



## Planning Committee

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**MEMBERS:** Councillor Murray (Chairman); Councillor Sabri (Deputy-Chairman); Councillors Jenkins, Miah, Murdoch, Salisbury, Taylor and Ungar

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## Agenda

- 1 Minutes of the meeting held on 24 November 2015.** (Pages 1 - 10)
- 2 Apologies for absence.**
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**

**4 Urgent items of business.**

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.

**5 Right to address the meeting/order of business.**

The Chairman to report any requests received to address the Committee from a member of the public or from a Councillor in respect of planning applications/items listed and that these applications/items are taken at the commencement of the meeting.

**6 2a St Marys Road. Application ID:151011 (PPP). (Pages 11 - 16)****7 6 Wedderburn Road. Application ID: 151149 (HHH). (Pages 17 - 22)****8 12 Carew Road. Application ID: 151200 (HHH). (Pages 23 - 28)****9 14 Maple Road. Application ID: 151006. (Pages 29 - 34)****10 41 Pevensey Road. Application ID: 151227. (Pages 35 - 40)****11 Unit 1, Hawthorn Road - Birchwood Skoda. Application ID: 151206 (PPP). (Pages 41 - 46)****12 3-5 Wilmington Gardens, Courtlands Hotel. Application ID: 151134. (Pages 47 - 72)****13 23-25 Royal Parade, East Beach Hotel. Application ID: 150965. (Pages 73 - 82)****14 Land at Sumach Close. Application ID: 151170. (Pages 83 - 92)****15 Upwick Road Drainage. Application ID: 151192 (VCO). (Pages 93 - 98)****16 Land within the curtilage of 4 Walnut Tree Walk. Application ID: 151007 (PPP). (Pages 99 - 106)****17 Appeal Decision - 153 Victoria Drive. (Pages 107 - 112)****18 South Downs National Park Authority Planning Applications.**

**Inspection of Background Papers** – Please see contact details listed in each report.

**Councillor Right of Address** - Councillors wishing to address the meeting who are not members of the Committee must notify the Chairman in advance.

**Disclosure of interests** - Members should declare their interest in a matter at the beginning of the meeting, and again, at the point at which that agenda item is introduced.

Members must declare the existence and nature of any interest.

In the case of a DPI, if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

**Public Right of Address** – Requests by members of the public to speak on a matter which is listed in this agenda must be received in writing by no later than 12 Noon, 2 working days before the meeting e.g. if the meeting is on a Tuesday, received by 12 Noon on the preceding Friday). The request should be made to Local Democracy at the address listed below. The request may be made by letter, fax or electronic mail. For further details on the rules about speaking at meetings please contact Local Democracy.

**Registering to speak – Planning Applications** - If you wish to address the committee regarding a planning application you need to register your interest with the Development Control Section of the Planning Division or Local Democracy within **21 days** of the date of the site notice or neighbour notification letters (detail of dates available on the Council's website at [www.eastbourne.gov.uk/planningapplications](http://www.eastbourne.gov.uk/planningapplications)).

Requests made beyond this date cannot normally be accepted. This can be done by telephone, letter, fax, e-mail or by completing the local democracy or planning contact forms on the Council's website.

**Please note: Objectors** will only be allowed to speak where they have already submitted objections in writing, new objections must not be introduced when speaking.

## Further Information

Councillor contact details, committee membership lists and other related information is also available from Local Democracy.

**Local Democracy**, 1 Grove Road, Eastbourne, BN21 4TW  
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Tuesday, 24 November 2015  
at 6.00 pm



## Planning Committee

Present:-

**Members:** Councillor Murray (Chairman) Councillor Sabri (Deputy-Chairman)  
Councillors Miah, Murdoch, Salisbury, Taylor, Ungar and Di Cara (as  
substitute for Jenkins)

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### **100 Minutes of the meeting held on 27 October 2015.**

The minutes of the meeting held on 27 October 2015 were submitted and approved and the Chairman was authorised to sign them as an accurate record.

### **101 Apologies for absence.**

Councillor Jenkins.

### **102 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**

There were none.

### **103 6 Holywell Close. Application ID: 150951.**

First floor addition over garage and single storey side extension – **MEADS**. Five objections had been received.

An additional objection had been received, the main points made were consistent with the other objections in that the objector was particularly concerned about the perceived detrimental effect the development would have on the unique character and appearance of the Close.

The applicant had confirmed that they would be happy to accept a condition requiring further details of the flank elevation to show a parapet wall along the flank of the proposed single storey side extension.

The relevant planning history for the site was detailed within the report. The observations of the Specialist Advisor for Conservation were also summarised.

**NB:** Councillor Ungar was no longer present for this item.

**RESOLVED: (Unanimous)** That permission be granted subject to the following conditions: 1) Time 2) Approved Drawings 3) Matching Materials 4) Parapet wall details

### **104 42-44 Meads Street. Application ID: 150975.**

Replacement of pitched roof to the rear of no.42 with a raised flat roof to provide route for ductwork for new ventilation system to restaurant – **MEADS**. Five objections had been received.

The relevant planning history for the site was detailed within the report. The observations of the Specialist Advisors for Environmental Health and Conservation were also summarised.

**NB:** Councillor Ungar was no longer present for this item.

**RESOLVED: (Unanimous)** That permission be refused on the grounds that the application by reason of lack of specific detailing fails to satisfy concerns over the noise and smells emanating from the proposed plant and machinery; in the absence of this information it is considered that the proposal would result in a severe loss of residential amenity.

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

**105 Devonshire Park. Application ID: 150903 (PP) and 150904 (LBC).**

Demolition of Congress Suite, Devonshire Park Halls, first floor offices at front, catering lift, bistro and kitchen, and north east portico at rear of Winter Garden. Construct 3 storey conference (Welcome) building linked to Congress and Winter Garden with a service ramp to rear. Internal refurbishment repairs to the Congress and Devonshire Park Theatres. Internal refurbishment repairs to Winter Garden and remodelling of its front entrance to include reintroduction of a double pitched roof. Redecoration of tennis pavilion and creation of new show court. Provision of new public realm to south to include access to the Welcome Building with landscaping – **MEADS**.

The buildings/plots within the Campus had an extensive planning history however it was considered that the recent applications promoting the refurbishment of the Congress Theatre were considered to be most relevant to the determination of this application.

The observations of the County Archaeologist, the Specialist Advisors for Arboriculture, Regeneration, Planning Policy and Conservation, East Sussex County Council Highways department, South East Regional Design Panel, Eastbourne Access Group, Historic England, 20th Century Society, Theatres Trust, Victorian Society, Eastbourne Society, County Ecologist, the ESCC SUDS and Eastbourne Hospitality Association were also summarised. Sussex Police, Eastbourne and District Chambers of Commerce and Environment Agency made no comment.

At its meeting on 6 October 2015 the Conservation Area Advisory Group expressed its full support for the scheme, however it acknowledged concerns raised by one the external advisors regarding the Welcome Building's canopy, in that its siting, scale and design would compete with and potentially diminish the integrity of the Grade II\* Congress Theatre.

(Members noted that this minute was based on the scheme as originally submitted and not the recently received amended proposal).

The committee was advised of comments received from the Eastbourne Inclusion Group as follows:

The Group was pleased that the architects/planners had come back to them because it was important that any disability access, wherever it was, was right the first time round. The effective dialogue with the group was very much appreciated.

- Drop Off Zone Proposals: greater area for drop off adjacent to the Towner Gallery should meet the needs and demands of all users. The issue that the lifts serving all levels of the Congress were situated in the Welcome Building, and therefore there would still be a distance to travel once inside the Congress to get to the stalls. DIG did not consider this a problem as long as they did not need to travel out doors to the Welcome Building to gain access to the Congress.
- Accessible toilets: Greater number of accessible toilets and some with 'Radar Keys' should assist.
- Parking bays: Larger more accessible bays in the right locations would benefit the scheme. DIG acknowledged that spaces behind the Towner and to the front of the Devonshire Park theatre were being remodelled. Disabled parking bays were well used and should be retained in future development options.

Mr Howell, Eastbourne Society, addressed the committee stating that he had concerns regarding the canopy in that in its current position it may diminish the importance of the Congress Theatre. Mr Howell also raised concerns regarding the siting of the plant housing on the Compton Street side of the Winter Garden and requested that consideration be given to re-siting the housing.

Mr Godfrey, Chamber of Commerce, addressed the committee in support stating that Tourism and Conferencing was essential to the economy of Eastbourne as were the International Tennis events. The Chamber of Commerce fully support the development of the site.

Mr Tidemarsch, Levitt Bernstein, addressed the committee in response stating that the canopy was integral to the design, and consultation with Historic England was ongoing regarding the siting of the columns. The Welcome Building canopy identified the main entrance to the complex.

Mr Crook, Consultant Architect for Levitt Bernstein, addressed the committee stating that the side lift; staircase and plant room would be re-sited to the rear of the building away from the public realm.

**RESOLVED (150903): (By 5 votes to 3)** 1) That in the event that the Legal Agreement requires changes/alterations from that which currently accompanies the application then delegated authority be given to the Senior Specialist Advisor (Planning) in consultation with the Chair of Planning Committee to agree these variations

2) Subject to there being a satisfactory legal agreement in place covering:

- Travel Plan Monitoring Fee
- Commitment to enter a S278 Agreement
- Engage with East Sussex County Council in relation to a Parking Strategy (including real time bus information)
- Engage in the delivery of initiatives to create and foster local job opportunities

Then Planning and Listed Building Consent be issued with the following conditions:

1) Commencement within 3 years 2) Development in accordance with approved plans 3) Submission and approval of a Written Scheme of Investigation 4) Tree protection during works 5) Tree protection (excavation/foundations/drains) 6) Tree planting scheme 7) Auditable arboricultural site monitoring system 8) Surface water drainage scheme & maintenance management plan 9) Biodiversity works in accordance with submitted survey 10) Details of hard and soft landscaping including street furniture, railings etc 11) Submission of a Traffic Management Scheme (size & route of works vehicles) 12) Provision of wheel washing facilities 13) Submission of construction details of the plaza and surrounding highway, surface water drainage, outfall disposal and street lighting 14) Provision of approved parking areas prior to occupation 15) Submission of details of cycle parking and provision prior to occupation 16) Hours of operation (building works) 17) Notwithstanding the details hereby approved further details shall be submitted for approval in consultation with the national amenity societies showing the roof of the Racquet Building the front to The Winter Gardens and the catering core to the Winter Gardens 18) Details & samples of external materials 19) Details & samples of mesh filled glass 20) Details & samples of internal fittings and finishes within the Congress 21) Details & samples of internal fittings and finishes within the Winter Gardens 22) Details & samples of elevational treatment and facing materials to the additions to the Winter Gardens 23) Details including large scale sections of decorative metalwork to the Winter Gardens 24) Details of the junctions between the Congress and Winter Garden links 25) Details of repairs/paint finish of the listed telephone box outside the Devonshire Park Theatre 26) Phasing of works & repairs 27) Methodology of repairs to all heritage assets 28) Methodology of making good 28) Details of new and repositioned signage on the buildings and within the plaza.

**RESOLVED (150904): (Unanimous)** That Listed Building consent be granted subject the conditions outlined above.

**106 East Beach Hotel. Application ID: 150965.**

Retention of existing UPVC windows to front (south east) and side (south west) elevations (retrospective) – **DEVONSHIRE**. One objection had been received.

The relevant planning history for the site was detailed within the report. The observations of the Specialist Advisor for Conservation and Eastbourne Hospitality Association were also summarised.

At its meeting on 6<sup>th</sup> October 2015 the Conservation Area Advisory Group expressed a concern that the replacement UPVC windows installed are out of keeping with the surrounding area.

The committee was advised that 28 letters of support had been received from residents and businesses in the surrounding area. The letters raised the following points as reasons to support the application:

- It was submitted that the UPVC windows that had been installed improved the appearance of the building and protect the rhythm and fenestration of the building.
- The previous timber windows were beyond economic repair, and the cost of painted timber replacement windows would be prohibitively expensive.
- There were environmental benefits to UPVC replacement windows through reduced heat loss, helping achieve environmental objectives.
- The windows that had been installed provided an improved quality of accommodation, improved ventilation and a reduction in noise (from the weather and from traffic).
- UPVC had been allowed elsewhere in Eastbourne and there was an inconsistency of approach on the part of the Council.

Page 70 of the officers report incorrectly stated that the Langham Hotel (43-49 Royal Parade) had installed double glazed UPVC windows on the front elevation without planning permission. It had subsequently been confirmed by the owner of the building that the replacement double glazed windows on the front elevation of this building had been constructed using painted timber.

The Chairman stated that this case raised important issues, not only for the hotel stock within Eastbourne but also every property that was seeking replacement windows. The decision made on this case might have significant implications going forward; and therefore recommended that the item was deferred pending a site visit. The site visit would enable Members to fully assess the merits and issues in relation to this case.

**NB:** Councillor Ungar was no longer present for this item.

**RESOLVED: (Unanimous)** That the application be deferred pending a site visit.

**107 Langney Shopping Centre. Application ID: 150882 (PPP).**

To erect mesh fencing 1.8m high, to create an outdoor play area 38.3m by 18m on the grassed area adjacent to Sandpiper Walk for children attending the nursery at Unit 50 Langney Shopping Centre – **LANGNEY**. Six letters of objection had been received.

The relevant planning history for the site was detailed within the report. The observations of the Specialist Advisors for Arboriculture and Planning Policy were also summarised.

**NB:** Councillor Ungar was no longer present for this item.

**RESOLVED: (By 6 votes with 1 abstention)** That permission be refused on the grounds that the formation of an outdoor play space for use in

conjunction with the existing nursery would be detrimental to the amenities of the nearby residential occupiers by way of noise generated from the children using the facility. Additionally, the introduction of a 1.8 metre high mesh fence would be visually intrusive and alien in its appearance, out of character with the open plan nature of the area and for these reasons would not accord with policies HO20, UHT1 and UHT4 of the Eastbourne Borough Plan 2007 Saved Policies and policy D10a of the Eastbourne Core Local Strategy.

Appeal

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

**108 Shinewater Playing Field. Application ID: 150660 (PPP).**

Erection of 80 seat stand to football ground – **LANGNEY**. A petition of 32 signatures of objection had been received.

The relevant planning history for the site was detailed within the report.

**RESOLVED: (Unanimous)** That permission be granted subject to the following conditions: 1) Time for commencement 2) Approved drawings 3) The stand shall be properly secured/enclosed when not in use to minimise anti-social behaviour.

Informative

The applicant is reminded that the display of any advertisements at the site would require express advertisement consent from the Local Authority. Class A, schedule 1 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 allows for the display of advertisements on enclosed land on the condition that the advertisement is not readily visible from outside the enclosed land or from any place to which the public have a right of access.

**109 Upperton United Reform Church. Application ID: 150824 (PPP).**

This application was withdrawn.

**110 Summary of Planning Performance of the Planning Service for 3rd Quarter (July - September) 2015 and Planning Customer Satisfaction Survey (June - October).**

The committee considered the report of the Senior Specialist Advisor (Planning) which provided a summary of performance in relation to key areas of the Development Management Services for the third quarter (July – September) 2015 and the Customer Satisfaction Survey (June - October) 2015.

Given the many varied types of planning application received Central Government required that all Councils report the performance in a consistent and coherent manner. Therefore the many varied applications were grouped together into three broad categories Major, Minor and Others. Applications falling into each category were outlined within the report.

In analysing the performance for the processing of these differing types of application the Government allow 13 weeks for the processing Major applications and 8 weeks for processing the Minor and Other categories.

In addition the report also included information about recent appeal decisions. Members were requested to note that any decision made to refuse an application opened the potential for an appeal by the applicant to the Planning Inspectorate.

As members were aware the majority of the applications received were granted planning permission, however for those that were refused and challenged through to an appeal it was considered important to analyse the appeal decisions in order to determine and evaluate whether lessons needed to be learned, or interpretations needed to be given different weight at the decision making stage. In addition the evaluation of the appeal decisions would also go some way to indicate the robustness and the correct application of the current and emerging policy context at both a local and national level. In the current survey period a claim for costs of £15,000 from the Courtlands Hotel had been received.

Officers considered that in granting planning permission for 91% of all application received, planning services of Eastbourne Borough Council had supported and stimulated the local economy and had also helped to meet the aspirations of the applicants. Only where there were substantive material planning considerations was an application refused.

The assessment of the performance of planning services showed that the team were performing at or over the National PI threshold and that there were at this time no special measure issues.

Appendix 1 to the report included further application data by ward and also the number and types of pre-application requests received.

It had been a significant period since the previous report on the planning enforcement function, table 11 of the report provided a position statement of the performance for the entire year to date.

Members noted some of the data placed high volumes of enforcement action in the Devonshire ward, which reflected the focus given by the Difficult Property Group through S215 (Untidy Sites) legislation and also emphasised the support for the 'Driving Devonshire Forward' policy document.

Members requested that a list of long outstanding enforcement cases be included into this report in future.

Members were apprised of the results of the Customer Satisfaction Survey which had been sent to all applicants and agents, seeking their views on how the Council had dealt with applications.

There were a number of potential improvements listed within the report largely around improving accessibility and level of information available on the Council's website. Overall the majority of customers surveyed were happy with the service provided.

The committee thanked the Senior Specialist Advisor (Planning) for providing the detailed enforcement case information and expressed their thanks to the officers for their continued efforts in improving the Planning function and related activities.

**NOTED.**

**111 South Downs National Park Authority Planning Applications.**

There were none.

**112 Employment Land Local Plan**

The committee considered the report of the Senior Head of Regeneration, Planning and Assets seeking Members' views on the Employment Land Local Plan prior to its consideration by Cabinet on 9 December 2015.

In May 2012, the Eastbourne Core Strategy Local Plan was subject to Public Examination by a Planning Inspector. The Inspector expressed concerns over the evidence that supported Core Strategy Policy D2: Economy, particularly relating to the employment land supply. In order to address this issue without delaying the adoption of the Core Strategy, the Inspector recommended that Core Strategy Policy D2: Economy be the subject of an early review, leading to its replacement with an additional Local Plan to deal specifically with the employment land supply.

In order to meet this requirement, an Employment Land Local Plan (ELLP) was being produced. The ELLP would guide job growth and economic development in Eastbourne up to 2027 by identifying an appropriate supply of land for future employment development, in order to achieve a sustainable economy and make Eastbourne a town where people want to live and work. It related to land and buildings within the B1 (Offices and Light Industry), B2 (General Industry) and B8 (Storage and Distribution) Use Classes.

A Proposed Submission ELLP was presented to Cabinet on 10 December 2014 for approval and authority to publish to receive representations on issues of soundness. It was subsequently published for an 8 week period between 12 December 2014 and 6 February 2015. The representations received during the consultation had been taken into account in revising the ELLP.

Representations received on the Proposed Submission ELLP resulted in some changes being made on the ELLP and the supporting documents, and as a result a Revised Proposed Submission ELLP now needed to be published to allow for representations to be made on issues of soundness before it could be submitted for examination.

Planning Committee Members were asked to consider the attached report and any comments would be considered and reported verbally to Cabinet at its meeting on 9 December 2015.

Members noted that in order to progress the ELLP towards adoption, Cabinet would be requested to approve the Revised Proposed Submission

ELLP for publication to receive representations on issues of soundness between 11 December 2015 and 22 January 2016.

Following the representation period, the Employment Land Local Plan would be submitted to the Secretary of State for public examination, following which the Council would be able to formally adopt the Employment Land Local Plan.

**RESOLVED: (Unanimous)** That Cabinet be advised that the Planning Committee support the revised proposed submission Employment Local Land Plan for consultation.

The meeting closed at 8.20 pm

**Councillor Murray (Chairman)**

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# Agenda Item 6

<b>App.No:</b> 151011 (PPP)	<b>Decision Due Date:</b> 20 November 2015	<b>Ward:</b> Old Town
<b>Officer:</b> Jane Sabin	<b>Site visit date:</b> 9 November 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 23 October 2015		
<b>Neighbour Con Expiry:</b> 23 October 2015		
<b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> Referred Committee by Chair		
<b>Location:</b> 2a St Marys Road		
<b>Proposal:</b> Redevelopment of site to provide 3no. self-contained flats with three undercroft parking spaces.		
<b>Applicant:</b> Mr C Brown		
<b>Recommendation:</b> Approve		

## Executive summary:

The proposed development would have no adverse impact on visual and residential amenity, highway safety or the employment facilities in the town and would provide three units of accommodation in sustainable location.

