy targets.

Paul Lowe

Housing Development and Enabling Officer

19 May 2016

Paul Lowe CIHM

Housing Development and Enabling Officer East Devon District Council

01395 516551 Ext 2379

07875 280503

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-----Original Message----• From: Planning Emails

Sent: 05 May 2016 13:20

To: Paul Lowe

Subject: 16/0872/MFUL - Council Offices Knowle Sidmouth EX10 8HL

Planning application for consultation. Please submit your observations within 21 days. To view the information about this planning application, please click the link below. (PLEASE NOTE THIS APPLICATION MAY NOT BE AVAILABLE TO VIEW ON LINE IMMEDIATELY.)

[http://planning.eastdevon.gov.uk/online•](http://planning.eastdevon.gov.uk/online)

applications/applicationDetails.do?activeTab=summary&keyVal=05ICOCGH01C00

Sara Harvey

From: Sent: To:

Cc:

Subject:

Attachments:

Jane Burgess

21 June 2016 1o;u1



Shirley Shaw

James Brown; Matt Shillito

RE: s106 -The Knowle Sidmouth Devon EX10 SHL-16/0872/MFUL [ID=DEV.2-0332) - UNCLASSIFIED:

Personal Care definition PL Sidmouth.docx

Shirley

I promised to let you have a revised definition of Personal Care for insertion in the draft s106 agreement following the meeting last week between our respective clients, a copy of which I now attach.

James I have copied you into this email as well as I know you also want to consider the wording of this definition as part of the review you are undertaking of the use classfor the proposed development at the Knowle.

Jane Burgess

Aardvark Planning Law

U:Ulb~'IJ'JU'JJ



T: 01604 43 90 90

M: 07484 088 726

W\\ w aanh,1rk1,l:1nningl,1w .1&,ul.

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From: Shirley Shaw [[mailto:SShaw@eastdevon.gov.uk]](mailto:mailto:SShaw@eastdevon.gov.uk) Sent: 03 June 2016 09:28



To: Jane Burgess·

Cc: James Brown [<JBrown@eastdevon.gov.uk>](mailto:JBrown@eastdevon.gov.uk)

Subject: s106-The Knowle Sidmouth Devon EXlO BHL- 16/0872/MFUL [ID=DEV.2-0332)- UNCLASSIFIED: Jane

I have just spoken with James about this meeting on the 14 June from his perspective it is just a preliminary meeting to feed back on the consultation responses received to date and to discussthe C2 C3 issue. The s106 requirements will therefore flow subsequently from this discussion on the consultation responses rather than an in depth discussion on the form the obligations would take at the meeting. Therefore I won't be attending.

Regards

Shirley

Mrs Shirley Shaw LLB Hons Dip LG Barrister

For Strategic Lead- Legal, licensing and Democratic Services

East Devon District Council

Ext.: 1680

DD: 01395 571680

Emaii: [sshaw@eastdevon.gov. u k](mailto:sshaw@eastdevon.gov)

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<http://eastdevon.gov.uk/help.femail-disclaimer/>

Personal Care means one or more of the following services to be provided to residents either by the Developer, or the Care Agency or a combination of both the Developer and the Care Agency:

(a) encouragement and/or assistance with personal hygiene; including washing, shaving, toileting;

(b) encouragement and/or assistance with dressing and undressing; (c) assistance with getting in or out of bed;

(d) assistance with the planning and preparation of meals and the provision of nutritional advice in order to support residents in maintaining a healthy diet including, where required, addressing any specific dietary requirements;

(e) assistance with feeding and drinking;

(f) assistance with the ordering and collection of prescriptions, and ensuring the taking of prescribed medication;

(g) technology support including assistance with the use of the internet for shopping for home delivery, for payment of bills, for keeping in contact with family members, for pursuing hobbies and for organising social activities for residents, who by virtue of their age, impaired mobility or medical needs, are unable to use such technology without support, in order to maintain social interaction and facilitate independent living;

(h) assistance with organising GP/hospital/consultancy visits for medical appointments including accompanying residents to such visits and the provision of emotional and psychological support and physical care following any hospital discharge;

(i) collection and parking of vehicles in order to support mobility, activity levels, social interaction and maintain independence;

(j) assistance to residents to enable them to access all facilities

within the Development in order to maintain their physical and mental wellbeing and to encourage social interaction; and assistance to residents to enable participation in any social activities either organised within the Development or off -Site, including accompanying any resident who has impaired mobility to such facilities/activities and/or providing support to any resident

who due to age or medical needs requires assistance to use or participate in such facilities/activities;

(k) assistance with arranging visitor access and overnight stays in order to maintain contact with family members and friends, and to encourage social interaction to maintain the mental wellbeing of residents and facilitate independent living; and

(I) assistance for residents with impaired mobility or medical needs or who may otherwise require such assistance due to age or ability with general household chores and errands including assistance with cleaning and laundry and assistance with the delivery and collection of post/parcels to maintain contact with family members and/ or to pay bills etc. and to facilitate independent living.

