

# Planning Committee

## 26 January 2021



Working in partnership with **Eastbourne Homes**

Time: 6.00 pm

**PLEASE NOTE: This will be a 'virtual meeting' held remotely in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.**

**Members of the press and public can view or listen to proceedings by clicking on the link provided on the agenda page on the Council's website.**

**Instructions for members of the Committee and Officers to join the meeting have been circulated separately.**

### Membership:

**Councillor Jim Murray (Chair); Councillors Peter Diplock (Deputy-Chair) Jane Lamb, Robin Maxted, Md. Harun Miah, Colin Murdoch, Barry Taylor and Candy Vaughan**

**Quorum: 2**

*Published: Monday, 18 January 2021*

## Agenda

- 1 Welcome and Introductions**
- 2 Apologies for absence and notification of substitute members**
- 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 Minutes of the meeting held on 15 December 2020 (Pages 3 - 4)**
- 5 Urgent items of business.**

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.
- 6 Hampden Retail Park, Marshall Road. ID: 200909 (Pages 5 - 16)**
- 7 Land at Friday Street Farm, Stone Cross. ID: 190706 (Pages 17 - 44)**
- 8 Planning Application Performance and Appeal Record for the year 2020 (Pages 45 - 72)**

## Information for the public

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**Public Participation:** Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to submit a speech on a matter which is listed on the agenda if applicable. Where speeches are normally allowed at a Committee, live public speaking has temporarily been suspended for remote meetings. However, it remains possible to submit speeches which will be read out to the Committee by an Officer.

## Information for Councillors

**Disclosure of interests:** Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (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).

**Other participation:** Please contact Democratic Services for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

## Democratic Services

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Working in partnership with **Eastbourne Homes**

## Planning Committee

**Minutes of meeting held as a Remote meeting (via Microsoft Teams) on 15 December 2020 at 6.00 pm.**

### **Present:**

Councillor Jim Murray (Chair).

Councillors Peter Diplock (Deputy-Chair), Jane Lamb, Robin Maxted, Md. Harun Miah, Colin Murdoch, Barry Taylor and Candy Vaughan.

### **Officers in attendance:**

Neil Collins (Specialist Advisor for Planning), Helen Monaghan (Lawyer, Planning), Leigh Palmer (Interim Head of Planning), and Emily Horne, Committee Officer and Nick Peeters, Committee Officer.

### **38 Minutes of the meeting held on 24 November 2020**

The minutes of the meeting held on 24 November 2020 were submitted and approved as a correct record, and the Chair was authorised to sign them.

### **39 Apologies for absence and notification of substitute members**

There were none.

### **40 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.**

Councillor Taylor declared a prejudicial interest in agenda item 5 – Land at Bay View Holiday Park, Old Martello Road, as he was pre-determined and took no further part in the meeting.

### **41 Urgent items of business.**

There were none.

### **42 Land at Bay View Holiday Park, Old Martello Road. ID: 200180**

Planning permission the proposed siting of 71 static holiday caravans in lieu of 94 touring caravans and re-layout of the park (resulting in 91 static holiday caravans in total) together with environmental improvements. Joint authority application with Wealden District Council (Ref: WD/2020/0494/MAJ)  
– **SOVEREIGN.**

The application was deferred at the previous committee meeting at the request of the Members to enable further discussion with the applicant to reduce the period of occupancy in the static units and the retention of a portion of the touring caravan pitches.

In discussing the application, the Members expressed mixed views; they welcomed the improvement of accommodation and reduced period of occupancy in the static caravans from 11 to 10 months, but raised some concerns regarding the loss of 53 touring pitches and impact of this on the wider town and questioned if there was sufficient parking onsite. Officers advised that two cars could be parked besides each static caravan, but it was agreed this should not be a condition.

Councillor Murray proposed a motion to approve the application in line with the officers' recommendation. This was seconded by Councillor Diplock and was carried. Councillor Lamb requested that there be a named vote and this was approved.

**RESOLVED: (by 4 votes to 2 against and 1 abstention)** For: Councillors Diplock, Miah, Vaughan and Murray. Against: Councillors Lamb and Murdoch. Abstained: Councillor Maxted. That planning permission be delegated to officers to approve subject to the conditions and informatives set out in the report.

#### **43 Date of Next Meeting**

Resolved:

That the next meeting of the Planning Committee which is scheduled to commence at 6:00pm on Tuesday, 26 January 2021 in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations, be noted.

The meeting ended at 7.01 pm

Councillor Jim Murray (Chair)

# Agenda Item 6

**Report to:** Planning Committee  
**Date:** 26<sup>th</sup> January 2021  
**Application No:** 200909  
**Location:** Hampden Retail Park, Marshall Road, Eastbourne  
**Proposal:** Erection of a coffee shop with drive thru facility, replacement car parking and associated works.

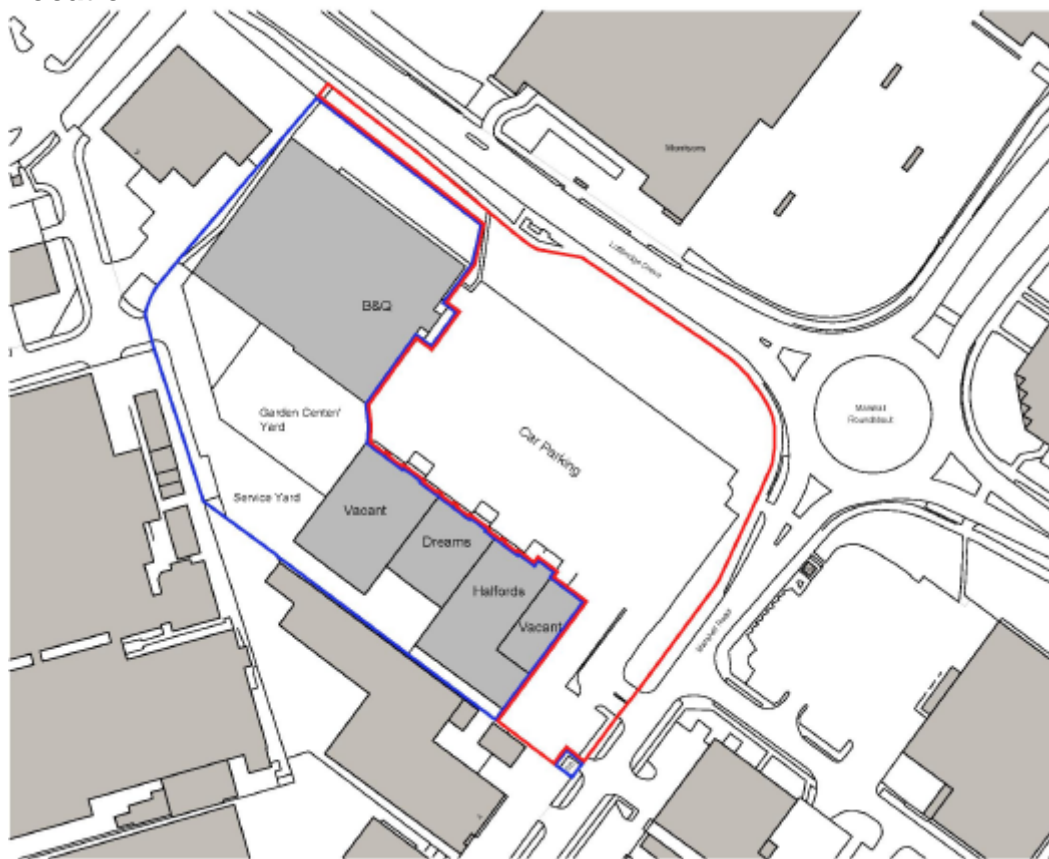
**Applicant :** Eastbourne Borough Council  
**Ward:** Hampden Park

**Recommendation:** Approval subject to planning conditions

**Contact Officer:** **Name:** Chloe Timm  
**Post title:** Specialist Advisor  
**E-mail:** Chloe.Timm@lewes-eastbourne.gov.uk  
**Telephone number:** 01323 415962

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## Map Location:



## 1. **Executive Summary**

- 1.1 The application is brought before planning committee due to Eastbourne Borough Council being the applicant.
- 1.2 The proposed development will provide for a new coffee shop with drive thru facilities, together with environmental alterations to upgrade the parking provision, pedestrian access and landscaping.
- 1.3 This application follows the grant of planning permission for a scheme including a drive through facility. This application comprises a revised location for the facility, but remaining within the existing car park area of the site.
- 1.4 The use is considered to be acceptable in this location and would result in improvement of the offer at the site, as well as the creation of jobs.
- 1.5 The application is considered to be acceptable in terms of the visual and amenity impacts and would comply with national and local policies.
- 1.6 The application is recommended for approval, subject to conditions.

## 2. **Relevant Planning Policies**

- 2.1 National Planning Policy Framework
- 2.2 Eastbourne Core Strategy Local Plan 2006-2027:
  - C7 Hampden Park Neighbourhood Policy
  - D10a Design
- 2.3 Eastbourne Borough Plan 2001-2011:
  - BI 2 Designated Industrial Areas
  - BI 7 Design Criteria
  - NE16 Dev within 250m of former landfill site
  - UHT1 Design of New Development
  - UHT4 Visual Amenity
  - US4 Flood Protection and Surface Water
  - US5 Tidal Risk

## 3. **Site Description**

- 3.1 The application site forms part of an established retail park located on the corner of Lottbridge Drove and Marshall Road.
- 3.2 The site as existing comprises 5 retail units which include B&Q and Halfords.
- 3.3 Surrounding the Hampden Retail Park site are other retail and industrial units.
- 3.4 There is an historic land fill a short distance from the application site.

