

Agenda for an Extra-ordinary Development Management Committee meeting Tuesday, 10 October 2017; 10.00am



[Members of the Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Hannah Whitfield](#)

01395 517542, Issued 2 October 2017

East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

www.eastdevon.gov.uk

Public speaking

A maximum of two speakers from the public will be permitted to speak on agenda item 5. Speakers will have 3 minutes to make their representation. You can register to speak on these items up until 12 noon, the day before the meeting by emailing planningpublicspeaking@eastdevon.gov.uk or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

- 1 Apologies
- 2 [Declarations of interest](#)
- 3 [Matters of urgency](#)
- 4 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.
- 5 **Reasons for refusal relating to loss of light – Council Offices, Knowle, Sidmouth** (page 3 - 25)
Application 16/0872/MFUL was refused at Development Management Committee in December 2016 for three reasons – this decision has subsequently been appealed by the applicant.
The Committee is recommended to consider new evidence submitted from the appellant in relation to loss of light and to no longer defend the appeal on the basis of any loss of light from the development having a detrimental impact upon surrounding residents.

Please note:

Planning application details, including plans and representations received, can be viewed in full on the Council's [website](#).

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[Decision making and equalities](#)

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		Committee Date: 10 October 2017
Sidmouth Town (SIDMOUTH)	16/0872/MFUL	Target Date: 02.08.2016
Applicant:	Pegasus Life	
Location:	Council Offices Knowle	
Proposal:	The construction of an assisted living community for older people comprising extra care units, staff accommodation and communal facilities, including a kitchen, restaurant/bar/cafe, a well-being suite comprising gym, treatment rooms and pool, a communal lounge and storage facilities; car parking for residents, visitors and staff of the assisted living community; comprehensive landscaping comprising communal and private spaces; and associated groundworks.	

RECOMMENDATION: To accept the appellants new evidence in relation to loss of light and to no longer defend the appeal on the basis of any loss of light from the development having a detrimental impact upon surrounding residents.

EXECUTIVE SUMMARY

The application was refused at Development Management Committee in December 2016 for three reasons.

The first of these reasons relates to the impact from the development upon the area and upon neighbouring properties. Part of the reason relates to 'a significant loss of light' from the development and this loss of light impact is considered to relate to Hillcrest, the closest residential property (a bungalow) to the new buildings.

Following the submission of the appeal, the appellant has provided further information in the form of a Daylight and Sunlight assessment that uses methodology and criteria from the Building Research Establishment guide to good practice. This document concludes that there will be little impact upon Hillcrest in terms of daylight or sunlight and that the levels will continue to be in excess of the target levels identified in the good practice guide.

Officers have considered the report and do not disagree with its conclusions. On this basis, and given this further information, officers recommend that the Council no longer defends the refusal of planning permission on the basis of a loss of light.

The Council would however continue to defend the decision on the basis of the other reasons for refusal that include the overly dominant impact on the public gardens and Knowle Drive and the visually overbearing impact and loss of privacy to the occupiers of Hillcrest in particular.

CONSULTATIONS

There have been no local, technical or third party consultations in relation to this report.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)
Strategy 48 (Local Distinctiveness in the Built Environment)
D1 (Design and Local Distinctiveness)

Government Planning Documents

NPPF (National Planning Policy Framework 2012)
National Planning Practice Guidance

Site Location and Description

The report relates to the Knowle Council offices and in particular to the relationship of the proposed development to a property known as Hillcrest to the north-west of the current office buildings on Knowle Drive. Hillcrest is a bungalow positioned in close proximity to the site boundary.

Proposal

This report relates to the application by Pegasus Life for the redevelopment of the site for 113 apartments and associated facilities that was considered by Members at the December 2016 Development Management Committee.

Following the refusal of planning permission the applicant has submitted an appeal against this decision which will be heard at a public inquiry over 5 days starting on 28th November. This report relates to the Council's case being argued as part of that appeal.

ANALYSIS

The issue for this report is whether the Council should continue to defend the refusal of planning permission on the basis of the development leading to a 'significant loss of light' to neighbouring properties.