**Sara Harvey**

From: Sent: To: Cc:

Subject:

Attachments:

Dear Jane

James Brown

24 June 2016 13:44

'Jane Burgess'; Shirley Shaw

'Matt Shillito'

PROTECT: RE: s106 - The Knowle Sidmouth Devon EX10 SHL-16/0872/MFUL [ID=DEV.2-0332]

Personal Care definition PL Sidmouth JB Draft.doc

Thanks for copying this to me. As you will appreciate Shirley has been on leave this week and therefore I have been unable to discuss this matter with her. However in an effort to keep the use class issue moving and give you an opportunity to liaise further with your clients at the earliest opportunity, I have discussed this with colleagues in the planning team and have made a number of suggestions to the definition.

In addition to the suggested changes to the definition of personal care, I would also seek reassurance/revised wording to the definition of "basic care package" to ensure that all residents occupying a flat within the development need and receive the 2 hours of "personal care" and it is not just that this is an option available to them.

Whilst these thoughts are caveated at this time, as they are being made without any further legal guidance from our side, it is my opinion that provided they can be accepted then I would agree that the development would constitute

a C2 use.

I hope our thoughts are of assistance. Kind Regards

James Brown

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

**From:** Jane Burgess



**Sent:** 21 June 2016 lb:U/

**To:** Shirley Shaw

Cc: James Brown; Matt Shillito

**Subject:** RE: sl06 - The Knowle Sidmouth Devon EX10SHL - 16/0872/MFUL [ID=DEV.2-0332] - UNCLASSIAED:

Shirley

I promised to let you have a revised definition of Personal Care for insertion in the draft s106 agreement following the meeting last week between our respective clients, a copy of which I now attach.

James I have copied you into this email as well as I know you also want to consider the wording of this definition as part of the review you are undertaking of the use classfor the proposed development at the Knowle.

Jane Burgess

Aardvark Planning Law

*LJ:* UI~ 4J 'JU 'JI



T. 01604 43 90 90

M: 07484 088 726

ww\\·.aanJvarkplanningL~w.co.uk

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From: Shirley Shaw [[mailto:SShaw@eastdevon.gov.ukl](mailto:mailto:SShaw@eastdevon.gov.ukl)

Sent: 03 June 2016 09:28

To: Jane Burgess



Cc: James Brown [<JBrown@eastdevon.gov.uk](mailto:JBrown@eastdevon.gov.uk)>

Subject: s106 - The Knowle Sidmouth Devon EXlO BHL • 16/0872/MFUL [ID=DEV.2-03321 ~ UNCLASSIFIED: Jane

I have just spoken with James about this meeting on the 14 June from his perspective it is just a preliminary meeting to feed back on the consultation responses received to date and to discuss the C2 C3 issue. The s106 requirements will therefore flow subsequently from this discussion on the consultation responses rather than an in depth discussion on the form the obligations would take at the meeting. Therefore I won't be attending.

Regards

Shirley

Mrs Shirley Shaw LLB Hons Dip LG Barrister

For Strategic Lead- legal, licensing and Democratic Services

East Devon District Council

Ext.: 1680

OD: 01395 571680

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Personal Care means the provision to all residents, who by virtue *of* their age, impaired mobility or medical needs requires one or more of the following services to be delivered either by the Developer, or the Care Agency or a

combination of both the Developer and the Care Agency:

(a) assistance with personal hygiene; including washing, shaving, toileting;

(b) assistance with dressing and undressing; ( c) assistance with getting in or out of bed;

(d) assistance with the planning and preparation of meals in order to support residents in maintaining a healthy diet ;

(e) assistance with feeding and drinking;

(f) assistance with the ordering and collection of prescriptions, and ensuring the taking of prescribed medication;

(g) assistance with technology to facilitate internet shopping for home delivery, payment of bills, \_keeping in contact with family members, the pursuit of hobbies and for organising social activities for residents, ;

(h) assistance with organising GP/hospital/consultancy visits for medical appointments including accompanying residents to such visits and the provision of emotional and psychological support and physical care following any hospital discharge;

(i) collection and parking of vehicles in order to support mobility, activity levels, social interaction and maintain independence;

U) assistance to residents to enable them to access all facilities within the Development and any social activities either organised within the Development or off -Site, including accompanying any resident who has impaired mobility to such facilities/activities and/or providing support to any resident who due to age or

medical needs requires assistance to use or participate in such facilities/activities;

(k) assistance with arranging visitor access and overnight stays in order to maintain contact with family members and friends, and to

encourage social interaction to maintain the mental wellbeing of residents and facilitate independent living; and

(I) assistance with general household chores and errands including assistance with cleaning and laundry and assistance with the delivery and collection of post/parcels to maintain contact with family members and/ or to pay bills etc. and to facilitate independent living.