#### 4. **Relevant Planning History**

4.1 There have been various application for the Hampden Retail Park site, the most recent being:

4.2 150956:

Over cladding of facades to 5 retail unit including allocation of signage zone Planning Permission.

Approved Conditionally 22/01/2016.

4.3 180423:

Erection of three new retail units comprising; one attached use class A1 and two detached A1/A3 units (including drive thru); external refurbishment of the existing retail units; reconfiguration of the existing car park and access and associated work.

Planning Permission.

Approved conditionally and subject to S106 Agreement. 24/01/2019.

#### 5. **Proposed Development**

5.1 The application seeks permission for the erection of a single storey building to be used as a coffee shop with drive thru facilities.

5.2 This was approved as part of the larger redevelopment scheme referred to in the history above but is proposed in order to allow it to be developed independently and ahead of the other elements of the larger proposal.

5.3 The proposal is for the building to be occupied by Costa Coffee.

5.4 Alongside the erection of the building, the existing car parking area will be replaced and upgraded and provide new a new soft landscaping scheme to the perimeter of the retail park.

5.5 The existing car park provided 272 usable space (with 4 additional space seconded by B&Q), which would be replaced by 276 usable spaces, but with increased parking space dimensions to accommodate modern vehicle sizes. 16 spaces would be accessible (in accordance with Highways standards) and 10 would be parent and child bays. 4 dedicated trade bays are also proposed for vans to prevent double parking.

5.6 The scheme includes the provision of 12 cycle spaces. The proposal includes the provision of a pedestrian link to the site from Marshall's Road to both the promenade and the coffee shop, which would be accessible to pedestrians in addition to the drive-through facilities.

#### 6. **Consultations**

##### 6.1 Specialist Advisor (Regeneration)

6.1.1 Identifies development of 167sqm and creation of 11 new jobs. To qualify for local labour agreement, new developments need to be either 10 units or above or 10000sqm and/or create 25 jobs.

6.1.2 The proposed development does not qualify for local labour agreement.

## 6.2 Specialist Advisor (Planning Policy)

- 6.2.1 Support the proposal.
- 6.2.2 This application follows planning permission in 2018 for the re-development of the site to include new A1 and A3 premises and amendments to the access and car parking layout. Since the previous consent the National Planning Policy Framework has been amended, and changes have been made to the use class order. However there have been no substantive changes in terms of planning policy in relation to new commercial or service floor space.
- 6.2.3 The application site is situated in the 'Hampden Park Neighbourhood' as identified by Policy C7 in the Eastbourne Core Strategy (2013). Policy C7 is The Hampden Park Neighbourhood Policy, which sets out the vision for this area as the following; *"Hampden Park will increase its levels of sustainability and reduce the levels of deprivation in the neighbourhood whilst assisting in the delivery of housing and employment opportunities for the town"*. This vision will be promoted through a number of factors including 'Improving the public realm in residential and shopping areas to create a sense of place'.
- 6.2.4 Class A3 uses are 'Main town centre uses.' As paragraph 86 of the National Planning Policy Framework states "Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date Local Plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or not expected to become available within a reasonable period) should out of centre sites be considered." The Hampden Retail Park is not identified as a designated centre in the retail hierarchy (Core Strategy Policy D4) and is therefore considered an 'out of centre' location, which means the sequential test needs to be applied.
- 6.2.5 The aim of the sequential test is to ensure that main town centre uses are directed towards town centres first, and only where they cannot be accommodated in or on the edge of town centres should main town centre uses be permitted elsewhere. Therefore the purpose of the sequential test is to direct retail development to the most sustainable location(s) and at the same time protect the vitality of town centres, rather than to simply enable the modernisation of the offer at an undesignated retail park.
- 6.2.6 The previous application provided a sequential test and at the time it demonstrated that there were no other suitable sites available. Therefore it was considered that evidence had been supplied to demonstrate that the sequential test has been passed. This application was granted in January 2019 and is therefore still extant. It is not considered necessary nor reasonable given the previous consent is still implementable to require the sequential test to be



carried out again for this application. It is considered there are no known changes since this time which would impact on the sequential test.

- 6.2.7 It is important to note that this application would be liable for CIL as per Eastbourne current charging schedule for A1-A5 use class.
- 6.2.8 The application proposes a 'coffee shop' within the newly formed use Class E, consideration should be given by the Case Officer to whether the use needs to be restricted within Class E to prevent inappropriate uses. It is also considered that some restriction may be necessary to prevent both this A3 and the previously granted A3 both being delivered. It is not overly clear in the submission documents whether it is no longer the intention to carry out the additional A1/A3 units under the previous consent and just amend the location of the A3 unit therefore given the above consideration not to require a further sequential test there should be a restriction on delivering only one of the A3 drive through units over the two consents.
- 6.2.9 To conclude, this development complies with a number of national and local policies. It will positively contribute to the continuing vitality of Hampden Retail Park and the vision for the Hampden Park Neighbourhood of improving the public realm in shopping areas. It is supported by Policy EL1 of the ELLP through its contribution to job growth and economic prosperity in Eastbourne which will be supported in order to enable the achievement of a sustainable economy.
- 6.3 Specialist Advisor (Estates)
- 6.3.1 Support the proposal.
- 6.3.2 These proposals for development of Hampden Retail Park mark the start of the Council's transformation of the site.
- 6.3.3 The inclusion of the drive thru within the retail park will provide a huge benefit to both the local community and existing traders on the site, increasing footfall and adding to the experience of a visit to the park.
- 6.4 Environment Agency
- 6.4.1 We have no objection to the proposed development as submitted, subject to the inclusion of the following 5 conditions that cover:-
- flood risk;
  - ground contamination;
  - verification report confirming that the is any remedial works have been undertaken then they were done so in accordance with an agreed strategy;
  - no surface water infiltration;
  - unsuspected contamination, no surface water infiltration.

## 7. Neighbour Representations

7.1 No comments have been received.

## 8. Appraisal

### 8.1 Principle of Development

8.1.1 There is no principle conflict with adopted policy, which would prevent approval of the application, subject to consideration of design and visual impact upon the character of the area and the impact upon the amenity of neighbouring occupants, pursuant to the requirements of the National Planning Policy Framework (2019), policies of the core strategy 2006-2027 and saved policies of the Eastbourne Borough Plan 2001-2011.

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

8.2.1 The proposed development is to construct a single storey building to the eastern side of Hampden Retail Park with drive thru access to the building, re-layout of the retail park car parking area and a new soft landscaping scheme.

8.2.2 The location of the site is as such that the proposed new building is not considered to have a detrimental impact on any occupiers surrounding in terms of access and parking, loss of light, loss of privacy, noise disturbance or impacts of overlooking.

8.2.3 The existing car park area of the retail park provides for 276 parking spaces which includes 19 disabled spaces and 3 parents and small children spaces.

8.2.4 The proposed works will see the amount of spaces increase by 1 with a total of 277 spaces, there are no changes proposed to the access to the site which is located on Marshall Road.

### 8.3 Use

8.3.1 The proposed development is to construct a single storey building to be used as a coffee shop with drive thru facilities. The proposal is for Costa Coffee to occupy the building.

8.3.2 The proposed use would be counted as a 'Main town centre use' as defined by the NPPF. As paragraph 86 states "Local planning authorities should apply a sequential test to planning applications for main town centre uses that are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should 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." The Hampden Retail Park is not identified as a designated centre in the retail hierarchy (Core Strategy Policy D4) and is therefore considered an 'out of centre' location, which means the sequential test needs to be applied.

- 8.3.3 The aim of the sequential test is to ensure that main town centre uses are directed towards town centres first, and only where they cannot be accommodated in or on the edge of town centres should main town centre uses be permitted elsewhere. Therefore the purpose of the sequential test is to direct retail development to the most sustainable location(s) and at the same time protect the vitality of town centres, rather than to simply enable the modernisation of the offer at an undesignated retail park.
- 8.3.4 A sequential test was undertaken in 2018 prior to submission of the extant permission, which can still be implemented prior to 24<sup>th</sup> January 2022. As such, a condition is recommended alongside the grant of permission in this case, which would trigger the requirement for submission of a sequential test in the event that development approved by this application is not implemented prior to expiry of the extant permission. This would allow for an up-to-date test to be undertaken in respect of the site selection.
- 8.3.5 Further to the above, the proposal involves the creation of a drive through facility, which is considered to be suitable on this site in the interests of the amenities offered by the existing retail outlet and is not suited to more densely populated town centres. The development follows similar existing facilities provided by KFC and McDonalds on Lottbridge Drive.
- 8.3.6 The proposal will provide the equivalent of 11 full time equivalent job roles.
- 8.3.7 The applicant has not proposed specifics hours of opening for the drive through facility. It is not considered that 24hr opening would have any detrimental impact, given the location of the site, and no restriction of opening hours is recommended with the grant of permission.