## Planning Status:

Source Protection Zones 3  
Residential area

## Relevant Planning Policies:

National Planning Policy Framework

Eastbourne Core Strategy Local Plan Policies 2013

B1: Spatial Development Strategy and Distribution

B2: Creating Sustainable Neighbourhoods

C4: Old Town Neighbourhood Policy

D1: Sustainable Development

D5: Housing

D10A: Design

Eastbourne Borough Plan Saved Policies 2007

NE14: Source Protection Zone

UHT1: Design of New Development

UHT2: Height of Buildings

UHT4: Visual Amenity

UHT5: Protecting Walls/Landscape Features  
HO2: Predominantly Residential Areas  
HO7: Redevelopment  
HO20: Residential Amenity  
BI1: Retention of Class B1, B2 and B8 Sites and Premises  
TR6: Facilities for Cyclists  
TR11: Car Parking

**Site Description:**

This irregular shaped site is located on the north side of St Mary's Road and is accessed through a single width vehicular access adjacent to 2 St Mary's Road. It is bounded on all sides by residential development (St Mary's Road/Gore Park Road/Gore Park Avenue). It currently comprises a two storey building on the rear boundary, originally built as stables, of red brick under a slate roof, and two single storey modern outbuildings adjacent to the west boundary. The previous use is unclear, but the agent states that it was a general builders storage yard; the buildings are boarded up and the applicant confirms that it has been unused for some time.

A particular feature of the site is the high brick, sandstone and flint wall which runs along the east boundary with Gore Park Avenue. It is approximately 5m high and reaches the eaves of the existing two storey building and forms a retaining wall for the rear gardens of the properties in Gore Park Avenue, the ground levels of which are 3m higher; the wall follows the slope of the site, which rises from St Mary's Road to Gore Park Road at the rear.

**Relevant Planning History:**

No planning history.

**Proposed development:**

Planning permission is sought to demolish the two modern buildings on the east boundary and to construct a two storey building on the west boundary.

The new building would provide one flat on the upper floor, with car ports below, whilst the retained older structure would provide a further two flats, one on the ground floor, and one on the first floor.

Alterations to the existing stable building comprise:

- Two storey extension to the front; 1.3m on the right hand side under a flat roof, and 2m on the left hand side with a gable end to the front elevation
- Removal of external staircase and provision of a communal entrance via the new gabled extension
- Provision of six windows to the front elevation (includes two floor to ceiling doors to the living rooms, one as a Juliet arrangement)
- Provision of one widow in the flank elevation at first floor level (facing the alleyway serving the dwellings in St Mary's Road)

The new block containing one flat and parking:

- Canted footprint to following the angle of the boundary wall, with a maximum depth of 5.75m and overall width of 12.5m

- All windows (four) on the west elevation, including one Juliet arrangement facing the flank wall and garden of 2 St Mary's Road, and two roof lights to the same roof slope
- Hipped and pitched roof 4.5m to the eaves and 6m to the ridge
- Three open spaces on the ground floor, and enclosed cycle and bin stores

### **Consultations:**

#### Internal:

Highways ESCC - The site layout provides adequately sized parking spaces and sufficient manoeuvring space so cars can enter and exit in a forward gear. Appropriate cycling parking is also proposed. It is noted that 3 car parking spaces are proposed. Based on the ESCC parking guidelines, a development of 3no. 2 bed flats in this ward will create a demand for 4 spaces. Although not ideal as there are high levels of on street parking in St Marys Road and the surrounding area, the lack of one space is unlikely to result in a severe impact on the highway network as a space is generally likely to be available within 200m of the site.

Specialist Advisor (Planning Policy) – no response.

#### External:

#### Neighbour Representations:

Four objections have been received, and cover the following points:

- Public highway must not be used for delivery or storage of materials
- Noise must be restricted to Mondays to Fridays, no weekends or evenings
- Any damage to the party wall must be the responsibility of the developer
- No loss of light must result
- Direct contravention of policy HO20; the new building would overshadow properties in Gore Park Avenue including the greenhouse at no.7, and block views of the Downs
- Concern about stability of the boundary wall, and the negative effect on the distinctive character of the area by obscuring it, contravening policies UHT4 and UHT5
- Insufficient parking, resulting in a negative impact on highway safety and residential amenity
- Concerns regarding the position and maintenance of the guttering in relation to the new building.

Neighbours were reconsulted following a reduction in height of the new building (by 0.5m); one further response was received stating that there were no objections in principle, but expressing concern that on-site parking might be insufficient which could have an impact on Ocklynge Road.

### **Appraisal:**

The main issues to take into consideration in determining this application are the impacts on visual and residential amenity, highway safety and the loss of employment land.

#### Visual amenity:

The buildings to be demolished are purely functional and of no merit whatsoever. The alterations to the existing building and the design of the new building are considered to be appropriate to the locality. The boundary wall, whilst characteristic of Eastbourne, is

not an outstanding example of its type, and nor is it located within a conservation area. It is therefore considered that there could be no objection to its concealment; half the wall would still be exposed, most of it adjacent to St Mary's Road and therefore still visible from the public domain.

Residential amenity:

Residential use is an acceptable alternative for this semi-backland site, given the high density nature of the surrounding properties, which themselves are all in residential use. The main issues are privacy and overlooking from new windows, and overshadowing of properties in Gore Park Avenue.

Whilst the introduction of windows at first floor level would have an impact on surrounding properties in St Marys Road to some degree, the high density nature of the adjoining properties and the orientation between them would not give rise to overlooking which is any worse than currently is the case (particularly between no. 3 and 5), although there would be some increase, of course.

With regard to overshadowing, the only impact would be from the new building (referred to as Block A on the submitted plans). This building has been reduced by 0.5m in height, as it was considered that the internal height of the garaging was unnecessarily high. This results in the maximum projection of the roof above the boundary wall with Gore Park Avenue being 1m; this is the ridge height, which itself would be 2.75m away from the boundary wall. On this basis, taking into account the depth of the rear gardens of the properties in Gore Park Avenue, the significant difference in ground levels and orientation, it is not considered that there would be any harm to residential amenity as a result of overshadowing or loss of outlook.

Highway safety:

None of the properties in St Mary's Road have the benefit of off-street parking, and the surrounding streets are heavily parked, particularly in the evening. The development now proposes three on site spaces for three small flats, which is considered adequate in this location. The application as originally submitted proposed a fourth space for visitors, but the applicant wished to move Block A further down the site (to improve light and outlook to Block B) which made it necessary to remove it.

Loss of employment land:

The National Planning Policy Framework allows for the loss of employment land in certain circumstances, and this site fulfils the criteria; it is a small site in a residential area, which would benefit from the removal of a non-conforming use, the buildings are unused (the works evident from the site photographs relate to works underway at 2 St Mary's Road next door), and it would provide modest units of accommodation in a popular, high value and sustainable area.

Other matters:

The stability of the boundary wall is a private matter between the owners, and will also be dealt with under the Building Regulations.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is

set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposed development would have no adverse impact on visual and residential amenity, highway safety or the employment facilities in the town, but would provide three units of accommodation in sustainable location. As such, the proposal complies with local and national policies.

**Recommendation:** Approve, conditionally

**Conditions:**

1. Commencement of development within three years
2. Development in accordance with the approved plans
3. Submission of samples of materials
4. Details of entrance gates, and permanent set back of 5.5m from highway
5. Provision of parking spaces before occupation and permanent retention
6. No guttering to be fixed onto or on top of the wall adjoining Gore Park Avenue
7. Restriction on building work hours

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

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# Agenda Item 7

<b>App.No:</b> 151149 (HHH)	<b>Decision Due Date:</b> 28 December 2015	<b>Ward:</b> Ratton
<b>Officer:</b> Sally Simpson	<b>Site visit date:</b> 13 November 2015	<b>Type:</b> Householder
<b>Site Notice(s) Expiry date:</b> N/a <b>Neighbour Con Expiry:</b> 10 December 2015 <b>Press Notice(s):</b> N/a		
<b>Over 8/13 week reason:</b> Over 8 weeks given timetable of Planning Committee		
<b>Location:</b> 6 Wedderburn Road, Eastbourne		
<b>Proposal:</b> Two storey extension at side, and single storey extension at rear		
<b>Applicant:</b> Mr & Mrs I. Allcorn		
<b>Recommendation:</b> Approve conditionally		

## **EXECUTIVE SUMMARY**

It is considered that the proposed development is acceptable in terms of scale and design and would not be visually intrusive given the mixed character of the area. The proposed design preserves the overall character and appearance of the area and would not be detrimental to the amenities of adjoining residents by way of loss of privacy, light and outlook.

## **Relevant Planning Policies:**

### **National Planning Policy Framework 2012**

Paragraphs 1-5 (Introduction)  
Paragraphs 6-16 (Sustainable Development)  
Paragraph 17 (Core Planning Principles)  
Paragraphs 56-66 (Design)  
Paragraphs 126-141 (Conservation/ Heritage/ANA)

### **Eastbourne Core Strategy Policies**

Eastbourne Core Strategy Local Plan 2006-2027  
B1 Spatial Development, Strategy & Distribution  
B2 Creating Sustainable Neighbourhoods  
C12 Ratton & Willingdon Village Neighbourhood Policy  
D5 Housing High Value Neighbourhoods  
D10 Historic Environment Archaeological Notification Area

### **Borough Plan Policies**

Eastbourne Borough Plan 2001-2011

UHT1 Design  
UHT4 Visual Amenity  
US4 Flood Protection and Surface Water  
HO2 Predominantly Residential Areas  
HO20 Residential Amenity

**Site Description:**

Application property is a detached two storey family dwelling house located on the northern side of Wedderburn Road. The plot rises left to right (viewed from the front), the property contains a detached garage to the site and incidental out/garden buildings within the plot.

The plot has traditional boundary treatments (walls and fences) and mature planting to the rear of the plot.

There are no parking restrictions with the public highway.

**Relevant Planning History:**

EB/1991/0493

Single storey extension to provide a sunroom.  
Approved Unconditional 1991-12-23

EB/1963/0030

Erect brick garage & front porch  
Approved Unconditional  
1963-02-07

980495

Retention of conservatory at rear.  
Planning Permission Approved unconditionally  
20/04/1998 00:00:00

**Proposed development:**

The applicant is seeking planning permission to erect a single storey rear extension to replace the existing conservatory, together with a two storey side extension to the West elevation.

**Rear Extension**

The rear extension will extend for the full width of the original property and also to the rear of the proposed two storey side extension. It will provide an enlarged kitchen diner within the main property and a lounge to the rear part of the side addition.

The maximum depth of the rear extension beyond the rear wall of the original property is 4.3m. This extension proposes a flat roof with the insertion of rooflight.

**Two Storey Side Extension**

Extends approximately 4.5 m from the existing side wall of the house and provides accommodation at ground floor level to an integral garage, WC shower and lounge and on the first floor a further bedroom, study and additional bathroom.  
study.

## **Consultations:**

### Neighbour Representations:

There have been two rounds of consultation on this application. This has resulted in 1 letter of support stating that as their property is located on the other side of the road then their property is unlikely to be affected and 6 letters of objection being received commenting in the main on the following issues:-

- Unneighbourly development
- Would enclose gap between site and neighbouring properties
- Loss of light
- Overshadowing
- Out of character with the area
- Extra pressure for parking in the area
- May impact upon the free flow of traffic
- May inhibit emergency vehicles
- Loss of privacy
- Front extension may impact usability of the parking spaces
- Buildings are well spaced in the area
- Would set an undesirable precedent
- Increase in noise from increase in activity
- Extension would double the size of the property
- Over dominate surrounding properties
- Out of scale in the area
- Would hem in and reduce the views to and through the plot
- Lack of maintenance space
- Construction issues given proximity to the boundary
- Ground stability issues given rising land
- Potential increase in localised flooding
- To accommodate necessary parking there may be a requirement to enlarge the opening to the front of the plot.

## **Appraisal:**

### Principle of development:

There is no objection in principle to home owners wishing to adapt and alter their properties to meet their changing family needs and requirements. Any extension however should be designed to a high standard respect the established character of the area and should not have an adverse effect on the amenities of neighbours.

### Impact of proposed development on amenity of adjoining occupiers and surrounding area:

Policy HO20 of the Eastbourne Borough Plan requires new development proposals and extensions to existing buildings to respect residential amenity.

Policy B2 of the Core Strategy seeks to protect the residential and environmental amenity for existing and future residents.

When seen in isolation the proposed single storey extension would be permissible under the prior approval regime. Notwithstanding this it is considered that given the depth of the extension and the width of the application and neighbouring plots and the siting and

scale of existing neighbouring dwellings there would not be any material loss of amenity that would result from this element of the scheme.

It is accepted that the flank window in the side extension is a high level window however given the changes of levels across the site and the potential for overlooking it is considered that it would be prudent to control the glazing of this window. A condition is recommended outlining that this window should be fitted with obscure glazing and fixed shut.

The proposed two storey side extension is not an uncommon design feature across the borough. In this instance the applicants are proposing to broadly maintain the front and rear building lines of the host property. It is considered that given the proposed siting of this element of the scheme and with the neighbouring plot having a garage outbuilding on the common boundary with the application plot it is considered that this element will not give rise to any material harm to the residential amenity of the occupiers of the adjacent property.

It is accepted that the side extension does extend close to the common boundary with the neighbouring plot, the applicants have acknowledged this in their design by proposed to construct the flank wall in facing brickwork; this method of construction can be undertaken and completed from the applicants side of the boundary without the need to enter their land.

#### Design issues:

D10A seeks to ensure that new development respects local character and distinctiveness, is appropriate and sympathetic to its setting in terms of scale, massing and design, making a positive contribution to the overall appearance of the area.

It is accepted that the proposed extensions/additions whilst quite significant do propose elements of local vernacular (pitched tiled roof, projecting bays, brick and render and leaded style windows). It is considered therefore that these design features would help to integrate the development into the local street scene. Especially where the existing properties in the immediate vicinity are very mixed in terms of the design, appearance and size.

Issues raised by neighbours in relation to the construction and drainage issues will be resolved at the Building Regulation stage.

#### Impacts on trees:

There are no trees affected by this proposal.

#### Impacts on highway network or access:

Given the internal size of the proposed garage and that it will be approached on an angle from the existing driveway it is unlikely to be used for the parking of a vehicle and as such should not be counted as an off street parking space, but as addition storage for domestic purposes.

The agent for the applicant has confirmed that the site retains sufficient space to the front of the plot to accommodate two vehicles without encroaching or overhanging the public highway. Given this, and added to the fact there are no highway restrictions a

refusal based on the lack of off-street parking or the displacement of parking on to the local highway network could be justified.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposed side and rear extension is recommended for approval, subject to conditions as it is considered to have minimal impact in terms of scale, design, visual and neighbour amenity and therefore complies with policies B1, B2, C10, D5 & D10A of the Eastbourne Core Strategy Local Plan (2013), policies UHT1, UHT4, HO2, HO20 of the Eastbourne Borough Plan (Saved Policies 2007) and the guidance outlined within the National Planning Policy Framework (2012).

**Recommendation:**

Grant permission

**Conditions:**

1. Time Limit.
2. matching materials
3. No PD windows
4. Construction times  
8:00 a.m. and 6:00 p.m. on Mondays to Fridays  
8:00 a.m. and 1:00 p.m. on Saturdays  
and that no works in connection with the development shall take place on Sundays or Bank/Public Highways.
5. Highlevel window to ground floor extension fitted with obscure glazing and fixed shut.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations.**

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# Agenda Item 8

<b>App.No:</b> 151200 (HHH)	<b>Decision Due Date:</b> 31 December 2015	<b>Ward:</b> Upperton
<b>Officer:</b> Sally Simpson	<b>Site visit date:</b> 4 December 2015	<b>Type:</b> Householder
<b>Site Notice(s) Expiry date:</b> 10 December 2015 <b>Neighbour Con Expiry:</b> 10 December 2015 <b>Press Notice(s):</b> N/a		
<b>Over 8/13 week reason:</b> N/a		
<b>Location:</b> 12 Carew Road, Eastbourne		
<b>Proposal:</b> Erection of an upper ground floor extension above existing lower ground floor extension.		
<b>Applicant:</b> Mr Tony Wright		
<b>Recommendation:</b> Refuse		

## **EXECUTIVE SUMMARY**

This current application relates to a rear extension.

Given the change of levels that exist across the site when viewed from the rear of the plot the proposed location of the extension is at first floor level.

The proposed extension is identical in form, scale and siting to the two previous submissions that have been refused at delegated meetings.

Given this history this case has been referred to Planning Committee at the discretion of the Senior Specialist Advisor in order to seek/establish members views on the applicants proposals.

### **Relevant Planning Policies:**

#### **National Planning Policy Framework 2012**

Paragraphs 1-5 (Introduction)

Paragraphs 6-16 (Sustainable Development)

Paragraph 17 (Core Planning Principles)

Paragraphs 56-66 (Design)

#### **Eastbourne Core Strategy Policies**

Eastbourne Core Strategy Local Plan 2006-2027

B1 Spatial Development Strategy and Distribution

B2 Creating Sustainable Neighbourhoods

C2 Upperton Neighbourhood Policy

D5 Housing High Value Neighbourhoods

D10A Design

**Borough Plan Policies**

Eastbourne Borough Plan 2001-2011

UHT1 Design

UHT4 Visual Amenity

HO2 Predominantly Residential Areas

HO20 Residential Amenity

NE14 Source Protection Zone

**Site Description:**

The application site comprises of a three storey semi-detached property located on the east side of Carew road, close to the junction with Enys Road. The property has a lower ground floor level at the rear of the premises where the ground level slopes significantly away from the property and the public highway of Carew Road.

This property was originally used a nursing home but has been converted to a single private dwelling with the addition of extensions to the rear, the ground floor of which provides accommodation for the applicants relative.

There is approximately a 3m change of levels down from the front to the rear of the site.

**Relevant Planning History:**

EB/1971/0182

Change of use and conversion from a single private dwelling to an Old People's Home, and additions to driveway to form parking spaces with turning area.

Granted, subject to conditions. 1 971-05-06

EB/1972/0498

Alterations to approved parking area for old people's home.

Granted, subject to conditions. 1972-07-06

EB/1973/0672

Demolition of existing dwellings, and erection of 8 houses with garages.

Refused, one reason. 1973-08-23

EB/1973/0727

Demolition, and erection on the sites of 7 houses with garages.

Granted, subject to conditions. 1973-09-13

EB/1974/0190

Change of use from an Old People's Home to ground floor flat, and 6 bed-sitting room flats on first and second floors. Granted, subject to conditions. 1974-05-14

EB/1975/0319

Erection of a two-bedroom bungalow, and garage. Granted, subject to conditions. 1975-09-02

EB/1977/0002

Single-storey extension at rear to provide 2 bedrooms, a toilet and lobby to proprietor's accommodation. Granted (Five years) 1977-01-25

EB/1977/0450

Part one and part two-storey extension at rear to provide 2 bedrooms, a toilet and a lobby to proprietor's accommodation with a kitchen extension over.

Granted (Five years) 1977-11-22

EB/1982/0139

Formation of dormer window at front and rear. Granted (Five years) 1982-05-07

EB/1988/0142

Part first floor addition and part two-storey extension at rear, to provide lounges and dining room, with lift shaft. Refused, two reasons. 1988 - 05-04

EB/1988/0143

Three-storey extension at side to provide 3 bedrooms, with car-parking space under. Refused, three reasons. 1988-04-28

EB/1988/0475

Erection of a sun lounge and lift shaft at rear. Granted, subject to conditions. 1988-08-17

EB/1993/0189

Change of use from a residential care home to a single private dwelling.

Granted (Five years) 1993-06-22

940421

Change of use of lower ground floor to offices. Approved conditionally 17/08/1994

980171

Single-storey rear extension to form office. Approved 27/07/1998

000170

Change of use of lower ground floor to residential. Approved 30/05/2000

141235

Rear extension at ground floor level, above existing lower ground floor extension.

Householder Refused 20/11/2014

150491

Erection of upper ground floor rear extension above existing lower ground floor extension. (Amended description).

Householder Refused 20/07/2015

**Proposed development:**

The applicant is seeking planning consent for the erection of an extension to the rear of the property, to be sited on top of an existing lower ground floor extension.

The proposed extension would measure 7.94 wide, 4.29 in depth and 5.9m to the top of the parapet, as measured from the natural ground level at the rear.

The construction of the extension would be rendered brick to match the existing ground floor addition, with a flat felt roof and white upvc windows.

## **Consultations:**

### Neighbour Representations:

No objections have been received and 1 letter of support has been submitted from the neighbours who occupy a first floor flat at the adjacent property which states the following:

- I would like to support this application as I feel that it is not detrimental to the outlook and amenities of our home.

## **Appraisal:**

### Principle of development:

There is no objection in principle to the proposed development in this residential area provided it would be designed to a high standard, respect the established character of the area and would not have an adverse effect on the amenity, the character of the area and is in accordance with policies of the Core Strategy 2013, and saved policies of the Borough Plan 2007 and the National Planning Policy Framework (2012).

This exact same scheme has been submitted under reference 141029 and 150491 which were subsequently refused.

The current scheme, being identical to previous schemes, has not proposed any changes to mitigate/overcome the previous reasons for refusal which related to issues such as scale, bulk, being an unneighbourly form of development due to its size, resulting in an overdevelopment of the site and being obtrusive to neighbouring properties.

### Impact of proposed development on amenity of adjoining occupiers and surrounding area:

Policy HO20 of the Eastbourne Borough Plan requires new development proposals and extensions to existing buildings to respect residential amenity.