Sara Harvey

From: Sent: To: Cc:

Subject:

Planning Central

18 Julv 2016 13:53

Ed Freeman

RE: The Knowle Planning Application 16/0872/MFUL Visual Intrusion - UNCLASSIFIED:



In terms of use Class you are quite correct in recognizing that at pre application stage our view was the that the proposed scheme represented a C3 use falling short of the necessarycare that identifies a C2 use. Within the submission of the application and in particular within the draft heads of terms additional information has been submitted by PegasusLife seeking to underpin their continued assertion of a C2 use. In understanding the components of the Headsof Term in more detail and while we are still seeking clarification on how some aspects could be secured, it is likely that if Pegasussign up to a legal agreement and do indeed provide onsite care within a suite of facilities, that taken as whole the scheme may well achieve a C2 classification.



I trust that this addresses your queries and is of assistance. Yours sincerely

James Brown

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) [www.eastdevon.gov](http://www.eastdevon.gov). uk

From:

Sent: *L'!l* June LUlb u~:.:Su



To: Ed Freeman

Subject: FW: The Knowle Planning Application 16/0Bn/MFUL Visual Intrusion

Dear Mr Freeman,

I do not seem to have had a reply to my email..•

I also sent you an email asking whether the classification of C2 as Pegasus has assumed, and which you rejected.. stating that there were C3, has been resolved yet. You told me earlier that you were re-visiting this. have you formed a view yet?

reaards



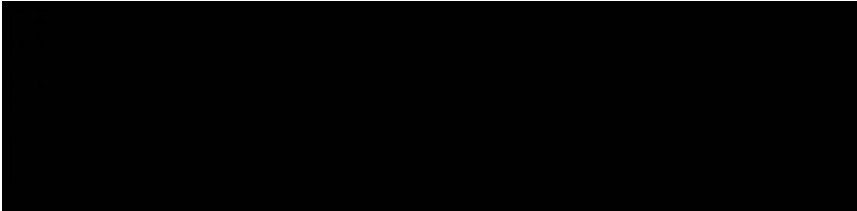
**From:**

**Sent:** 31 May 2016 16:u



**To:** 'Ed Freeman'

**Subject:** FW: The Knowle Planning Application 16/0872/MFUL Visual Intrusion



**From:**

**Sent:** 18 May 2016 12:05



**To:** 'Ed Freeman'

**Subject:** The Knowle Planning Application 16/0872/MFUL Visual Intrusion

Dear Mr Freeman,



Sara Harvey

From: Sent: To: Cc:

Subject:

Shirley Shaw

01 August 2016 16:15

Jane Burgess

James Brown

PROTECT: RE: Knowle Sidmouth 16/0872/MFUL - s106 agt

Jane



I hope this is of assistance

Regards

Shirley

Shirley Shaw LLB Hons Dip LG Barrister

For Strategic Lead - Legal, Licensingand Democratic Services

East Devon District Council

Ext.: 1680

DD: 01395 571680

From: Jane Burge

Sent: 29 July 2016 rune

s~



To: Shirley Shaw

Cc: Sebastian Charles

Subject: FW: Knowle Sidmouth 16/0872/MFUL- UNCLASSIFIED: s106 agt

Shirley



Jane Burgess

Aardvark Planning Law

U. VIOV'l 'IJ "JU "Jl



T: 01604 43 90 90

M: 07484 088 726

[www.aanlvarkpl:mninglaw.co.uk](http://www.aanlvarkpl:mninglaw.co.uk)

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Begin forwarded message:

**From:** James Brown [<JBrown@eastdevon.gov.uk>](mailto:JBrown@eastdevon.gov.uk)

**Subject: Knowle Sidmouth16/0872/MFUL ~ UNCLASSIFIED: Date:** 28 July 2016 at 18:22:36 BST

**To:** 'Matt Shillito'



Cc: Ed Freeman <t:.t-reemancweastaevon.gov.uK>, Chris Rose

[<CHRose@eastdevon.gov.uk>](mailto:CHRose@eastdevon.gov.uk)