#### 8.4 Design

- 8.4.1 The proposed design of the building is considered to be acceptable and is in keeping with the surrounding commercial area and not thought to be intrusive to the visual amenity of the retail park or the industrial parks in the area.
- 8.4.2 The design bulk and scale of the proposal is acceptable, taking into account the local context.
- 8.4.3 The proposed car park works are to improve the quality of the parking provision at the site in order to increase the offer. The proposal involves the retention and improvement of soft landscaping on the perimeter of the site, including the provision of trees (six Silver Birch trees on the northern boundary with Lottbridge Road and three Hornbeam trees just to the south of the proposed building). This is set amongst a biodiverse planting scheme, as well as a Copper Beech hedge to enclose the site visually and to prevent unwanted diversion from dedicated pedestrian access paths.

## 8.5 Other Matters

8.5.1 There is an historic land fill site a short distance away, which could have implications in terms of contamination at the application site. As such, given that soft landscaping works are proposed, conditions are required to ensure that contaminants are identified and remediated, in the interest of public health.

## 9. **Human Rights Implications**

9.1 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.

## 10. **Recommendation**

10.1 The proposed development will not negatively impact on the amenity of the occupiers of surrounding properties or be detrimental to the character and appearance of the surrounding area. The proposal therefore complies with local and national policies.

10.2 The application is recommended for approval subject to the following conditions.

10.3 **Time Limit** - The development permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with section 51 of the Planning and Compulsory Purchase Act 2004.

10.4 **Approved Drawings/Documents** - The development hereby permitted shall be carried out in accordance with the following approved drawings:

Drawing No. 0001-G2 – Location Plan

Drawing No. 0005-G2 – Existing Site Layout

Drawing No. 0010-G3 – Proposed Site Layout

Drawing No. 0020-G1 – Proposed Coffee Drive-Thru GF Plan

Drawing No. 0021-G1 – Proposed Coffee Drive-Thru Roof Plan

Drawing No. 0030-G1 – Proposed Coffee Drive-Thru East and South Elevations

Drawing No. 0031-G1 – Proposed Coffee Drive-Thru West and North Elevations

Drawing No. HRPE-UBU-00-00-DR-A-1000 Landscaping plans

382-FRA-01-c – Flood Risk Assessment by MAC

R01-ADM - Transport Assessment, dated November 2020 by TTP Consulting Ltd

Reason: For the avoidance of doubt and in the interests of proper planning.

10.5 **Flood Risk Assessment** - The development shall be carried out in accordance with the submitted flood risk assessment (ref 382-FRA-01-C, Rev C, November 2020) and the following mitigation measures it details:

- Flood resilience, warning, evacuation, access and egress measures will be incorporated into the development as details in paragraph 2.1.7 of the FRA.

Reason: In line with Planning Practice Guidance of the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change to reduce the risk of flooding to the proposed development and future occupants and maximise the safety of future occupants

10.6 **Ground Contamination** - No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
  - All previous uses;
  - Potential contaminants associated with those uses;
  - A conceptual model of the site indicating the sources, pathways and receptors;
  - Potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based upon (1) to provide information for a details assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the details risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy going full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This is a phased condition and depending on the nature of the waste deposited in the historic landfill it is possible not all phases will be required. However this condition is required to ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

10.7 **Contamination Verification Report** - Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in

writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure the site does not pose any further risk to human health of the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

- 10.8 **Contamination Remediation Strategy** - If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be deal with has been submitted to, and approved in writing, by the local planning authority. The remediation strategy shall be implemented as approved.

Reason: As this development is sited on a historic landfill there is potential for previously unidentified source of contamination to be present. This condition is required to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

- 10.9 **Infiltration Issues** - No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: This condition is required to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affect by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

- 10.10 **Sequential Test** – In the event that this permission is not implemented prior to 23<sup>rd</sup> January 2022, a sequential test shall be completed, submitted to and approved in writing by the Local Planning Authority prior to commencement of development.

Reason: In accordance with paragraph 86 of the National Planning Policy Framework (NPPF).

- 10.11 **Trees** The site shall be landscaped strictly in accordance with the approved landscaping plan (drawing number HRPE-UBU-00-00-DR-A-1000) in the first planting season after completion or first occupation of the development, whichever is the sooner.

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

- 10.12 **Tree Maintenance** All soft landscaping shall have a written five year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

11. **Appeal**

- 11.1 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.

12. **Background Papers**

- 12.1 None.

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**Report to:** Planning Committee  
**Date:** 26<sup>th</sup> January 2021  
**Application No:** 190706  
**Location:** Land at Friday Street Farm, Stone Cross, East Sussex  
**Proposal:** Outline application (Matter for approval: Access) for proposed new access from Pennine Way to serve development of Land at Friday Street Farm, for up to 250 residential dwellings (35% affordable), with associated car parking, together with the introduction of new access point from Pennine Way, and creation of a network of roads, footways, and cycleways throughout the site; and the provision of 1.6ha of public open space, further children's play areas, allotments, sustainable urban drainage systems, and landscape buffers on the site.

Full proposal is being considered by Wealden District Council (Ref: WD/2020/1391/MAO)

**Applicant:** Wates Developments Limited  
**Ward:** Langney  
**Deadlines:** **Decision Due Date:** 9<sup>th</sup> December 2019  
**Neighbour Con. Expiry:** 29<sup>th</sup> November 2019

**Recommendation:** Grant outline planning permission subject to legal agreement covering the following issues and subject to the conditions listed below in the report:-

Heads of terms for the S106 Legal Agreement:-

Pennine Way Access, vision splays and other road safety mitigation to Pennine Way including traffic calming measures (as outlined and agreed by East Sussex County Council shall be implemented prior to the commencement of any development of the site.

Strategic Road improvements to be funded by either WDC CIL or the applicant and to be completed prior to the first occupation of the development.

Enforcement WDC & EBC to share enforcement responsibilities in the event of one of the milestones not being met.

Signatory EBC to be a signatory to the S106 in order to allow for the enforcement powers described above.

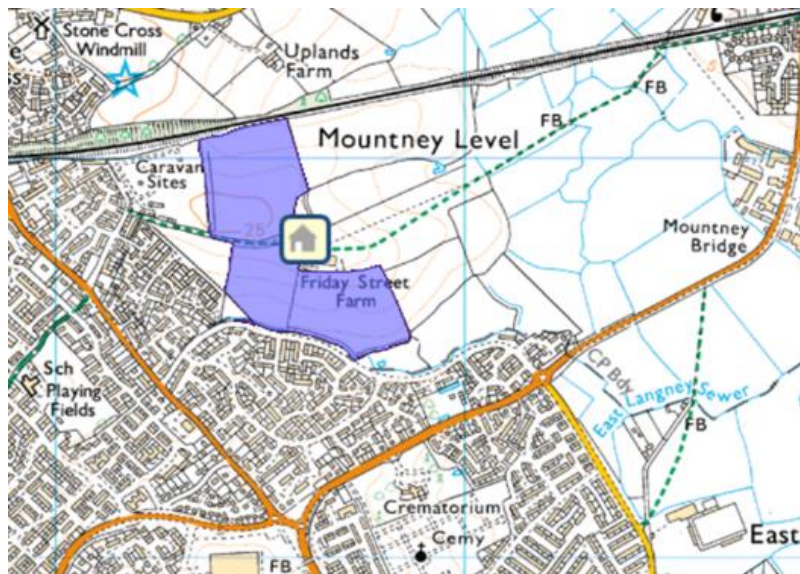
Public Transport Initiatives payments to be made to cover the provisions of new buss stops, real time bus information and to increase the frequency of the buses, travel plan and travel passes.

**Contact Officer:**

**Name:** Anna Clare  
**Post title:** Specialist Advisor - Planning  
**E-mail:** [anna.clare@lewes-eastbourne.gov.uk](mailto:anna.clare@lewes-eastbourne.gov.uk)  
**Telephone number:** 013234150000

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**Map Location:**



1. **Executive Summary**
  - 1.1 This report is in three parts.
  - 1.2 Part 1 gives a summary of the current issues and the officers recommendation.
  - 1.3 Part 2 is for information and is a copy of the officer's report from the 23rd of June Planning Committee.
  - 1.4 Part 3 is for information and a copy of the executive summary of the report of Wealden District Council.
2. **Part 1 Summary of the current issues**
  - 2.1 The proposal is an outline application with all matters reserved except Access which proposes a new access and road improvement works from Pennine Way to the fields to the north which are proposed to be developed by application to Wealden District Council (WDC) for up to 250 residential dwellings.