Policy B2 of the Core Strategy seeks to protect the residential and environmental amenity for existing and future residents.

The proposed extension does not respect the visual or neighbour amenity as it will be overbearing by virtue of its height, depth and its proposed location, above an existing lower ground floor extension. It therefore fails to comply with policies B2 of the Core Strategy and HO20 of the borough plan, having no respect for the amenity for existing or future residents.

### Design issues:

D10A seeks to ensure that new development respects local character and distinctiveness, is appropriate and sympathetic to its setting in terms of scale, massing and design, making a positive contribution to the overall appearance of the area.

This proposal would not be in keeping with the host dwelling in that it fails, to make a sympathetic addition to the host dwelling. The scale, bulk and design would not contribute to the principal dwelling and does not protect the distinctive character of the host dwelling or the neighbourhood and would be contrary to policy C2 of the Core Strategy.

The scale and design of the proposal are unacceptable in that it fails to respect the character of the principal dwelling and the local character of the area.

Impact on character and setting of a listed building or conservation area:

The application site is not listed, nor is it located in a conservation area.

Impacts on trees:

There are no trees within that would be affected by this proposal.

Impacts on highway network or access:

There is an existing driveway and off-road parking that would not be altered or form part of this appraisal.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposed extension above the existing lower ground floor extension is recommended for refusal as it is considered to have a detrimental impact for existing and future residents and is therefore contrary to policy B2.

This application has still failed to address the impact in terms of bulk and scale and would result in overdevelopment of the site and, therefore, in terms of design it is contrary to policy D10a.

The failure to submit an improved design has resulted in the proposal not complying with policies B1, B2, C2, D5 & D10A of the Eastbourne Core Strategy Local Plan (2013), policies UHT1, UHT4, HO2, HO20 of the Eastbourne Borough Plan (Saved Policies 2007) and the guidance outlined within the National Planning Policy Framework (2012) leaving no option but to refuse the application for the following reasons:

Reasons for refusal:

1. The proposed development, by virtue of its height, size, scale and bulk, as well as being sited in close proximity to the boundary with No. 14 Carew Road would present an overly large and unneighbourly form of development that would be overbearing on and detrimental to the outlook and amenities of the occupiers of the ground floor, first floor and second floor flats to the rear/north-eastern corner of 14 Carew Road contrary to saved policy HO20 of the Eastbourne Borough Plan and Policy B2 of the Core Strategy Local Plan 2013.
2. The proposed development would result in an undesirable overdevelopment of the site and the further closing of the gap between the buildings to the detriment of the local amenity. The design fails to harmonise with the appearance and character of the host building and local environment and would appear incongruous and overbearing taking into account the existing

extensions contrary to Policy D10A of the Core Strategy and Saved Policy UHT1 of the Borough Plan 2007.

**INFORMATIVE:**

For the avoidance of doubt this decision is based upon the following drawings received on 4 November 2011:

94241/004/ – proposed elevations

94241/003/ – proposed floor plans

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations.**

# Agenda Item 9

<b>App.No:</b> 151006	<b>Decision Due Date:</b> 23 November 2015	<b>Ward:</b> St Anthony's
<b>Officer:</b> Anna Clare	<b>Site visit date:</b> 12 December 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 25 October 2015 <b>Neighbour Con Expiry:</b> 25 October 2015 <b>Press Notice(s):</b> n/a		
<b>Over 8/13 week reason:</b> Retrospective application requiring further information.		
<b>Location:</b> 14 Maple Road, Eastbourne.		
<b>Proposal:</b> Application seeking retrospective planning permission for the retention of a biomass boiler, flue, and associated housing within the car park together with a 2.1 metre high boundary fence and lowering of the associated boiler pipework below and behind the top of the fence. (Amended description).		
<b>Applicant:</b> Mr Nick Brewer		
<b>Recommendation:</b> Delegate Authority to Senior Specialist Advisor for Planning as set out in report.		

## Executive Summary:

This application relates to the retention of a biomass boiler, flue and associated housing being used to provide heating to an existing business on a long standing industrial estate.

Whilst there are surrounding residential properties, the site is part of an industrial site and therefore the installation is not completely out of character and it is not considered that a refusal on the grounds of impact on visual amenity of residents could be justified.

It is recommended that authority be delegated to the Senior Specialist Advisor for Planning to either;

Approve the application should our consultant confirm that the findings of the Air Quality Monitoring Report are sufficient to demonstrate that the Biomass Boiler dispersion modelling has been carried out in line with best practice and that whilst there might be a slight increase in pollutant concentrations these will not exceed the relevant standards. Or;

To refuse permission should our Consultant consider the Monitoring Report is not fit for purpose.

Members are advised that to refuse the application on matters relating to pollution without having had the Councils consultant response to validate this position would create a scenario that exposes the Council to a costs claim if challenged at appeal.

**Planning Status:**

Mixed commercial and residential area.

**Relevant Planning Policies:**

National Planning Policy Framework 2012

7. Requiring good design

Core Strategy Local Plan 2013 Policies

B1 Spatial Development Strategy and Distribution

B2 Creating Sustainable Neighbourhoods

C13 St Anthony's Neighbourhood Policy

D1 Sustainable Development

D10A Design

Eastbourne Borough Plan Saved Policies 2007

UHT1 Design

UHT4 Visual Amenity

HO20 Residential Amenity

Supplementary Planning Document

Sustainable Building Design SPD 2013

**Site Description:**

A 2 storey B2 light industrial unit with integral B1 offices located on the south east side of Maple Road within the Birch Road industrial estate.

The site comprises customer and employee parking areas to the front and north east side. The structure containing the bio-mass boiler is located to the end corner of the north east car park side adjacent to rear gardens at 17-20 Tollgate Gardens and a sheltered housing building at New Derby House to the north.

The structure itself is 3m in height 9.9m in length and 3.8m in width, with flues extending 2.7m in height above the structure.

**Relevant Planning History:**

A previous application was submitted to retain the Biomass Boiler this application was withdrawn following a committee resolution to refuse planning permission as insufficient information had been submitted to show that the Biomass Boiler was not having a detrimental impact on surrounding residential properties.

This application is the result of an Enforcement Investigation into the siting of the structure containing the biomass boiler. The investigation commenced following a complaint from a member of the public that the structure had been erected at the end of September 2014. In accordance with our Enforcement Policy Brewers were advised to submit a planning application to retain the works.

**Proposed development:**

Application seeking retrospective planning permission for the retention of a biomass boiler, flue, and associated housing within the car park together with a 2.1 metre high boundary fence and lowering of the associated boiler pipework below and behind the top of the fence. The lowering of the pipework and installation of the close board fence has already been completed.

The bio-mass boiler is housed within a structure located on the north east corner of the site within the existing car park area. The structure measures 9.9 metres long, 3.88 metres wide, 3 metres high with a 2.7 metres high flue on top of that situated close to the north side centre of the structure. It is fuelled by wood pellets.

The container is divided approximately 40% fuel store and 60% plant room. The plant can only burn manufactured wood pellet fuel approximately 8mm in diameter and around 15-20mm in length. Deliveries of pellets are expected to take place 3-4 times per year dependent on the heat demand.

The fuel pellets are manufactured from sustainable short term coppice or managed plantations and sawdust from timber mills. Generally the trees harvested are around 30 years old thus the contribution to atmospheric CO2 pollution is effectively zero as the carbon cycle is of this period compared to the burning of fossil fuels releasing CO2 from ancient carbon sources.

On average it is anticipated that 3-4 deliveries of pellets will occur a year.

**Consultations:**

Specialist Advisor (Pollution and Licensing) –

Pollution Prevention and Control 1999 -Eastbourne Borough Council would permit an installation that's output was between 20 Megawatt and 50 Megawatt. Installed is an ETA 200kW woodchip boiler this equates to 0.2 of a MW therefore does not require a permit.

The Clean Air Act 1999 - Powers to request the technical details of this biomass boiler, emission concentrations, fuel specification, fuel storage and delivery arrangements. These have been submitted to Eastbourne Borough Council and on inspection of these documents and visiting the site it meets all the requirements.

Future monitoring and complaints - We have legislative power to remedy any problems using the Environmental Protection Act 1990 and the Clean Air Act 1999.

Neighbour Representations:

17 Tollgate Gardens, 20 Tollgate Gardens and 88 Queens Crescent have raised objections for the following reasons;

- Visual appearance of the housing/flue/pipework
- Noise
- Dust
- Smell
- Potential for fire/explosion

**Appraisal:**

Principle of development:

There is no objection in principle to the use of Biomass boilers such as this given the environmental benefits compared with conventional boilers/heating systems, providing they are sited to minimise any impacts on residential properties and flues/ventilation are shown to be suitable for the location and type/size of boiler in accordance with relevant sections of the National Planning Policy Framework 2012, Policies of the Core Strategy Local Plan 2013, and saved policies of the Borough Plan 2001-2011.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The boiler is sited to the north-east corner of the site on the edge of the industrial estate. It is considered that the boiler and structure could have been sited in a more suitable location away from the residential properties.

Documents/manufacturers material in relation to the boiler, have been submitted along with the Air Quality Monitoring Report. The Air Quality Modelling Report which considers the potential for residents of neighbouring properties to be exposed to poor air quality caused by the location of the plant. The report concludes that the emission from the plant would cause slight increase in pollutant concentrations but not exceeding the relevant standards.

In order to verify the contents of the Air Quality Monitoring Report we have instructed a consultant to provide a technical review of the report submitted to ensure the assessment is correct. Our consultant has raised some queries regarding the Monitoring Report and asked for additional information to ensure the modelling is in line with best practice. It is anticipated that this information will be received before Committee and Members will be updated via the addendum report. In the event that no response is received a recommendation is attached to this report offering alternative outcomes/ways forward.

Design issues:

The visual appearance of the structure with the large flues is not completely out of character given the industrial location. The application proposes the planting of a new hedge to the boundary between the two existing fences to minimise the view of the structure. Given the industrial location it is not considered that a reason for refusal on the application could be justified on the visual appearance of the structure.

Sustainable development implications:

Policy D1 of the Eastbourne Core Strategy states that all development proposals will need to demonstrate that:

The Energy Opportunities Plan (EOP)(i) has been considered, ensuring that: Planning applications for new development demonstrate how they contribute to the current Energy Opportunities Plan. Contributions towards national energy and CO2 targets, applications for standalone energy generation and other CO2 reductions in Eastbourne will be considered favourably.

In principle the Council would support the use of Biomass boilers given the environmental benefits. However the siting is considered inappropriate given the close proximity of residential properties.

The National Planning Policy Framework requires a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; in this instance the likely impacts on the amenity of the surrounding properties are considered to outweigh the benefits of the biomass boiler.

Other matters:

The siting of the structure displaced two car parking spaces which have been relocated adjacent to the main building. Therefore as there is no net loss of parking spaces there is no objection to the application parking/highways grounds.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**General Comment & Recommendation:**

Members are advised that to refuse the application on matters relating to pollution without having had the Councils consultant response to validate this position would create a scenario that exposes the Council to a costs claim if challenged at appeal.

To delegate authority to the Senior Specialist Advisor for Planning to either;

1. Approve the application subject to the conditions below, once confirmation has been received from our Consultant that the findings of the Air Quality Monitoring Report are sufficient to demonstrate that the Biomass Boiler dispersion modelling has been carried out in line with best practice and that whilst there might be a slight increase in pollutant concentrations these will not exceed the relevant standards.

Conditions;

Time for commencement

Approved drawings

Proposed hedge planting shown on approved drawing CWD PP1 adjacent to properties of Tollgate Gardens shall be completed in first planting season.

2. To refuse permission, for the reason set out below should our Consultant consider the Monitoring Report is not fit for purpose.

Reason for refusal;

Insufficient evidence has been submitted to show that the flue of the boiler is sufficient to disperse pollutants/emissions. Therefore it is likely that the boiler would have detrimental impacts on the amenity, through fumes/emissions, on the surrounding residential properties of Tollgate Gardens and New Derby House, and thereby materially affecting the resident's quality of life. The scheme would be contrary to the National Planning Policy Framework 2012, policy B2 of the Core Strategy Local Plan 2013 and Saved Policy HO20 of the Borough Plan 2001-2011.

# Agenda Item 10

<b>App.No:</b> 151227	<b>Decision Due Date:</b> 12 January 2016	<b>Ward:</b> Devonshire
<b>Officer: Neil Holdsworth</b>	<b>Site visit date:</b> 09 December 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 16 December 2015 <b>Neighbour Con Expiry:</b> 14 December 2015 <b>Press Notice(s):</b> NA		
<b>Over 8/13 week reason:</b> Application is within time.		
<b>Location:</b> 41 Pevensey Road, Eastbourne		
<b>Proposal:</b> Proposed conversion of a previously approved 2-bedroom ground floor flat into 2no. 1-bedroom self-contained flats for single occupancy including a new single storey rear extension.		
<b>Applicant:</b> Mr Tony Watson		
<b>Recommendation:</b> Approved conditionally		

## Executive Summary:

This is a resubmission of a planning application previously considered by planning committee on 29<sup>th</sup> September 2015. The works proposed comprise the partition of the ground floor of 41 Pevensey Road in to two self-contained one bedroom flats and the erection of a rear extension at ground floor level.

Whilst the committee found the extension to be acceptable, the application was refused on the grounds that the layout of the residential accommodation in unit 2 was substandard. Following discussions and negotiation with officers to address the reason for refusal, the applicant has submitted a new application proposing alterations to the layout of the rear unit (flat 2) to provide an improved residential layout. Following these amendments, the proposed development is now considered acceptable in planning terms, and the application is recommended for conditional approval.

## Conservation Area

Town Centre and Seafront Conservation Area

## Relevant Planning Policies:

National Planning Policy Framework

Section 6 Delivering a wide choice of high quality homes

Section 7 Requiring good design  
Section 12 Conserving and enhancing the historic environment

Eastbourne Core Strategy Local Plan Policies 2013

B2 Creating Sustainable Neighbourhoods  
C1 Town Centre Neighbourhood Policy  
D5 Housing  
D10 Historic Environment  
D10A Design

Eastbourne Borough Plan Saved Policies 2007

UHT15 Conservation Area  
HO2 Predominantly Residential Areas  
HO20 Residential Amenity

**Site Description:**

41 Pevensey Road is a three storey terrace property which has been converted into four self-contained residential units, with two at ground floor level and one each at second and third floor level. The site is situated within the Town Centre and Seafront Conservation Area.

**Relevant Planning History:**

080321

Conversion from a house in multiple occupation to three self-contained flats  
Planning Permission  
Approved conditionally  
09/07/2008

150759

Proposed conversion of a previously approved 2-bedroom ground floor flat into 2no. 1-bedroom flat including a new single storey ground floor rear extension.

Planning Permission  
Refused  
01/10/2015

**Proposed development:**

The application seeks to regularise works which have already been undertaken to the premises consisting of

- The erection of a single storey ground floor rear extension measuring 7.5m in length, to the north-eastern boundary with No.43 Pevensey Road; and
- Conversion of the ground floor of the property into two one bed flats

The plans have been amended following refusal of the previous refused application (150759). The changes comprise

- Proposed alterations to the layout of flat 2 to remove a dividing wall denoting an individual room to create two open plan areas, a bathroom and a bedroom.

These alterations have not yet been undertaken, as such the application is part retrospective.

**Consultations:**

No consultation responses received.

**Appraisal:**

Principle of development:

There is no objection in principle to the proposed development, providing there would be no significant impact on the amenity of the surrounding properties, the flats provided suitable accommodation and the design is appropriate for the setting in accordance with relevant sections of the NPPF 2012, policies of the Core Strategy Local Plan 2012 and saved policies of the Borough Plan 2007.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The rear extension to the north-eastern boundary would not have a significant impact on the adjacent property given the existing rear extension to No.43 Pevensey Road.

Amenity of future occupiers

Two one bedroom flats are proposed.

- Flat 1 to the front of the property measures 33m<sup>2</sup> internal floor space. (Unit 1)
- Flat 2 to the rear of the property measures 38m<sup>2</sup> internal floor space. (Unit 2)

For a one person, one bedroom unit the requisite national standard is 39 m<sup>2</sup> (or 37 m<sup>2</sup> if there is a bath and no shower). However, in cases where the works involve conversion and adaptation of an existing building flexibility can be applied. In the case of unit 1 the space is otherwise well proportioned with doors opening out to approximately 4 m<sup>2</sup> of outside area (in addition to the 33m<sup>2</sup> internal floor area). This helps to mitigate the small size of the unit, and is considered to make the unit acceptable as a one person, one bedroom unit in the circumstances of this case.

In respect of unit 2 to the rear, concerns were previously expressed regarding its layout which despite its small size is currently in effect a two bedroom unit with kitchen/diner, bathroom and two bedrooms. This was previously considered unacceptable in amenity terms as in terms of its total floor area, the unit was significantly below the total floor space required for a two bedroom unit (61 m<sup>2</sup>).

To address the reason for refusal, the current application proposes the removal of an internal stud partition wall, replacing the smaller bedroom with a larger open plan area which could be used as a secondary living area in addition to the bedroom at the rear, and the kitchen/dining area to the front. The removal of the corridor provides a better proportioned room which has more useable living space, and on balance is now considered to be acceptable in terms of residential quality.

Conditions are recommended to ensure that the unit is completed in accordance with the approved layouts, and that the works to remove walls in question are undertaken within six months of this decision.

Design issues and impact on character and setting of a listed building or conservation area:

The extension is rendered to match the existing building, with UPVC casement windows. The site is situated within the Town Centre and Seafront Conservation area, however the extension is to the rear and not visible from public viewpoints. It is not considered there are any adverse impacts on the conservation area.

Impacts on highway network or access:

It is not considered that the addition of one residential unit in this town centre will result in a significant additional demand for on-street parking to warrant the refusal of the application on this ground.

Sustainable development implications:

None relevant

Other matters:

The committee resolution of 29<sup>th</sup> September 2015 authorised enforcement action in respect of the units as built. Following the submission of revised plans by the applicant enforcement action has been held in abeyance, pending the outcome of this decision.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations

have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposed application is considered acceptable in land use, amenity and design terms and is recommended for conditional approval.

**Recommendation:**

Grant planning permission

**Conditions:**

- 1) You must implement this planning permission in accordance with the following approved plans:

41PERDEB00.002.001.BOR.PL.GMB  
41PERDEB00.002.BOR.PL.GMB

At no time shall there be any changes to the internal layout of the flats hereby approved unless previously agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt.

- 2) You must complete this development by undertaking works to remove the internal partition wall that presently exists within unit 2 and is not shown on the approved plans. You must undertake this work within a period of six months of the date of this decision. You must not occupy any part of the rear unit until these works have been completed.

Reason: To ensure the layout hereby approved by this planning permission provides an acceptable standard of residential accommodation in accordance with the relevant nationally defined residential standards.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

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# Agenda Item 11

<b>App.No:</b> 151206 (PPP)	<b>Decision Due Date:</b> 11 January 2016	<b>Ward:</b> St Anthonys
<b>Officer:</b> Toby Balcikonis	<b>Site visit date:</b> 11 December 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 11 December 2015 <b>Neighbour Con Expiry:</b> 11 December 2015 <b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> The application is within date		
<b>Location:</b> Unit 1, Hawthorn Road, Eastbourne		
<b>Proposal:</b> Conversion and change of use of part of existing service retail/car showroom (Sui Generis) to Class A1 retail unit; Incorporating new fire exit and external air conditioning units.		
<b>Applicant:</b> Mr Steve Bowman		
<b>Recommendation:</b> Approve with Conditions		

## Executive Summary

The application premises Unit 1a, currently empty, was last used a car sales show room (Sui Generis Planning Use). The proposed new use is to be occupied by HSL Furniture a provider of specialist chairs, sofas and beds, particularly for the elderly and infirm.

The site is adjacent to Lottbridge Drove is not in a designated retail 'Centre' in the Eastbourne Core Strategy Local Plan 2006-2027 (adopted 2013) and therefore it is considered to be an 'Out of Centre' location.

The former use (car sales) is a use falling outside of those recognised as falling outside general employment use class (B1, B2 & B8), it is considered therefore that the loss of this non employment use is not objectionable in principle subject to the new use not affecting the retail function of any of the Borough's town centres.

The scheme is proposing a furniture use and as such it is considered not to affect the retail function/viability of the town centre.

This scheme is recommended for approval subject to conditions.

## Relevant Planning Policies:

National Planning Policy Framework  
Para 24

Para 26  
Para 27

Eastbourne Core Strategy Local Plan Policies 2013

B1: Spatial Development Strategy and Distribution

B2: Creating Sustainable Neighbourhoods

C13: St Anthony's & Langney Point Neighbourhood Policy

D2: Economy

D10A: Design

Eastbourne Borough Plan Saved Policies 2007

UHT1: Design of New Development

UHT4: Visual Amenity

BI2: Designated Industrial Areas

BI7: Design Criteria

**Site Description:**

The application premises (addressed as Unit 1, Hawthorn Road) is situated on the edge of a designated industrial estate located on the North side of, and adjacent to Lottbridge Drove on the junction with Birch Road, at the Westernmost road entrance to the estate.

