

Planning Committee

MEMBERS: Councillor Murray (Chairman); Councillor Coles (Deputy-Chairman); Councillors Choudhury, Jenkins, Miah, Murdoch, Robinson and Taylor

Agenda

1 Minutes of the meeting held on 21 November 2017. (Pages 1 - 6)

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 1 Stuart Avenue. Application ID: 170900. (Pages 7 - 14)

7 21 Susans Road and 10 Pevensey Road. Application ID: 170725.
(Pages 15 - 26)

8 Eastbourne Pier. Application ID: 171163. (Pages 27 - 34)

9 South Downs National Park Authority Planning Applications.

10 Appeal Decision. (Pages 35 - 38)

4 Walnut Tree Walk.

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).

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
Tel: (01323) 415023/415021 Text Relay: 18001 01323 410000, Fax: (01323) 410322
E Mail: localdemocracy@eastbourne.gov.uk
Website at www.eastbourne.gov.uk

For general Council enquiries, please telephone (01323) 410000 or E-mail: enquiries@eastbourne.gov.uk

Members of the public are welcome to attend and listen to the discussion of items in the "open" part of the meeting. Please see notes at end of agenda concerning public rights to speak and ask questions.



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Tuesday, 21 November 2017
at 6.00 pm



EBC Planning Committee

Present:-

Members: Councillor Murray (Chairman) Councillor Coles (Deputy-Chairman)
Councillors Choudhury, Jenkins, Miah, Murdoch, Robinson and
Taylor

65 Minutes of the meeting held on 24 October 2017.

The minutes of the meeting held on 24 October 2017 were submitted and approved and the Chairman was authorised to sign them as an accurate record.

66 Apologies for absence.

There were none.

67 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.

68 Ridgelands, 2 Upland Road. Application ID: 170943.

Erection of two separate two and a half storey buildings, containing a total of 8no. 2 bed flats and 2no. 1 bed flats, and associated external works following demolition of existing dwelling, including new access from Upland Road **OLD TOWN**.

Two additional objections were reported at the meeting and referred to size, design and parking issues.

The East Sussex County Council Suds team had confirmed that the additional information submitted addressed their concerns. They requested a number of additional conditions to ensure surface water runoff from the development was managed safely, should the application be approved.

Mr Farrin addressed the committee in objection stating that the scale and appearance of the development was too large. He also raised concerns about the proximity of the development to the South Downs National Park one of the main entrances to Eastbourne. Mr Farrin felt that the design would be out of keeping and harmful to the street scene.

Mr Newton-Brown addressed the committee in objection stating that the development was too high and an overdevelopment of the site. He felt that there would be an increase in parking issues.

Councillor Dow, Ward Councillor, addressed the committee in objection stating that the proposal would be an overdevelopment and out of keeping with the surrounding area.

The Senior Specialist Advisor for Planning advised the committee that computer generated images produced by objectors and shown to committee, were not provided by the architect or agent and therefore were indicative only and their accuracy could not be confirmed.

During the debate, Councillor Coles sought to read a letter from Councillor Ungar and the legal advisor advised that this was not permitted.

The committee widely discussed the proposal, the previous decision and the Inspectors decision and agreed that the design was still an overdevelopment due to the design, bulk and mass of the proposed building. The Members also agreed that the sizes of some of the rooms in the proposed development were too small.

A motion to approve the application, proposed by Councillor Murdoch and seconded by Councillor Taylor was lost 3 votes to 5.

The Senior Specialist Advisor for Planning advised that any reason for refusal should be in line with the previous refusal; to introduce other reasons would open the Council to a claim of costs.

RESOLVED: (By 5 votes to 3) That permission be refused on the grounds that:

- 1) The proposed buildings, by reason of their design, bulk, mass, siting and orientation would be out of character with the prevailing pattern of development in the area and would also have an overbearing and unneighbourly relationship to the occupiers of the nearby residential properties. The development would therefore fail to comply with policies B2 and D10a of the Eastbourne Core Strategy Local Plan 2013, Policies UHT1 and UHT2 and HO20 of the Eastbourne Borough Plan (Saved policies) 2007 and paragraphs 56-66 of the National Planning Policy Framework.
- 2) There is no mechanism in place to secure a Local Labour Agreement in accordance with the Local Employment and Training SPD dated November 2016.

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.

69 5 Meads Street. Application ID: 171179.

Change of use of ground floor and basement from A2 Professional Services to B1 Offices – **MEADS**.

A further 72 comments of support and a petition signed by 28 colleagues of the Foodbank was reported at the meeting.

Mr Scard, Meads Community Association, addressed the committee in objection stating that the Association supported the Foodbank, however, they did have concerns about the loss of a retail shop.

Mr Lees addressed the committee in support stating that the unit had been empty for three years and was not suitable for retail due to the restriction of the window height for display purposes.

Mr Wardle, applicant, addressed the committee in response stating that over 800 people had sought assistance from the Foodbank in October 2017. There was a clear need for the facility in Eastbourne and the site would only be used as office space.

The committee were advised that should they wish to support the foodbank, but had reservations regarding the broad Class B1 use, then it was in their gift to grant a 'personal' permission to the foodbank. This would mean at the end of the Foodbanks operations at the property the lawful use would revert back to that of Class A2, meaning any permanent change of use would require a further application.

Councillors agreed this approach would overcome concerns regarding the permanent change of use whilst supporting a worthwhile charity.

RESOLVED: (Unanimous) That permission be granted subject to the following conditions:

1. Time for commencement.
2. The building shall not be open to members of the public other than for consultation by appointment only,
3. No food shall be allocated/distributed direct to the customer/client from the site
4. Shall only be open to members of staff between the hours of 0800 and 1800 Monday to Saturday.
5. The use hereby permitted shall be carried on only by Foodbank Eastbourne and the premises shall only be operated in accordance with the details submitted within the approved Design and Access Statement or any condition of this permission. The permitted use shall be for a limited period being the period during which the premises are occupied by Foodbank Eastbourne. Should this business and or the operations detailed in the Design and Access Statement cease to operate from the premises the use shall return to the former lawful use of Class A2.

Informative:

This consent does not grant permission for any external alterations to the building.

70 35 Wallis Avenue. Application ID: 171051.

Proposed development of two, two bedroom flats - **SOVEREIGN**.

RESOLVED: (Unanimous) That permission be granted subject to the following conditions:

1. Time for commencement
2. Approved drawings
3. Matching materials
4. Parking areas to be provided prior to occupation
5. Parking areas to be constructed in a permeable material or provision made for surface water run off within the site.
6. Cycle parking to be provided to both flats prior to occupation
7. The proposed flats shall have an independent connection to the public sewer.
8. Details of boundary treatments to be agreed and provided prior to occupation.