Loss of Light

This application was presented to Committee in December 2016 and was refused by Members for the following 3 reasons:

1. The proposed development by virtue of its scale, height, bulk and massing would have an overly dominant impact on the public gardens and parkland adjacent to the site and the streetscene of Knowle Drive. Furthermore the development would be visually overbearing and lead to a significant loss of light and privacy to neighbouring properties. As a consequence the proposed development is considered to be an overdevelopment of the site contrary to the requirements of Strategy 6 - Development within Built-Up Area Boundaries, Strategy 48 - Local Distinctiveness in the Built Environment and Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan.

2. The proposed development purports to be a C2 (extra care facility) with no affordable housing being provided as part of the proposal. It is however considered based on the submitted details, case law and available guidance that the proposed units would constitute separate residential dwellings within the C3 use class under the Use Classes Order 1987 (as amended). It is considered that the proposed development is required to make provision for affordable housing and no mechanism has been provided to enable such provision to be secured. The proposed development is therefore contrary to the requirements of Strategy 34 - District Wide Affordable Housing Provision Targets of the adopted East Devon Local Plan.

3. The proposed development in respect of Building E, by virtue of its scale, height, mass and bulk, its positioning close to the listed summerhouse, and the resulting loss of the existing terraces and associated landscaping, would be harmful to the setting of the heritage asset. It is considered that although alternatives have been considered and the public benefits made clear these would not outweigh the identified harm and that the development would therefore be contrary to the requirements of Strategy 26 - Development at Sidmouth, Strategy 48 - Local Distinctiveness in the Built Environment and Policy EN9 - Development Affecting a Designated Heritage Asset.

As part of the appeal submission by the appellant, they have submitted a Daylight and sunlight assessment (attached to this report as Appendix A). This report has been submitted to rebut the part of reason for refusal number 1 that states that the proposal would 'lead to a significant loss of light...' to neighbouring properties. The neighbouring property referred to in the reason for refusal that would be impacted by the loss of light is Hillcrest to the north-west of the site on Knowle Drive. All other dwellings are far enough away not to suffer any material loss of light, although they may be impacted in other ways.

The assessment submitted by the appellant has been carried out using methodology and criteria provided by the Building Research Establishment (BRE) guidance 'Site layout planning for daylight and sunlight: a guide to good practice'.

Whilst this is only a good practice note, and Members need to make their own assessment of the impact of development on the loss of light, the practice note will carry some weight with the Inspector as the methodology is generally accepted and as such the Council will need to rebut the evidence as part of the appeal.

The report concludes that the assessment demonstrates that the proposal will have little impact upon Hillcrest in terms of loss of daylight or sunlight and that Hillcrest will continue to receive levels in excess of the BRE guidelines. The report shows a slight reduction in light to two ground floor windows (Kitchen and Bedroom) and a further window (Dining Room) in the winter. However, the level of light loss does not go below 0.9 times their former value with the BRE Guidelines stating that existing buildings will not be adversely affected by new development if the levels remain above 0.8 times their former value. Although this report has been prepared without access to Hillcrest, this is not in itself necessary for the methodology adopted in the guidance which is based on aspects such as separation distances and orientation of windows. Whilst the report demonstrates some loss of light, this is not significant and not to an extent that officers feel could be argued to be harmful as part of the appeal.

Having considered the report, officers concur with its findings that are supported by the fact that in the Spring, Summer and Autumn the sun will be high enough in the sky to ensure that the new buildings do not result in a detrimental loss of light or overshadowing to Hillcrest. During the Winter when the sun is lower, Hillcrest will still experience un-interrupted sunlight in the morning and evenings given the distance of the new building from Hillcrest (just under 19m at its closest). This backs up the findings of the report that any loss of light will not be to an extent that could be classed as detrimental. The distances involved should ensure no detrimental level of overshadowing and even if the proposal were to prevent direct sunlight in the height of winter, this does not mean that the levels of light received by the window will be reduced to an unacceptable level.

In light of the receipt of this report, and as officers do not disagree with the findings, it is recommended to Members that the Council accept the further evidence, agree its conclusions and withdraw from defending this element of reason for refusal number 1 at the appeal.