The existing Unit 1, has been subdivided in to 3 separate units (Units 1a, 1b and 1c respectively), with the subject unit (Unit 1a proposed for change of use as part of the application).

**Relevant Planning History:**

040499

Change of use of administration offices to car showroom and over cladding of elevation with insulated flat steel cladding panels.

Planning Permission - Approved conditionally - 06/10/2004

**Proposed development:**

The applicant seeks permission to change the use of the subject premises, to a new use occupied by HSL Furniture; a provider of specialist chairs, sofas and beds, particularly for the elderly and infirm.

To facilitate the change of use, the applicant also seeks to incorporate a new fire exit in the Southernmost corner of the premises and installation of external air conditioning units on the Eastern elevation addressing Birchwood Road,

**Consultations:**

Internal:

Specialist Advisor (Planning Policy):

- Change of Use acceptable in planning terms
  - Passes the 'Sequential Test' for Retail outside of the town centre

Neighbour Representations:

No representations have been received following consultation by letter to neighbouring business within the industrial estate.

**Appraisal:**Principle of development:

The applicant has demonstrated that the scheme would not adversely affect the vibrancy/vitality of any established commercial centre of the Borough and as such there is no objection in principle to the proposed change of use.

Additionally, the proposed external changes in order to facilitate the change of use must be appropriate for the setting.

External Alterations:

There are no concerns as to the proposed external alterations of the premises within a designated industrial estate, and is therefore considered to be acceptable, subject to the change of use being acceptable.

Other matters:

The application site is located within the Birch, Hawthorn and Compton Industrial Estate, which is a designated Industrial Estate (Eastbourne Borough Plan Policy BI2: Designated Industrial Estates) on the Eastbourne Policies Map, and within the Proposed Submission Version of the Employment Land Local Plan (November 2014). It is also located within the St Anthony's and Langney Point neighbourhood as identified in the Eastbourne Core Strategy Local Plan 2006-2027 (adopted 2013).

The Vision for the St Anthony's & Langney Point neighbourhood as set out in the Core Strategy is *St Anthony's & Langney Point will increase its economic importance to the town through the provision of additional employment floorspace and jobs, whilst enhancing its levels of sustainability through the provision of additional affordable housing and community and health facilities and reducing the impact of the car.*

Core Strategy Policy C13: St Anthony's & Langney Point Neighbourhood Policy states that the vision will be achieved through a number of measures; specifically:

- Encouraging the redevelopment and intensification of Industrial Estates; and
- Upgrading public realm in the Industrial Estates to make it more attractive for potential and existing businesses.

The proposal is for the existing unit at 'Birchwood Ford', Lottbridge Drove (also known as Unit 1, Hawthorn Road) to be subdivided with part of the unit (Unit 1A), located on the north-eastern corner, to undergo change of use. The proposed change of use would result in additional class A1 (retail) floorspace. The National Planning Policy Framework (NPPF) identifies retail uses as a 'main town centre use'.

The NPPF states that Town Centre uses should be located in designated centres. The site at 'Birchwood Ford', Lottbridge Drove is not in a designated 'Centre' in the Eastbourne Core Strategy Local Plan 2006-2027 (adopted 2013) and therefore it is considered to be an 'Out of Centre' location.

Core Strategy Policy D4: Shopping sets out the criteria by which new retail development will be supported. It requires that any retail development should comply with a sequential approach to site selection, which is further detailed within the NPPF.

Para 24 of the NPPF states that *'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale'*. The NPPF (para 27) is clear that where an application fails to satisfy the sequential test, it should be refused.

The NPPF (para 26) also requires retail applications outside of town centres to undergo an impact assessment where development is over 2,500sqm. As this application would result in an additional 227 Sqm, there is no requirement for an impact assessment in this instance.

Planning Practice Guidance (*Para 011, Reference ID: 2b-011-20140306*) states that the use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification.

The applicant states that the proposed occupier would have very specific operational requirements. The bulky nature of the products and the need for a large display area means that a town centre location is not practical for their operation. Given the primary customer demographic being elderly, the store needs to be easily accessible with dedicated car parking adjacent to the store and grade access into and around the store. It is also necessary to provide a small workshop / storage space within the premises for staff to assemble furniture. As such, the business operation displays a number of characteristics of a trade counter and showroom use, which is compatible with the surrounding uses. In addition, the application provides a small workshop/storage space within the premises for the assembly of furniture.

It is considered that the specific requirements of the proposed use outlined in the Planning Statement provide justification for the location of this use outside of a designated centre, and therefore the sequential test is satisfied. In addition, the small workshop/storage space to be provided within the premises is considered to be compatible and appropriate within an industrial estate location.

However, retail (A1) uses are generally not considered to be an appropriate use within an Industrial Estate location, as significant retail creep can erode the visibility and profile of B class uses.

In some cases these retail uses can be compatible with B class activity in isolation, however a large collection of activity can begin to erode the 'business' nature of the location. The Employment Land Review (GVA, 2013) identifies that this will begin to impact on occupier and investor perceptions of the location, reducing confidence that the area will continue to function with a focus on meeting the needs of B class activities.

It is recognised that the proposed retail use displays a number of characteristics of a trade counter and showroom use that in isolation would be compatible with the surrounding uses. However there is concern that a retail use on the units could be occupied by other businesses that do not share the same characteristics. Therefore it is recommended that the proposed use should be conditioned as an exceptional case so that an open A1 use cannot be passed on to other occupiers.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

It is considered that this application has justified why market and locational requirements mean that this proposed retail use should be located outside of a designated centre, and subject to the change of use being conditioned to the specific type of retail use proposed that is considered to be compatible with the surrounding industrial estates, the application would be acceptable from a planning policy perspective.

Additionally, the limited proposed external alterations are appropriate for the host building and its setting.

Parking:

The proposal existing unit has a total of 5no. standard parking spaces, which would be reduced to 4, with an addition of 2 disability spaces (addition of 1no. space in total). It is considered that this level of parking is sufficient to meet the likely demand and the parking regime for the remaining vacant units is considered appropriate.

**Recommendation:**

It is recommended to approve the application, subject to the following conditions:

**Conditions:**

- 1) Time Limit
- 2) Approved Drawings

3) Control of occupation (To be retail uses that would not affect the designated centre of the Borough (heavy goods))

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations.**

# Agenda Item 12

<b>App.No:</b> 151134	<b>Decision Due Date:</b> 23 December 2015	<b>Ward:</b> Meads
<b>Officer:</b> Neil Holdsworth	<b>Site visit date:</b> 14/12/2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 3 December 2015 <b>Neighbour Con Expiry:</b> 3 December <b>Press Notice(s):</b> 8 December		
<b>Over 8/13 week reason:</b> To meet committee cycle		
<b>Location:</b> Farrar's Hotel, 3-5 Wilmington Gardens, Eastbourne		
<b>Proposal:</b> Change of use to convert a 45 bedroom hotel to a 14 bedroom guest house hotel with owner's accommodation and 15 residential apartments.		
<b>Applicant:</b> Mr Matthew Hodgson		
<b>Recommendation:</b> Subject to S106 (as outlined in the report) Approve conditionally		

Planning committee previously considered on 6<sup>th</sup> January 2015 this proposal for the change of use of the existing hotel at 14 Wilmington Gardens to 1 x 14 bedroom hotel with ancillary owners accommodation and 15 residential units. At this time the committee agreed that the application should be returned to members for consideration following the receipt of viability evidence from the district valuer.

Following the January 28<sup>th</sup> Committee meeting the applicant subsequently appealed against non-determination under Section 78 of the Town and Country Planning Act, this appeal was considered and decided in the course of 2015. In the absence of a response from the district valuer, the Council took advice from BPS Chartered Surveyors, which generally supported the applicants position the hotel accommodation was not viable in its existing form.

In considering the non-determination appeal the inspector found that the applicant had successfully demonstrated in its own evidence that in light of site specific issues the existing hotel accommodation was not viable as a going concern, and as such a conversion of the premises to a partial hotel use and partial residential use fulfilled the requirements of the Policy TO1 and TO2 of the Eastbourne Borough Local Plan. The inspector also made an award of costs against the Council, finding that it had acted unreasonably in defending the appeal in light of the viability evidence put before the inspector.

The appeal was nonetheless dismissed due to the inadequacy of the legal agreement presented by the applicant which was considered necessary to make the application acceptable in planning terms. In dismissing the appeal the inspector commented that there was no fundamental reason why this matter could not be resolved.

The contents of the previous committee report are copied out immediately below this report.

The applicant has now resubmitted the application. To address the issues identified in the appeal, the applicant has submitted a revised legal agreement.

The legal agreement proposes the following measures:

- An affordable housing contribution of £35656
- A household waste and recycling facilities contribution of £345
- Agreement that the half of the residential units will not be occupied until completion of the hotel element of the scheme.

The submitted Section 106 agreement addresses the Inspectors concerns. In light of the appeal decision it would not now be reasonable to refuse the application on any other ground. As such the application is recommended for conditional approval, subject to the conditions that were previously recommended.

The policy context and planning history are assessed in the previous committee report, attached as annex 1 to this report.

As part of the consultation on this application, 342 neighbouring residents have been consulted. No responses have been received. Planning policy have confirmed that the affordable housing contribution meets current policy requirements.

**Recommendation:** Approve subject to conditions and completion of a section 106 agreement securing the following measures:

- An affordable housing contribution of £35656
- A household waste and recycling facilities contribution of £345
- Agreement that the half of the residential units will not be occupied until completion of the hotel element of the scheme.

**Conditions:**

- 1) You must apply to us for approval of how waste and recycling is to be stored on site in the final development. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the stores for waste and

materials for recycling according to these details, clearly mark the stores and make them available at all times to everyone using the proposed development.

Reasons : To provide suitable storage for waste within the approved development.

- 2) You must provide the parking spaces shown in accordance with the layout shown on plan number 795201/15/07 rev A B. The parking spaces shown may only be used by residents and visitors to the approved accommodation and may not be used for any other purpose.

Reason: To ensure that parking is provided for the proposed development in accordance with the Council's transportation policies.

- 3) You must provide the car parking spaces shown on drawing number 795201/15/07 rev A B prior to the first occupation of the hotel and tourist accommodation use hereby approved by this permission.

Reason: To ensure that parking is provided for the proposed development in accordance with the Council's transportation policies.

- 4) You must provide details of refurbishment measures to the hotel/guesthouse element of the scheme submitted to the local planning authority for the approval of the local planning authority. These details should include

- details of redecorations and internal fixtures and fittings (to include including bathing and sanitary ware)
- details of the new stair access

- 5) You must not start work on any part of the refurbished hotel/guesthouse until we have approved what you have submitted, and you must implement this permission in accordance with details approved under the terms of this condition No 4.

Reason: To ensure that the retained guesthouse accommodation is of an appropriate standard and to ensure the likelihood of sustaining a viable business. This is in accordance with Policy TO1 and TO2 of the Eastbourne Borough Plan Saved Policies (2003).

- 6) You must provide details of secure cycle parking to be approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times. You must not start work on the relevant part of this development until we have approved what you have sent us.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles.

- 7) The lower ground floor flat of the guesthouse accommodation shown as residential accommodation on the approved plans must only be used by staff of the guesthouse hereby approved and must not be used as a self-contained residential unit in its own right.

Reason: To ensure that the retained guesthouse accommodation is of an appropriate standard and to ensure its ongoing viability. This is in accordance with Policy TO1 and TO2 of the Eastbourne Borough Plan Saved Policies (2003).

- 8) You must implement this planning permission in accordance with the following drawings approved as part of this application:

795201/14/07 amendment A B (site location plan)

795201/EXG01

795291/EXG02

795201/EXG03

795201/EXG04

795201/EXG05

795201/EXG06

795201/EXG07

795201/EXG09

795201/EZG10

795201/C/01 rev B

795201/C/02 rev B

795201/C/03

795201/C/04

795201/C/05

795201/C/06

795201/C/07

795201/C/08

Reason: For the avoidance of doubt.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

**Annex 1: Previous officers report (January 6 2015 Planning committee).**

<b>App.No:</b> 140711 (PPP)	<b>Decision Due Date:</b> 13 September 2014	<b>Ward:</b> Meads
<b>Officer:</b> Leigh Palmer	<b>Site visit date:</b>	<b>Type:</b> Planning Permission
<p><b>Site Notice(s) Expiry date:</b> 05/07/2014  <b>Neighbour Con Expiry:</b> 05/07/2014  <b>Weekly list Expiry:</b> 27 June 2014  <b>Press Notice(s):</b> 27/06/2014</p>		
<p><b>Over 8/13 week reason:</b> Negotiations and consulting the District Valuers Office.</p>		
<p><b>Location:</b> Farrar’s Hotel, 3-5 Wilmington Gardens, Eastbourne</p>		
<p><b>Proposal:</b> Change of use to convert a 45 bedroom hotel to a 14 bedroom guesthouse hotel and 15 residential apartments.</p>		
<p><b>Applicant:</b> Mr Matthew Hodgson</p>		
<p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. That no decision is issued until such time as the District Valuers Office (DVO) have ratified the financial evidence accompanying the application.</li> <li>2. If the DVO support the financial evidence then delegated authority be given to the Senior Specialist Advisor if issue planning permission subject to a S106 and Planning Conditions as outlined below. The S106 should cover the delivery of affordable housing, the tariff based contributions for ESCC and controls over the timing of the delivery of the refurbishment of the hotel/guest house, the S106 should express that no more than 7 of the residential units hereby approved shall be sold/occupied until such time as the retained hotel/guest house has been fully refurbished in accordance with conditions.</li> <li>3. If the DVO does not support the financial evidence then the application be reappraised and reported back to Planning Committee for decision.</li> </ol>		

**Executive Summary:-**

This application has been delayed in reporting to Planning Committee as officers sought the views/opinion of the District Valuers Office (DVO) into the financial assumptions that have been made by the applicant.

The response from the DVO has not yet been received, however in discussions with the Chair of Planning Committee it was appropriate to bring the application forward to Committee so that the main principles in the case can be aired.

No decision will be issued until the DVO have responded and if the DVO have a different emphasis over the financial information submitted then the application will be reappraised and reported back to Planning Committee.

Notwithstanding the DVO issue (above) this application rests on whether the evidence supplied by the applicant is sufficient to comply with the relevant policies and thereby justifying the loss/reduction of hotel accommodation.

Members will know that any planning decision needs to be based upon material planning considerations and the assessment of these material considerations will lead the decision maker to an informed decision.

This application proposes the loss of hotel accommodation within the defined tourist accommodation zone; this policy (TO2) is long standing and is in essence a negative/restrictive policy with only the loss of accommodation being supported in wholly exceptional circumstances and based on sound and robust evidence.

Members should note that this policy along with the policy outlining the extent of the Tourist Accommodation Zone itself (TO1) will be reviewed under/within the emerging Seafront Local Plan; this policy review is in its formative stages and as such it should carry very little weight in the assessment of this application.

Members should also note the views of the Council's Tourism Officer (TO) and Eastbourne Hospitality Association (EHA) whereby they suggest in broad terms that if Eastbourne is to prosper then there needs to be a refocus in the type and nature of the accommodation that is provided. Both the TO and EHA outline in their responses that it would be preferable if Eastbourne had fewer bed-spaces but of a higher quality. This higher quality would support the ambition to move Eastbourne away from the coaching trade and more over to the independent traveller. In this regard this application mirrors the ambitions of the TO and EHA.

Notwithstanding the support for the scheme from the TO and EHA members should have regard to four issues:-

- 1. The deliverability of the enhanced accommodation.**

Officers are satisfied that sufficient controls could be delivered via planning conditions and S106 agreement to ensure that the retained hotel/guest house is refurbished prior to a proportion of the residential

units being sold/occupied (see conditions below).

Members should be aware that whilst we can control the delivery of the enhanced hotel/guest house accommodation the planning system cannot make someone actually open and run the business.

**2.** The prematurity of supporting the scheme ahead of the Seafront Local Plan.

Any decision would be based on the evidence behind the application and if refused then the decision would be based on the policy as it currently stands and as Members will be aware this is a longstanding policy that has been consistently applied. Support for the scheme could only be made if the evidence supported the claim that the current business was unviable.

The Seafront Local Plan is in its very formative stages and should not carry any material weight in the determination of this application, so there are no issues on prematurity grounds here.

**3.** Whether this scheme provides a set of unique circumstances such that they could not be readily repeated on other sites/properties in the Tourist Accommodation Zone and thereby reduce the accommodation in an uncontrolled manner.

This issue is amplified within the main body of this report.

Officers are satisfied that the type and nature of the accommodation falls within the grading threshold that is very common within Eastbourne (2\* - 3\*) and to some extent there may be perceived to be an oversupply. In this regard the delivery of fewer bed spaces at the site but finished to a higher/more modern quality would add to the range/type of accommodation available and may better support the wider tourist economy.

In addition to the grading level, the size, location and the room frequency rates (an indication of the client group and repeat business) are such that the principle of the loss of tourist accommodation could be supported. In addition this scheme proposes the retention of enhanced accommodation within a building that will have the ability to operate independently.

Given the above the likelihood of this set of circumstances being repeated elsewhere in the Tourist Accommodation Zone is remote/ but not unlikely.

As with any application any future submission that promotes the loss of tourist accommodation would be based on its individual merits and

as such whilst supporting the scheme would not create such a precedent that would obstruct alternative decisions on other sites/properties in the future.

4. Whether members feel that sufficient evidence accompanies the application to demonstrate that the current business is unviable.

This issues is articulated with the body of the report below.

In broad terms officers accept that the provision of a smaller operating establishment would make the business more viable and deliver a return on investment that would be likely to sustain going forward.

The report outlines that based on the evidence submitted with the application that not all of the criteria of Policy TO2 have been complied with, however in support of the ambitions of the EHA and the TO that officers are persuaded that the current business model is unlikely to sustain and the development scenario as outlined by this submission should be explored and supported.

### **Planning Status:**

#### **Conservation Area**

College Conservation Area

#### **Relevant Planning Policies:**

##### National Planning Policy Framework

The NPPF was formally adopted on 27 March 2012 and sets out the Government's economic, environmental and social planning policies for England. These policies articulate the Government's vision of achieving sustainable development, which should be interpreted and applied locally to meet local aspirations.

Paragraph 21 goes on to state that local planning authorities should support existing business sectors, taking account of whether they are expanding or contracting. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow for rapid response to changes in economic circumstances.

With regard to main town centre uses, such as hotels, paragraph 24 states that local planning authorities should apply the sequential test and require such uses to be located within town centres, and then to edge of centre sites.

##### National Planning Practice Guidance

The NPPG was published as an online resource to guide plan-makers, applicants and decision-makers on 6<sup>th</sup> March 2014. With regard to tourism, paragraph 007 of the section on ensuring the viability of town centres,

directs the reader to tourism planning guidance hosted on the Visit England website. This states that:-

*"There may be circumstances where a traditional market has changed and the local tourism provision needs to restructure; in some areas long standing changes in visitor numbers may have left a considerable surplus of hotel, guest house, pub and bed & breakfast accommodation. This can leave many businesses struggling on very low turnover, unable to reinvest in improving their facilities. In such circumstances, owners and developers will need to work collaboratively with local planning authorities and others to provide where appropriate a productive alternative use for premises."*

Eastbourne Core Strategy Local Plan Policies 2013 & Eastbourne Borough Plan Saved Policies 2007

The following policies are considered relevant to this application with expanded summaries below:-

**Eastbourne Core Strategy Policies & Eastbourne Core Strategy Local Plan 2006-2027**

B1 Spatial Development Strategy and Distribution Sustainable Neighbourhood  
C11 Meads Neighbourhood Policy  
D3 Tourism  
Tourist Accommodation Area  
D5 Housing  
D10 Historic Environment  
Conservation Area

**Borough Plan Policies Eastbourne Borough Plan 2001-2011**

TO1 Tourist Accommodation Area  
TO2 Retention of Tourist Accommodation  
TO5 New Tourist Accommodation  
UHT15 Conservation Area

**Policy D3 (Tourism)** states that the Council will resist the loss of visitor accommodation through the retention of a tourist accommodation area and protection policy, support the appropriate upgrading of existing hotels, and prepare a strategy for the future of the seafront area through the production of a Seafront Local Plan; this document is in its formative stages.

**Saved Policy TO1 (Tourist Accommodation Zone)** states that within the Tourist Accommodation Area, planning permission will be refused for proposals that are incompatible with the tourist accommodation use in consideration of the different lifestyles and special requirements of tourists. As highlighted above the Tourist Accommodation Zone will be reviewed under the Seafront Local Plan

**Saved Policy TO2 (Retention of Tourist Accommodation).** This states that change of use of tourist accommodation within the tourist accommodation area to any other use will only be granted in exceptional circumstances where the applicant has demonstrated that the use is no longer viable. In determining viability, the policy states that the council will consider a number of criteria that are considered in more detail in Supplementary Planning Guidance. Commentary on this SPG is outlined below.