Informative:

Highways

71 Update on Housing Delivery.

The committee considered the report of the Director of Regeneration and Planning providing Members with an update on recent housing delivery for the second quarter of the 2017/2018 financial year and the current position in relation to the Five Year Housing Land Supply.

The committee was advised that:

- Housing delivery in Q2 2017/18 was 17 net additional dwellings towards the annual target of 245 units
- A total of 36 units were given permission in Q2 2017/18
- There are 621 net additional dwellings with permission that had yet to commence across 82 sites
- There were 308 units under construction across 46 development sites
- The Housing Land Supply currently stands at 3.36 years.

In the second quarter of the 2017/18 year, a total of 17 net additional dwellings were completed. This was added to the five net additional units that were completed in the first quarter, to make a total of 22 units delivered in the first half of 2017/18. This equated to just 9% of the annual target.

The delivery of 17 units in the second quarter came from 9 sites, with the large individual development being 6 units. The delivery of 17 units was the second lowest delivery of any quarter within the plan period (the lowest being Q1 2017/18).

The delivery of just 17 net additional units in the second quarter 2017/18 was a significantly low level of delivery. Combined with the very low delivery in the first quarter 2017/18 of just 5 units, it was unlikely that the annual target for the year would be met.

Eastbourne currently had a housing land supply equivalent to 1,023 units, which represented 3.34 years supply of land. Therefore a five year housing land supply could not be demonstrated, which meant local plan policies relevant to the supply of housing were out of date and could not be relied upon to refuse development.

RESOLVED: That the report be noted.

72 Planning Performance for Quarter 3 (July to September) 2017.

The committee considered the report of the Senior Specialist Advisor for Planning which provided a summary of performance for the third quarter of 2017 (July to September).

The report detailed the following elements:

Special Measure Thresholds – Looking at new government targets
Planning Applications – Comparing volumes/delegated and approval rates

Pre Application Volumes – Comparison by type and volume over time

Refusals of Applications – Comparison of ward and decision level

Appeals – An assessment the Council's appeal record over time

Planning Enforcement – An assessment of volumes of enforcement related activity.

Members were aware that Government had recently introduced new National performance criteria against which all Council's would be judged. Failure to perform against those targets ran the risk of the Council be designated as 'Non- Performing' and special measures would initiated by Government. The assessment of the draft against this new 'special measure' threshold had two sections - Speed of decision and Quality of decision - and would be reviewing the Council's performance on a backward rolling two year basis, the detail of which was highlighted in paragraph 2.2 of the report.

If the Council were identified as not complying with these standards/criteria they would be declared as 'non performing' and formal designation would follow.

RESOLVED: That the report be noted.

73 South Downs National Park Authority Planning Applications.

There were none.

The meeting closed at 7.24 pm

Councillor Murray (Chair)

Agenda Item 6

App.No: 170900 (VCO)	Decision Due Date: 1 January 2018	Ward: Old Town
Officer: Leigh Palmer	Site visit date: Numerous Visits	Type: Variation of Condition
Site Notice(s) Expiry date: Neighbour Con Expiry: 28 November 2017 Press Notice(s):		
Over 8/13 week reason: In time		
Location: 1 Stuart Avenue, Eastbourne		
Proposal: Variation of condition 2 of planning permission granted 06 March 2017 for the proposed erection of a 4 bed detached dwelling house(ref: 170058) to retain the dwelling as built (includes omission of chimney, amendments to windows and doors at ground floor and increased height of ground floor above ground level from 0.15m to 0.25m, proposed rear terrace and new fence to east elevation 2.1m in height)		
Applicant: Mr Philip Head		
Recommendation: Approve the details		

Executive Summary:

This application is reported to Planning Committee at the discretion of the Senior Specialist Advisor in order to allow the neighbours to present their views to planning committee and for Member to discuss the merits of the proposal.

The application proposes to vary condition No2 (approved plans) of planning permission 170058 which will if supported ratify the building that has been built at the site.

The changes from the approved drawings include in no order:

- Not building external chimney breast
- Relocating ground floor lounge patio door and kitchen windows (required given changes to the internal layout)
- Increase in finished floor level of ground floor by 0.1m (resulting from a gradual change of levels across the site).

Assessment:-

In design terms there is no objection to the deletion of the chimney breast and similarly there are no objections in principle to the relocation of the lounge patios door and kitchen window.

Given the modest slope to the existing plot this has resulted in part of the building having a finished ground floor level higher than that previously approved. This increase in height has increased the views to/from this part of the building such that a proportion of the patio door is readily viewable above the height of the existing boundary fence.

In order to mitigate this issue the applicants are proposing to erect a new 2.1m fence along the common boundary; this is considered to mitigate the potential harm caused by direct/perceived overlooking.

Representations:

The Council have investigated the changes to the approved scheme following a direct approach from a neighbour to the scheme.

All of the immediate neighbours have been consulted and one written objection has been received from the occupier of 100 Baldwin Avenue who have commented in the main on the following issues:-

- Object to three floors
- Do not need another house
- More cars and traffic
- Affect privacy of house/garden
- Affect light to garden

Recommendation:

Accept the proposed changes to the building and recommend a condition that the building shall not be occupied until the proposed fence is in situ in accordance with the approved details.

The report for the original proposal is attached below.

PREVIOUS REPORT

App.No: 170058 (PPP)	Decision Due Date: 15 March 2017	Ward: Old Town
Officer: Anna Clare		Type: Planning Permission
Site Notice(s) Expiry date: 12 February 2017 Neighbour Con Expiry: 12 February 2017 Press Notice(s): n/a		
Over 8/13 week reason: n/a		
Location: 1 Stuart Avenue, Eastbourne		
Proposal: Proposed erection of a 4 bed detached two storey dwelling with vehicular access from Baldwin Avenue on curtilage of 1 Stuart Avenue.		
Applicant: Mr & Mrs Ray Moore		
Recommendation: Grant Planning Permission subject to conditions		

Site Description:

1 Stuart Avenue is situated at the corner of Baldwin and Stuart Avenues.

The property is a detached, two storey, single family dwelling within a generous plot which is typical of the built environment of the immediately surrounding area. The property shares boundaries with 3 Stuart Avenue to the side (east) and Ocklynge Junior School to the rear (north).

There is a fence of approximately 1.8m in height along the boundary shared with no. 3 and a wall and fence combination of approx. 2m in height to the rear and side along Baldwin Avenue. Beyond this in the school playing field, is a copse of Ash trees immediately the other side of the wall.