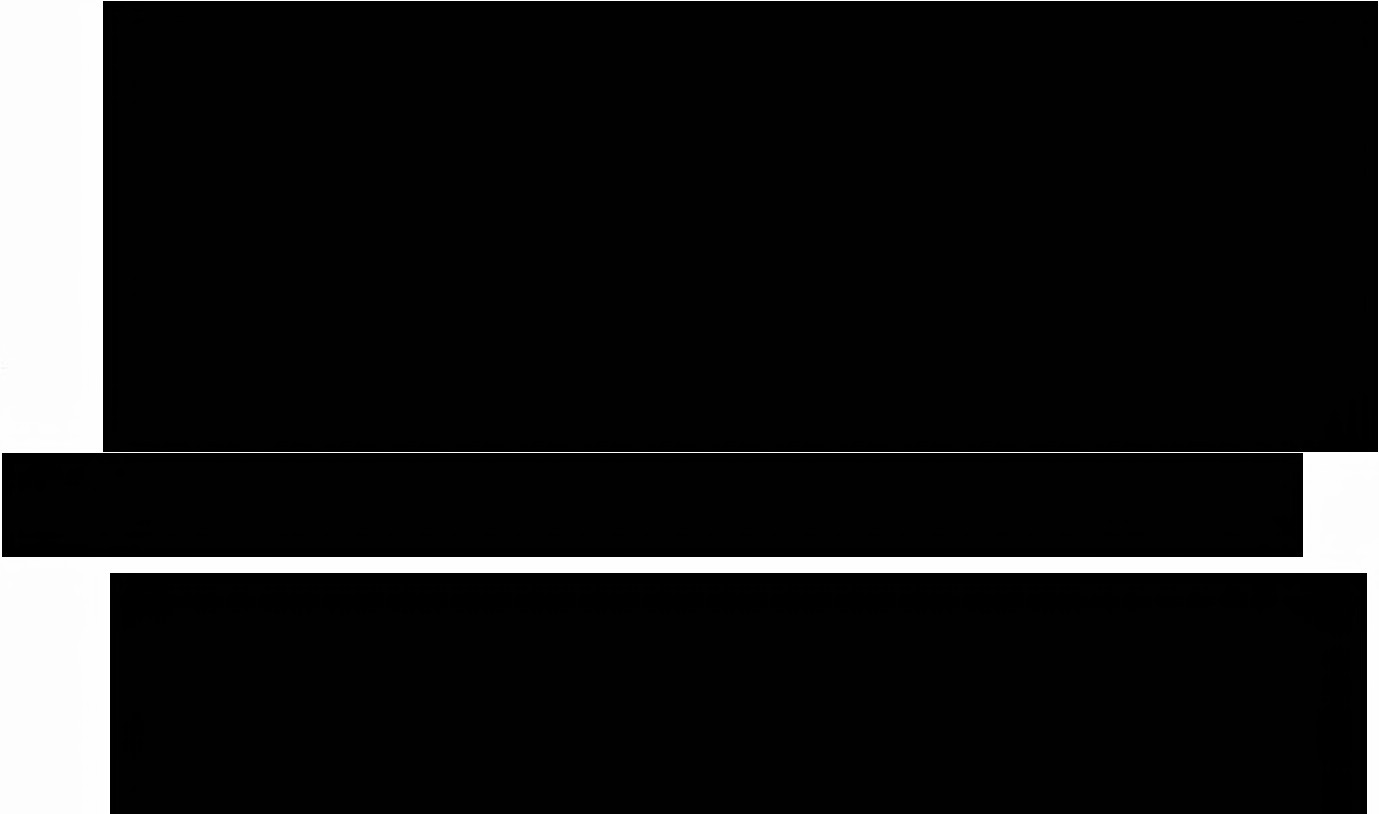
Dear Matt

Following a meeting with Ed Freeman and Chris Rose and following the timetable that I discussed last week we have now had an opportunity to review all the consultation responses received to date including the DRP feedback. We have attached a copy of both the DRP feedback and a collation of