**Policy D5 (Housing)** provides the new local plan policy on affordable housing. It states that all development will be required to contribute towards affordable housing where there is a net gain of 1 or more residential units. The proportion of affordable housing sought will vary; with 40% sought in high value areas and 30% in low value areas. Where the percentage will not result in a whole residential unit, a commuted sum will be sought for the remaining requirement. Every whole affordable unit required should be delivered on site. A balance of 70:30 rented to shared ownership will be accepted subject to negotiations. This application will provide 15 residential apartments of which it is proposed that six (40%) will be affordable, with four being made available for rent and two for shared ownership subject to the requirements of the Council's Housing Department.

**Policy D10 ( Historic Environment)** states that development within conservation areas will be permitted if it enhances the character of the area, does not involve the loss of important features that positively contribute to the character of the area.

**Saved Policy UHT15 (Conservation Areas)** requires that planning applications will be required to preserve or enhance the character or appearance of the area.

#### Supplementary Planning Guidance of Hotels

The Council have produced **Supplementary Planning Guidance for the Assessment of Financial Viability of Tourist Accommodation** which was adopted in 2004 to guide applicants in addressing policy TO2 of the former Borough Plan. As commented above this SPG will be reviewed and refreshed as part of the Seafront Local Plan.

#### **Site Description:**

The Courtlands Hotel is located on Wilmington Gardens opposite the Devonshire Park. The surrounding area is characterised by mixture of Victorian town houses converted into residential apartments, guest houses and hotels and more recent purpose-built apartment blocks. The site is within walking distance of the beach (though the sea is not visible from any hotel rooms) and the town centre.

The hotel lies between a former town house divided into residential apartments on its south eastern side, and the Trevancore Holiday Apartments to the north west. We understand that the Trevancore now has planning permission to be used residentially by approval of application EB/2009/0255.

Internally, the former hotel is divided into 45 bedrooms on ground and upper floors, a bar, lounge areas, and a small function room at ground floor, an entrance reception at a mezzanine level between ground and basement and a small meeting room, kitchen, stores and dining room at basement level. The dining room, therefore, does not benefit from any particularly favourable views or aspect.

**Relevant Planning History:**

EB/1968/0032  
 PROVISION OF LINK BETWEEN 4 & 5, LIFT & ADDITIONAL ACCOMMODATION & INTERNAL ALTERATIONS Approved Unconditional, 1968-01-25

EB/1963/0443 ALTERATIONS & ADDITIONS, CONVERSION OF 2 PRIVATE HOTELS INTO 1, Approved Unconditional 1963-10-10

060024 Certificate of Lawful Use for the proposed use of flats on a Permanent basis as residential accommodation for leaseholders.  
 LD Certificate (proposed) 6-7 Wilmington Square, Issued, 20/02/2006 (This allowed holiday flats)

090253 Application for removal of Condition 2 of Planning Application EB/1973/0523 to allow flats to be let on a permanent basis  
 Planning Permission, Approved unconditionally, 28/05/2009 (This allowed holiday flats)

**Proposed development:**

Application relates to the change of use of the existing 45 bedroom hotel to a 14 bedroom guest house/hotel and 15 residential apartments.

Residential Accommodation Schedule:-

Lower Ground Floor		
Flat 1	2 Bed	79 Sqm
2	2Bed	93 Sqm
Ground Floor		
3	2 Bed	77 Sqm
4	2 Bed	87 Sqm
First Floor		
5	2 Bed	78 Sqm
6	2 Bed	53 Sqm

7	1 Bed	44 Sqm
Second Floor		
8	2 Bed	78 Sqm
9	2 Bed	53 Sqm
10	1 Bed	44 Sqm
Third Floor		
11	2 Bed	78 Sqm
12	2 Bed	53 Sqm
13	1 Bed	44 Sqm
Fourth Floor		
14	1 Bed	76 Sqm
15	2 Bed	76 Sqm

The application is supported by a number of reports, these cover a planning statement, a viability statement, a needs assessment; these reports cover a number of issues/arguments for the applicant, but in the main cover the following points:-

*The applicants, since taking over the ownership of the hotel have upgraded the property sufficient to obtain an AA3\* rating; this has been maintained to date.*

*The internal arrangements results in poor accessibility, multiple split levels and the lack of plot restricts development potential for support accommodation.*

*Declining coaching market has resulted in falling room occupancy*

*Hotel cannot compete with other hotels of similar size as they have better facilities like sea views, conference facilities and also swimming pools.*

*AA3\* accommodation represents approximately 80% of the available bed spaces within Eastbourne.*

*Hotel has been marketed several times since 2006 without any takers wishing to take on a failing hotel.*

*The arrival of Premier Inn to Eastbourne has placed 60+ bed spaces in what is an already a saturated mid-low range market place.*

*For Eastbourne the 'Holiday Flat Market' is not buoyant and as such has been discounted as an option for this property.*

*This proposal complies with local policy in that it relates to an unviable business.*

*The creation of a boutique hotel/guest house would raise the quality of the accommodation and thereby be likely to increase the room rate/occupancy and thereby creating an enhanced offer.*

*The applicant acknowledges the development finance has dried up during this recession, notwithstanding this they have undertaken an analysis of a number of development/business options and these have rested on the creation of a 14 bed boutique hotel/guest house with the remainder of the existing hotel converted to 15 apartments as the only viable return on investment.*

*The applicants have acknowledged that unless linked to a national brand then the likelihood of development finance coming forward is highly remote and as such the funding for the refurbishment of the retained hotel would have to come from the applicants own resources. In this regard the applicants outline that some of the profit from the residential conversion would be used to refurbish and upgrade the retained hotel accommodation.*

*Despite the hotel's close proximity to Devonshire Park the venue has been of relatively little benefit in driving guests to the hotel. As a small 45 bedroom three-star hotel with limited public areas, Courtlands is unable provide the facilities expected by most conference organisers for their delegates, nor is it large enough to provide a conference HQ venue unlike hotels such as the Grand, the Eastbourne Centre (TGWU) and Cavendish hotels. The hotel has benefited from events such as the annual Lawn Tennis Championship and the Airshow. However, these one off events are not sufficient to maintain a medium sized hotel business all year.*

*The applicant outlines that the only viable option would be a 14 bedroom up-market guest house, for Eastbourne this would mirror similar existing establishments at The Mowberry and The Da Vinici. If this model were to be adopted then such an operation can be a lifestyle choice, does not require a pool additional professional staff beyond the owners, normally a family, and can provide a higher standard of accommodation and more personal touch.*

*The applicant contends that if an enhanced hotel/guest house were to be developed the likelihood is that the frequency of the room lettings would increase.*

*There have been a number of recent planning applications affecting the tourist accommodation market in Eastbourne.*

*National multiple chain Premier Inn have been given permission for a budget hotel in the town centre on Terminus Road by the approval of application EB/2012/0110. This is actually outside the designated*

*Tourist Accommodation area but complies with national planning policy which favours the location of hotels within town centres. This hotel will add 65 new modern hotel bedrooms to the town's stock and given the operator's national marketing power and ability to sell beds outside the AA rating system thereby lowering costs, it will be able to draw many visitors from existing hotel operators with higher costs in less favourable locations.*

*An application to convert the former Lathom Hotel at Howard Square into 2 town houses and 6 self-contained flats was submitted under reference EB/2012/0711. The hotel which has been closed for several years is located within the designated Tourist Accommodation Area and therefore the principle of the loss of the hotel was considered by officers. Nevertheless, given the length of time the hotel had been vacant, the cost of bringing the building up to a reasonable standard, and the lack of likelihood that another buyer with the resources of the new owners of the Ambassador would come forward, it was considered that the development proposals met the criteria based exceptions of the relevant Borough plan policy and it was therefore recommended for approval. Notwithstanding this recommendation, the application was refused by the planning committee due to the loss of a hotel in a prime location in the Tourist Accommodation Area.*

*The applicants appealed against this refusal and the application was allowed in August 2013. The Inspector referred to a marketing report submitted with the application which demonstrated that there was no interest from any hotel operator in taking the Lathom Hotel. The Inspector attached greater weight to this marketing evidence than the Council's Hotel and Visitor Accommodation Study. He concluded that the loss of the hotel would not be harmful to the supply of tourist accommodation in Eastbourne.*

*The Travancore holiday apartments that adjoin the hotel at 6-7 Wilmington Place have recently been given planning permission for the removal of a previous condition (dating from 1973) to allow them to be let on a permanent basis (i.e. residentially) by the approval of application EB/2009/0255. The loss of tourist accommodation in this case was also considered to be in accordance with policy T02 of the Eastbourne Borough Plan 2001-2011.*

*In relation to National Advice and the Local Plan the applicant makes the following points:-*

*The NPPF states that there are three dimensions to sustainable development, namely the economic role, social role and environmental role (paragraph 7). We consider that in terms of this proposal, the roles are met as follows:*

- *An economic role – the hotel makes very little profit and provides an inadequate return on the investment made. It catered for 3,134 tourist room nights in 2008, a figure which has dropped ever since. The proposed guest house will be of a higher quality more suited to the leisure market and, GVA RGA’s hotel consultants consider, will be successful in a stable year in attracting approximately 3,326 tourist room nights - a slightly higher number of room nights from generally higher spending visitors than the existing hotel managed before the recession. This will be of a positive benefit to the local economy alongside the jobs created in the conversion of the remainder of the hotel to residential use and the increase in the resident population from the 15 residential apartments;*
- *A social role – the proposal will maintain and increase spending by tourists in the area and this will help to maintain important local community jobs and services including sports & recreational facilities, local shops & post offices, cafes, pubs & restaurants, small builders and suppliers. In addition, the proposed new residential apartments will provide much needed sustainable residential development to meet the housing needs of the town; and*
- *An environmental role – the proposal will result in the maintenance and restoration of three historic buildings within the conservation area.*

*The applicant contends that with regard to paragraph 14 of the NPPF, this proposal is sustainable development and should be approved.*

*Clearly that is the situation here where this mid-market hotel, like many others, has been hit by a decline in staying visitors and an increase in costs to the point where it has become no longer viable to continue to run the hotel. In such circumstances, the NPPF requires that local planning authorities should be responsive to such changes in the local hotel market.*

*That is precisely the case in this instance where the owners and prospective developer of a struggling hotel in a saturated market has been attempting to work collaboratively with the local planning authority through pre-application approaches to discuss the opportunity to restructure the building to provide a smaller higher quality hotel/guest house that can serve the growing market for higher quality accommodation for short leisure breaks in small boutique town house hotels, rather than the ever declining market for larger old three star hotels.*

*The restructuring of the hotel sector is such a consequence and the NPPF requires flexibility in the implementation of local policies so as to encourage and not prevent economic growth.*

*The Eastbourne Core Strategy Local Plan was adopted in February 2013. However, its tourism policy was written based on the 2009 Hotel Solutions report which itself was based on market information from 2008 and before at the end of a long period of sustained economic growth and at a time when one would not have predicted so long and sustained a recession.*

*The application has been accompanied by a robust suite of marketing evidence and that it has been marketed for sale at a reasonable and realistic price sufficient to comply with the Councils SPG on unviability.*

*The financial information available to the applicant is such to demonstrate that the current owners are not maintaining a viable business given the very low occupancy rates over the recent years.*

*As outlined by a surveyors report (that the applicant has commissioned) there are no structural issues with the building and there are no claims by the applicant that this application needs to be supported to support repairs to the structure of the building. The refurbishments as outlined in the scheme are only cosmetic, save to say that poor internal configuration has had an impact upon the viability of the existing hotel as it has limited market appeal.*

*Other tourist accommodation types have been explored (Holiday Flats and also the residential language schools and have been discounted for not be viable and there would not be return on investment.*

*In conclusion the applicant comments:-*

*'An emerging trend in the UK accommodation sector is the development of upmarket small independent hotels / guesthouses, as well as upmarket B&Bs. These properties are generally operated independently, usually as a lifestyle investment and operate under the VAT based on turnover (not profit) – currently around £77,000 – so only the very smallest guesthouses would fall under the threshold. There are some very successful examples of boutique guesthouses located along the South Coast.*

*Hotels and guesthouses in Eastbourne who have positioned themselves towards boutique style accommodation (typically of a good three-star offering) appear to be trading relatively well. The Hotel Solutions study recognises a good future for the guesthouse market in Eastbourne, which we agree with. One of the key recommendations within the report is to encourage the development of good quality guesthouses in Eastbourne which we wholeheartedly support. It highlights that splitting or partial conversion of existing hotels would provide scope for new and/or improved guesthouses to enter the market. There are a*

*number of good examples in Eastbourne where this has worked successfully.*

*We consider that a 15-bedroom upmarket guesthouse could operate relatively successfully on the site of the existing Courtlands Hotel. This would help meet the requirement to improve and upgrade Eastbourne's accommodation stock to meet rising consumer expectations. This would completely reposition the Courtlands Hotel to another level whilst removing identified excess stock in the two/three-star market. We consider that this would be a positive development for Eastbourne which should, in turn, have a positive impact upon the local visitor economy*

**Consultations:**

Internal:

**Estate Manager:-** No Response

**Housing Services Manager:-** No response

**Specialist Advisor (Policy):-** Scheme should comply with the current affordable housing policy and deliver 6 or equivalent units.

The acceptability of this planning application in policy terms is dependent on the evidence provided being accepted as demonstrating that the tourist accommodation is no longer viable, and confirmation from Housing that the proposed affordable housing contribution of six units on-site would be acceptable.

**Tourism Manager:-** Recent plans for the regeneration of Eastbourne namely The Arndale extension and the refurbishment of Devonshire Park will increase income generation and will drive footfall to Eastbourne with an increase in overnight stays.

Recent trends in the hotel market have been analysed and there is an increase in the need for family accommodation as well as a much younger demographic and a reduction in the desire for the traditional coaching market.

The destination marketing is moving more towards prompting younger audiences and the bed stock within the town should reflect this.

Any change of use application in a high footfall tourist area, such as Devonshire Park should be assessed on whether the current bed stock adds value to the existing and progressing markets and as I say from a tourism perspective the 'quality over quantity' has significant relevance.

We know that the last Cambridge Model research showed a slight drop in actual occupancy but an increase in income which shows that accommodation providers are achieving a higher yield.

With regard to the Courtlands Hotel we are supportive of maintaining a lower number of rooms on the assumption that this offers higher quality accommodation.

**Specialist Advisor (Economic Development):-** The hotel trade is an important local employer and the reduction in the staffing levels to facilitate a smaller business operation would be regrettable and unable to be supported.

External:

**ESCC Economic Infrastructure:-** Seek contributions towards Library £3540 and £345 towards recycling.

**Eastbourne Hotels' Association (EHA):-** Endorses the need for an updated hotels survey as this may indicate that the current retention policy is outdated.

They acknowledge the hotel is not suitable for the coaching trade due to its internal layout and not considered to be a prime seafront location.

EHA support any initiatives that upgrades tourist accommodation and also any initiative that that would attract 'higher -end' customers.

Location of the hotel is an issue as it suffers in trade given not having/benefiting from direct sea views.

EHA acknowledge that room rates have fallen significantly during the recession at the same time as booking agents taking a significant element from the advertised room rate. This added to a saturated coaching market results in rooms rates of £18 - £40 per night full board. This is an indication that Eastbourne is attracting the lower end of the market which in turn brings the resort down.

Eastbourne should be focusing on quality and not quantity.

EHA do not calculate occupancy levels across their membership and it is their belief neither do the Council Tourism section.

Market saturation at the lower end 2\*-3\* has resulted in too many room at a low price and thereby reducing the potential investment in upgrading the hotel stock.

In conclusion EHA's position is that we need fewer but higher quality bed spaces.

**Highways ESCC:-** The parking area provides enough space for 18 cars and it is proposed to split this allocation with 12 for the flats and 6 for the hotel. It is noted that as a 45 bed hotel, the 18 spaces available were a significant reduction from the parking guidelines which suggest that 45 spaces would be appropriate. The 18 spaces therefore represent 40% of the total.

The proposal for 6 spaces for the 15 rooms would also provide 40% of the total parking demand and therefore the situation would not be altered.

It is noted that the submitted planning statement make reference to a zonal reduction for parking, which no longer applies as this related to the now rescinded ESCC, Parking Standards. Also included in the submission is a 'screen shot' of the current ESCC, Parking calculator showing that 10 spaces are required. This is incorrect as the wrong ward was used for the calculation and not all the required information had been submitted. Having put the correct data into the parking calculator a development of this size and type, in this location a demand for 16 spaces is likely to be created.

The 12 spaces proposed would therefore provide 75% of the likely demand which is obviously a greater proportion than the current hotel use.

Although not ideal, as the on-site parking cannot be increased and the proportion proposed is higher than the current use, it is not considered that a refusal on highway grounds could be sustained.

It is also noted that a total of 18 cycle spaces are to be installed which is considered a suitable level of provision. No details have been provided so a condition is suggested below to ensure that suitable long term (covered and secure) storage is installed.

I recommend that any consent shall include conditions that control the provision of cycle parking and also the layout and retention of the car park for parking uses.

**Eastbourne Chamber of Commerce:-** Raise some concerns as they perceive that they may a direct link between the reduction in bed spaces and the spend in the local economy.

It is considered that the application site is well placed to capture the growing demand for bed spaces that will follow the developments in Devonshire Park.

Neighbour Representations:

None received

## **Appraisal:**

### Principle of development:

Members will acknowledge that the tourist industry plays a significant part in Eastbourne's local economy and as outlined within the current Local Plan policies and National advice only schemes that do not have a negative impact upon the local economy will/should be supported.

In this regard Eastbourne have consistently applied the policy tests for the retention of tourist accommodation within the Tourist Accommodation Zone. Whilst it is accepted that the tourist accommodation zone is under review within the emerging Seafront Local Plan however Members will acknowledge that the current policy and geographical area is longstanding and given that it has been consistently applied since its adoption has resulted in in Eastbourne retaining a large number of bed spaces, currently greater than Brighton.

The consistent application of the retention policy has also reinforced that only in exceptional circumstances will/should tourist accommodation be lost and only where there has been a robust suite of evidence that outlines that the retention of the accommodation is unviable.

The test in this application is to evaluate whether the applicants are promoting a scheme that if supported would amount to a wholly exceptional set of circumstances such that it would not undermine the Councils evaluation of other sites/schemes elsewhere.

If based on the evidence a judgement is made that the tourist accommodation could be lost/reduced then the scheme would be policy compliant as the provision of windfall residential units within this neighbourhood would be acceptable in principle.

There have been circumstances over the years where the Council and The Planning Inspectorate have supported the loss of tourist accommodation. The most recent of these has been The Lathom; this was supported given the desire to bring back into use a long standing empty Listed Building.

The scheme has the support of East Sussex County Highways Officer and as such there are no objections to the scheme on highway/access related grounds.

### General Assessment

The retention of tourist accommodation policy is a restrictive policy but does outline within the supporting SPG the extent and nature of the evidence that would need to be evaluated in order to accept that the existing business is not viable.

Policy TO2 sets out a number of factors that should be taken into account in determining viability:

**a) the location of the premises;**

The applicants contend that a contributory factor in the unviability of the currently business is that the hotel does not command a key seafront location. Officers acknowledge that the location is not prime if one considers having a seafront location commands the highest yields in terms of room charging rates and repeat business. It is also acknowledged that by the very nature of the tourist accommodation area there will be different characteristics across it. Having said this though the current policy does not make any distinction between areas within it.

Officers accept that within the tourist accommodation area there are differences in the character of the 'place' and also differences in the range of the offer provided.

The application property whilst not having a prime seafront location it does for some of the rooms command oblique sea views while others have views over Devonshire Park, Eastbourne Town Centre and the Southdowns National Park.

Officers' do not accept that the location of the property, seen in isolation, is the determining factor as to why this business is not viable.

**b) the physical condition and cost of repair of the premises;**

The applicants have confirmed that there are no issues with the structural integrity and the property is in generally good order.

Officers conclude therefore that there are no costs associated with repairs of the host building that would make the business unviable.

**c) the potential for refurbishment, including the cost of works;**

The applicants have identified the common problem of securing development finance for speculative developments, especially in the tourist related industries.

Given this they identify a need to cross finance from the residential sales to cover the refurbishment and fit out for the retained hotel/guest house accommodation.

Officers acknowledge that this is likely to be the only way in the short to medium term to secure the redevelopment that is promoted by this application and as such should be given material weight in the assessment of this application.

Notwithstanding this save for the applicant directing officers to similar establishments within the Eastbourne there is no other information supplied to cover the details of the refurbishment/refit.

Officers consider that this issue could be controlled via planning condition/S106.

The applicants claim that their scheme would deliver an enhanced hotel/guest house in terms of the quality of the bedroom fit-out and also the offer in general for this to be delivered there is a need for cross subsidy as outlined above but there also needs to be some controls over the timing and the delivery of the residential units as there is no guarantee that the hotel will even open.

On this issue officers recommend controls over the timing should form a part of a S106 if members are looking to support the scheme. Officers would recommend something along the lines of no more than 7 of the residential units shall be sold or occupied until such time as the hotel is refurbished in accordance with details previously agreed.