- 2.2 Members will be aware that WDC have resolved to grant their application subject to a legal agreement covering:
- Delivery of 35% affordable housing on site;
  - 5% on site custom and self builds;
  - onsite open space, including equipped areas with the necessary maintenance;
  - A package of highway works in proximity to the site and wider afield and enhancement to public transport initiatives that includes funding to upgrade of existing bus stops on Pennine Way (to incorporate real time passenger information) · Financial contribution of £250,000 towards an improved bus service on Pennine Way. · A Residential Travel Plan including an audit fee of £6000. · The provision of free bus travel promotion for new residents for a period of 3 months.
- 2.3 At Planning Committee (EBC) in November 2020 members resolved to defer consideration of the application to enter discussion with Wealden District Council and East Sussex County Council to secure section 106 and 278 agreements. This was a requirement to safeguard EBC and EBC resident issues.
- 2.4 These discussions have now concluded and summarised below:
- EBC are now to be signatory to the WDC S106 legal agreement;
  - EBC have negotiated that either EBC or WDC can take enforcement action if needed with regard to the highway works in Pennine Way;
  - Controls within the S106 legal agreement stipulate the Pennine Way highways works should be completed prior to commencement of development;
  - WDC have confirmed via their planning committee (as advised in their officers report) that there are sufficient funds available for the wider highway works to cover the Strategic Road Network improvements at Lion Hill, Dittons Road/Rattle Road/Hailsham Road and the A22 Golden Jubilee Way/Dittons Road junctions.
- 2.5 It is accepted that wider Strategic Highway works are to be funded by way of payments by WDC via their Community Infrastructure Levy (CIL) monies, however this does not give sufficient assurance to EBC that these works will be carried out in a timely fashion. It is recommended therefore that clauses are added to the S106 to require either the applicant to fund the development or the applicant to carry out the works in a timely fashion. In this regard in a timely manner would be prior to occupation.
- 2.6 It is accepted that under the S278 highway works application that there may be as part of the S278 application bond payment required to secure completion of the works when underway should anything happen to the developer. The bond is then paid back upon completion milestones.
- 2.7 There are no SuDs or surface water mitigation works proposed on EBC land, however there are trees shown to be retained that are located within the land owned by Eastbourne Borough Council.

2.8 Given the above and that now EBC have greater controls via the S106 legal agreement it is considered that this application should now be supported and is recommended for approval.

### 3. **Recommendation**

3.1 The recommendation is to grant planning permission subject to legal agreement covering the following issues and subject to the conditions listed below:-

3.2 Heads of terms for the S106 Legal Agreement

3.3 Pennine Way Access, vision splays and other road safety mitigation to Pennine Way including traffic calming measures (as outlined and agreed by East Sussex County Council shall be implemented prior to the commencement of any development of the site.

3.4 Strategic Road improvements to be funded by either WDC CIL or the applicant and to be completed prior to the first occupation of the development.

3.5 Enforcement WDC & EBC to share enforcement responsibilities in the event of one of the milestones not being met.

3.6 Signatory EBC to be a signatory to the S106 in order to allow for the enforcement powers described above.

3.7 Public Transport Initiatives payments to be made to cover the provisions of new bus stops, real time bus information and to increase the frequency of the buses, travel plan and travel passes.

### Recommended Conditions

1. Time Limit The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 2 below, whichever is the later.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 92 of the Town and Country Planning Act 1990.

2. Reserved Matters a) Details of the reserved matters set out below (“the reserved matters”) shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

- i. layout.
- ii. scale.
- iii. appearance; and
- iv. landscaping.

b) The reserved matters shall be carried out as approved.

- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

3. Approved Plans The development hereby permitted shall be carried out in accordance with the approved drawings:

C85278-SK-003 G

C85278-SK-004 F

C85278-SK-005 H

C85278-SK-006 G

Aboricultural Impact Assessment - 9162\_AIA.001 Rev C Dated September 2019.

Reason: For the avoidance of doubt and in the interests of proper planning.

4. Pennine Way Access Details The new access and associated works to Pennine Way shown on Drawing C85278-SK-003 G, C85278-SK-004 F, C85278-SK-005 H and C85278-SK-006 Revision G shall be in the position shown on the approved plans and laid out and constructed in accordance with details agreed by the Local Planning Authority. The agreed measures shall be implemented prior to the first use of the access other than for construction purposes.

Reason: To provide visibility for vehicles entering and leaving the site in the interests of and for the safety of persons and vehicles using the development.

5. Pennine Way Highway Mitigation. The access hereby granted shall not be used for accessing any part of the residential development site until visibility splays of 2.4m by 55m are provided in both directions and maintained thereafter and that the wider road safety measures in Pennine Way are implemented in full.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

6. Construction Management Plan No development shall take place, including any ground works or works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate but not be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction;

- the method of access and egress and routeing of vehicles during construction;
- the parking of vehicles by site operatives and visitors;
- the loading and unloading of plant, materials, and waste;
- the storage of plant and materials used in construction of the development;
- the erection and maintenance of security hoarding;
- the provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area.

7. Detail drawings of highway junction Prior to the commencement of development on site, detailed drawings, including levels, sections and constructional details of the proposed road, surface water drainage, outfall disposal and street lighting to be provided, shall be submitted to the Planning Authority and be subject to its approval, in consultation with the Highway Authority

Reason: In the interests of highway safety and for the benefit and convenience of the public at large

8. Working Hours That no demolition, site clearance or building operations shall take place except between the hours of 8:00 a.m. and 6:00 p.m. on Mondays to Fridays and 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 Holidays unless previously agreed in writing by the Local Planning Authority.

Reason: In the interest of maintaining the amenities of nearby residents/occupiers and in the interest of maintaining the character of the wider area.

9. Retained Trees All existing trees shall be retained, unless shown on the approved drawings as being removed. All trees on and immediately adjoining the site shall be protected from damage because of works on the site, to the satisfaction of the Local Planning Authority. This should be in accordance with its Supplementary Planning Guidance and relevant British Standards (BS 5837:2012) for the duration of the works on site. If trees become damaged or otherwise defective within five years following the contractual practical completion of the development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees.

10. Works within root spread The soil levels within the root spread of trees/hedgerows to be retained shall not be raised or lowered.

Reason: To avoid damage to health of existing trees and hedgerows.

The application seeks permission for the erection of a single storey building to be used as a coffee shop with drive thru facilities.

This was approved as part of the larger redevelopment scheme referred to in the history above but is proposed in order to allow it to be developed independently and ahead of the other elements of the larger proposal.

The proposal is for the building to be occupied by Costa Coffee.

Alongside the erection of the building, the existing car parking area will be replaced and upgraded and provide new a new soft landscaping scheme to the perimeter of the retail park.

The existing car park provided 272 usable space (with 4 additional space seconded by B&Q), which would be replaced by 276 usable spaces, but with increased parking space dimensions to accommodate modern vehicle sizes. 16 spaces would be accessible (in accordance with Highways standards) and 10 would be parent and child bays. 4 dedicated trade bays are also proposed for vans to prevent double parking.

The scheme includes the provision of 12 cycle spaces. The proposal includes the provision of a pedestrian link to the site from Marshall's Road to both the promenade and the coffee shop, which would be accessible to pedestrians in addition to the drive-through facilities.

4. **Part 2 : A copy of the officer's report to the 23<sup>rd</sup> June Committee of Eastbourne Borough Council**

4.1 **Executive Summary**

4.2 The proposal is an outline application all matters reserved except Access for a new access and road improvement works from Pennine Way to the fields to the north which are proposed to be developed by application to Wealden District Council (WDC) for up to 250 residential dwellings. That application has subsequently been refused by WDC therefore the access implications cannot be fully assessed, nor mitigation secured.

4.3 Therefore, it is recommended that outline consent for the new access is refused for the reasons set out in this report.

4.4 **Relevant Planning Policies**

4.5 Revised National Planning Policy Framework (2019)

2. Achieving sustainable development

4. Decision-making

5. Delivering a sufficient supply of homes

8. Promoting healthy and safe communities

9. Promoting sustainable transport

11. Making effective use of land

12. Achieving well-designed places

14. Meeting the challenge of climate change, flooding, and coastal change

15. Conserving and enhancing the natural environment

4.6 Eastbourne Core Strategy Local Plan (2013)

B1: Spatial Development Strategy and Distribution

B2: Creating Sustainable Neighbourhoods

C8: Langney Neighbourhood

D1: Sustainable Development

D8: Sustainable Travel

D9: Natural Environment

4.7 Eastbourne Borough Plan – Saved Policies

NE4: Sustainable Drainage Systems

NE15: Protection of Water Quality

NE18: Noise

NE20: Sites of Nature Conservation Importance

NE22: Wildlife Habitats

NE28: Environmental Amenity

UHT1: Design of New Development



UHT4: Visual Amenity  
UHT6: Tree Planting  
UHT7: Landscaping  
HO20: Residential Amenity  
TR2: Travel Demands  
TR6: Facilities for Cyclists  
TR7: Provision for Pedestrians

#### **4.8 Site Description**

- 4.9 The development site in its entirety is situated to the south east of Stone Cross, west of Westham and northeast of Langney and Eastbourne. The land extends to 14.91 ha (36.84 acres) and comprises 3 parcels of land. Most of these fields comprise agricultural land, used for grazing and comprises rough grassland and scrub; and many of the fields' boundaries are separated by hedgerows and scattered trees.
- 4.10 Friday Street Farmhouse and a group of existing agricultural style buildings, some in commercial use are located immediately adjacent to the eastern boundary of the site, beyond which are the Mountney Levels. The farm complex is accessed via a farm track connecting the site to Oak Tree Lane. A public footpath also shares this track and continues through the middle of the site and on towards Westham in the east. Bordering the application site to the north is a railway line, beyond which are further agricultural fields. Some of these fields have obtained planning permission for residential development from WDC.
- 4.11 To the south of the application site is the section within the Eastbourne Borough Boundary. This amounts to part of Pennine Way and the grass verge to the north of the road, the hedgerow of the boundary of the southern field and then a small section of the field itself.
- 4.12 To the south of Pennine Way is an area of residential housing. To the west is Castle Bolton, and further residential development, within the Eastbourne Borough Boundary. Whilst to the northwest is Eastbourne Heights which is partly within the Eastbourne Borough Boundary.