Whilst this will be disappointing to the occupiers of Hillcrest, in the absence of any evidence to refute the findings, this route has been recommended by the Council's Barrister instructed to defend the appeal. This will also reduce the possibility of the appellant applying for costs on the basis that the Council cannot adequately defend this part of the reason for refusal. Withdrawing from defending this as part of the appeal does not mean that the occupiers of Hillcrest's comments to the Inspectorate raising concerns regarding loss of daylight and sunlight will not be considered by the Inspector.

Should Members disagree with the above and wish to continue to defend the loss of light impact, the Council will need to appoint specialist external consultants to rebut the appellant's findings. If consultants can be found that can rebut the evidence, it is estimated that the cost of employing them to produce evidence and appear at the inquiry would run into many thousands of pounds.

For the avoidance of doubt, and for the benefit of the occupiers of Hillcrest, it is still proposed that the Council defend the remainder of Reason for Refusal 1 and Reasons for Refusal 2 and 3 in full. As such, the Council would still be making a case during the appeal that the development has a harmful impact upon the public gardens, parkland and streetscene, results in a loss of privacy and would be visually overbearing to Hillcrest.

Conclusion

Given the further evidence submitted as part of the appeal in relation to the potential loss of light as a result of the development, it is considered that it would be very difficult for officers to adequately rebut the evidence.

In light of this, and given the possibility of an award of costs against the Council for pursuing this without adequate justification/rebuttal, it is recommended that the Council accept the further evidence and no longer pursue any impact from loss of light upon Hillcrest as part of the appeal.

The Council will however continue to defend the other reasons for refusal including the impact upon the public gardens, parkland and streetscene and loss of privacy and overbearing impact upon Hillcrest.

For clarity, if Members agree with the officer recommendation, the amended reason for refusal would read as follows:

1. The proposed development by virtue of its scale, height, bulk and massing would have an overly dominant impact on the public gardens and parkland adjacent to the site and the streetscene of Knowle Drive. Furthermore the development would be visually overbearing and lead to a significant loss of privacy to neighbouring properties. As a consequence the proposed development is considered to be an overdevelopment of the site contrary to the requirements of Strategy 6 - Development within Built-Up Area Boundaries, Strategy 48 - Local Distinctiveness in the Built Environment and Policy D1 - Design and Local Distinctiveness of the adopted East Devon Local Plan.

RECOMMENDATION

To accept the appellants new evidence in relation to loss of light and to no longer defend the appeal on the basis of any loss of light from the development having a detrimental impact upon surrounding residents.

List of Background Papers

Application file, consultations and policy documents referred to in the report.



Daylight and sunlight assessment

Knowle Drive, Sidmouth

30 May 2017



Project & Development Services
Building Surveying | Project Management | Cost Management

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1. Introduction

JLL and EB7 have been instructed to assess the daylight and sunlight implications of the proposed new development at Knowle Drive, Sidmouth on the Hillcrest property to the sites western boundary.

The methodology and criteria used for these assessments is provided by the Building Research Establishments guidance 'Site layout planning for daylight and sunlight: a guide to good practice' (BRE, 2011) and the BS8206-2:2008.



2. Policy and guidance

2.1 Site layout planning for daylight and sunlight: a guide to good practice, BRE 2011

This document is produced by the Building Research Establishment (BRE) and is the accepted methodology used by local authorities for assessing daylight and sunlight in relation to new developments. It provides methods for calculating the impact to daylight and sunlight within existing neighbouring buildings and for assessing the provision of amenity provided within new buildings.

The guidance details three methods for calculating daylight, the Vertical Sky Component (VSC), the No-Sky Line Contour (NSC) and the Average Daylight Factor (ADF). The first two assessments are primarily used for the assessment of existing buildings, whilst the ADF test is used for the assessment of new buildings. The assessment of sunlight within both existing and new buildings is undertaken using the Annual Probable Sunlight Hours (APSH) test.

Daylight to existing buildings

The Vertical Sky Component (VSC) test measures the amount of sky that is visible to a specific point on the outside of a property, usually a window, which is directly related to the amount of daylight that can be received. It is measured on the outside face of the external walls, again usually at the centre point of a window.