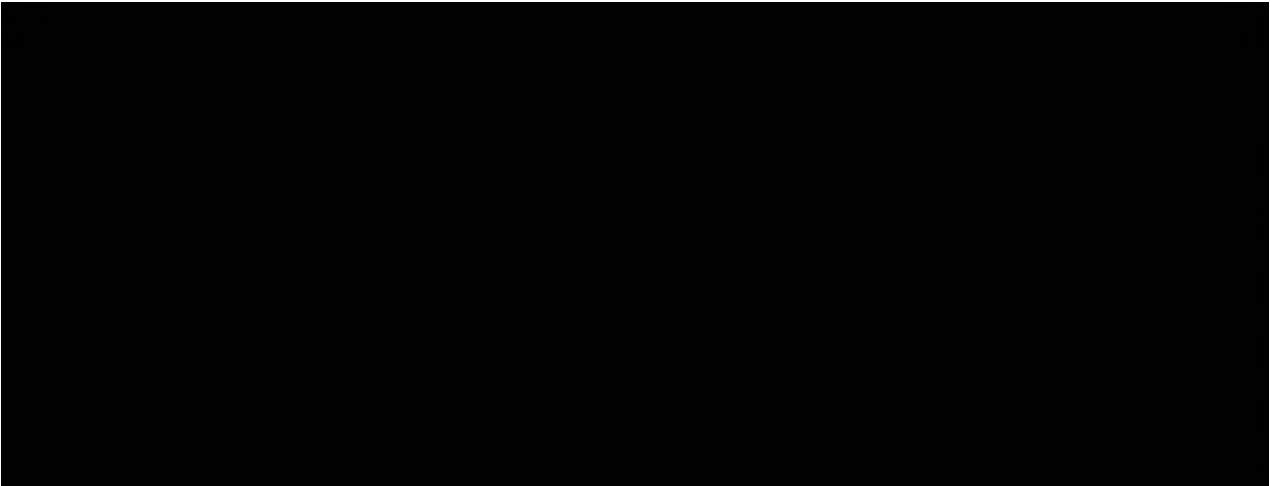
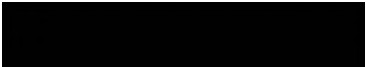
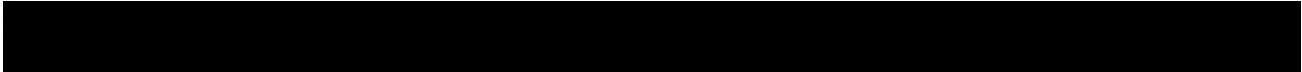
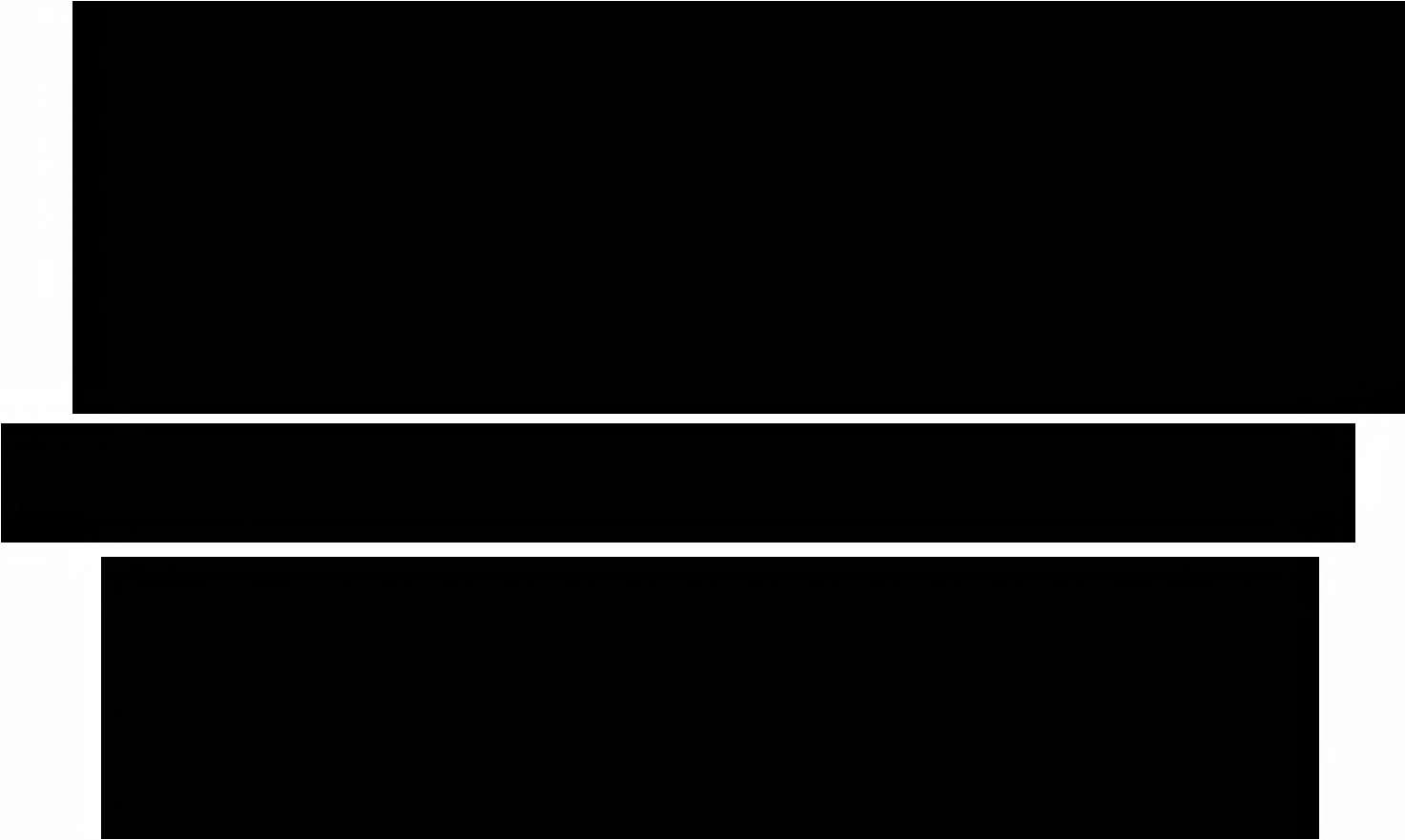
all the formal responsesfor ease of reference. This does not include a summary of third party