Relevant Planning History:

130600

Outline Planning Application

Proposed four-bedroom, detached, two-storey dwelling house in part of residential garden, together with vehicular access.

Withdrawn - following concerns regarding the scale of the development, and impact on adjacent trees being raised by the Planning Officer.

150738

Outline Planning Application

Erection of a three-bedroom, detached, two storey dwelling house with vehicular access from Baldwin Avenue.

Approved conditionally

28 October 2015

Proposed development:

The application proposes full planning permission for the erection of a four bed detached dwelling within the rear garden of the property.

The dwelling would have the same footprint as that approved under the outline planning permission (Ref: 150738) however alterations to the roof, consisting of a gable end to the northern elevation and three rooflights to the front elevation roof slope would facilitate a fourth bedroom within the roof.

Consultations:

Specialist Advisor (Arboriculture)

The trees indicated as removed within the site are of such a category that they should not be considered a constraint to development.

The group of Ash in the adjacent school playing field will not be adversely affected by the proposed development but may come into conflict with the proposed dwelling post development. I have noted this for the reason that once the proposed development has been built the owner of the trees will have a legal requirement to negate any legal nuisance caused by the trees such as direct damage to the roof tiles etc. This requirement may have an impact on the owner regarding ongoing maintenance where at present they have no obligation to prune them.

Highways ESCC

As this application is for a single dwelling off an unclassified road Highways need not be formally consulted. It should be noted the new access will need to be carried out under an appropriate licence and appropriate conditions should be included for parking and cycle storage. The new access will need to be located a minimum of 1.5m from the lamp column and pedestrian visibility splays should be provided.

East Sussex County Council Archaeologist

Although the site is situated within an Archaeological Notification Area, the site has been subject to an archaeological evaluation excavation which has defined it to be of low archaeological interest. Therefore I do not believe that any significant below ground archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

Neighbour Representations:

Objections have been received and cover the following points:

3 Stuart Avenue

Object to the application on the following grounds;

- Scale, the area is predominantly 3 bed houses.
- Inappropriate mass
- Reduction in outlook and light
- Overlooking stating that overlooking from the side is more psychologically invasive than overlooking from the rear of next door properties.

105 Baldwin Avenue objects to the application on the grounds of the impact of the adjacent trees.

103 Baldwin Avenue objects to the application on the grounds of the impact on highway safety and parking during construction and after.

Appraisal:

Principle of development:

The principle of the erection of the dwelling in this location has already been established by the Planning Permission granted 28 October 2015. The provision of a four bed dwelling in this location, as opposed to the three bed dwelling with the same footprint, is considered acceptable providing the design is appropriate for the area, and would not result in significant impacts on the amenity of surrounding residential properties in accordance with the National Planning Policy Framework 2013, Policies of the Core Strategy Local Plan 2014 and saved policies of the Borough Plan 2007.

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

The proposed four bed dwelling is on the same footprint as the previously approved three bed dwelling. The windows in the elevations at ground and first floor remain the same. The bedroom in the roof has only roof lights to the front elevation, two to the bedroom and one to the dressing room. Therefore there would be no additional overlooking towards properties of Stuart Avenue.

Objections to the application have been raised by the owner of No.3 Stuart Avenue in relation to overlooking and privacy impacts, however it is considered that the issues of overlooking towards Stuart Avenue properties was dealt with under the original application and the impacts considered acceptable given the shape of the building minimising overlooking directly back towards the properties.

It is not considered that a four bed dwelling, compared with the three bed dwelling already approved would cause more impacts on neighbouring properties to warrant the refusal of the application. There is nothing to suggest that the additional bedroom would necessarily increase occupancy to levels that would be detrimental to the amenity of surrounding properties.

Any impacts on light or overshadowing towards No.3 Stuart Avenue from the change in shape of the proposed roof from a hipped roof to a gable end at the northern elevation would be limited given that the property is to the north. It is not considered that this could be a justifiable reason for refusing the application.

Design issues:

The application proposes the erection of a two storey building with additional living accommodation in the roof facilitated by a gable end to the northern boundary and three roof lights to the front elevation.

There is no objection to the installation of the roof lights, these are fairly normal forms of development on the front elevation roof slopes of properties and would not be considered out of keeping.

The proposed property has a hipped roof to the southern elevation and a gable to the north. Properties in the surrounding area have a mix of roof styles, some are hipped and some double gable ended. It is agreed that there are not properties in the immediately surrounding area with one end hipped the other gabled however this property is to the rear garden of 1 Stuart Avenue addressing Baldwin Avenue, it will be the only property in this section of frontage. Therefore, it is not considered that the roof design would be out of keeping with or detrimental to the existing street scene to warrant the refusal of the application on design grounds.

The gable end to the roof does increase the size of the dwelling and therefore its scale. However the properties in this area are all detached, the size of the dwelling is considered acceptable given the plot size. It is not considered that a reason for refusal based on the scale of the development could be justified.

The proposed materials are;

Roof tiles - Redland Hedgerow Brown

Facing brickwork – Ibstock Cottage mix

Vertical hanging tile – Redland O2 brown

Windows and Doors – Grey UPVC

Driveway – Permeable Tarmac

The materials are considered acceptable given the materials in the surrounding area and context of the proposed dwelling.

Impacts on trees:

The group of Ash with in the adjacent school playing field will not be adversely affected by the proposed development but may come into conflict with the proposed dwelling post development. Once the proposed development has been built the owner of the trees will have a legal requirement to negate any legal nuisance caused by the trees such as direct damage to the roof tiles etc. This requirement may have an impact on the owner regarding ongoing maintenance where at present they have no obligation to prune them.

The close proximity of the proposed development to the neighbouring group of Ash may lead to blocked gutters to the new dwelling unless suitable gutter guards are installed. Given that the change in the roof shape will remove a sloped roof to this elevation of the dwelling, and therefore a gutter, this could be a better situation in terms of impact from the adjacent trees.

Impacts on highway network or access:

The new access is on to an unclassified road and therefore is acceptable in principle.

The new access will need to be located a minimum of 1.5m from the lamp column and pedestrian visibility splays should be provided. The actual creation of the access will require a License from the Highway Authority.

The application stipulates that the driveway will be constructed in permeable tarmac, a condition requiring a permeable surface and/or drainage is recommended to prevent surface water running off onto the pavement/highway.

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:

For the reasons set out above it is not considered that the proposed increase in scale to a four bedroom property, with the fourth bedroom within the roof with only an alteration to the shape of the roof and the proposed three roof lights on the front elevation, would result in significant impacts on the surrounding residential properties to warrant the refusal of the application.

The bulk and scale of the proposed building, the materials and detailed design are all considered acceptable.