#### **4.13 Relevant Planning History**

- 4.14 No planning history within Eastbourne Borough Council
- 4.15 The application for outline planning permission for the development of the site itself for housing was refused on 27 May 2020 by Wealden District Council for the following reasons.
1. The delivery of housing on this site is contrary to the rural housing restraint policies within Saved Policies GD2 and DC17 of the Wealden Local Plan 1998 and WCS 6 of the Wealden Core Strategy Local Plan.
- The Council does not have a 5-year housing land supply. Footnote 7 of the NPPF would render the local plan policies on housing supply out of date limiting the weight that can be afforded to them in line with the degree of

compliance with the NPPF. Unsustainable rural housing is resisted under the NPPF and as such the rural restraint policies can be afforded some weight.

The site is elevated and sloping in parts. Residential development would expand development out towards the Pevensy Levels, in an area of high landscape sensitivity.

The site is on the periphery of Wealden and includes access into the administrative area of Eastbourne. It is considered the scheme would create unsustainable rural dwellings with no realistic alternatives to the private car to access services the proposal would represent unsustainable development under the NPPF. There are also no important rural services in the immediate locality that could benefit from additional residents. This proposal does not relate to rural development that would allow an existing settlement/community to thrive.

Overall, the adverse effects of the development would significantly and demonstrably outweigh the benefits, when assessed against the conflict with the adopted local plan and NPPF. Permission should be refused the proposal conflicting with saved policies EN1, EN8, GD2, and DC17 of the Wealden Local Plan 1998, WCS6 and WCS 14 of the Wealden Core Strategy Local Plan 2013.

2. The application submissions are not considered to make insufficient provision and supporting technical information for the provision sustainable drainage systems within the site without leading to the risk of ground water flooding both within and off the site. As such, it is considered that the application submissions do not demonstrate that the proposed development of 250 dwellings and associated works could be satisfactorily accommodated on the site without detriment to the amenities of local residents and would not lead to an increased risk of surface water flooding. It is therefore considered that the proposals represent an unsustainable form of development, the adverse impacts of which

could significantly and demonstrably outweigh the benefits of the development proposal when assessed against the policies of the National Planning Policy Framework and development plan. The proposals would therefore represent an unsustainable form of development contrary to Paragraphs 163 and 165 of the National Planning Policy Framework 2019, paragraph 79 of National Planning Practice Guidance, Spatial Planning Objectives SPO10 and Policy WCS14 of the Wealden Core Strategy Local Plan 2013 and Saved Policies EN1, EN27, CS2 of the adopted Wealden Local Plan 1998.

#### **4.16 Proposed development**

4.17 This is an outline planning application with all matters reserved except for access.

4.18 The scheme in its entirety seeks development of up to 250 dwellings (35% affordable), with associated car parking, together with the introduction of a new access point from Pennine Way and creation of a network of roads, footways, and cycleways throughout the site; and the provision of 1.6ha of public open space, further children's play areas, allotments, sustainable urban drainage systems, and landscape buffers on the site.

- 4.19 Whilst most of the application site lies within Wealden District, the point of access from Pennine Way falls within the Eastbourne Borough boundary. A duplicate application has been submitted to Wealden District Council and Eastbourne Borough Council.
- 4.20 As a result, it has been agreed that only the access is for determination by Eastbourne Borough Council. All other aspects/considerations of the proposal, including flood risk, drainage, amenity issues, landscaping, and biodiversity etc have been considered under the Wealden Application which has subsequently been refused as set out above.
- 4.21 Consultations**
- 4.22 Specialist Advisor (Planning Policy) – Objection
- 4.23 Eastbourne Borough Council (EBC) objects to this planning application and considers it premature when placed in the context of the emerging Wealden Local Plan. Eastbourne Borough Council has formally objected to the Wealden Local Plan including in relation to Policy SWGA 48 that would allocate this land for development of housing. The Wealden Local Plan is at Examination in Public (EiP) and there is an outstanding EBC objection to this allocation and to the Plan, therefore EBC would request that Wealden District Council (WDC) considers our objections carefully and whether they have been overcome through this application, prior to any recommendation for approval.
- 4.24 The EBC submission at Regulation 19 (Submission Plan) essentially draws out the key issues of this allocation (and relevant to this application) as a lack of consideration to cross-boundary infrastructure provision.
- 4.25 This is both in the context of identifying what the infrastructure requirements are that arise in Eastbourne Borough and what the mechanism is to ensure the provision of or improvement to infrastructure outside of Wealden district. For example either S106 for specific items in Eastbourne relating to site-specific impacts and/ or a clear mechanism for CIL funds to be spent on cross-boundary impacts for cumulative impacts of development completed, committed and allocated within the Plan period 2013-2028.
- 4.26 Without the mechanisms in place at the policy-making stage we consider this application to be premature; the site is proposed to be allocated and EBC still has the opportunity to influence the detail of this policy (and a general contributions policy) and the Plan through the EiP process and whilst this allocation may be less than strategic in the context of the Wealden Plan, the scale to Eastbourne is strategic and could give rise to significant impacts individually and particularly cumulatively.
- 4.27 Councillor Alan Shuttleworth – Objection
- 4.28 The Wealden Local Plan is not sound due to a failure to engage fully with Eastbourne Borough Council on border issues and particularly on the impact on the infrastructure across Eastbourne. Further, I believe that Wealden Council have failed to recognise the significant impact on Wastewater treatment and surface water run-off, in addition to road and public transport impacts, especially along Pennine Way.

- 4.29 I believe that the cumulative effect of permissions already granted for new developments in this area, which are close to the Borough of Eastbourne boundary are already putting an enormous strain on the infrastructure across Eastbourne.
- 4.30 I am opposing the application due to
- Flooding problems
  - Effects on ecological and environmental nature of the area
  - Issues around wastewater treatment
  - Traffic impacts
- 4.31 ESCC Highways – Qualified comments –dependant on infrastructure improvements
- 4.32 Support for the scheme can only follow a detailed package of mitigation being in place prior to occupation. The Highways comments are highly detailed and therefore have been appended to this report so they can be accessed in full, as this is a main material consideration for this application.
- 4.33 Lead Local Flood Authority – No objection
- 4.34 The applicant has undertaken hydraulic modelling of the watercourses bordering the application site. The results indicate the proposed attenuation ponds and swales are outside the determined 1 in 100 (plus 45% for climate change) fluvial flood plain. This addresses our previous concerns with regards the impact of the fluvial flood plain on the surface water drainage strategy and consequently surface water flood risk. However, the predicted water levels within the stream should be used to inform the hydraulic design of the surface water drainage system to ensure the impact of the surcharging of the outfall is taken into account in the design. It is our understanding from the additional information provided that ICOSA Water is willing to adopt the proposed surface water drainage system at the application site.
- 4.35 We are still concerned by the location of the tank on the hill and the need to pump water to the tank. It would have been preferable if the pump were at the outfall of the tank, which has less residual flood risk compared to the current proposals. Although we appreciate that an inset water company is willing to adopt the northern drainage system, we request that this part of the application is reviewed at the reserved matters stage. The applicant should review options for the layout to allow the proposed surface water drainage system to be more sustainable with less residual flood risk associated with it. It is our understanding from the information provided by the applicant that the permeable pavement shown on the outline surface water drainage plan have not been considered in the surface water storage provision for the application site. We do not recommend the consideration of permeable pavement on driveways in the surface water storage requirements due to the potential for them to be lost as householders make changes to their driveways
- 4.36 Neighbour Representations
- 4.37 Objections were received from 46 surrounding address covering the following issues.

Impacts of additional traffic on Pennine Way, Friday Street etc  
Impact on railway crossing at Westham  
Capacity for schools, GP's etc  
Increased Pollution  
Increased noise  
Flooding issues  
Over development of Langney/Stone Cross/Rattle Road  
Impact on wildlife  
Another sports pitch is not required  
Sewerage disposal  
Should not build on green field land  
Loss of amenity for local people  
Deterioration of water quality  
Inadequate road crossings  
Lack of speed controls on Pennine Way  
Access is on a bend with restricted views  
Impacts will fall on Eastbourne even though the Land is in Wealden  
Development would join the two districts creating urban sprawl.  
Loss of agricultural land  
Proposal does not help to address the need for affordable housing  
Prematurity before adoption of the revised local plan  
Cycle paths are pointless in the site when there are none outside the site  
Pollution  
Energy Efficiency,  
Impacts on air quality  
Properties on the site will be higher than existing properties leading to a loss of privacy  
Other non-green belt land is more suitable  
Why can't Oak Tree Lane be used?  
Impact on Purbeck Close from additional footfall through the alley  
Charges for future residents for the common areas/facilities

**4.38 Appraisal**

**4.39 Principle of the Development**

4.40 The application for a new access was submitted to serve a development within the boundaries of Wealden District Council. WDC have refused

permission for that application. Therefore, there is no permission to develop the site that the proposal would provide access to.