comments that you can view on our website but we hope is nonetheless of assistance. In addition we have also attached a copy of my earlier feedback from the 81h June. While some of those comments have been overtaken by the feedback from the DRP there are a number of elements that still need to be addressed. To simplify the outstanding issueswe have highlighted those in yellow within the attachment.

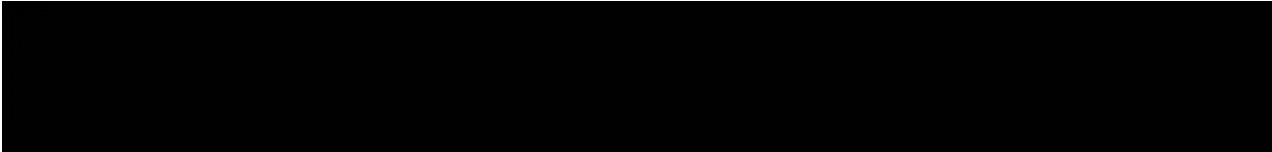
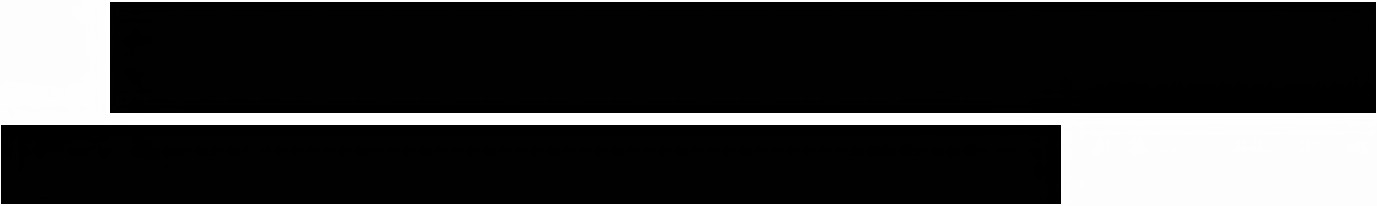
To structure the additional comments within this email we have used a topic based approach which we hope is of assistance.



3



4



Use Class

We have yet to see and review a final and consolidated package of information that allows us to conclude that the use of the Building as a C2 use. We have however little doubt now that such a category for the development cannot be obtained. As such we can again confirm that the development would not attract any requirement for affordable housing.

Good news.



Overall

We trust that the above information together with that in the various attachments is of assistance in progressing this scheme. You will note that the majority of these points have been raised

previously.

It has the potential to be an interesting and exciting scheme for Sid mouth although at the moment we are sure that you will appreciate there are a number of tensions within various issues identified and which overall are finely balanced. We look forward to amended plans and comments on the above by next Wednesday if we are to meet the deadline for the September Committee and to enable us to form a final recommendation on the application.

If you have any queries please do not hesitate to contact me

Kind Regards

James Brown

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

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Sara Harvey

From: Sent: To: Cc:

Subject:

Jane Burqess

04 August 20, u , .J.uo



Shirley Shaw

James Brown

RE: PROTECT: RE: Knowle Sidmouth 16/0872/MFUL- s106 agt

Thanks Shirley. Please see below my response following our telecons this week.

Jane Burgess

Aardvark Planning Law



D: 01604 43 90 91

T:01604439090

M 07484 088 726

\\'ww.aard\'arknl:inninglaw.co.uk

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sender.

From: Shirley Shaw [{mailto:SShaw@eastdevon.gov.uk)](mailto:mailto:SShaw@eastdevon.gov.uk)

Sent: 01 August 2016 16:15

To: Jane Burgess



Cc: James Brown [<JBrown@eastdevon.gov.uk](mailto:JBrown@eastdevon.gov.uk)>

Subject: PROTECT: RE: Knowle Sidmouth 16/0872/MFUL- s106 agt

Jane

Further to your call this morning and in anticipation of your call this afternoon I have spoken with James and can advise