Recommendation: Grant planning permission subject to the following conditions;

- 1. Time for commencement*
- 2. Approved drawings*
- 3. Materials to be as submitted*
- 4. Driveway to be constructed in permeable material*
- 5. No new windows/dormers/roof lights to the roof slopes or south elevation*
- 6. First floor rear windows (bathroom and ensuite) to be obscurely glazed and permanently retained as such*

Informatives;

- 1. Trees and guttering*
- 2. Creation of vehicular access/requirement for a license from ESCC*

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Agenda Item 7

App.No: 170725	Decision Due Date: 3 rd August 2017	Ward: Devonshire
Officer: Luke Simpson	Site visit date: 1 st August 2017	Type: Planning Permission
Site Notice(s) Expiry date: 2 nd July 2017		
Neighbour Con Expiry: 2 nd July 2017		
Press Notice(s): N/A		
Over 8/13 week reason: Cycle of Planning Committee meetings and being deferred at August committee for additional information		
Location: 21 Susans Road, Eastbourne and 10 Pevensey Road		
Proposal: Full height extension to side of Susans Road elevation (north west elevation) with false pitch roof and front facing windows and door to street, infilled shop window on Susans Road elevation to be replaced with door to street and window, two roof lights to rear, reinstatement of light wells with associated lower ground floor door and window configurations and decorative railings to be installed along road- facing frontages. Conversion of shop unit to residential with all associated internal alterations and removal of shopfront on Pevensey Road elevation to provide bay window. Development will result in net increase of three dwellings, 6 to 9 (revised description)		
Applicant: Mr Perkins		
Recommendation: Approve conditionally and subject to a Section 278 Legal Agreement between the applicant and East Sussex County Council		

Executive Summary:

This application was reported to Planning Committee in August 2017 and was deferred for two reasons:-

- **Clarification on light-well construction (Highway structural integrity).** Details have been supplied and are deemed acceptable (full approval rests with ESCC Highways)
- **Clarification over the layout of the size of the apartments (existing and proposed)** For the reasons outlined within this report the proposed accommodation is deemed to be acceptable.

Proposed development includes the reconfiguration and extension of a building currently in mixed use to provide all residential units with a net gain of three new residential flats.

The scheme has been amended since its last submission to provide a more visually harmonious development befitting the street, with less opportunity for overlooking and improved internal reconfiguration with a reduction in numbers of bedrooms. As such, it is considered that the proposed scheme is appropriate and is recommended for approval subject to conditions and informatives.

Planning Status:

Mixed use property located within a Conservation Area and adjacent to a Grade II Listed Building

Relevant Planning Policies:

National Planning Policy Framework 2012

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
4. Promoting sustainable transport
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
12. Conserving and enhancing the historic environment

Core Strategy Local Plan 2013 Policies

- B1: Spatial Development Strategy and Distribution
- B2: Creating Sustainable Neighbourhoods
- D1: Sustainable Development
- C1: Town Centre Neighbourhood Policy
- D10: Historic Environment
- D10a: Design

Eastbourne Borough Plan Saved Policies 2007

- HO2 Predominantly Residential Areas
- HO6: Infill Development
- HO20: Residential Amenity
- NE14: Source Protection Zone
- TR2: Travel Demands
- TR7: Provision for Pedestrians
- TR11: Car Parking
- UHT1: Design of New Development
- UHT4: Visual Amenity
- UHT15: Conservation Area

Site Description:

The application property is a three storey property which stands on the corner of Susans Road and Pevensey Road.

The bulk of the 21 Susans Road frontage has the general appearance of a residential property, with the corner on the crossroads at ground floor level given over to a shopfront and associated advertisements. The front elevation is stepped (difference of approx. 0.45m); with a portion of the building at the Pevensey Road end projecting slightly further forward than the bulk of the elevation. To the north is a void between nos. 21 and 23 Susans Road and enclosed by a wall and double gates at ground floor level. The side elevation (facing 23 Susans Road) is free from adornments or features, except for a window serving each of the storeys towards the rear.

A canted elevation addresses the corner at the crossroads, enhancing the prominence and subtle design influences of the building when viewed from the direction of the crossroads.

The Pevensey Road elevation appears to be more of a mixed use, with full width retail unit to the ground floor and two storeys of residential above.

The building is rendered and painted white and the windows appear to be uPVC units.

Approximate details of the existing units within the building appear below:

TABLE 1

Unit	No. of bedrooms	Internal floor space
Shop (over basement and ground floors)	N/A	124m ²
Basement Flat	1	38m ²
Ground Floor Flat	1	31m ²
Flat 1	1	30m ²
Flat 2	1	56.5m ²
Flat 3	1	54.5m ²
Flat 4	1	30m ²

Relevant Planning History:

A number of applications are related to the commercial property at the site. The most recent relevant applications are reported below:-

EB/1990/0174

Change of use from Guest House to flats on the first and second floor Approved Conditional
1990-05-22

EB/1993/0361

Formation of self-contained flat to lower ground floor Approved Conditional
1993-10-12

940124

Change of use of maisonette on first and second floors to two self-contained flats, together with alterations to existing shopfront.

Planning Permission

Approved conditionally

26/01/1995

940269

Formation of self-contained flat to the upper ground floor.

Planning Permission

Approved unconditionally

20/04/1994

160376

Four storey extension to North-west elevation and conversion of retail unit to residential accommodation. Use of extended building as 9 residential units.

Reinstatement of light wells with decorative railings. Associated internal and external works .

Planning Permission

Refused

27/05/2016

Proposed development:

The applicant seeks planning permission to internally and externally reconfigure the building and build a full height extension to the side which would accommodate a maisonette and bin stores (separate, with access gate) for the building.

Some excavation work (adjacent to the adopted pavement) would be required in order to reconfigure and extend the basement level and to provide access.

The development would result in the net gain of three dwellings and the existing retail unit operating at ground floor level would be lost. According to the application documents, six flats exist at the property currently.

The proposed side extension would have a false pitch roof, the ridge height of which would sit slightly below the existing ridge height, giving it the appearance of being subordinate to the existing building. Further to this, the front elevation of the extension is to be set back from the existing front elevation by approx. 0.35m.

The building would be served by three principle accesses, all of which would be on Susans Road. The two basement flats would have ancillary accesses via patio doors at a subterranean level. Steps ascend from here to street level on the Pevensy Road side. A bay window is to be constructed on the Pevensy Road side to replace the shopfront. The bay is to continue down to basement level also. It is proposed that metal railings are installed along the street frontages. It is suggested within the applicant's Design and Access Statement that railings were in place historically.