The No Sky-Line Contour (NSC) test calculates the distribution of daylight within rooms by determining the area of the 'working plane' which can and cannot receive a direct view of the sky and hence 'sky light'. The working plane height is set at 850mm above floor level within a residential property and 700mm for non-residential.

For buildings that neighbour a new development, the guidance suggests that daylight will be adversely affected by the development, if either, its windows achieve a VSC below 27% and have their levels reduced to less than 0.8 times their former value, or the levels of NSC within rooms are reduced to less than 0.8 times their former values.

Sunlight

For sunlight the APSH test calculates the percentage of statistically probable hours of sunlight received by each window in both the summer and winter months. March 21st through to September 21st is considered to be the summer period while September 21st to March 21st is considered the winter period. For properties surrounding a new development only those windows orientated within 90° of due south and which overlook the site of the proposal are relevant for assessment.

The BRE guidelines suggest that the main living rooms within new buildings should achieve at least 25% of annual sunlight hours, with 5% during the winter period. For neighbouring buildings the guide suggests that occupiers will notice the loss of sunlight if the APSH to main living rooms is both less than 25% annually (with 5% during winter) and that the amount of sunlight, following the proposed development, is reduced to less than 0.8 times its former value.

2.2 BS 8206 Lighting for buildings - Part 2: Code of Practice for daylighting, BSI 2008

This document gives guidance upon the design and provision of good daylight and sunlight within new developments. It suggests that the ADF test should be used to assess daylight and APSH to assess internal sunlight. The methodologies for these assessments are the same as those discussed in the BRE guidance above.

3. Methodology and application

Scope of the assessments

The BRE guidelines state that when assessing any potential effects on surrounding sensitive receptors, only those windows and rooms that have a 'reasonable expectation' of daylight and sunlight need to be considered. Paragraph 2.2.2 of the guidelines clarifies what are considered sensitive receptors with a 'reasonable expectation' of daylight and sunlight as follows

"The guidelines given here are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens and bedrooms. Windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed. The guidelines may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight, this would normally include schools, hospitals, hotels and hostels, small workshops and some offices."

Commercial properties are not treated as having a reasonable expectation of daylight or sunlight. This is because they are generally designed to rely on electric lighting to provide sufficient light by which to work, rather than natural daylight or sunlight. No further assessment has therefore been carried out in relation to commercial properties in the vicinity of the proposed development.

Application of the guidance & criteria

The opening paragraphs of the BRE guidelines state: -

"The guide is intended for building designers and their clients, consultants and planning officials. The advice given here is not mandatory and the document should not be seen as an instrument of planning policy. Its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly because natural lighting is only one of many factors in site layout design. In special circumstances the developer or planning authority may wish to use different target values. For example, in a historic city centre a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings"

It is therefore important to understand that the BRE guidance needs to be applied sensibly and flexibly, after taking account of site context. It is considered important to note that in high density areas, achieving good levels of daylight and sunlight may conflict with other site constraints or aspirations.

4. Assumptions & Sources of Information

Where it has not been possible to gain access to the Hillcrest property, details of the internal layouts and floor level heights have been estimated from the external appearance of the building, and the locations of windows. Unless known or otherwise appropriate the depths of rooms have been assumed at 4.27m or half the building depth if this is more appropriate.

Topographical survey, drawings, site photographs and Ordnance Survey information have been used to create a 3D computer model of the proposed development in the context of the existing site and surrounding buildings.

4.1 AP Land Surveys Ltd

050-Knowle Topographic CAD Survey.dwg
050-Knowle Topographic CAD Survey 2.dwg
Received 12/05/2017

4.2 Sarah Wigglesworth Architects

584_Sidmouth Model.wx
Received 22/05/2017

4.3 JLL / EB7 Ltd

Ordnance Survey
Site photographs

5. The Site, proposal and surrounding buildings

The site of the development is located on the western side of Knowle Drive, Sidmouth and is occupied by former council buildings. The proposal includes demolition of the existing buildings and for the construction of a new residential development.