Controls such as this would ensure that the hotel/guest house is refurbished and thereby increasing the potential of a sale/re-let, members should be aware that the planning system cannot make the new business open.

**d) the potential for conversion to other tourist uses, including the cost of works;**

The applicant has supplied evidence that they have explored various development options; these broadly relate to:-

- keeping the existing hotel but reducing the bedrooms, all of these save for the option promoted by this application were unviable,
- converting existing hotel into 'holiday flats', this has been discounted by the applicant as there is no market for this type of accommodation with Eastbourne.
- Converting/adapting the building into a residential language school; the evidence supplied by the applicants suggests that there is no market for language school accommodation.

Officers acknowledge that the 'holiday flat' option is a difficult market place for Eastbourne with a number of existing establishments enquiring with the Council to secure alternative uses in recent months. This pressure for alternative uses may be a combination of lack of investment into the quality of the accommodation as of the financial return on short term tenancies. As a result of this a number of the 'holiday flats' in Eastbourne do not contribute significantly to the tourist offer within the town. Officers feel this is a missed opportunity, however acknowledge that securing development investments

without security of return will result in the down grading of the stock currently on the books and would also prohibit the commencement of any new initiatives.

There are a number that have been lost to formal residential accommodation over the years. Officers support the applicant that in this location there is a high probability that if holiday flats were pursued the Council would come under increasing pressure to release the holiday ties given the lack of demand. This is evident with the decision taken on the adjoining building.

Officers do not accept without further evidence that there is not the demand within Eastbourne for a residential language school. Members will be aware of the degree to which this sector supports the local economy and will also be aware that EF Language schools have recently opened within Eastbourne and that Twinn Language School are looking for alternative accommodation.

Officers support the applicants intention to retain an element of traditional hotel/guest house accommodation on this site as being the most likely to succeed.

**e) the market valuation of the property reflecting the above factors;**

Officers accept that the site has been marketed as a going concern (hotel), however officers have not seen evidence that the property has been marketed as any other type of holiday accommodation. Notwithstanding this in the short term it is considered that the retention of the hotel/guest house accommodation on this site is the only deliverable option.

**f) whether the direct costs of running the business can be covered;**

Officers accept the evidence that occupancy rates that the applicant has supplied are not sufficient to cover the full operational costs of a 45 bedroom hotel. There may be a host of reasons for this and some of these may not have been declared within the application, however Members have to make a decision on the information before them.

Officers accept the claim from the applicant in that holiday coach trade is a declining market and that given Eastbourne has an oversupply of bedrooms all competing at a similar grading level (2\* - 3\*) for a market share it is unlikely that the room frequency rate would increase nor would the applicants be able to justify an enhanced room rate to cover the operational costs.

The result of this is that there is an ever decreasing rate of under investment in the building/business; ultimately resulting in business closures.

Members will be aware of the contribution that the tourism plays to the local economy, and on this issue officers have concluded that a closed business and boarded up property in this location would potentially be harmful to the emerging Devonshire Park master plans. In addition if this were to happen it portrays to some degree a decline resort; and the image of Eastbourne as a tourist destination may be impacted.

Officers consider that this should be given material weight in the assessment of this application.

**g) whether a commercial rate of return on investment can be achieved.**

Officers accept that the operational requirements of the existing hotel negatively outstrip the current market and as such an alternative needs to be explored.

Officers accept that with the controls via the S106 and planning conditions are such that the retained hotel/guest house would be refurbished to a high degree and thereby supporting the ambitions and desires of the Eastbourne Hospitality Association and the Council's tourism officer in that retained at the site would be fewer bedrooms but of an enhanced quality.

Officers are also persuaded that if the hotel/guest house were to be refurbished in the manner outlined then it is likely that the room frequency would be able to be maintained and that these residing tourists would also contribute to the local economy in other ways during their stay ( restaurants, shops and tourist attractions) .

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The scheme would not have any impacts upon the amenities of the adjoining occupiers sufficient to justify a refusal.

Design issues:

The scheme does not promote any external alterations and as such there are no changes to the external fabric of the building.

Impact on character and setting of a listed building or conservation area:

Given that there are no external changes to the fabric of the building there are no implications for the conservation area. Members should note though if this scheme is not supported there is the potential that the business may fail and close which may have an adverse impact upon the character and appearance of this part of the Conservation Area.

Impacts on trees:

None

Impacts on highway network or access:

The scheme has the full support of the East Sussex County Council Highways Officer and as such a refusal based on or around the highway implication of the scheme could not be substantiated.

Other issues

It is considered that the delivery of new windfall residential accommodation is acceptable in principle and should be supported. The size of the residential accommodation exceeds the common standards and should provide a level of return that would assist in the cross subsidy of the enhanced tourist accommodation.

The applicant has committed to comply with the Councils Affordable Housing Policy.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

Members should note that the delivery of the Seafront Local Plan is some years away from formal adoption and as such the evidence that supported the current policy position is becoming more and more out-dated and to some degree has been superseded by National advice which supports and promotes schemes that would deliver the Government's growth agenda.

For the reasons as outlined within this report officers consider that this scheme/proposal is finely balanced and given the aspirations expressed to increase the quality of the bed stock rather than maintain the quantity as being the overriding material consideration in this application.

**Recommendation:**

Subject to the District Valuers officer confirming the applicants financial arguments then the scheme should be supported and permission be granted subject to S106.

The S106 should cover the delivery of affordable housing, the tariff based contributions for ESCC and controls over the timing of the delivery of the refurbishment of the hotel/guest house.

Conditions:

1Time limit

2Car park layout supplied

3Car park provided before first beneficial use.

4Cycle parking

5Details of the refurbishment measures to the hotel/guesthouse shall be submitted to and approved in writing prior to any development commencing.

The details as submitted shall include details of redecorations and internal fixtures and fittings and also details of the new stair access between the ground and lower ground floor.

**Appeal:**

Should the applicant appeal the decision the appropriate followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

# Agenda Item 13

<b>App.No:</b> 150965	<b>Decision Due Date:</b> 8 November 2015	<b>Ward:</b> Devonshire
<b>Officer:</b> Neil Holdsworth	<b>Site visit date:</b> 15/10/2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 16 October 2015 <b>Neighbour Con Expiry:</b> 16 October 2015 <b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> To report to planning committee.		
<b>Location:</b> The East Beach Hotel, 23-25 Royal Parade, Eastbourne		
<b>Proposal:</b> Retention of existing UPVC windows to front (south east) and side (south west) elevations (retrospective).		
<b>Applicant:</b> Miss Heidi Cowderoy		
<b>Recommendation:</b> Refuse permission on design grounds.		

## Executive Summary:

This item was deferred from the planning committee meeting agenda on 24<sup>th</sup> November 2015 to enable members to undertake a site visit. This site visit has now taken place and the application is reported back to committee for a decision.

This application seeks retrospective planning permission to retain a number of UPVC windows installed on the front and side elevations of the East Beach Hotel, 23 – 25 Royal Parade.

This Victorian building is designated as a building of local interest in the Eastbourne Townscape Guide and falls within the Town Centre and Seafront Conservation Area.

Because of the materials used, the scale and detailed design, the windows that have been installed are considered to detract from the character of the host building and have a detrimental impact on the surrounding conservation area. It is recommended that the planning application is refused, and an enforcement notice served requiring the installation of replacement timber windows.

## **Relevant Planning Policies:**

### National Planning Policy Framework 2012

1. Building a strong, competitive economy
7. Requiring good design
10. Meeting the challenge of climate change, flooding and coastal change
12. Conserving and enhancing the historic environment

### Eastbourne Core Strategy Local Plan Policies 2013

Policy B2 Sustainable Development

D10 Historic Environment

D10A Design

Development Quality

Building Frontages and Elevations

### Eastbourne Borough Plan Saved Policies 2007

UHT1: Design of new Development

UHT4: Visual Amenity

UHT4: Visual Amenity

UHT5: Protecting Walls/Landscape Features

UHT15: Protection of Conservation Areas

UHT18: Buildings of Local Interest

### Supplementary Planning Guidance:

Eastbourne Townscape Guide (Adopted 2004)

### Enforcement Policy Statement 2015

Document that outlines Eastbourne's policy and approach in relation to planning enforcement related powers/procedures and actions.

## **Site Description:**

The East Beach Hotel occupies a corner position on the seafront on the junction of Royal Parade and St Aubyns Road. It is in use as a hotel.

## **Relevant Planning History:**

### 150358

Two storey side extension to form new WCs and enlarged managers accommodation. Single storey extension at rear to form new office.

Planning Permission approved conditionally

13/05/2015

## **Proposed development:**

This application seeks permission to retain the replacement UPVC windows that have been installed on the premises without planning permission.

## **Consultations:**

### Internal:

#### Conservation Area Advisory Group

At a meeting on 6<sup>th</sup> October 2015 the Conservation Area Advisory Group expressed a concern that the replacement UPVC windows installed are out of keeping with the surrounding area.

#### Specialist Advisor (Conservation):

Objection. Replacement of windows has resulted in loss of historic fabric. UPVC windows detract from the significance of the building and have a harmful impact on the immediate and wider area.

### External:

The Eastbourne Hospitality Association (EHA) Support the proposal and their full response is included below:-

1. *The EHA represents the interests of a large majority of the accommodation providers in Eastbourne who offer tourist accommodation. The EHA also has a number of members whose businesses are either directly or indirectly within the tourism industry. The EHA was set up originally as the Eastbourne Hotels Association over 90 years ago and has always striven to contribute positively to the important tourism economy that provides so many jobs in the town.*

### **OBSERVATIONS**

2. *The EHA welcomes the opportunity as a "Major Stakeholder" to make observations in this planning application.*

3. *We support this application to retain the PVC windows at the East Beach Hotel and we can fully understand why the owner decided to put them in without first seeking permission from the planning authority.*

4. *Our properties have to face increasingly strong weather as storms and winds on our shores become more frequent and stronger. Whether this is due to global warming is an argument for environmentalists to have. The fact of the matter is though that our seafront properties, which are premium and are key to the success of our tourism economy, must be fit for purpose.*

5. *We also wish to remind the committee that THERE IS NO POLICY LOCALLY OR NATIONALLY THAT PROHIBITS PVC WINDOWS IN A CONSERVATION AREA. There is only National "Guidance" and with respect this guidance is more directed at truly historic buildings that are protected and are of unique character. It is submitted that the East Beach, although an attractive property, does not have such a high status. Whilst we*

*appreciate that it appears somewhere on some "local list" that was created in 2014 – what we say about this is that as an industry we don't even know about the existence of this list, we have never been consulted about such a list and we question the weight and legality of such a list? To place a privately owned building on such a clandestine list seems to us to be completely extreme and after this planning case has concluded we will be asking more about this list, its legal status and how it came about.*

6. *There has been complete inconsistency over recent years from the planning department in relation to PVC windows and if one looks at the seafront you will see that this inconsistency continues in the permissions granted for windows. We understand that the reason why this hotelier felt the need to take urgent action was a) because of the lack of a consistent approach and b) because the windows were getting so bad that there was little choice. The cost of wooden windows in comparison is six fold+ the cost of a PVC window when in actual fact the wooden framed windows are on the whole ineffectual.*

7. *In case the planning committee are unaware, the local tourism industry, although strong is in a gradual decline. Although occupancy remains healthy room rates are dropping owing to the expansion of the Online Travel Agent market, the uncompetively high VAT rate compared to European destinations and the introduction into the town of brands such as Premier Inn. This coupled with the increased costs of heating, lighting, food and wage costs means that margins are at an all-time low.*

8. *There comes a time it is submitted when these factors coupled with environmental concerns have to take precedence over having "wooden framed windows just because our Victorian forefathers made them" and we must be able to invest in our properties with the long term in mind. Many hoteliers in this town want to invest in this way into their properties but again the attitude, or at least the perceived attitude, against PVC on the seafront prevents it.*

9. *The issue we have been advised by your head of planning is whether the works are in keeping with the building. You cannot it seems to us simply object because it is PVC. As the Planning Inspector in the Claremont appeal in 2014 observed; "The Council appears to have permitted the use of material in other buildings within the conservation area". The fact therefore that this has been permitted in other properties IS therefore a consideration. Also the Inspector suggested in her judgment that a matter that can be taken into account is the fact that the change in the material of the windows is crucial to the business' on-going viability (paragraph 17). Furthermore she suggests that the harm caused by the installation of the windows to the building has to be "substantial".*

10. *We submit having looked at the building before and after that the alterations that have been made have made a significant improvement to*

*the building. The proportions of the front elevation have not been altered by the replacement windows in any way and we suggest that the rhythm and hierarchy of the fenestration has been maintained.*

*11. The front porch has never in fact looked better – remembering of course that this would have been an add on any way and was not part of the original building.*

*12. There have been advances in the quality of PVC windows in recent years and the quality of the finish. We suggest that these windows are of sufficient quality.*

*13. We also make this closing point. The fact of the matter is that the average tourist does not study with a fine toothcomb each individual window from the outside. The tourist who stays wants to be able to open the windows with ease when traditional wooden sash is too heavy. Provided (as the Inspector said in her comments) the overall flow of the building is not effected that is what is important.*

*14. We urge you to permit this application.*

### **Neighbour Representations:**

58 Neighbouring residents were consulted as part of this application.

One objection was received on the grounds that the materials of the replacement windows are out of character with the surrounding conservation area.

28 Letters of support have been received from residents and businesses in the surrounding area. The letters raise the following points as reasons to support the application:

- It is submitted that the UPVC windows that have been installed improve the appearance of the building and protect the rhythm and fenestration of the building.
- The previous timber windows were beyond economic repair, and the cost of painted timber replacement windows would be prohibitively expensive.

### **Appraisal:**

This application seeks permission to retain a number of UPVC windows installed to the frontage of the East Beach Hotel, 23-25 Royal Parade, Eastbourne. The applicant has additionally installed a UPVC framed conservatory at ground floor level. Whilst this is not part of the retrospective application, this report seeks authorisation for an enforcement notice to be served requiring removal of this structure and its replacement with a timber framed unit.

The building is not listed, although it is located in the Town Centre and Seafront Conservation Area. It is designated in the Eastbourne Townscape Guide (Supplementary Planning Guidance) as being a building of local interest. The installation of the UPVC windows on these premises has been the subject of ongoing enforcement action by the Council following on from their installation earlier in 2015.

### **Conservation and Design issues**

The windows on the East Beach Hotel are considered to be important architectural features on this unlisted building that define its appearance and how it is read in the surrounding townscape context. Prior to the installation of the unauthorised UPVC windows the building predominantly had characteristic single glazed timber sliding sash windows. The materials, design features, method of opening and glazing pattern were all features that helped to define the external appearance of this substantial Victorian building. The larger glass panels on the first and second floor levels were a reflection of the importance originally assigned to the first and second floor levels of this building in terms of the overall hierarchy of rooms within the building itself.

Whilst there are a number of examples of UPVC windows that have been installed within buildings on the seafront within Eastbourne, in this case the building is part of a townscape group where very few of the original timber sash windows have been replaced, from first floor level upwards. The Langham Hotel (43-49 Royal Parade) has replaced some of the front windows with double glazed timber framed sash windows, and to the rear replica sash windows have been installed with UPVC frames. The windows that have been installed on the Langham replicate the design of original timber sash windows and many of their original features, and in longer views differ little in appearance to the single glazed timber sash windows they replaced.

The replacement windows that have been installed at the East Beach Hotel are characteristic examples of modern UPVC windows, and clearly perceived as such in both short and long views. The frames are considerably larger and the opening mechanisms differ, opening outwards as opposed to a traditional sliding sash mechanism. Features such as the decorative horns are not replicated in the new windows. The result is windows with an alien and contemporary appearance, resulting in the loss of historic status and interpretation of this building, the group of buildings it sits within, and the wider seafront.

National Planning policy places a great importance to good design and the conservation of the historic environment. Within the saved policies of the adopted Borough Plan, Policy UHT 15 requires that development must preserve or enhance the setting of a conservation area and UHT18 states that proposals which would adversely affect the character or appearance of buildings of local interest will not be permitted. For these reasons the windows that have been installed are considered contrary to national and

local policy, and are unacceptable in principle in design and conservation terms.

## **Other matters**

### **Precedents**

The applicant draws attention to a number of other premises east of the pier which have installed replacement UPVC windows. It is acknowledged that there are examples of UPVC replacement windows installed along the seafront to the east of the pier, along Grand Parade and Marine Parade. In previous decisions the Council have consistently sought to ensure the windows are made from timber, or are otherwise high quality UPVC replacements that accurately reflect the design of the original timber sash windows.

Under planning law windows that have been installed for a period of more than four years on unlisted buildings become immune from enforcement action and therefore lawful. Whilst some windows that have been installed differ from the planning approval, or have been installed without planning permission, these instances are not considered to form a precedent for further unsympathetic alterations to buildings further along the seafront. Taking account of the comments from the Conservation Area Advisory Group, it is considered that in prominent locations such as this timber sliding sash windows form an important part of the Victorian character of the conservation area. It is recommended that their replacement with modern UPVC variants be resisted, where it is possible and expedient to do so through the exercise of planning controls.

### **Economic and Environmental issues**

The applicant also states that any harm created by the installation of these windows is outweighed by the fact that the installation of the windows enable the building to be used in its original and optimum viable use, maintain and strengthen the contribution of the hotel to the wider tourist industry and economy of the town, and would reduce the demands of the hotel on the environment, making reference to the tests in paragraph 134 and 135 of the National Planning Policy Framework.

In this case, however, the harm created by the replacement windows to the heritage asset and surrounding conservation area is considered to outweigh any environmental or economic benefits of the proposal. It is considered in the specific circumstances of a landmark building such as this, the broader public interest is served through the conservation of the historic environment, with its associated economic and social benefits including the wider regeneration of the Devonshire Area.

## **Other works**

The applicant has additionally installed a replacement UPVC conservatory to the front elevation of the building at ground floor level. The conservatory has been constructed with a thick UPVC frame which replaced a slimline timber frame. The resulting structure is more dominant feature that visually dominates the host building, with the UPVC frames being very prominent features. As a result, the replacement conservatory is considered to have a detrimental impact on the appearance of the building and the surrounding conservation area. It is recommended that enforcement action is taken to require the removal of this structure and its replacement with a timber framed conservatory.

To the rear of the building the applicant has replaced a number of original sash windows with UPVC windows without planning permission. In this case the windows are read in the context of a secondary elevation, and there are many other examples of UPVC windows in the surrounding townscape along St Aubyn's Road and Hampden Terrace. Whilst the loss of historic fabric is regrettable, it is not considered expedient to pursue enforcement action in respect of these windows, as they do not have a significant impact on the character and appearance of the building or the conservation area in which it is located.

## **Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

## **Conclusion:**

It is recommended that the application to retain the UPVC windows is refused on conservation and design grounds, and an enforcement notice served requiring replacement timber sash windows and conservatory to be installed on the front elevation.

## **Reason for refusal**

Planning Permission is Refused and Enforcement Action authorised for the following reason:-

Because of its bulk, materials, method of opening and detailed design the replacement UPVC windows would detract from the setting and appearance of the building of local interest and the Town Centre and Seafront Conservation Area. This is contrary to Section 12 (Conserving and enhancing the historic environment) of the National Planning Policy Framework 2012; Policies B2 (Creating Sustainable Neighbourhoods) D10 (Historic

Environment) and D10A (Design) of the Core Strategy 2013; and Saved Policies UHT1 (Design of New Development) UHT4 (Visual Amenity) UHT15 (Protection of Conservation Areas) and UHT18 (Buildings of Local Interest) of the Eastbourne Borough Plan 2001-2011.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

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# Agenda Item 14

<b>App.No:</b> 151170	<b>Decision Due Date:</b> 20 January 2016	<b>Ward:</b> Hampden Park
<b>Officer:</b> Anna Clare	<b>Site visit date:</b> 17 December 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 19 December 2015 <b>Neighbour Con Expiry:</b> 19 December 2015 <b>Press Notice(s):</b> 21 December 2015		
<b>Over 8/13 week reason:</b> N/A		
<b>Location:</b> Land at Sumach Close, Sumach Close, Eastbourne		
<b>Proposal:</b> Erection of a three storey building consisting of 13 flats (8 x 2 bed and 5 x 1 bed). Amended Description.		
<b>Applicant:</b> Eastbourne Homes		
<b>Recommendation:</b> Grant Planning Permission subject to S106 agreement control local labour initiatives		

## **Executive Summary:**

The site has previously been identified within the adopted Strategic Housing Land Availability Assessment as being suitable for residential redevelopment. It is considered therefore that there is no objection to the principle of redevelopment of the site.

The application proposes a residential scheme that will enter the Councils property portfolio as social rented affordable housing.

The scheme proposes a new building over 2 to 4 storeys containing 13 flats.

The bulk, scale and massing of the proposed building is considered to provide a corner building, enhancing the area. The flats provide a good standard of accommodation for future residents, and the impact on surrounding existing residential properties is considered to be acceptable. ESCC Highways have assessed the level of car parking and the impact on the demand for on-street parking, they raise no objection stating the increased demand will not be severe and therefore is acceptable. Therefore it is recommended that planning permission is granted subject to conditions set out at the end of the report.