Further detail regarding the proposed development appears below (measurements are approximate):

Table 2

<u>Unit</u>	<u>No. of bedrooms</u>	<u>Proposed total internal floor space</u>	<u>Total internal floor space required by the Nationally Described Space Standard (based on minimum occupancy)</u>	<u>Complies</u>
Flat 1 Extended basement flat	1	43.8m ²	58m ²	No but is proposed to be 10sqm greater than the existing accommodation
Flat 2 Basement to former shop	2	67.2m ²	61m ²	Yes
Flat 3 Extended ground floor flat	1	39m ²	39m ²	Yes
Flat 4 Former Ground floor shop	1	54.6m ²	39m ²	Yes
Flat 5	1	32.3m ²	39m ²	No Existing and unaltered
Flat 6	2	56m ²	61m ²	No Existing and unaltered
Flat 7	1	34.7m ²	39m ²	No Existing and unaltered
Flat 8	2	54.2m ²	61m ²	No

				Existing and unaltered
Maisonette New	1	45.9m ²	58m ²	No But ground floor space used for bin/refuse enclosure to protect street scene impact

Consultations:

Internal:

Specialist Advisor (Planning Policy) – no objection

- The vision for the Town Centre neighbourhood is to maintain its status as a sustainable centre including delivering new housing through conversions, infill development and redevelopment
- The proposal would result in the loss of a retail unit in the Town Centre Neighbourhood. However the proposal site is not within a designated shopping centre
- The site would be considered a windfall site, as it has not previously been identified in the Council’s Strategic Housing Land Availability Assessment. The Council relies on windfall sites as part of its Spatial Development Strategy (Policy B1 of the Core Strategy, adopted 2013) and the application will result in a net gain of two dwellings
- Public Realm Quality and Priorities policy (TC13) of the Town Centre Local Plan states that Susans Road is a location which will form the priority for public realm enhancements within the Town Centre. Susans Road forms an important linkage into the town centre and is one of the main streets that many visitors experience first. The proposal would enhance the overall appearance of the proposal site and would therefore be in accordance with TC13
- Town Centre Local Plan Policy TC24: Potential Areas of Change supports redevelopment of the area at Langney Road and Pevensey Road for a mix of town centre uses with a focus on A1 retail etc. The proposal would lose the retail provision but increase the net residential dwellings by two.
- The net additional residential units will count as a windfall contribution towards meeting the town’s housing target set out in the Core Strategy
- It should be noted that one of the proposed dwellings is below the size recommended by the DCLG technical housing standards

Specialist Advisor (Conservation) – Little impacts upon the conservation area and as such no specific comments to make.

External:

Environment Agency – no comments have been received

Highways ESCC – no objection subject to conditions and planning obligation

- A similar application for fewer units on the site had been submitted and met with approval
- The site is well connected to shops, services and public transport
- Main issue is the narrowing of the footway as a result of creating the basement level. The footway must be maintained to a minimum of 2m.
- A stopping up order will be required to free up the part of the footway to be included in the development to release highway rights. The best way to obtain this order is by making an application to the Department for Transport, National Casework Team, if planning consent is granted.
- Further details will be required prior to demolition, commencement or occupation (see attached conditions)
- Subject to a stopping up order being granted and design of the basement being accepted by Highways the applicant will need to enter into a Sec 278 legal agreement with East Sussex County Council to enable the works to take place within the highway.
- The existing section of dropped kerb leading to the rear of the property should be removed and kerbing and footway reinstated.

Neighbour Representations:

Three objections have been received and cover the following points:

- The area is already overdeveloped and this proposal will worsen the situation
- A neighbour wishes to install windows in the side elevation in the future, which would likely not be possible if the development goes ahead
- Excavation as part of the development may compromise nearby buildings
- The applicant has failed to deliver on previous issues and if there are problems, may not attend to them
- One parking space will be lost
- Loss to light to properties on rear of Pevensey Road
- Air circulation will be reduced following development
- Emergency escape would be lost as a result of development

Appraisal:

Principle of development:

The principle of extending an existing building to provide additional residential units in a Conservation Area is considered appropriate subject to compliance with adopted policies including those covering requirements for appropriate development within a Conservation Area and adjacent to a Listed Building (Central Methodist Church).

Design issues:

The proposed design is considered to generally fit in with the character of the existing building and wider area. Previously, a similar scheme had been refused planning consent (Ref: 160376), partly due to the impact of the visual bulk on the street scene and subsequently the Grade II Listed Building (Central Methodist

Church). An element of one of the reasons for refusal of this previous scheme was that the loss of the gap would be visually unacceptable. However, the current scheme has set the front elevation of the proposed extension slightly back from the principle elevation on Susans Road. As such, it is considered to be in keeping with the appearance of this road facing elevation in continuing the stepped character.

A small portion of wall protruding from the front of 23 Susans Road will lessen the visual impact of the reduced size extension when viewed from the junction of Langney Road and Susans Road (to the North West) and road users at street level. This portion of wall protrudes further into the street than the existing front elevation and as such will protrude even further forward than the proposed extension. Therefore, at street level, the impact of the extension is not likely to be significant.

It is noted that the visual gap (approx. 4.5m) between nos. 21 and 23 Susans Road will be lost as a result of development. However, this gap does not appear to provide any significant visual relief as it is not part of a regular rhythm of the built form and nor is it even easily visible in the street scene unless viewed from directly opposite. As such, this current proposal (the extension element in particular) is considered to develop this area appropriately without negatively encroaching on the street scene.

The reinstatement of railings are noted as being features that are common elsewhere in this part of the Town Centre (Devonshire Ward) and as such are welcome additions, subject to requirements for Highway safety. In addition, the railings provide an additional aesthetic element to the appearance of the building, which actually reflect the building's heritage. Following the earlier deferral from committee the applicant has submitted further details as to the potential structural design solution for opening up of the light-wells. It is considered that the proposed details are satisfactory and would provide a suitable design solution; conditions are recommended outlining that the applicant requires the consent from ESCC Highways Department to ensure that the works pass their scrutiny.

Residential amenity for future occupiers

See Table 2 above:

It is noted that certain parts of the scheme fall short of the requirements set by the Nationally Described Space Standard however:-

- flats numbers 5-8 are existing and unaltered within the building and as such it would not be appropriate to assess these against the new standards,
- the flats that are accommodated within the former shop building exceed the standard and

- The proposed maisonette falls short but is considered acceptable as it retains suitable accommodation over two floors and it is considered an appropriate compromise to lose some ground floor accommodation to provide a bin/refuse enclosure.