The site is neighboured by residential properties and in line with the BRE criteria, as requested we have considered the Hillcrest property in proximate relationship to the proposal.

The Residential property of 'Hillcrest' included within our assessments and its location can be seen on the below aerial -



1. Hillcrest

Daylight & sunlight to the Hillcrest Property

Full results of the daylight and sunlight assessments are attached within appendix B. These can be cross referenced with the drawings in appendix A.

5.1 Hillcrest



This detached house is situated to the south of Holroyd property as highlighted in the plot illustrations attached. The rear elevations (east facing) of this property look towards the 'Gateway Building' within the proposals. In addition, the southern flank wall look towards 'Building A'. The eastern and southern facades have therefore been considered within our analysis.

Daylight

The results of our VSC and NSC assessments have shown that all of the habitable rooms and windows within this property retain levels of daylight in excess of the criteria given within the BRE guide.

Sunlight

In line with the BRE criteria, we have assessed the windows that face the proposal and are within 90 degrees of due south. The results of our studies indicate full compliance with the APSH targets as set out in the BRE guide.

6. Conclusions

The impact to daylight and sunlight within the Hillcrest property has been assessed using the VSC, NSC and APSH assessments as recommended within the BRE document 'Site layout planning for daylight and sunlight'.

The results of these assessments demonstrate that the proposed development will have little effect upon Hillcrest in terms of either daylight or sunlight and that it will continue to receive levels of in excess of the BRE targets. As such the impact of the proposed development is entirely consistent with BRE guidance and local planning policy.



7. References

Site layout planning for daylight and sunlight, BRE, 2011

Lighting for buildings - Part 2: Code of Practice for daylighting (BS 8206-2:2008)



Appendix A

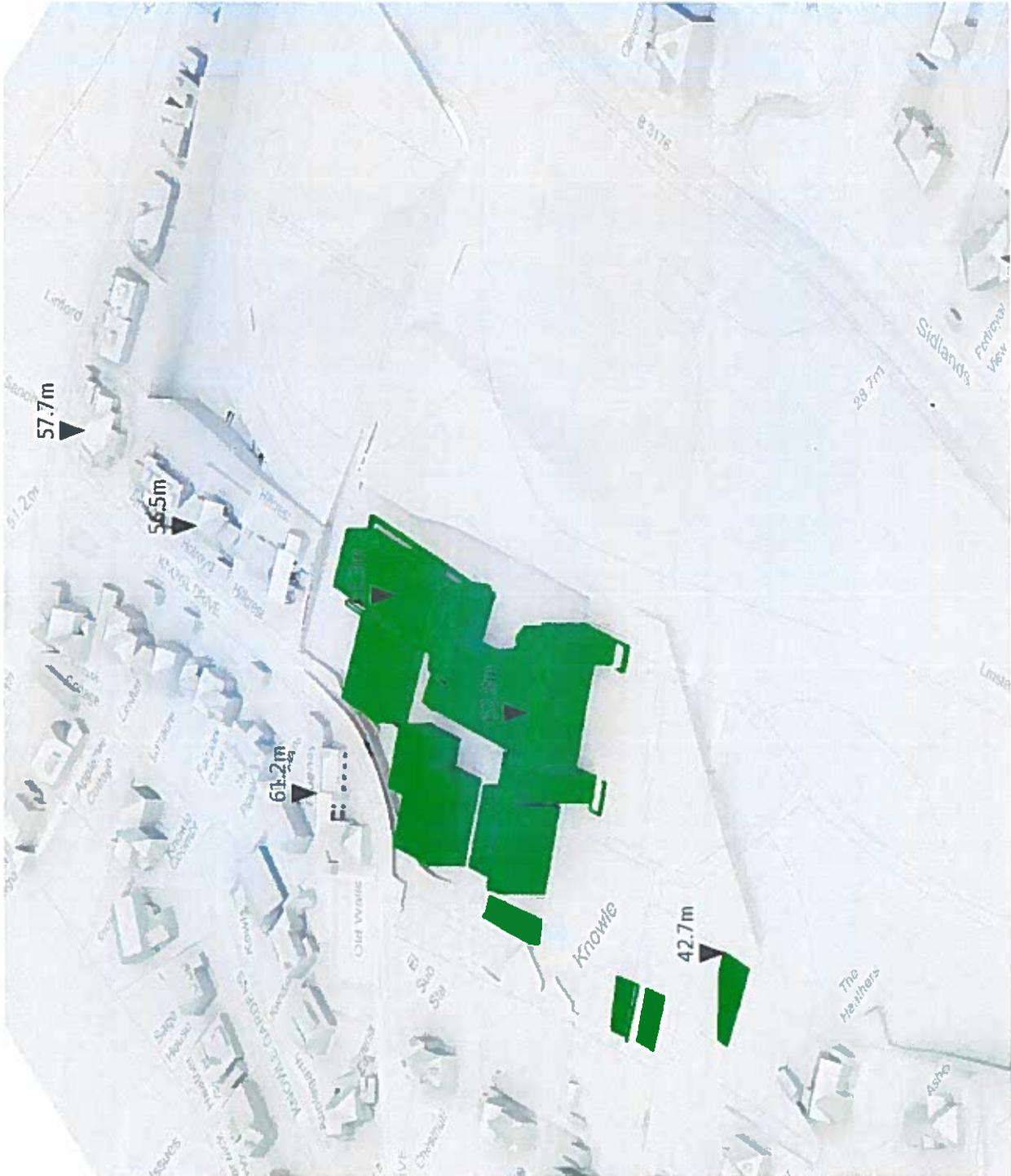
Drawings of the existing, proposed and neighbouring buildings