4. C2 use - the consolidated package is just a reference to a final agreed definition of the personal care definition and basic care package and an agreed final version of the s106 to rely upon there was no intention for there to be provision of any further documentation. I think we need to separate out the elements of the s106 agreement that deal with personal care which is relevant to the C2 use and those that are not eg use of permissive paths etc. For that reason I am not convinced there is a need for EDDC to wait until a final



version of the s106 agreement is agreed with EDDC before a decision is made on the C2 issue. In most cases the terms of a section 106 agreement are not usually finalised until after committee. Please confirm on that basis EDDChave all the information thPv nPPrl tn fnrm a viPw nn thi:> I lc:i:> rlac:c: kc:m•

I hope this is of assistance

Regards

Shirley

Shirley Shaw LLB Hons Dip LG Barrister

For Strategic Lead - legal, licensing and Democratic Services

East Devon District Council

Ext.: 1680

DD: 01395 571680



**From:** Jane Burgess

**Sent:** 29 July 2016 10:16



**To:** Shirley Shaw

**Cc:** Sebastian Charles

**Subject:** FW: Knowle Sidmouth 16/0872/MFUL- UNCLASSIFIED: s106 agt

Shirley

Not sure if you have seen this from James.



Any feedback from James on the C2 use issue-Jamesappears to be suggesting he is looking to review a consolidated pack of information- what else does he need?



Jane Burgess

Aardvark Planning Law



T: 01604 43 90 90

M: 07484 088 726

[www.aanlv:irkrlannin,;](http://www.aanlv:irkrlannin)law.co.uk

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Sara Harvey



From: Sent: To:

Cc: Subject:

Jane Burgess

24 August 2016 15:31

James Brown

Shirley Shaw

RE: PROTECT: RE: s106- The Knowle Sidmouth Devon EX10 8HL - 16/0872/MFUL [I D=DEV.2-0332)

James

Just tried to call. Can we speak re the position regarding the Use Class.

Jane Burgess

Aardvark Planning Law

D 01604439091



T: 01604 43 90 90

M: 07484 088 726

"" \~ aanh arkplanninglaw.co.uk

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From: James Brown [[mailto:JBrown@eastdevon.gov.uk]](mailto:mailto:JBrown@eastdevon.gov.uk)

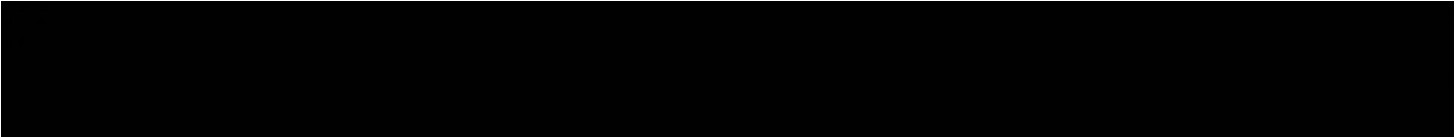
Sent: 19 August 2016 12:29

To: Jane Burgess 5hirley Shaw [<SShaw@eastdevon.gov.uk](mailto:SShaw@eastdevon.gov.uk)>

Subject: PROTECT: RE: s106 - The Knowle Sidmouth Devon EXlO 8HL • 16/0872/MFUL [ID=DEV.2-0332] Dear Jane

I am satisfied that provided the information that we have discussed is fully captured in the final version of the

Section 106 then the use as proposed is a C2 use.



Kind Regards

James Brown

James Brown

Principal Planning Officer

East Devon District Council

Tel: 01395 571596

l

email: [jbrown@eastdevon.gov.uk](mailto:jbrown@eastdevon.gov.uk) www .eastdevon.gov.uk

From: Jane Burgess



Sent: 19 August 20lb *lL:L~*

To: Shirley Shaw

Cc: James Brown

Subject: RE: PROTECT: s106 -The Knowle Sidmouth Devon EX10 BHL- 16/0872/MFUL [ID=DEV.2-0332]

Shirley

Just tried to call and have left a message. We are keen to progress the s106 agreement and resolve the Use Class issue. Can you or James come back to me please.

Jane Burgess

Aardvark Planning Law

0: 01604 43 90 91



T: 0160443 9090

M: 07484 088 7.26

[www.aard](http://www.aard),11rknlanninglaw.cn.uk

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From: Jane Burgess

Sent: 10 August 2016 18:10

To: 'Shirley Shaw' [<SShaw@eastdevon.gov.uk>](mailto:SShaw@eastdevon.gov.uk) Cc: 'James Brown' [<JBrown@eastdevon.gov.uk>](mailto:JBrown@eastdevon.gov.uk)

Subject: RE: PROTECT: s106 - The Knowle Sidmouth Devon EXlO BHL • 16/0872/MFUL [IO=OEV.2-0332]

Shirley

Just tried to call - any update from yourself or James as we are keen to progress the s106 agreement and resolve the Use Class issue.