It is clear that the proposed development as a whole would allow for better levels of internal floor space than currently exist and as such, the proposed scheme is considered to make an improvement on the existing situation as well as providing three new residential units.

Despite the removal of some windows to the rear (reducing the possibility for overlooking), the scheme is considered appropriate in terms of the delivery of natural light into the proposed units. There are not any related concerns with regard to this matter. It is noted that basement flats will have less access to direct natural light, but it is not considered in this case to be substandard. The prevalence for basement flats are already set across the town and particularly in this area and it is considered that the inclusion of basement flats adds to the diversity of the residential offering for the town.

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

An objection has raised a concern that light would be lost to the rear of 12 Pevensey Road if the development goes ahead. Due to the orientation of the existing built form and the height of existing buildings, it is not considered possible that this rear facing window would be capable of receiving direct sunlight. As such, it is considered unlikely that any substantial light loss would occur as a result of the development. This refers to not only no. 12 Pevensey Road, but the rear elevation of the whole section of Pevensey Road.

There are no existing windows nor accesses from the side elevation of 23 Susans Road which would be compromised as a result of development.

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

Unlike the former proposal (ref: 160376), it is not considered that the proximity of the Central Methodist Church – a building which has since been subject to a Planning Committee resolution to partly redevelop to provide residential flats (refs: 170033 & 170036) – will be affected by the granting of consent for this scheme for a building located opposite its flank wall elevation.

It is noted that the side extension will be visible from Susans Road to the North West (looking south east). Prominent in the built form of this street scene and the longer view towards the application site is the part of the Central Methodist Church subject to the redevelopment. Looking from the south on Susans Road (past the junction with Pevensey Road) the prominent tower occupying the corner of the church site will not be compromised by the extension as it is

unlikely that the extension would even be visible. Therefore, there is not considered to be any demonstrable harm from this angle.

Impacts on trees:

There are street trees lining Pevensey Road. It will be necessary to demonstrate within the Traffic Management Scheme (required by condition) as to whether street trees are likely to be affected by the construction of the development and if so what protection shall be implemented to ensure the safety of said street trees.

The above point aside, it is not considered that any other arboricultural issues are likely to result from the development.

Impacts on highway network or access:

The existing void between nos. 21 and 23 Susans Road appears large enough to accommodate a car; however, the gates in place there would not meet Highways standards as they do not allow 5.5m between them and the Highway. As a result, it is not considered that this space can be fully considered to be a parking space and as such, the development would not lose a parking space. It is noted that the space could potentially be used for parking if the gates were removed.

The scheme provides no off-street car parking. However, it is considered that due to its sustainable location, the development, which increases the number of residential dwellings on the site by three, will not result in a severe detrimental impact on the Highway as a result of a lack of parking. Locally there are still unrestricted parking bays and occupiers of flats are less likely to own cars. This being the case, parking is not considered to be a significant issue in this case.

It is noted in the response from ESCC Highways that in order to make the development acceptable, there are many details which are still required. These will be delivered by planning condition discharge applications.

Sustainable development implications:

The new residential units are considered to be located in a sustainable location, with easy access to amenities and public transport routes. Therefore, in this respect the development is considered to make good use of a central location in contributing to the Council's shortfall in meeting its five year housing land supply.

Other Matters:

An agreement with the Highway Authority would be required in order to carry out works to the Highway. This agreement can only be sought following other processes (stopping up order) required by that Authority and those other processes are open to public consultation and as such are not controlled by the granting of this permission. However, to make this scheme acceptable, requirements made by the ESCC Highways department should be delivered and this process will be controlled by planning conditions and planning obligations (Section 278 Agreement) associated with this consent.

It is not considered that a speculative proposal or new windows in the side elevation of an adjacent property can be considered to be a constraint to development.

Any excavation required would need to be carried out in a safe way. However, it is considered that the additional information required as part of recommended conditions will be sufficient. In addition, the scheme will require Building Control approval, which will ensure compliance with the Building Regulations.

It is not considered that private matters between the applicant and other parties outside of this planning application process can be given any weight when forming a decision.

A concern has been raised by a member of the public concerning the potential loss of an emergency access by closing the void between nos. 21 and 23 Susans Road. However, on closer inspection, it would appear that this area is sealed off by high walls with no through access and would not provide a useful escape route in an emergency. This being the case, it is not considered that this should constrain development.

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 development is not considered likely to result in a significant reduction in levels of residential amenities for surrounding occupiers, nor is the overall design likely to compromise the character of the street scene or adjacent Listed Building. Amenity for future occupiers is generally found to be acceptable and as such, the scheme is recommended for approval subject to conditions and planning obligations relating to the Highway. For the avoidance of doubt, the reasons for refusal of the previous scheme are considered to have been appropriately overcome.

Recommendation:

Approve conditionally including

Conditions:

1. Time
2. Drawings
3. Construction Method Statement
4. Hours of Development

5. Matching materials
6. Traffic Management Scheme & Associated Tree Protection
7. Detailed drawings of levels, sections and structural calculations
AIP document (Highways)
8. No occupation until existing vehicular access is physically closed
9. No contaminated materials onsite

Informatives:

Party Wall Agreements may be required
Stopping up Order
Section 278 Agreement with ESCC Highways
Licence to remove access and kerb required from ESCC Highways

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 8

App.No: 171163	Decision Due Date: 16 November 2017	Ward: Devonshire
Officer: Luke Simpson	Site visit date: Various	Type: Listed Building Consent
Site Notice(s) Expiry date: 15 October 2017 Neighbour Con Expiry: N/A Press Notice(s): 29 September 2017		
Over 8/13 week reason: To meet committee cycle		
Location: Eastbourne Pier, Grand Parade, Eastbourne		
Proposal: Paint the entrance mall roof white in colour with a metal protective and sealant paint.		
Applicant: Mr Sheikh Gulzar		
Recommendation: Refuse		

Executive Summary:

This application is reported to planning committee at the discretion of the Senior Specialist Advisor given that similar recent cases relating to this building have been heard at planning committee and follows a refusal of listed building consent for the same proposal and also Planning Committee site visit to assess the merits/impacts of the proposal.

This application seeks the approval to paint the existing zinc colour roof at the entrance pavilion to the pier white.

Historic England, Conservation Area Advisory Committee, along with the Councils Conservation Officer consider that the works would result in harm to the character and appearance of the Grade II* listed building.

Application is recommended for refusal.

Planning Status:

Eastbourne Pier is a Grade II* listed pier comprising a mixture of retail and entertainment uses.