Sources of Information
 Kensington Taylor Chartered Architects
 OSD, Knowle Topographic CAD Survey, 2017
 Received 12/05/23 7

Sarah Wigglesworth Architects
 wfa@irada.ssp
 Received 20/05/23 7



Project: Knowle Drive, Slimeath	
Drawing: Existing Condition 3D View	
Date: 3/05/2017	Scale: NTS
Drawn By: CX	Checked By: -
Drawn At: -	Rev: -
JLL 2023	02
	01



Sources of Information

Kensington Taylor Chartered Architects
 050, Krowle Topographic CAD Survey.dwg
 Received 12/25/2017

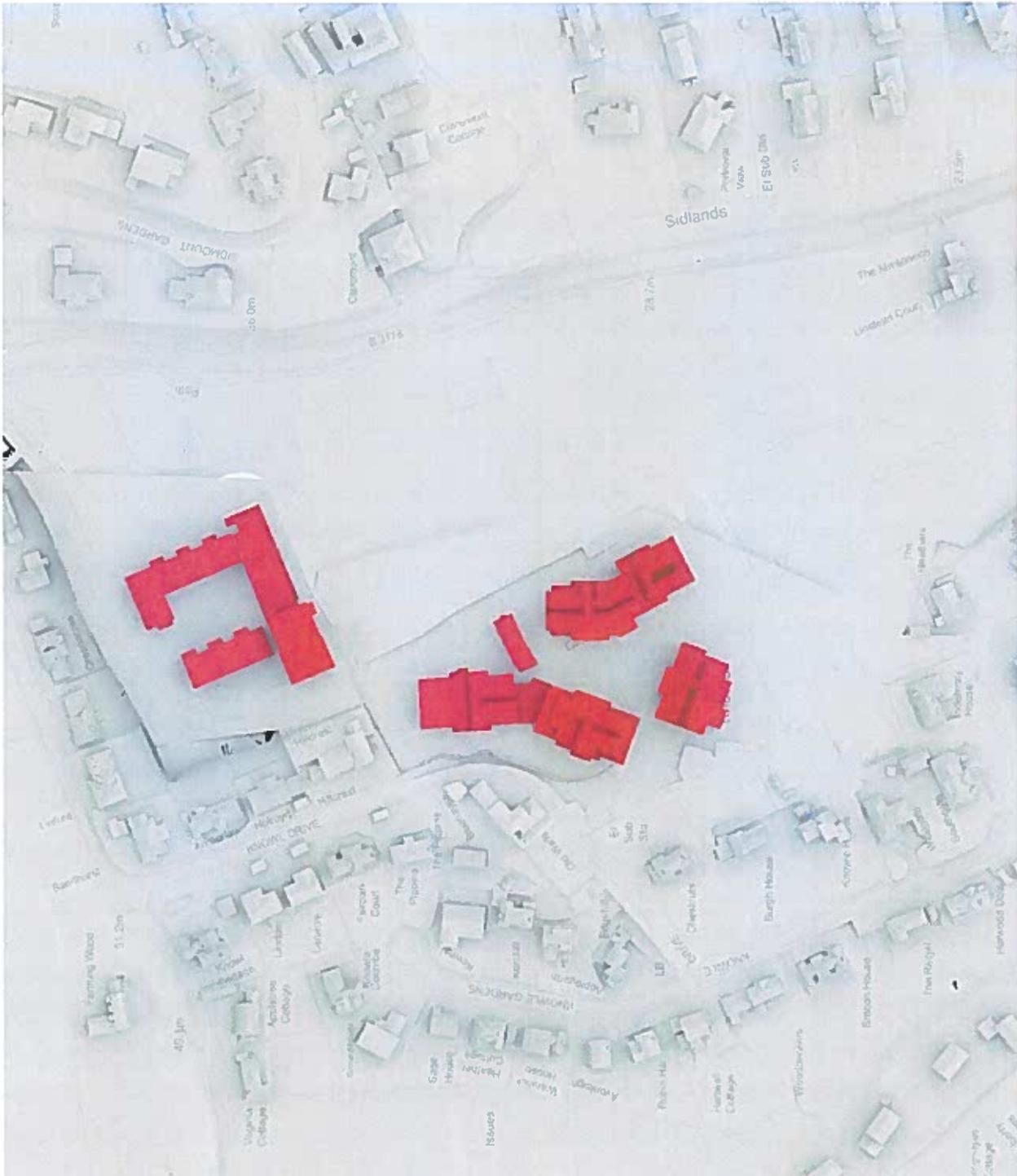
Sarah Wigglesworth Architects
 W316.mxd.sip
 Received 7/25/2017



Project: Knowle Drive,
 Sidmucuth

Drawn: Proposed Condition
 Plan View

Date	3/05/2017	Scale	NTS
Drawn By	CK	Checked By	
Drawing No	JLL2023	03	01
Rev			



Sources of Information

Kensington Taylor Chartered Architects
 050-Krowe Topographic CAD Survey.dwg
 Received 12/05/22 7