Jane Burgess

Aardvark Planning Law

D:01604439091

T: 01604 43 90 90

M: 07484 088 7.26

[www.aanharl..nla](http://www.aanharl)nmnglaw.cn.uk

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From: Jane Burgess

Sent: 09 August 2016 17:54

To: 'Shirley Shaw' [<SShaw@eastdevon.gov.uk>](mailto:SShaw@eastdevon.gov.uk) Cc: James Brown [<JBrown@eastdevon.gov.uk>](mailto:JBrown@eastdevon.gov.uk)

Subject: RE: PROTECT: s106 - The Knowle Sidmouth Devon EXlO BHL ~ 16/0872/MFUL [ID=DEV.2-0332] Thanks Shirley we have discussed briefly this afternoon.

Can you come back to me once you have spoken again to James.

Jane Burgess

Aardvark Planning Law

D: 01604 43 90 91

T:0160443 9090

M: 07484 088 726

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From: Shirley Shaw [[mailto:SShaw@eastdevon.gov.uk]](mailto:mailto:SShaw@eastdevon.gov.uk) Sent: 09 August 2016 15:01

To: Jane Burgess



Cc: James Brown [<JBrown@eastdevon.gov.uk](mailto:JBrown@eastdevon.gov.uk)>

Subject: PROTECT: s106 - The Knowle Sidmouth Devon EXlO BHL • 16/0872/MFUL [ID=DEV.2-0332] Jane

To save a call James has come back on a couple of the issues in your email response of the 4th August. Going with the paragraph numbering of the original email



4. James has asked for a clean care needs definition, which I think is the agreed personal care definition (I am chasing for confirmation on that), and heads of terms from you or Pegasus to accompany the application so he can reach a C2 conclusion within the report.



I am hoping James will call me when he comes out of his meeting this afternoon. But thought I would get a reply to you now in any event.

Regards

Shirley

Mrs Shirley Shaw LLB Hons Dip LG Barrister

For Strategic Lead - Legal, licensing and Democratic Services

East Devon District Council

Ext.: 1680

00: 01395 571680

Email: [sshaw@eastdevon.gov.uk](mailto:sshaw@eastdevon.gov.uk)

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Sara Harvey

From: Sent: To: Cc:

Subject: Attachments:

25 October 2016 09:41



Ed Freeman

James Brown; Planning Central; RE: Knowle Planning Application 16/0872/MFUL- UNCLASSIFIED: RE: Knowle Planning Application 16/0872/MFUL - UNCLASSIFIED:



Dear Mr Freeman,

Thank you for your email.

I know that you have many other issues apart from answering questions from members of the public, but I am sure that you will agree with me that the development of the Knowle is one of the most significant planning applications in Sidmouth. With this in mind, I have a few follow up questions based on your reply.

1. You imply that the Planning Department's view on whether the application should be treated as C2, (Residential Institutions), as asserted, or C3, depends on your interpretation of a legal agreement between the Developers and, I assume, their prospective purchasers. Who will be judging whether this Agreement is legally sufficient and that it holds in perpetuity?



It seems to me that regarding the Application as C2 rather than C3, whatever the effect on housing numbers, will drastically effect the income to the District, and that any decision in this regard needs to be justified most carefully.

reaards



Sara Harvey

From: Sent: To: Cc:

Subject:

Ed Freeman

24 October 2016 14:00



James erown: tJlanning Central;



RE: Knowle Planning Application 16/0872/MFUL - UNCLASSIFIED:

Dear



Thank you for your attached e-mail.

As you will be aware we have been considering whether the application made by PegasusLife is truly for a C2 use as is claimed in the application and have been considering the various comments made by residents on this issue and relevant case law in doing this. We have also been exploring the option of a legal agreement with PegasusLife to control the way the site is operated and the care provided in the event that permission is granted. Our conclusions on this issue and all other issues with the application will be included in the officer's report which will be reported to Development Management Committee. As things stand this matter is likely to be reported to the committee at their

meeting on the s" December with the agenda published around 10 days beforehand.

Ultimately any decision on this point and the application as a whole rests with the Committee. Regards.

Ed Freeman

Service Lead - Planning

East Devon District Council

e-mail - [efreeman@eastdevon.gov.uk](mailto:efreeman@eastdevon.gov.uk)

Tel: 01395 517519

From:



Sent: 19 October 2016 18:35

To: Ed Freeman

Cc: James Brown; Planning Central;



Subject: RE: Knowle Planning Application 16/0872/MFUL - UNCLASSIFIED:

Dear Mr Freeman,

We had some correspondence a while ago about the use class that Pegasus life was applying for .(C2),. I attach this above.

You last email to me dated 7th may 2016, said that you were currently reviewing your earlier advice to Pegasus that the Class should be C3.

I asked that you let me know when you had reviewed the situation. I have not heard from you. Please will you let me know what your current thoughts are on the Class of Use that should apply



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