Relevant Planning Policies:

National Planning Policy Framework 2012

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
12. Conserving and enhancing the historic environment

Core Strategy Local Plan 2013 Policies

Policy B2: Creating sustainable neighbourhoods

Policy D10: Historic Environment

Eastbourne Borough Plan Saved Policies 2007

Policy UHT1: Design of new development

Policy UHT17: Protection of Listed Buildings and their settings.

Site Description:

The Pier is a grade II* listed building located to the south east of the town centre on the seafront and accessed from Grand Parade. It is situated directly opposite the junction of Grand Parade, Elms Avenue and the Pier Hotel and adjacent to the grade II* listed Claremont Hotel and Burlington Hotel to the east, and the grade II listed Belle Vue Hotel, Miramar Hotel and Queens Mansions to the north.

The section of the Pier which is subject of this application is located at the entrance from Grand Parade. Known as the entrance pavilion, the structure forms a pavilion spanning the width of the pier, featuring white elevation and a grey zinc colour roof. It is amongst the most visible parts of the Pier.

Relevant Planning History:

Numerous historic applications for listed building consent have been submitted in relation to the pier. The most recent/relevant of which are listed below.

141413

Dismantled the existing fire-damaged arcade frame, together with the removal and replacement of the affected timber deck and deck support steelwork. Removal, refurbishment and reinstatement of existing cast iron balustrade, lighting columns and wind breaks. Replacement of the arcade building itself will be subject to a separate application.

Listed Building Consent Approved conditionally

11/12/2014

150285

Installation of rides and stalls upon the decking at the location of the former Blue Room at Eastbourne Pier for a temporary period of at least 18 months prior to redevelopment. (Amended description).

Planning Permission Refused
04/06/2015

160872

Retrospective Listed Building Consent for the following works to Eastbourne Pier; Painting Lion detailing on 49no. lamp posts (primer undercoat layer and gold metallic outer layer); painting 13 Domes and pinnacles (primer undercoat layer and gold metallic outer layer).

Approved conditionally
21/09/2016

170221

To paint the remaining 2 domes in the middle of the Pier in Gold colour to match the existing 13 Domes. To paint the flat roof of the entrance mall with a neutral white weather proof sealant paint.

Split Decision :- Approved the Gold Domes and Refused the White Paint
02/05/2017

Proposed development:

Listed Building Consent is sought to paint the existing zinc colour roof of the entrance pavilion white.

Consultations:

Internal:

Conservation Area Advisory Group considered at meeting on 3rd October 2016.

The group reiterated their comments made at the previous meeting on the 23rd August 2016, at which they objected to any further painting of the building.

Specialist Advisor (Conservation):

Letter dated 16th October 2017. The Conservation Officer has concerns over the impact of the works on the special character and features of the listed building. Could result in undifferentiated white paint obscuring the elegance and impact of the Pier, which in turn would be likely to have an adverse impact on the significant of the heritage asset's setting.

Councillor David Tutt: has confirmed that he has no objections to the proposal.

External:

Historic England

Letter dated 6th October 2017. Historic England objects to the proposed works.

In summary:

Painting the roof from grey to white would change the character and appearance of the roof and thus cause harm to the significance of the Pier.

There are concerns that agreement to painting of such a roof area as this might set a precedent for other parts of the Pier to be similarly painted, and this could have a greater cumulative effect.

It is considered that whilst the level of harm that would be caused to the significance of the Pier as a grade II* listed building would be less than substantial in terms of the NPPF, the works are not necessary for the performance of the roof and therefore fail the test set out within the NPPF that all harm must require clear and convincing justification, and that the harm must be outweighed by public benefit. The works are not considered to be necessary for the performance or continuing functionality of the roof.

As such, it is deemed that the proposed works do not meet the requirements of paragraphs 132 and 134 of the NPPF, or sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Eastbourne Society

No response received, although they have representative of the Council Conservation Area Advisory Committee who as a committee has objected to the proposal.

The Victorian Society

No response received

Chamber Of Commerce

No response received

Neighbour Representations:

No independent third party representations have been received.

Appraisal:

The works amount to the painting of the grey colour zinc entrance pavilion roof at the front of the pier white.

Historic England, CAAG and the Council's Conservation Officer object to the works as they have previously done so with similar proposals under application 170221.

In all cases the principal objection is that the application of white paint to the zinc roof of the entrance pavilion would materially harm the attractive and historic appearance of the Grade II* listed Pier.

This consideration has been arrived at due to the zinc colour roof being an important part of the Pier's character and appearance. Whilst consent has been granted in recent years to apply alternative coloured paint to various roof parts of other structures on the pier, it is deemed that the retained presence of natural grey zinc colour throughout the pier creates an overall consistency in terms of materials and colour, which importantly creates the celebrated and graceful silhouette on the seafront which can be detected from important long range viewpoints, such as from Beachy Head.

It is therefore felt that the application of white paint would alter the character and appearance of the roof-scape, resulting in no clear distinction between the roofs and walls of the structure and thus causing harm to the overall significance of the Pier, as well as the public's appreciation and understanding of the details and materials of its construction.

The applicant's justification to carry out the works is to mitigate against the effect of bird excreta on the roof, which the applicant contends despoils the appeal of the Pier to visitors; however, it is considered that a more effective and aesthetically beneficial solution to address this issue would be to regularly clean the roof.

There are also concerns that agreeing the paint scheme would set somewhat of a precedent for other parts of the Pier to be similarly painted, which could result in a cumulative impact that would erode much of the original character of the Pier.

In light of this, it is considered (and advised by Historic England) that the application does not meet the requirements of the NPPF, in particular paragraph 132, which requires that great weight should be given to the conservation of heritage assets, and that all harm should require a clear and convincing justification, nor those of paragraph 134, which requires that even less than substantial harm must be shown to be outweighed by public benefits. It is not felt that the harm that would be created to the listed building would be less than substantial.

Furthermore, there is a statutory duty to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest, which they possess, as set out by section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In addition, as the Pier is part of a conservation area, section 72(1) of the same Act is also relevant, stating that special attention must be paid to the desirability and preservation and/or enhancement of the character and appearance of the conservation areas.

As a follow up to previous applications, it is recognised that the proposed works should be seen as part of a credible programme of improvements to the pier, including the refurbishment of the rear platform, the improvement works to the waterfront bar and the painting of the Pier's 15 domes. These works have previously been approved in an effort to provide requirements improvements to the physical condition of the Pier and to help secure its optimal viable use. As such, the public interest in permitting them was deemed more substantial than any resulting harm to the special character of the building and its setting. However, in this instance, it is not considered that the painting of the entrance pavilion roof in white would derive the same benefits. The justification for carrying out such works is largely cosmetic, and the improved aesthetic results of the removal of the bird excreta from the roof can be achieved through other means.