## **Relevant Planning Policies:**

National Planning Policy Framework 2012

- 4. Promoting sustainable transport
- 6. Delivering a wide choice of high quality homes
- 7. Requiring good design
- 8. Promoting healthy communities

Core Strategy Local Plan 2013 Policies  
 B2 Creating Sustainable Neighbourhoods  
 C7 Hampden Park Neighbourhood Policy  
 D5 Housing  
 D10A Design

Eastbourne Borough Plan Saved Policies 2007  
 UHT1 Design of new development  
 UHT2 Height of building  
 UHT4 Visual Amenity  
 UHT8 Protection of amenity space  
 HO2 Predominantly residential areas  
 HO20 Residential Amenity  
 TR11 Car parking

**Site Description:**

The site is currently a grassed verge area and hard standing car park at the corner of Maywood Avenue and Sumach Close.

The closest residential properties are generally of a similar character, possessing similar feature having been constructed at a similar time. To the north of the site, on the opposite site of Maywood Avenue there are blocks of flats on Holly Place which are three storeys of light/grey brick with an angled roof line.

There are areas of green space to the front of many of the properties and large grass verges between the pavement and highway edge. To the north-eastern side of Sumach Close there are large areas of on street parking parallel with the highway.

**Relevant Planning History:**

None relevant to this application.

**Proposed development:**

The application proposes the erection of a part 4, 3 and 2 storey 'L' shaped building to provide 13 flats (5 x 1 bed and 8 x 2 bed).

Number	Type	Size (Sqm)	National Space Standards (2015) (Sqm)
5	1 bedroom flats	55	50
8	2 bedroom flats	74	70

The building is split into two segments (two entrances). One 'block' accessed from the corner entrance feature provides 8 two bed flats (two to each floor).

The second 'block' facing Sumach Close provides 5 one bed flats, two at ground and first floor and one at third floor level.

The 'L' shaped design allows amenity space to be provided to the rear

The building is kept in line with the existing properties of Maywood Avenue retaining an open grass landscaped area to the front of the building.

Refuse and recycling facilities are to be provided in easily accessible locations and will be controlled via condition.

To the rear of the building the existing car park area will be extended to provide 13 car parking spaces, the scheme also promotes cycle parking

### **Consultations:**

#### East Sussex County Council Highways

No objection raised in principle to the application. Comments detailed in section of report 'Impacts on highway network, access or parking'.

The submitted Transport Report has considered the development in terms of additional vehicle movements, car parking, cycle parking, access to public transport and facilities within walking distance.

ESCC highways raised no concerns over the sustainability of the location as it is within acceptable walking distance of schools, shops and public transport. Adequate cycle parking would also be provided and the number of traffic movements that the proposal would create can be accommodated by the local highway network. The one area that is a cause for concern is car parking.

The transport report includes reference to the ESCC parking calculator which has been used to indicate the number of parking spaces which should be provided. The Transport Report states that 23 spaces are needed. Having checked myself, this figure is based purely on the Hampden Park ward which does not provide a large enough data set to be reliable. It is also on the boundary between the Hampden Park and Ratton Wards. Adding in the two nearest adjacent wards provides a large enough data set and results in a total of 20 spaces being needed with one allocated to each flat or 16 if all the spaces were unallocated.

The development is therefore going to create an increased demand for on street parking in the area which is a concern. It should be noted that the Manual for Streets guidance does state that on street parking can be used to provide for a development, but only where the increase can easily be accommodated.

Ultimately any planning permission should be considered against paragraph 32 of the National Planning Policy Framework on highway impacts. This states that 'Development should only be prevented on or refused on transport grounds where the residual cumulative impacts of development are severe'. Although there are concerns about reducing on street parking provision in the vicinity they are not considered to significant enough to have a severe impact on the highway network.

Although the level of parking provided is lower than would ideally be provided the application has demonstrated that there is scope to cater for this demand on street. Although this will impact on the highway it cannot be considered to have a severe impact in planning terms and therefore is acceptable as it is in accordance with the National Planning Policy Framework.

#### Specialist Advisor (Planning Policy)

##### Support the Application

The site is a part greenfield/brownfield site that in principle is acceptable to be redeveloped for housing development. The site has been identified as deliverable within the Strategic Housing Land Availability Assessment, and as such should be supported to meet the Council's challenging 5 Year Housing Land Supply figures.

#### Strategy and Commissioning Officer (Regeneration)

The construction of this residential development provides an opportunity for new employment within the built environment. In accordance with page 13 of the Local Employment Technical Guidance Note, adopted 1 April 2013 this proposal qualifies for a Local Labour Agreement.

### **Neighbour Representations:**

A part of the public consultation Press and Site Notice were posted and 60 individual letters were sent to local residents. As a result of this consultation the following responses have been received.

#### 11 Sumach Close

- Not objecting but questioning amount of parking.
- Considers well designed

#### 16 Holly Place

- Support the proposal for flats in this location.

Objections received from the following properties;

- 6 Sumach Close
- 7 Sumach Close
- 9 Sumach Close
- 10 Sumach Close

- 12 Sumach Close
- 14 Sumach Close
- 39 Sumach Close

For the following reasons;

- Not sufficient space for level of development
- Already a built up estate
- Too close to existing properties, impact on loss of light, noise, overshadowing, privacy
- Loss of green space which is used as a play area
- Over crowding
- Demand for parking, spaces provided only takes into account the number of flats, not those already using the existing parking
- Increased traffic
- Dangerous for pedestrians
- Design of the building
- Surrounding buildings 3 storeys
- Loss of view of downs
- Impact on school provision

### **Appraisal:**

#### Principle of development:

There is no objection in principle to redevelopment of this site for residential purposes.

In line with the requirements of the NPPF the Council supports sustainable housing development coming forward in order to support Local Plan housing targets.

As the proposal is for 13 new flats, the application will not be liable to a CIL contribution. The application proposes 13 social rented affordable units, therefore meets the requirements of Policy D5: Housing of the Core Strategy Local Plan.

The application is in general conformity with the Neighbourhood Policy (Policy C7: Core Strategy Local Plan, 2013) which seeks to 'deliver housing through infill development on underused land'.

#### Impact of proposed development on amenity of future occupiers:

The 8 two bed units provide an internal floor space of 74m<sup>2</sup>, the 5 one bed units provide internal floor space of 55m<sup>2</sup>.

The flats meet the standards set out by the DCLG's Technical Housing Standards – Nationally Described Space Standard 2015 in terms of internal floorspace provision. This is set out as 50m<sup>2</sup> for a one bed two person flat (so providing 1 double bedroom) and 70m<sup>2</sup> for a two bed four person flat (so providing 2 double bedrooms).

The scheme provides amenity space to the rear of the block and all flats have access to a balcony area approx. 6m<sup>2</sup> which also provides amenity space for occupiers.

The building is 'L' shaped and therefore there would be a degree of overlooking onto each other at the rear, however this is considered acceptable and will not have significant impacts on the future occupiers. Therefore the standard of accommodation provision for future occupiers is considered good.

Impact of proposed development on amenity of surrounding residential properties:

The closest residential properties are those fronting Maywood Avenue (terrace 110-124), the building would be set 3m from the end of this terrace. The existing public pathway will be maintained here, this will also provide rear access to the amenity space to the rear.

The building has been designed to set back 0.6m from the rear building line of the properties of Maywood Avenue with the section closest jutting out with a window to the corner facing back onto the proposed building. This minimises the overlooking towards the rear garden of the adjacent properties.

There will undoubtedly, given the 'L' shape of the proposed building be additional overlooking on those adjacent properties of Maywood Avenue rear gardens, and towards the rear elevations.

At present there is limited overlooking of the rear of these properties given the separation distance to the properties of Blackthorn Close and location of garages. However they are terraced and therefore there is limited privacy to rear gardens and the additional impact is not considered significant to warrant the refusal of the application.

To the north-east of the site, on the opposite side of Sumach Close there are existing properties, the immediately adjacent being flats, one on ground floor and one at first floor. At present these overlook an open space, however the separation distance between the existing and proposed properties is considered acceptable.

The addition of balconies to the front elevation is not considered to have a significant impact on the level of overlooking or loss of privacy to the properties opposite to warrant the refusal of the application.

Design issues:

The proposed building is an 'L' shape given the corner plot, and to provides rear amenity space in addition to balconies.

The scheme is two blocks. The corner block of two bed flats has a stairwell entrance at the corner with a property either side of the central core, two bedroom flats over four floors. The second attached block faces Sumach Close with 5 one bed flats over 3 storeys, combined living/kitchen areas, with balconies available to the front of the building, with bedroom and bathroom to the rear.

The scale and massing is similar to that of the blocks of flats opposite on Holly Place.

The materials proposed are a brick plinth at ground floor level, white painted render above with glazed balconies. The top storey is designed as a mansard style roof with differing material to reduce the bulk of the building.

The height on the corner provides a corner building with the height decreasing to the rear to two storeys, which reduces the bulk. The design is more modern than the existing buildings, and includes a more diverse palette of materials providing more interest to the corner plot.

The materials, bulk scale and appearance of the building is considered acceptable and it is considered the quality of the design will enhance the surrounding area.

Cycle parking and refuse and recycling facilities will be controlled via condition.

#### Landscaping and Impact on Trees:

Currently the area is an open green space. Landscaping will be retained to the front facing Maywood Avenue and around the building to maintain the character of the area with open grass verges. The expansion of the car park will also increase the level of hard landscaping up to 4-6 Sumach Close.

The landscaping surrounding the building is designed to be simple, a communal seating area is proposed set back from Maywood Avenue. Planting is proposed to soften the relationship between the private units and the public highway.

Two trees currently bordering the car park area would be lost following the expansion of the parking area. There is no objection to their removal.

A landscaping scheme will be requested by condition to ensure suitable planting is provided to maintain the character of the area with open green spaces and verges.

#### Impacts on highway network, access or parking:

The existing car park area is to be enlarged to provide 13 parking spaces. The level of parking is considered acceptable for the number and type of new dwellings proposed.

It should be noted however that the car park is existing, and informally used by surrounding residential properties. There is significant available on-street parking in Sumach Close as the parking is parallel to the highway, increasing the amount of available parking spaces.

A number of objections have been received to the application on the grounds of increasing demand for on-street parking. The parking area is under the control of Eastbourne Borough Council and has been freely available to use since it was built. There does not appear however, to be any requirement for this area to be provided for parking for the adjacent properties. On this basis the use of this area could be removed at any time without the need for any formal consent.

As identified by the ESCC highways response any refusal based solely on highway/parking grounds could not be justified/substantiated as the degree of harm is less than severe and as identified by the NPPF in these circumstances permission should be supported.

#### Planning obligations:

Affordable housing:-The application proposes 13 social rented affordable units, therefore meets the requirements of Policy D5: Housing of the Core Strategy Local Plan. A condition is proposed to control the tenure of the proposed units.

CIL:-The proposal constitutes flats and therefore no CIL is payable.

Local Employment initiatives:- In addition given the scale of the development there is a policy requirement that the scheme should deliver some local employment initiatives. A S106 legal agreement is required to deliver this initiative.

#### **Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

#### **Conclusion:**

The application is considered acceptable in principle, the proposal is in line with the requirements for sustainable development within the NPPF. In addition the Council supports sustainable housing development coming forward in order to support Local Plan housing targets.

The bulk, scale and massing of the proposed building is considered to provide a corner building, enhancing the area.

The impact on residential amenity of the existing properties is considered acceptable. The building has been designed to minimise overlooking on surrounding properties, having the majority of the living accommodation on the front elevation. It is not considered that a reason for refusal based on the impact on the surrounding properties loss of outlook/overshadowing or privacy could be justified.

The amount of parking is considered acceptable given the number of additional units proposed. It is not considered that the proposal, given the good transport links on Maywood Avenue, and the type/tenure of the proposed units would have significant impacts on the demand for on-street parking to warrant refusal of the application.

**Recommendation:**

Subject to a satisfactory legal agreement to cover local employment initiatives then Grant Planning Permission subject to the following conditions;

1. Time for commencement
2. Approved drawings
3. Samples of proposed materials
4. Refuse/recycling storage (details submitted and to be provided prior to occupation)
5. Landscaping/planting
6. Wheel Washing
7. Surface Water drainage (Highways)
8. Parking provision (laid and provided before occupation)
9. Cycle Parking (details submitted and to be provided prior to occupation)
10. SUDS
11. The residential units hereby approved shall be retained in perpetuity as affordable rented accommodation unless previously agreed in writing by the Local Planning Authority.

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# Agenda Item 15

<b>App.No:</b> 151192 (VCO)	<b>Decision Due Date:</b> 31 December 2015	<b>Ward:</b> Old Town
<b>Officer:</b> Leigh Palmer	<b>Site visit date:</b>	<b>Type:</b> Variation of Condition
<b>Site Notice(s) Expiry date:</b> N/A		
<b>Neighbour Con Expiry:</b> 04/12/2015		
<b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> Over 8 weeks given the committee schedule		
<b>Location:</b> 2 Upwick Road, Eastbourne		
<b>Proposal:</b> Variation of condition 11 of permission EB/2011/0193(FP) for the demolition of the garages to the rear of 2-8 Upwick Road and the erection of 6 houses and garages, parking spaces, landscaping and amendments to vehicular access from Upwick Road, and external alterations to 2/ 4 Upwick Road to remove the entrance door at the side and form a new entrance door at the front. Variation sought: the disposal of foul water from the site into the existing drain at the rear of 7 Dillingburgh Road.		
<b>Applicant:</b> Mr HENRY GOACHER		
<b>Recommendation:</b> Refuse/Reject this application		

## Executive Summary

This development site has approval for foul water connections to the main sewer in Upwick Road, this application proposes an alternative connection route.

The applicants are now seeking approval for the foul water sewer from the development site could connect to the existing sewer run to the rear of the properties in Dillingburgh Road.

The application has not been accompanied with details to demonstrate the suitability and capacity of the existing drainage run to absorb additional connections.

The applicants have outlined that the sewer from the site and also the existing sewer to the rear of the properties in Dillingburgh Road are to be adopted as 'public sewers' however at the time of writing there has been nothing in writing from Southern water to confirm/support this position.

In addition the application has also failed to supply/demonstrate details to control/mitigate the potential risk of localised flooding and blockages within the immediate area apart from claiming that as a public sewers they will be controlled by Southern Water.

In the absence of this information it is likely that the proposal may have an adverse impact upon the amenities currently enjoyed by the occupiers of nearby residential properties and also by the future occupiers of these new properties.

**Relevant Planning Policies:**

**National Planning Policy Framework 2012**

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
5. Supporting high quality communications infrastructure.
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
9. Protecting green belt land
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment
12. Conserving and enhancing the historic environment
13. Facilitating the sustainable use of minerals

**Core Strategy Local Plan 2013 Policies**

- B1 – Spatial, Development, Strategy and Distribution
- B2 – Creating Sustainable Neighbourhoods
- C4 – Old Town Neighbourhood Policy
- D5 – Housing
- D10a - Design

**Eastbourne Borough Plan Saved Policies 2007**

- UHT1 - Design of New Development
- UHT2 - Height of Buildings
- UHT4 - Visual Amenity
- HO1 - Residential Development within the Existing Built-Up Area
- HO6 - Infill Development
- HO20 - Residential Amenity

**Site Description:**

The application site is a backland site to the rear of 2 storey inter-war detached and semi-detached properties at nos. 2-8 Upwick Road, 18-34 Longland Road, 1-25 Dillingburgh Road and 25-29 Dacre Road. The rear gardens to these properties have relatively long back gardens

The site is accessed via a service road to the east side of nos. 2-4 Upwick Road which is a semi-detached building containing two flats (2 and 4 Upwick Road).

The site is currently being redeveloped to provide six dwelling houses where previously the site was occupied by twenty-three garages arranged in two rows and the access is from Upwick Road.

### **Relevant Planning History:**

100066 Demolition of the garages at the rear of 2-8 Upwick Road and the erection of 8 houses, car parking, landscaping and amendments to vehicular r access from Upwick Road, and external alterations to 2/4 Upwick Road to remove entrance door at side and form new entrance door at front.

Planning Permission Refused 20/05/2010

110194

Demolition of the garages to the rear of 2-8 Upwick Road and the erection of 6 houses and garages, parking spaces, landscaping and amendments to vehicular access from Upwick Road, and external alterations to 2/4 Upwick Road to remove the entrance door at the side and form a new entrance door at the front

Planning Permission Refused 18/07/2011 & Allowed on Appeal 07/03/2013

120699

Demolition of the garages at the rear of 2-8 Upwick Road and the erection of 2 No. 3 bedroom detached houses and garages, parking spaces and access road from Upwick Road.

Planning Permission Refused 20/03/2013 Allowed on Appeal 11/12/2013

140155

Application for approval of details reserved by condition of original permission (EB/2011/0193(FP)). Condition 3: Samples of external materials; Condition 8: Protective fencing for trees; Condition 9: Details of wheel washing for construction traffic; Condition 11: Details of access road and turning area (including details of: finished surfacing materials, gradient and drainage).

Granted 14/05/2014

140868 Application for approval of details reserved by condition No.10 (details of steps) of permission EB/2012/0753(FP).

Approval of condition Approved 06/08/2014

141312

Variation of condition 2 of planning permission EB/2011/0193(FP) for a minor material amendment for a first floor rear extension to increase the first floor rear bedrooms of plots 1 - 6 and amendments to plots 5 and 6 (as per planning permission EB/2012/0753(FP) granted planning permission on appeal dated 11 December 2013).

Granted 06/02/2015

### **Proposed development:**

This application seeks to vary the details for foul water disposal from this new development site.

Members will be aware that the principle of redevelopment was allowed on appeal and that the foul and surface water disposal from the site has previously been agreed .

The agreed routing for the foul sewer was under the proposed driveway of the new development connecting to the existing main sewer in the main highway (Upwick Road).

This application seeks to vary this routing and proposes to connect to the an existing drain run to the rear of the properties in Dillingburgh Road.

The applicants outline that this scheme/option is beneficial given that the foul connection if made through to Dillingburgh Road would be gravity fed and save for the need for a pump if to be served from wholly within the application site.

**Consultations:**

Internal: N/A

External:

Southern Water Services Ltd have responded to the pre-application approaches from the applicant: -If a new inspection chamber is required then no consent can be issued until relevant fees are paid.

Neighbour Representations:

32 local residents have been consulted on this application and as a result of this consultation 2 objections have been received and cover the following points:

Too much volume coming through the pipes

Using neighbours pipe is a cheaper option.

No CCTV of exiting drain to confirm suitability and longevity of the connection, especially given the proximity of trees and shrubs and that the existing drains are more than 100 years old.

Who will pay for ongoing maintenance if there is a leak or blockage.

**Appraisal:**

Principle of development:

The principle of residential redevelopment of the site has been accepted at appeal with the most recent consent by members of planning committee at planning committee in February 2015.

Scheme has an approved foul and surface water connection, the existence of this approval does not prohibit the exploration of alternative options as each application/submission is determined on the merits of the case at hand.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

The only impacts upon the occupiers of the neighbouring properties would be if the drain fails and or blocks causing potential flooding / capacity issues. If this were to happen it could potentially affect a wider area than just the properties in the immediate vicinity of the site.

The applicant has not supplied any CCTV data to demonstrate the suitability of the existing drainage run.

The applicant has not offered any mechanism within this application to cover or mitigate this issue; which could have been a legal agreement, a financial bond to cover future works and or an upgrade of the existing sewer from its connection to the rear of the properties in Dillingburgh Road through to its connection with the main highway sewer.

In the absence of this information it is considered more appropriate if the development would be implemented in accordance with the approved details; hence under the existing driveway access to the site.

Design issues:

The applicant claims that the proposed connections will be fit for purpose and as such there are no design issues.

Given the nature of the proposal there are no above ground design issues.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Recommendation:**

**Refuse the details:-**

The application has not been accompanied with details to demonstrate the suitability and capacity of the existing drainage run to absorb additional connections. In addition the application has also failed to supply/demonstrate details to control/mitigate the potential risk of localised flooding and blockages within the immediate area, nor provide details that the sewers will be adopted as 'public sewer' by the appropriate statutory undertaker. In the absence of this information it is likely that the proposal may have an adverse impact upon the amenities currently enjoyed by the occupiers of nearby residential properties and also by the future occupiers of these new properties by reason of localised flooding and blockages of the local sewer network.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

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# Agenda Item 16

<b>App.No:</b> 151007 (PPP)	<b>Decision Due Date:</b> 29 December 2015	<b>Ward:</b> Ratton
<b>Officer:</b> Sally Simpson	<b>Site visit date:</b> 13 November 2015	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 27 November 2015		
<b>Neighbour Con Expiry:</b> 27 November 2015		
<b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> Referred to Committee as a result of requests to speak		
<b>Location:</b>	Land within the curtilage of 4 Walnut Tree Walk	
<b>Proposal:</b>	Erection of a detached dwelling with integral garage.	
<b>Applicant:</b>	Mr John Cudd	
<b>Recommendation:</b>	Refuse	

## **Executive summary:**

The proposed development would have an adverse impact on the character and appearance of the Area of High Townscape Value by reason of the loss of an open amenity area, the loss of trees and adverse impact on preserved trees, in addition to its inappropriate siting and design.