- 4.41 Therefore given there is no permission for the development of the site, the true impacts cannot be assessed, given that if granted the access could in theory be used for any manner of uses of the site and Eastbourne Borough Council would have little or no control over the development site given the site is within Wealden District.
- 4.42 If it were minded to approve planning permission the Council would have sought some form of agreement through S106 or planning condition that the access was only implemented to serve that development to ensure appropriate mitigation measures.
- 4.43 There is an objection in principle to the development of the site, Eastbourne Borough Council objected to the allocation of this site for Housing through the local plan process. It is noted that the Wealden Draft Local Plan has been withdrawn but the objection remains. However, the principle of the development of the site is not for EBC consideration. The application proposal that falls within the Eastbourne Borough Boundary should be considered against the relevant planning policies.
- 4.44 Highways Impacts**
- 4.45 The application is accompanied by a Transport Assessment which details the proposals in terms of the proposed layout and access, accessibility as well as existing and proposed traffic conditions.
- 4.46 Discussion with ESCC Highway Authority have been ongoing for some considerable time at pre-application stage. Considering that, the Highway Authority has provided a detailed and thorough 22-page assessment of highway matters.
- 4.47 Due to its length, the text is not included in this report. However, a full copy of the appraisal is appended for Members to review.
- 4.48 The County Council's position is that the impact of the proposed development is acceptable. This is qualified, however, and includes a comprehensive package of works that would be secured via conditions, s106 and s278 works. This includes agreed funding to sustain the bus service on Pennine Way, together with upgrades to bus stops close to the site (with real time passenger information).
- 4.49 WDC state in their appraisal of the scheme that contributions have already been collected from other development sites towards this package of works. This includes the Land South of Rattle Road, Land at The Wells, Rattle Road and Land at Uplands Farm. Any shortfall would be covered by the CIL Charging Schedule. With this funding certainty in place, there is no need for conditions controlling occupation.
- 4.50 Given the above it is not considered that a reason for refusal based on highway impacts or safety could be justified.
- 4.51 Ecology
- 4.52 Ecological impacts and potential for net gains can be considered more fully on the main application. Given this application is solely for the access to the

site the impacts are limited to those resulting from that part of the development including the loss of the existing hedgerow to facilitate the access.

- 4.53 The site is not subject to any statutory or non-statutory ecological designations. The nearest statutory designation is Pevensy Levels Site of Special Scientific Interest (SSSI) / Special Area of Conservation (SAC) / Ramsar located approximately 1400m to the north-east of the site. The nearest non-statutory designations to the site are Langney Crematorium Site of Nature Conservation Importance (SNCI) and Langney Levels SNCI, which are located approximately 265m and 380m to the south and south-east of the site, respectively.
- 4.54 Consideration has been given to these designations and mitigation measures are proposed where necessary, notably in regard to measures to maintain water quality through the main application and the proposals present the opportunity to secure a number of net gains in biodiversity, including native tree and shrub planting, wildflower grassland creation, new wetland habitat within swales and attenuation basins and new faunal habitat provision.
- 4.55 WDC have concluded that the findings of the ecological reports are accepted, and it is considered that planning conditions can ensure the necessary mitigation and enhancement works are undertaken at the appropriate time. The development would accord with planning policies about nature conservation and biodiversity enhancement.
- 4.56 It is not considered that a reason for refusal based on ecological impacts could be sustained.
- 4.57 Drainage and Flooding
- 4.58 Whilst several objections have been received on this matter this is only a consideration for this application in terms of the impact from the access way. The drainage and flooding issues from the site are dealt with under the wider development application within WDC area.
- 4.59 It should be noted that the LLFA, EA nor SW raise objections to the Wealden Application. Initial concerns regarding flooding have been overcome by additional reports and modelling. The LLFA comments are contained in full above.
- 4.60 The WDC application has been refused for two reasons, one being the submission is not considered to demonstrate the proposed development could be accommodated on the site without detriment to the amenities of the local residents and would not lead to an increased risk of surface water flooding.
- 4.61 However it should be considered that creation of the access road and those works falling in this application would have little impact in and of themselves, in terms of creating flood risk or drainage issues and given the above it is not considered that a reason for refusal on this basis could be substantiated for this application.
- 4.62 Landscaping and visual impact

- 4.63 All matters other than access is reserved for later determination, the landscaping strategy will form part of the reserved matters and will seek to ensure that landscaping will be utilised to minimise the visual impact of the proposal.
- 4.64 The application is supported by a landscape Visual Impact Assessment. This concludes that the visual effects of the proposed development would be localised, and significant negative effects would be limited to changes to the views available to a small number of residents, pedestrians and vehicle users along Pennine Way to the south of the site, however it concluded that this would reduce over time as proposed planting matured with residential development becoming progressively filtered by proposed planting.
- 4.65 The proposal would undoubtedly be different and there would be impacts of the proposal as a whole when viewing the site from Pennine Way, however the application for determination is solely in relation to the access and it is not considered a reason for refusal based around visual impact or landscaping solely of the access could be substantiated.

#### **4.66 Human Rights Implications**

- 4.67 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 considered fully in balancing the planning issues; and furthermore, the proposals will not result in any breach of the Equalities Act 2010.

#### **4.68 Recommendation**

- 4.69 It is considered that the material planning considerations of the development as a whole need to be considered as part of the main application by WDC.
- 4.70 This application only accesses the material considerations of the impacts of the access and highway works. To refuse permission for anything other than issues or impacts arising from the works subject to the application would be unreasonable.
- 4.71 It is considered that there are no highway reasons to refuse the application, the highway authority have not raised objection to the access and it along with the traffic calming measures have been assessed by an independent audit team and a stage 1 road safety audit has been produced. Therefore, there is no highway safety reasoning to refuse the new access.
- 4.72 However, it must be considered that the permission for the development of the land has been refused by WDC and therefore the development of the site to which the access serves is unknown. The wider impacts of the access in terms of traffic generation and sustainability cannot be fully or reasonably assessed, and the mitigation works and the funding for wider improvements could not be reasonably scoped. For any mitigation to be successful there needs to be an understanding of what impacts need to be mitigated and with the WDC scheme being refused there is no permission to evaluate the mitigation measures.



4.73 It is considered that the Council cannot consider favourably a consent for an access when the use of the access is unknown. Therefore, it is recommended that planning permission is refused for the following reason.

4.74 **Reason for refusal: -**

4.75 The proposed access provides vehicular and pedestrian access to an existing farm, and in and of itself would appear to be an overly engineered access for farm use. Notwithstanding this planning permission for the development of the fields to the north has been refused and therefore the impacts and mitigation of the access and the wider application in general cannot be assessed.

4.76 **Appeal**

4.77 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.

4.78 **Background papers.**

4.79 There are none.

5. **Part 3 Executive Summary of the Officers Report to Wealden District Council**

**Recommendation**

- a) Liaison with Natural England over positively concluded Appropriate Assessment (that development would not cause in combination impacts on the water quality of Pevensey Levels).
- b) Completion of a Section 106 Agreement securing:
  - i) Delivery of 35% affordable housing on site;
  - ii) 5% on site custom and self-build plots;
  - iii) On site open space (including allotments) providing for youth adult, together with local equipped areas for play (and their ongoing maintenance);
  - iv) On and off-site highway works including:-
    - Funding to secure the upgrade of existing bus stops on Pennine Way (to incorporate real time passenger information);
    - Financial contribution of £250,000 towards an improved bus service on Pennine Way;
    - A Residential Travel Plan including an audit fee of £6000;
    - The provision of free bus travel promotion for new residents for a period of 3 months.

**Executive Summary:**

This is an outline planning application seeking residential development of up to 250 dwellings, together with allotments, open space, and sport/playing fields on land at Friday Street Farm, Stone Cross. Details of access are submitted for consideration with all other matters reserved for future consideration. The application is accompanied by various technical documents, including an illustrative masterplan which demonstrates the site can satisfactorily accommodate the proposed level of development and associated infrastructure and open space.

The scheme is identical to the application lodged under WD/2019/1994/MAO and refused in May 2020. However, the current proposal seeks to address the two reasons for refusal given by Committee relating to development boundary breach and concerns regarding drainage.

The application site lies within open countryside as defined by the 1998 adopted Local Plan and has therefore been advertised as a 'departure' application. Part of the site – where the new access is proposed to link into Pennine Way – falls outside the Wealden boundary. A separate application has been lodged to Eastbourne for that part of the proposal.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the development plan unless material considerations indicate otherwise. The current development plan for the area in which the application site is located comprises the policies of the Wealden Local Plan 1998 which were saved in 2007, the Core Strategy Local Plan which was formally adopted on 19 February 2013 and the Affordable Housing Delivery Local Plan adopted in May 2016.

Within the context of the now withdrawn Wealden Local Plan 2019, the site was identified as forming part of development at Stone Cross for a mixed use development comprising housing (up to 250 dwellings) B1, B2 and B8 employment floor area and associated infrastructure including open space, allotments and play facilities; under Policy SWGA 48. As the Committee will now the scheme in WD/2019/1994/MAO was lodged before the Examining Inspector issued her report on soundness to the 2019 Plan. Even so, the proposal as submitted would fully accord with what was the Submission Plan.