It is therefore concluded that the harm that would result from the proposed works to the Grade II* listed Pier would substantially outweigh any resulting public benefits, and therefore the application fails to comply with paragraphs 132 and 134 of the National Planning Policy Framework.

The application is therefore recommended for refusal.

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 works are not considered acceptable for the preservation and/or enhancement of the special characteristics of the listed building.

Recommendation:

Refuse Listed Building Consent for the following reason:

That permission to paint the roof on the entrance mall be refused on the grounds that because of the choice of colour and materials used, the painting of the roof areas to the entrance feature to the Pier would harm the special historic interest of this Grade II* Listed Building. This would result in less than substantial harm to this heritage asset without sufficient mitigation through demonstrable public benefits of the proposed works. This is contrary to paragraph 134 of the National Planning Policy Framework, Policy B1, D10 and D10A of Eastbourne Core Strategy (adopted 2015) and UHT1 and UHT17 of the Borough Plan (saved policies) 2007.

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 10 October 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 7th November 2017

Appeal Ref: APP/T1410/W/17/3176753 4 Walnut Tree Walk, Eastbourne BN20 9BP

- 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 John Cudd against the decision of Eastbourne Borough Council.
- The application Ref PC/170002, dated 4 January 2017, was refused by notice dated 21 February 2017.
- The development proposed is erection of a detached dwelling with integral garage.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area, with regard to the trees in the site that are subject to a tree preservation order (TPO).

Reasons

Approach to this decision

3. Planning law requires applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The starting point for the determination of this appeal must therefore be the development plan. However, the Council has acknowledged that it cannot currently demonstrate a five year supply of deliverable housing sites (HLS). Given the absence of an HLS, and having regard to the Supreme Court's recent judgement¹ concerning paragraphs 14 and 49 of the National Planning Policy Framework (the Framework), I consider that the fourth bullet point in paragraph 14 of the Framework is engaged. That means:

'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted'.

¹ Suffolk Coastal District Council v Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP and the Secretary of State for Communities and Local Government v Cheshire East Borough Council

Character and Appearance

4. The development would involve the construction of a detached house, with an integral garage, in the side garden of 4 Walnut Tree Walk (No 4). The site is essentially triangular in shape and it immediately adjoins the junction between Walnut Tree Walk and Parkway, streets that are residential in character. Walnut Tree Walk, which forms part of the Ratton Estate, is within an Area of High Townscape Value (AHTV), a non-designated heritage asset for the purposes of the development plan. Walnut Tree Walk is characterised by individually designed houses set within comparatively large plots.
5. The site and its immediate surroundings have a sylvan character, with there being a considerable number of trees of mixed species and hedging in or immediately adjoining the site. The significance of many of the trees has been recognised with the making of a TPO which covers eleven individual trees (Ash and Sycamore) and three groups totalling fifteen trees (a mixture of Scots Pine, Willow and Sycamore). Of the trees subject to the TPO there are three Sycamores and three Pines within the site. Some of the vegetation in the site having been planted in association with the implementation of the permission granted for No 4's construction². Immediately to the north of the site there is a small area of open space and there are some substantial trees, of mixed species, in that space.
6. The development would involve the removal of six trees along the site's northern boundary, including one of the protected Pines, and the transplanting of a further six trees. The new house would nestle amongst trees and other planting in and immediately adjoining the site and its siting relative to its northern and western boundaries would be comparatively tight. Notwithstanding that it is intended that the majority of the trees in the site would be retained, I consider that this development would nevertheless have the appearance of being a cramped afterthought, which would be harmful to the character and appearance of the streetscene. That is because siting a house within this site would significantly harden its appearance, a site that I consider occupies an important position at Walnut Tree Walk's and Parkway's junction.
7. While the site is privately owned and is enclosed by low key fencing, it functions as part of the planned, soft landscaped, entrances to both Walnut Tree Walk and Parkway. In that regard it is quite common for the gardens of corner properties, like No 4, to be planned into an estate layout with the purpose of fulfilling a local visual amenity function. Although this site has not been formally designated as either an 'amenity area' or an 'open space', I consider that the absence of such a designation has no bearing on this site's visual amenity value. I consider that siting a house in this site would significantly devalue its visual amenity value.
8. There is disagreement between the appellant's and the Council's arboricultural advisors as to whether the construction of the house and the drive would unacceptably encroach into the root protection area (RPA) for one of the protected Sycamores (identified as T5 by the appellant's arboriculturalist). Tree T5 is a large specimen and there would be some encroachment into its RPA, particularly if this tree's roots have grown asymmetrically because of the proximity of the adjoining road. Accordingly to safeguard tree T5 it is

² Application 030676

proposed that the house would be constructed with piles and beams to enable its floor slab to be raised, while the drive would be constructed above a no dig cellular confinement system.

9. Given the disagreement about the development's implication for tree T5 and this tree's significance in the streetscene, I am inclined to adopt a precautionary approach. I therefore find that it has not been demonstrated that the development could proceed without the wellbeing of tree T5 being unacceptably affected. In this respect while it may be that the building of the house, of itself, would not harm tree T5, I am concerned that the changes to the ground conditions in this tree's root spread could have long term adverse implications for tree T5's wellbeing.
10. I consider the architecture of the house is unobjectionable and that it would be in keeping with that found in the AHTV. However, that aspect of the development's design would not address the harm that I have identified.
11. I conclude that the development would cause unacceptable harm to the character and appearance of the area. The development would therefore be contrary to saved Policies UHT1, UHT4, UHT16, HO6 and NE28 of the Eastbourne Borough Plan of 2003, Policies B2, C12, D10 and D10A of the Eastbourne Core Strategy Local Plan of 2013 and paragraphs 56 and 60 of the National Planning Policy Framework. That is because this residential infill development would not be in harmony with the distinctiveness of the character and appearance of the area, with it resulting in the harmful loss of trees and an area of greenspace that contribute to the AHTV.

Other Matters

12. Reference has been made to a covenant precluding development on this site. The existence of a covenant is not a material planning consideration and I cannot therefore take account of it. Other matters have been referred to, including highway safety and drainage. However, given my finding in relation to the main issue, I consider it is unnecessary for me to comment on the other matters that have been raised.

Planning Balance and Conclusion

13. The development in providing one house would generate some social and economic benefits. In particular the construction of a house would contribute to addressing the current deficiency in the HLS, albeit in a very modest way. However, given the harm to area's character and appearance that I have identified I consider that that harm would significantly and demonstrably outweigh the development's modest benefits.
14. As there would be conflict with both local and national policy I consider that this would be an unsustainable form of development, which could not be made acceptable by imposing reasonable planning conditions. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

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