## **Planning Status:**

Planned open space in a residential area

## **Constraints:**

Tree Preservation Order 35  
Area of High Townscape Value  
Willingdon Levels Catchment Area

## **Relevant Planning Policies:**

### **National Planning Policy Framework 2012**

Paragraphs 1-5 (Introduction)  
Paragraphs 6-16 (Sustainable Development)  
Paragraph 17 (Core Planning Principles)  
Paragraphs 56-66 (Design)  
Paragraphs 109-125 (Natural Environment/Biodiversity)  
Paragraphs 126-141 (Conservation/ Heritage/ANA)

### **Eastbourne Core Strategy Policies**

B1 Spatial Development, Strategy & Distribution  
B2 Creating Sustainable Neighbourhoods

C12 Ratton & Willingdon Village Neighbourhood Policy  
D5 Housing High Value Neighbourhoods  
D10 Historic Environment Area of High Townscape Value  
D10a Design

**Borough Plan Policies**

UHT1 Design  
UHT2 Height of buildings  
UHT4 Visual Amenity  
UHT16 Area of High Townscape Value  
US4 Flood Protection and Surface Water  
HO6 Infill development  
HO20 Residential Amenity  
NE28 Environmental amenity  
TR11 Car parking

**Site Description:**

The application site is located at the eastern end of Walnut Tree Walk on the corner with Parkway, close to the junction with Wish Hill, and comprises a triangular area of open space to the east of 4 Walnut Tree Walk. It was fenced following the construction of no.4. and planted with a beech hedge adjacent to the house and supplementary trees (required by planning condition). Further boundary planting has been provided along the north boundary.

**Relevant Planning History:**

030676  
Erection of 2-storey detached dwellinghouse with 4 bedrooms and attached garage.  
(Amended scheme).  
Planning Permission Approved conditionally 16/01/2004

140248  
Felling of one ash; felling of one twin-stemmed sycamore.  
Tree Works - Tree Preservation Orders  
Refused 25/04/2014

**Proposed development:**

Planning permission is sought to erect a three bedroom detached dwelling with integral garage, arranged over two floors. The design is "based on very traditional Sussex barn features" and includes projecting elements on the north east and south elevations, and would be constructed of brick and plain tiles.  
The dwelling would be sited on the west side of the site with a large area of paving to the front, and a vehicular access from Walnut Tree Walk. The development would require the removal of one pine, and five of the trees planted following the development of no.4 (three Holm oaks and two yews); the arboricultural assessment submitted with the application suggests that they could be transplanted, but this is not included on the plans. The plans do indicate the remainder of the site being enclosed by a laurel hedge.

**Consultations:**

Internal:

Estate Manager - requests that any consent should specifically exclude any consent under restrictive covenants

Specialist Advisor (Arboriculture)

Confirms that the site is covered by a TPO (35) Junction of Walnut Tree Walk and Parkway, protecting three sycamores and three pines (no's 5, 7, 8, 12, 15 & 16). Just outside the site but within an influential distance are no's 14, 18 & 19 which are on land owned by Eastbourne Borough Council.

The proposal indicates the loss of 1 pine, and demonstrates that the dwelling would be located within the Root Protection Area (RPA) of 3 other trees. The application propose to relocate 5 semi-mature trees, including 3 holm oak and 2 yew trees to facilitate the development, however, no location has been identified.

The existing landscaping was planted as a condition to planning application 030676 to provide screening for the development of 4 Walnut Tree Walk in 2003. This screening would require removal to facilitate the development and would not allow sufficient distance between the boundary of No. 4 and the proposed dwelling to provide further screening.

The tree report submitted with the application does not indicate how the materials and machinery will be brought onto site or their location for storage, without having a significant negative impact trees that are to be retained.

It is considered that the change in levels required for the proposed crossover would require excavation of some description within the RPA of sycamore T5, which would then be detrimental to long term retention of the tree. The incursion into the RPA would be far higher than that outlined in the tree survey submitted as part of the application. The concrete road of Walnut Tree Walk is unfavourable to root growth, therefore the RPA should be remodelled to indicate a more realistic area in which the tree roots are likely to be found. This would then show that the proposed driveway and crossover will be well within the RPA of T5 & T6. This issue, together with the required excavation for the crossover, would lead to the loss of T15 and be detrimental to the long term retention of T5 (sycamore) and T6 (ash).

Highways ESCC - does not wish to comment on specific issues as Walnut Tree Walk is not an adopted highway, but states that there would be no significant issues as a result of additional traffic generated by one additional dwelling.

Specialist Advisor (Conservation)

The siting of the dwelling is considered incongruous when balanced against the valuable contribution the existing open space and mature vegetation makes to the immediate area and its historic association with Ratton and the wider area. The existing open space has already been partly compromised by No 4 Walnut Tree Walk and a road junction; the cumulative harm associated with this, in turn, enhances the overall historic and aesthetic value associated with the identified land.

The majority of Ratton's urban layout was subject to a conscious plan of Art & Craft style, resulting in a formal pattern of development, the linear layout of which addresses Walnut Tree Walk; the siting, design detail, rhythm and harmony provided by the 'spaces'

between the buildings, makes a positive contribution to the character of the immediate area.

In this respect the adopted approach, as stated in the accompanying Design & Access statement, namely; 'the roof construction and format of the building comprises a unit based on very traditional Sussex barn features...' is considered out of character with the appearance of the immediate area. Whilst it is acknowledged that Ratton Farm was located to the south-west of Walnut Tree Walk, the character associated with the historic agricultural complex is mostly contained to that area alone.

In summary, the siting and form of the proposed dwelling would result in harm to the historic and architectural character of the immediate and wider area, which includes an Area of High Townscape Value, and it is recommended that permission is refused.

#### Neighbour Representations:

24 letters of objection and 1 letter of support have been received and cover the following points:

#### Highway Safety & Access

- The location of the access to the site is located on the bend of Walnut Tree Walk, close to the entrance adjoining roads of Parkway and Wish Hill. This proximity is a risk from the volume of traffic and the speed at which vehicles access the area, especially as there are no pavements for pedestrians/cyclists.
- Despite the statement indicating that traffic will slow down at this point in the road, in reality this is not the case, despite ORRA placing speed restriction notices on the estate; the level of vehicle activity, although not high, is not a slow as suggested
- The 'established access' in fact is a gate in the fence; there is no driveway and has only occasionally been used for garden maintenance.

#### Covenant

- The proposal is in breach of a restrictive covenant registered on all properties on Walnut Tree Walk; ORRA (Old Ratton Resident's Association) has the right to enforce restrictive covenants, the title stipulates that the land is to be 'maintained as an open space by the Transferee at his own expense as a lawn properly weeded and mown'.

#### Amenity

- Ratton estate is a very attractive residential area with an open plan amenity feature between Walnut Tree Walk and Parkway which would be spoilt by this development.
- If approved, the resulting construction work, including infrastructure would destroy the natural beauty of the entrance to this estate.
- The Ratton estate has been carefully designed to incorporate a green and open aspect to the entrance that would be affected by this proposal.
- This proposal would set a precedent for future development on these open areas which would affect the aesthetic value of the estate.
- The Ratton Estate is a private estate maintained by the residents with covenants to preserve the high township value.

- This land is considered as an important amenity for ORRA residents, Ratton Manor residents and the public in general.
- The conclusion that the development gives rise to no adverse effect to the detriment of any neighbour is clearly incorrect. There is a clear effect on 4 Walnut Tree Walk albeit that this is the property of the applicant.
- The proposal has an adverse effect on 3 Walnut Tree Walk

#### Trees

- Several large trees would be destroyed which contribute to the attractiveness of this neighbourhood and should be preserved.
- The approval granted for 4 Walnut Tree Walk consisted of a condition for tree planting for the open plan area adjacent to this property.
- The statement that there is an expectation of safeguarding the hedgerow is meaningless. An expectation can change at any time, and in any case the expectation does not bind a future owner to maintaining the hedgerow.

#### Design

- The size of the property seems far too big for the amount of land available.
- It would compromise the layout of the estate.
- The proposed site is not similar in size to neighbours, being an awkward triangular shape which makes the area very constrained.
- The overall design (as from the perspective of No. 3) does not give a wholly satisfactory appearance as is contended and is inappropriate.

#### **Appraisal:**

The main issues to take into consideration in determining this application are the loss of the open space/amenity land, the impacts on the preserved trees, the character and appearance of the area and residential amenity, and the contribution to the towns housing stock.

#### Loss of open space/amenity land:

The application site, together with the adjacent open space (owned and managed by EBC) forms an important feature at the entrance to this part of the Ratton Estate, and makes an enormous contribution to the verdant character and appearance of the area, as it hosts a number of mature and semi-mature trees and is well managed.

The fence around the application site has not diminished its value to the visual amenities of the area. The beech hedge and supplementary planting secured as a result of granting the construction of 4 Walnut Tree Walk has worked well and serve their purpose of reinforcing the open, leafy aspect of this planned space and forms part of the distinct character associated with the Area of High Townscape Value. The proposed development, by introducing a large dwelling, a significant amount of hard surfacing and an inappropriate large dense hedge, along with the immediate (and likely future) loss of trees, would result in the loss of the open space and would be seriously detrimental to the character and appearance of the area. Although the adjoining Council owned land would remain open, the proposal would diminish this important and substantial open aspect to a very significant degree, which is considered to be unacceptable. As such, the proposal conflicts with policies UHT1, UHT4 and UHT16, B2, D10 and D10a.

#### Impact on trees:

The Council's Specialist Advisor in arboriculture has identified shortcomings in the information provided with the application, which leads to the conclusion that the dwelling could not be constructed without the immediate loss of six trees, and most likely the loss of more as a result of incursion into the root protection areas of other trees, and nor could the drive be constructed with a cellular confinement system without first digging down into the root plate of the trees, thereby destroying the roots it is designed to protect.

Whilst it is acknowledged that the five trees planted to comply with a planning condition have not yet reached maturity, this is not an acceptable reason to fell them. There is no space on the site to transplant them (as suggested in the submitted tree report), and nor is this shown on the submitted plans or referred to in the Design and Access Statement. Further to this, any dwelling constructed on the site in the manner proposed would result in a house heavily shaded by trees in very close proximity, and therefore the trees would be under constant pressure to either fell or frequently reduce them to inappropriate levels, resulting in an adverse impact on their natural form and the contribution they make to the character and appearance of the area.

It has not been demonstrated how the dwelling could be constructed – taking into account the excavations required for foundations, the siting of scaffolding, the storage of materials and equipment – without an adverse impact on the trees. It is therefore considered that the proposal conflicts with policies UHT4, NE28 and B2.

#### Character and appearance of the area:

The site makes a valuable contribution to the interpretation of Ratton's historic and architectural character and appearance, and is rightly included as part of an Area of High Townscape Value.

The Ratton Estate is a planned development aesthetically dominated by the Arts & Crafts style, demonstrated through the quality of both the buildings and the public realm, found in the width of the streets, generous grass verges, mature vegetation, large plots and rhythm and harmony found in the siting, mass and scale of the built form. The proposed development would severely compromise the identified character by reason of its incongruous siting within a planned open space and its impact on loss of green space and trees, its inappropriate design of a hybrid Sussex barn/chalet bungalow more suited to a volume housebuilder, and its cramped relationship with no.4 and the small triangular plot on which it would sit. Local planning authorities are required to have regard to the effect of proposals on the significance of non-designated heritage assets (paragraph 135 of the NPPF). In this context, it is considered that the proposal would fail to accord with adopted policies and therefore due weight should be accorded to the conflict with policies UHT1, UHT4, UHT16, D10 and D10a.

#### Residential amenity:

The siting of the proposed dwelling and the distances between surrounding properties does not raise any concerns in respect of loss of privacy or outlook, or of overshadowing.

#### Contribution to housing stock:

Whilst acknowledging the requirement both nationally and locally to provide additional housing, and that the National Planning Policy Framework (NPPF) requires housing proposals to be considered in the context of the presumption in favour of sustainable development, paragraph 12 of the NPPF also advises that proposals that conflict with the

development plan should be refused unless material considerations indicate otherwise. It is considered that there are no overriding considerations that would warrant the provision of one dwelling given the conflict with development plan policies, including policy HO6.

Impacts on highway network or access:

Many of the objections received focus on highway safety. Notwithstanding the location of the application site on a bend in the road, visibility is nevertheless considered adequate across the wide verges, particularly given the relatively low speeds on this quiet residential street. In this respect the comments of the Highway Authority are considered to be reflective of the situation.

Other matters:

The proposal would fall into the category of requiring a Community Infrastructure Levy contribution. However the applicant has certified that the proposal would be a self-build scheme, and is therefore exempt.

**Human Rights Implications:**

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

**Conclusion:**

The proposed development would have an adverse impact on the character and appearance of the Area of High Townscape Value by reason of the loss of an open amenity area, the loss of trees and adverse impact on preserved trees, in addition to its inappropriate siting and design. It therefore conflicts with adopted policies and the provisions of the National Planning Policy Framework.

**Recommendation:** Refuse, for the following reason

The proposed development would have an adverse impact on the character and appearance of the Area of High Townscape Value by reason of the loss of an open amenity area, the loss of trees and adverse impact on preserved trees, in addition to its inappropriate siting and design. It therefore conflicts with policies B2, C12, D10 and D10a of the Eastbourne Core Strategy Local Plan 2013, policies UHT1, UHT4, UHT16, HO6 and NE28 of the Eastbourne Borough Plan Saved Policies 2007, and paragraphs 56 and 60 of the National Planning policy Framework.

**Appeal:**

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.

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## Appeal Decision

Site visit made on 24 November 2015

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 December 2015**

**Appeal Ref: APP/T1410/W/15/3133001**

**The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Julian Konti (@Architect) against the decision of Eastbourne Borough Council.
- The application Ref PC/150092, dated 27 January 2015, was refused by notice dated 5 August 2015.
- The development proposed is the conversion of first floor accommodation to form 1 one-bedroom flat and 2 two-bedroom flats with access from the rear.

### Decision

1. The appeal is allowed and planning permission is granted for the conversion of first floor accommodation to form 1 one-bedroom flat and 2 two-bedroom flats with access from the rear at The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH in accordance with the terms of the application, Ref PC/150092, dated 27 January 2015, subject to the conditions set out in the attached schedule.

### Application for Costs

2. An application for costs was made by Mr Julian Konti (@Architect) against Eastbourne Borough Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. During the course of the determination of the application the applicant agreed to amend the proposal to reduce the number of proposed flats from four to three. The description of development used above is, therefore, taken from the Council's decision notice, rather than the application form, since this more accurately reflects the scheme on which the Council's decision was based.

### Main Issue

4. The main issue is whether the proposal would provide satisfactory living conditions for future occupiers of the proposed flats with particular regard to noise.

### Reasons

5. The appeal building is a two storey former public house. The ground floor has been converted to a food store. Plant associated with that use has been

installed on a flat roof area at the rear of the building. The appeal proposal is to convert the existing first floor accommodation into three flats. Existing window openings would be re-used and each of the flats would have windows facing the front and rear of the building. The rear-facing openings include windows serving one bedroom in each of the flats and the living room in flat 3. These windows would be in fairly close proximity to the plant associated with the food store.

6. In order to overcome the Council's concerns regarding the effect of the noise from this plant on the living conditions of future occupiers, the appellant submitted a Noise Impact Assessment (NIA)<sup>1</sup>. The Assessment found that the installation of standard, thermally sealed double glazing with appropriate frames in the affected windows would reduce noise levels in the flats sufficiently to accord with the advice in the National Planning Policy Framework (the Framework), the Noise Policy Statement for England and currently available guidelines<sup>2</sup>. The affected rooms would also be fitted with trickle ventilation. These measures could be secured by condition.
7. The Council has produced no substantive evidence to dispute the findings of the NIA. However, it remains concerned that the proposed arrangement would restrict future occupiers from opening the affected windows at night when noise from the plant would be present but traffic noise (the other significant source of noise in the area) would be at a minimum.
8. The NIA suggested that the windows could be opened as a matter of personal preference. I noted on the site visit that the noise from the plant takes the form of a steady hum. As such, it is likely to be less disruptive than intermittent noise events, even during the quieter night-time period. When inside the building, it was also noticeable that the noise level reduced markedly a short distance from the window. Therefore, I am not persuaded that the effect of the noise would be sufficiently intrusive to prevent future occupiers from opening an affected window if they so wish.
9. Consequently, I find that, with the mitigation measures suggested by the appellant in place, the proposal would provide satisfactory living conditions for future occupiers of the proposed flats with regard to noise. As such, it would accord with policy D1 of the Core Strategy Local Plan insofar as it requires new development to take into account the principles of sustainability and deliver environmental well-being. It would also comply with policy HO20 of the Eastbourne Borough Local Plan to the extent that it requires proposals to respect residential amenity including with regard to noise.
10. The Council considers that the layout of the proposed flats should be amended to avoid the need for the rear-facing windows to serve habitable rooms and that the roof top plant should be enclosed. However, since I have found that the proposal would be acceptable using the mitigation measures suggested by the appellant, it is not necessary to consider these amendments any further.

#### *Other Matters*

11. Concern has been expressed locally regarding the parking demand generated by the proposed flats. However, no substantive evidence of parking problems

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<sup>1</sup> Clarke Saunders Acoustics 16 June 2015

<sup>2</sup> World Health Organisation Guidelines for Community Noise 1999 and British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings

in the area has been submitted. Based on my observations on the site visit, I see no reason to disagree with the East Sussex County Council Highways consultation response which found that the relatively small level of additional parking generated by the proposal could be accommodated on the surrounding streets.

### *Conditions*

12. The Council has suggested a list of five conditions. With amendments for clarity, I find that they meet the tests set out in the Planning Practice Guidance. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition limiting the use of the flat roof adjacent to the proposed flats and the staircase to access only is necessary to safeguard the living conditions of neighbouring occupiers. A condition requiring the provision of cycling parking areas is reasonable in the interests of sustainable travel objectives. I have already dealt with the need for a condition to secure noise mitigation measures.

### **Conclusion**

13. For the reasons set out above, the appeal should be allowed.

*Simon Warder*

INSPECTOR

**Schedule of conditions attached to  
Appeal Ref: APP/T1410/W/15/3133001  
The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 12-0106/PL74; 12-0106/PL73 and 12-0106/PL71 Rev B.
- 3) Access to the flat roof adjacent to the principal accesses to the units hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area. Nor shall this access and ancillary staircase be used as a balcony, patio, roof garden or similar amenity area at any time.
- 4) No dwelling shall be occupied until cycle parking areas have been provided in accordance with details which have first been submitted to and approved in writing by the Planning Authority. The approved areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.
- 5) The development hereby permitted shall not be occupied until the recommendations contained within the Noise Impact Assessment Report ref AS8378.150616 NIA, dated 16th June 2015, have been implemented.

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## Costs Decision

Site visit made on 24 November 2015

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 December 2015**

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**Costs application in relation to Appeal Ref: APP/T1410/W/15/3133001  
The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Julian Konti (@Architect) for a full award of costs against Eastbourne Borough Council.
  - The appeal was made against the refusal of planning permission for the conversion of first floor accommodation to form 1 one-bedroom flat and 2 two-bedroom flats with access from the rear.
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### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The applicant has applied for a full award of costs on the basis of the Council's unreasonable behaviour in not producing evidence to substantiate the reason for refusal. The Council considers that it was entitled to give weight to the effect of noise from roof top plant associated with the ground floor food store on the living conditions of future occupiers. It also sought to negotiate an alternative to the noise mitigation solution proposed by the applicant.
  3. Whilst, as in this case, the Council is not bound to follow the recommendation of its officers, the PPG advises that local planning authorities are at risk of an award of costs if they fail to substantiate each reason for refusal or rely on vague or generalised assertions about the impact of a proposal which are not supported by objective analysis (Reference ID: 16-049-20140306). In this case the appellant produced a noise impact assessment which addressed the issue in the only reason for refusal and recommended mitigation measures. Further information was submitted in response to the Council's outstanding concerns. There is nothing in the Council's evidence to dispute the findings of those submissions.
  4. The Council remained concerned that noise from the roof top plant would restrict future occupiers from opening their windows at night and, therefore, have an adverse effect on their living conditions. Whilst this consideration had the potential to be determinative, no objective analysis has been produced to demonstrate that the proposal would have the claimed effect. That being the
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case, it was not incumbent on the applicant to pursue the alternative noise mitigation solution suggested by the Council. The fact that it did not do so does not, therefore, diminish the validity of the cost claim.

5. I therefore find that unreasonable behaviour on the part of the Council resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

**Costs Order**

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Eastbourne Borough Council shall pay to Mr Julian Konti (@Architect) the costs of the appeal proceedings; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
7. The applicant is now invited to submit to Eastbourne Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Simon Warder*

INSPECTOR