The Council cannot demonstrate a five-year supply of deliverable housing land and there is a clear need for housing within the housing market area, including a need for affordable housing, together with custom and self-building housing.

The site is contrary to Saved Policies GD2 and DC17 of the adopted Wealden Local Plan 1998, by virtue of its location outside the development boundary as set out on the proposals map of that plan.

The committee must be clear: this application is in breach of that strategy and policies in that Plan indicate a decision should be refused unless persuasive material considerations justify taking a different decision. These policies, which restrict development in the countryside, were based on an assessment carried out in 1998 of the housing requirements up until 2004. It is long since out of date and this is a major consideration. As the planning history identifies, the Council has supported significant residential development beyond the 1998 development boundaries.

Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development. Where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF a whole.

In the absence of a five-year housing land supply the effect of these policies, which seek to restrain new development to land within the settlement boundaries, would be to restrict the supply of housing and prevent local housing needs being met. With no landscape impact, adverse impact on residential amenity, highway matters nor to surface water or foul drainage; the policy conflict with GD2 and DC17 is outweighed by the benefits of significant housing delivery.

Having regard to Paragraph 11(d) and Paragraph 177 of the NPPF February 2019 and the conclusions of the Appropriate Assessment, the presumption in favour of sustainable development is applicable to the application site.

The application accords with the three objectives of sustainable development: economic, social, and environmental. The development would bring economic benefits, delivering and supporting jobs on and off site. The economic benefits would also include associated benefits to other businesses in the area and supporting local services within the area. The proposals would help deliver much needed housing including affordable, custom, and self-build housing to meet housing requirements in the district and locally needed affordable homes thereby meeting the social role.

Members will also note the layout includes a playing pitch, further enhancing the sporting offer in Stone Cross and on the boundary of Eastbourne generally. There are also allotments included in the scheme.

It is considered that subject to appropriate layout and detailed design which would be determined through subsequent reserved matters application(s) and condition discharge; the development could provide a quality and locally distinctive environment.

Having regard to Paragraph 109 of the NPPF it is not considered that the development would have an unacceptable impact on highway safety or that the likely residual cumulative impact of development would be 'severe', and therefore there are no reasons in transport terms to justify a refusal. The ESCC highway authority do not object to the application but have requested a package of highway work to be secured by conditions and legal agreement. This includes a contribution towards sustaining bus route and a travel plan.

There would be no material adverse impact on the amenity of both existing residents and prospective occupiers. Access to the proposed amenity areas within the development will be for both existing residents and new residents. The illustrative layout demonstrates legible and direct connections within and through the site including a strategic pedestrian and cycle route provided east-west through the sites, a series of recreational paths and cycleways around amenity areas, footways provided on both sides of the road network in the site. The public right of way which crosses the site can be safeguarded. Whilst highway issues are a source of objection, including from Eastbourne Borough Council, East Sussex Highway Authority have advised for some time now that the new access onto Pennine Way can be secured to required and appropriate standard. That subject to a comprehensive package of work, the development would not cause adverse impact on highway safety on the local or immediate highway network.

Ecological mitigation and enhancements will be provided within the site ensuring conservation status of protected species is maintained at a favourable status.

Significant comments are lodged regarding development of the site on land known to flood. Numerous photographs have been lodged showing parts of the site with standing water. This is a pre-development situation with little (or no) drainage in place. The developable area for housing lies within Flood Zone 1 and considers the climate change scenarios. The Environment Agency do not object. The proposal seeks to improve and better greenfield run off rates, including a betterment for climate change. The East Sussex Local Lead Flood Authority had requested detailed drainage modelling work (including of the Rattle Stream). That work has been undertaken and submitted and the County Council has withdrawn its objection.

Mitigation measures proposed for surface water drainage will ensure potential adverse impacts on the Pevensy Levels are avoided regarding water quality and quantity. There is a requirement to liaise with Natural England over any positively concluded Appropriate Assessment. Any positive resolution would be subject to the outcome of that process.

Southern Water has confirmed it can service the development site (subject to application for connection). The Police Crime Prevention Officer has not objected (though make some comments that would inform the Reserved Matters layout).

The scheme includes dedicated playing pitch, open space, and allotments. Whilst the fine details of these would not be known until Reserved Matters stage, the scheme includes a mixture of play, allotment, and formal pitch provision. Having regard to the above, the development therefore meets the environmental role of sustainable development in the NPPF.

Eastbourne Borough have raised objection with specific concerns about impacts on existing infrastructure and services. This is set out as a deficiency of what was the Submission Local Plan 2019 and failure of the duty to cooperate. Whilst that point was an integral criticism of the examining Inspector in the Plan, it is not considered to weigh against the application proposal. The development will be generating CIL payments which will provide revenue to the Council's evolving infrastructure fund that can then be utilised to assist in providing additional services for the area.

To conclude, the development accords with all the relevant planning policies in the adopted development plan with the exception of the policies GD2 and DC17 of the 1998 Plan and SPO1 and WCS6 of the 2013 Core Strategy which, amongst other things, seek to direct new housing development to existing development boundaries as set out in the development plan.

However, for all the reasons set out, conflict with these policies should be given limited weight. As noted, the site was included in the now withdrawn 2019 development strategy for the District, as part of further planned development at Stone Cross. It has been the subject of extensive discussions with statutory consultees, including the County Council. At up to 250 dwellings, this is a considerable development for the District in terms of housing land supply, coupled with the associated benefits, including (but not

limited to) open space, market and affordable housing, together with custom and self-build plots in an area of unmet demand.

It is also the case the Council has supported growth beyond the 1998 development boundaries to deliver up to date housing need.

This is both local to the application site, but elsewhere in the District. In respect of this site, no technical impediment to development has been identified by any statutory consultee. Not on foul drainage, nor surface water nor about highway matters. In fact, the reverse applies here where the development will deliver enhancements to drainage compared to the current pre-development situation. It will also secure betterment to local transport options, including footpath/cycle enhancements, together with bus service provision.

Having regard to the planning balance and the considerations set out in the main body of the report, it is once again recommended that the application is APPROVED subject to resolution of the items listed at the beginning of the report and the completion of a legal agreement and the recommended conditions.

No comments have been received.

## 6. **Appraisal**

### 6.1 Principle of Development:

There is no principle conflict with adopted policy, which would prevent approval of the application, subject to consideration of design and visual impact upon the character of the area and the impact upon the amenity of neighbouring occupants, pursuant to the requirements of the National Planning Policy Framework (2019), policies of the core strategy 2006-2027 and saved policies of the Eastbourne Borough Plan 2001-2011.

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

The proposed development is to construct a single storey building to the eastern side of Hampden Retail Park with drive thru access to the building, re-layout of the retail park car parking area and a new soft landscaping scheme.

The location of the site is as such that the proposed new building is not considered to have a detrimental impact on any occupiers surrounding in terms of access and parking, loss of light, loss of privacy, noise disturbance or impacts of overlooking.

The existing car park area of the retail park provides for 276 parking spaces which includes 19 disabled spaces and 3 parents and small children spaces.

The proposed works will see the amount of spaces increase by 1 with a total of 277 spaces, there are no changes proposed to the access to the site which is located on Marshall Road.

### 6.3 Use:

The proposed development is to construct a single storey building to be used as a coffee shop with drive thru facilities. The proposal is for Costa Coffee to occupy the building.

The proposed use would be counted as a 'Main town centre use' as defined by the NPPF. As paragraph 86 states "*Local planning authorities should apply a sequential test to planning applications for main town centre uses that are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should 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.*" The Hampden Retail Park is not identified as a designated centre in the retail hierarchy (Core Strategy Policy D4) and is therefore considered an 'out of centre' location, which means the sequential test needs to be applied.

The aim of the sequential test is to ensure that main town centre uses are directed towards town centres first, and only where they cannot be accommodated in or on the edge of town centres should main town centre uses be permitted elsewhere. Therefore the purpose of the sequential test is to direct retail development to the most sustainable location(s) and at the same time protect the vitality of town centres, rather than to simply enable the modernisation of the offer at an undesignated retail park.

A sequential test was undertaken in 2018 prior to submission of the extant permission, which can still be implemented prior to 24<sup>th</sup> January 2022. As such, a condition is recommended alongside the grant of permission in this case, which would trigger the requirement for submission of a sequential test in the event that development approved by this application is not implemented prior to expiry of the extant permission. This would allow for an up-to-date test to be undertaken in respect of the site selection.

Further to the above, the proposal involves the creation of a drive through facility, which is considered to be suitable on this site in the interests of the amenities offered by the existing retail outlet and is not suited to more densely populated town centres. The development follows similar existing facilities provided by KFC and McDonalds on Lottbridge Drive.

The proposal will provide the equivalent of 11 full time equivalent job roles.

The applicant has not proposed specific hours of opening for the drive through facility. It is not considered that 24hr opening would have any detrimental impact, given the location of the site, and no restriction of opening hours is recommended with the grant of permission.