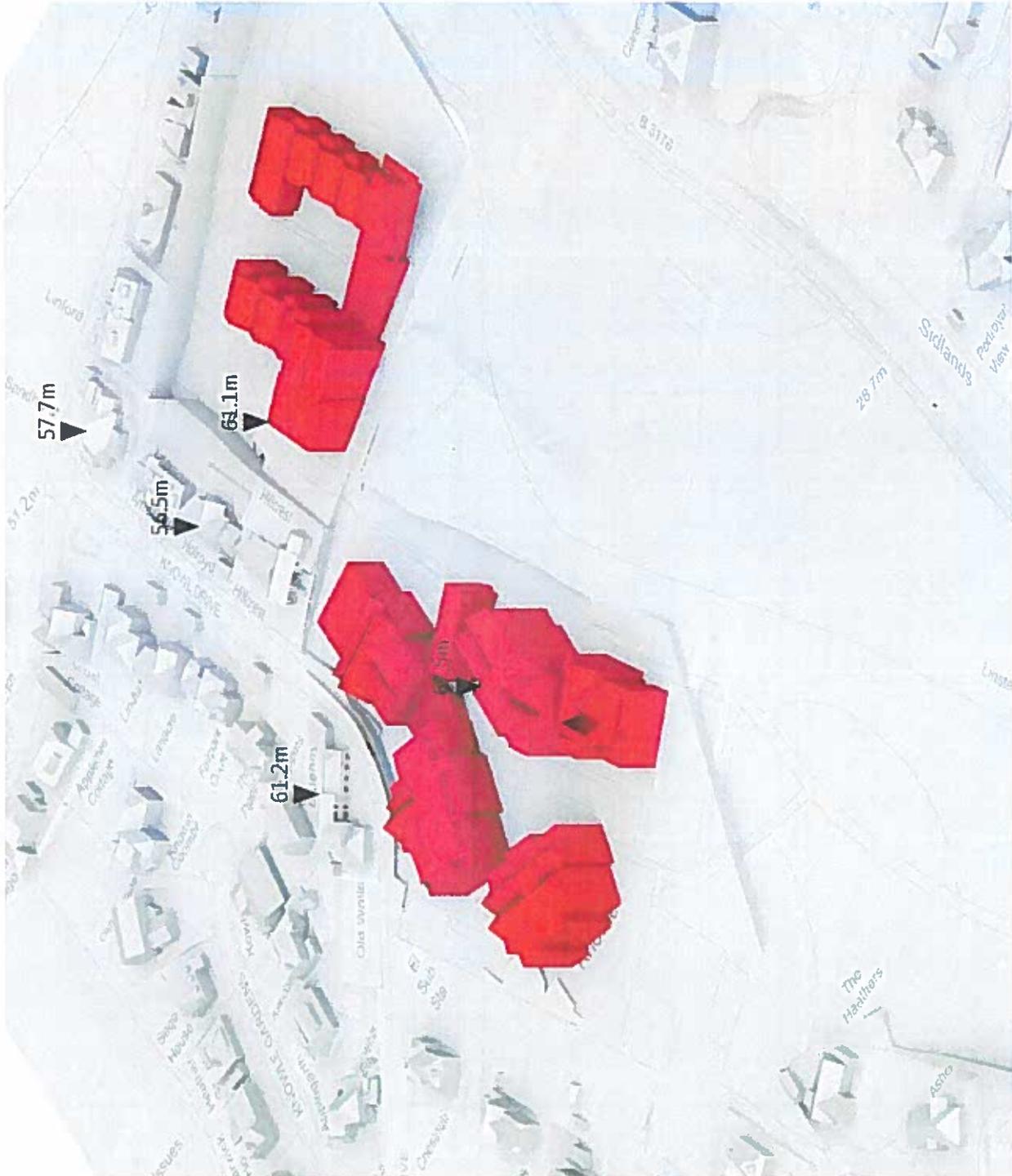
Sarah Wigglesworth Architects
 wfd file model.rvt
 Received 22/05/23 7



Project: Knowle Drive,
 Siamcuth

Drawing: Proposed Condition
 3D View

Drawn By	CK	Checked By	MTS
Drawn On	JLL 2023	04	01



Appendix B

Results of the daylight & sunlight assessment within the Hillcrest property

Address	Room	Window	Room Use	Existing	Proposed	Proportion	Room Area	Existing	Proposed	Proportion	Existing	Proposed	Total	Winter	Winter	
				VSC	VSC	Retained		NSC	NSC	Retained	Total	Winter	Total	Winter	Retained	Retained
Hilcrest																
Ground	R1	W1 L	Living Room	35.5	35.5	1.0	238.1	237.6	235.7	1.0	92	27	91	26	1.0	1.0
		W1 U		34.5	32.8	1.0										
		W2 L														
		W2 U														
Ground	R2	W3 L	Dining Room	25.1	24.1	1.0	161.0	158.7	158.7	1.0	59	19	58	18	1.0	0.9
		W3 U														
Ground	R3	W4	Kitchen	19.3	18.1	0.9	133.6	127.3	117.3	1.0	N/A	N/A	N/A	N/A	N/A	N/A
Ground	R4	W5	Bedroom	17.5	15.6	0.9	83.9	83.8	83.8	1.0	N/A	N/A	N/A	N/A	N/A	N/A
Ground	R5	W8 L	Bedroom	15.8	15.8	1.0	181.2	178.4	178.3	1.0	34	14	34	14	1.0	1.0
		W8 U		8.0	7.9	1.0										
		W9 L														
		W9 U														
Ground	R6	W10 L	Bedroom	7.9	7.9	1.0	131.7	98.3	98.3	1.0	9	4	9	4	1.0	1.0
		W10 U														