### 6.4 Design:

The proposed design of the building is considered to be acceptable and is in keeping with the surrounding commercial area and not thought to be intrusive to the visual amenity of the retail park or the industrial parks in the area.

The design bulk and scale of the proposal is acceptable, taking into account the local context.

The proposed car park works are to improve the quality of the parking provision at the site in order to increase the offer. The proposal involves the retention and improvement of soft landscaping on the perimeter of the site, including the provision of trees (six Silver Birch trees on the northern boundary with Lottbridge Road and three Hornbeam trees just to the south of the proposed building). This is set amongst a biodiverse planting scheme, as well as a Copper Beech hedge to enclose the site visually and to prevent unwanted diversion from dedicated pedestrian access paths.

Other Matters:

There is an historic land fill site a short distance away, which could have implications in terms of contamination at the application site. As such, given that soft landscaping works are proposed, conditions are required to ensure that contaminants are identified and remediated, in the interest of public health.

## 7. **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.

## 8. **Recommendation**

The proposed development will not negatively impact on the amenity of the occupiers of surrounding properties or be detrimental to the character and appearance of the surrounding area. The proposal therefore complies with local and national policies.

The application is recommended for approval subject to the following conditions:-

**Time Limit** - The development permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with section 51 of the Planning and Compulsory Purchase Act 2004.



**Approved Drawings/Documents** - The development hereby permitted shall be carried out in accordance with the following approved drawings:

Drawing No. 0001-G2 – Location Plan

Drawing No. 0005-G2 – Existing Site Layout

Drawing No. 0010-G3 – Proposed Site Layout

Drawing No. 0020-G1 – Proposed Coffee Drive-Thru GF Plan

Drawing No. 0021-G1 – Proposed Coffee Drive-Thru Roof Plan

Drawing No. 0030-G1 – Proposed Coffee Drive-Thru East and South Elevations

Drawing No. 0031-G1 – Proposed Coffee Drive-Thru West and North Elevations

Drawing No. HRPE-UBU-00-00-DR-A-1000 Landscaping plans

382-FRA-01-c – Flood Risk Assessment by MAC

R01-ADM - Transport Assessment, dated November 2020 by TTP Consulting Ltd

Reason: For the avoidance of doubt and in the interests of proper planning.

**Flood Risk Assessment** - The development shall be carried out in accordance with the submitted flood risk assessment (ref 382-FRA-01-C, Rev C, November 2020) and the following mitigation measures it details:

- Flood resilience, warning, evacuation, access and egress measures will be incorporated into the development as details in paragraph 2.1.7 of the FRA.

Reason: In line with Planning Practice Guidance of the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change to reduce the risk of flooding to the proposed development and future occupants and maximise the safety of future occupants

**Ground Contamination** - No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified

All previous uses.

Potential contaminants associated with those uses.

A conceptual model of the site indicating the sources, pathways and receptors

Potentially unacceptable risks arising from contamination at the site

A site investigation scheme, based upon (1) to provide information for a details assessment of the risk to all receptors that may be affected, including those off-site.

The results of the site investigation and the details risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy going full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: This is a phased condition and depending on the nature of the waste deposited in the historic landfill it is possible not all phases will be required. However this condition is required to ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

**Contamination Verification Report** - Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure the site does not pose any further risk to human health of the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

**Contamination Remediation Strategy** - If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing, by the local planning authority. The remediation strategy shall be implemented as approved.

Reason: As this development is sited on a historic landfill there is potential for previously unidentified source of contamination to be present. This condition is required to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

**Infiltration Issues** - No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: This condition is required to ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affect by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

**Sequential Test** – In the event that this permission is not implemented prior to 23<sup>rd</sup> January 2022, a sequential test shall be completed, submitted to and approved in writing by the Local Planning Authority prior to commencement of development.

Reason: In accordance with paragraph 86 of the National Planning Policy Framework (NPPF).

**Trees** The site shall be landscaped strictly in accordance with the approved landscaping plan (drawing number HRPE-UBU-00-00-DR-A-1000) in the first planting season after completion or first occupation of the development, whichever is the sooner.

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

**Tree Maintenance** All soft landscaping shall have a written five year maintenance programme following planting. Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

## 9. **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.

10. **Background Papers**

None.

# Agenda Item 8

**Report to:** Planning Committee  
**Date:** January 2021  
**Title:** Planning Application Performance and Appeal Record for the year 2020

**Report of:** Leigh Palmer

**Ward:** All

**Purpose of report:** To inform and update Members on the performance of determining planning applications and appeals

**Officer recommendation(s):** (1) Members are invited to note the content of the report.

**Contact Officer:** **Name: Leigh Palmer**  
**Post title: Head of Planning**  
**E-mail: leigh.palmer@eastbourne.gov.uk**  
**Telephone number: 07939 57 82 35**

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## 1. **Executive Summary**

- 1.1 This report is an information report for Members to note and includes factual evidence in relation to the planning application processing and the Councils record at appeal.
- 1.2 The report includes two supplementary sheets, the first is a summary of the appeals received with the calendar year 2020 and the second in a copy of a letter from Ministry of Communities Housing and Local Government.
- 1.3 Members should be aware that in relation to the appeals decided then the Inspectors full reasoning can be found within the case file on the Council's website.
- 1.4 Members will be aware that together we deal with a whole host of planning applications covering a range of differing forms of development.
- 1.5 Given the many & varied types of planning applications received Central Government require that all Councils report the performance in a consistent and coherent manner. To this end the many & varied applications are clumped together into three broad categories as identified by Govt. legislation (Major, Minor and Other) and the government have recently amended the criteria for the assessment of the Council's performance (see section on special measures below).

## 2. **Special Measures (see also Appeal record section of this report)**

- 2.1 Members may be aware that the Government have introduced new National performance criteria (Nov 2016 on speed and quality) against which all Council's will be judged. Persistent failure to perform against these targets

runs the risk of the Council being designated as 'Non- Performing' and special measures will initiated by Central Government.

2.2 The assessment of the new 'special measure' threshold has two limbs to it and reviews our performance on a backward rolling two-year basis, see tables 1 & 2 below. The data below is taken from the Govt figures as highlighted on their live data set tables.

2.3 Speed of Decision

2.4 It is evident from the figures below that the decisions taken for the survey period are currently above the special measure's threshold.

2.5 For the rolling two years the minimum level required is: -

2.6 Govt Target

2.7 Majors 60% EBC 87%

2.8 Govt Target

2.9 Non-Majors 70% EBC 86%

2.10 Risk Area

It is considered that there is significant headroom against these targets and as such the risk of Special Measures for Non-Performance on speed of decision is low, however given the low volumes of major applications there is the potential for extreme volatility in performance.

2.11 Officers are encouraged to offer/negotiate an 'extension of time' with the applicant/developer this should help to mitigate the risk level.

2.12 Quality of Decision (Appeal Overturns)

2.13 This section looks at appeal decisions and specifically the number/volume that have been allowed/overturned at appeal. It is clear from the data below that the Council are running more than these special measure thresholds.

2.14 Overturned Appeals

2.15 Govt Target

2.16 Majors 10%. EBC 12% (please see appeals section for detailed explanation on this issue.

2.17 Govt Target

2.18 Non-Majors 10%. EBC 0.6%.

2.19 Risk Area

2.20 One area for Members to note is the criterion relating to overturned Major appeals and the fact that given the very low volumes of Major application received and even less refused that an overturned appeal can have a significant impact upon performance.

2.21 Given the huge potential swing in performance because of the very low volumes involved that there is a very high risk of the Council falling under special measures threshold in this category.

- 2.22 Officers will advise on this issue when major applications are discussed/debated at future planning committees and Members are requested to be mindful of the impacts and consequences of refusing major applications.
- 2.23 Please see appeals section of this report for further analysis of the Councils appeal record.

### 3. **Appeal Analysis**

- 3.1 The appeal decisions letters received during 2020 have been analysed with the various decision permutations reported below.
- 3.2 Members will note from and performance section above that special measures is a direct consequence of our appeal record and is monitored by Government/Planning Inspectorate.
- 3.3 For the last Government survey period the Council were being assessed for special measures given the number of major applications overturned exceeded the National 10% performance indicator. Given the few major applications received for the survey period there is the potential for significant % swings. Notwithstanding this there were 4 major application overturns in the survey period and these related to:-
- 181058 - Meads Brow. Outline planning permission (Access and Layout) for demolition of the existing house and the construction of a new building housing 17 one and two bedroom apartments, with associated access and parking. Officer and Member refusal - too dense and out of character - The application site related to a small cul-de-sac of a modest number of bungalows. Officers and Members resolved that the insertion of a multi-storey apartment block would be wholly discordant with the character of the area.
  - 180040 - Kempston's Granville Road. Demolition of existing building and redevelopment to provide x16 residential units (Use Class C3) (x8 net additional), new vehicle access on Granville Road and car parking. (Resubmission following refusal of p/c 180040). Member overturn desire to keep the original building and replacement building out of character. The existing building was an attractive Edwardian Villa that was characterful and made a significant contribution to the local street scene but were not protected in any way. Officers liaised with the applicant and encouraged the application is supplemented with additional material and resubmitted. This was to establish if a local level decision could be delivered and or the number of reasons for refusal could be reduced. As is evident this appeal dropped to a single reason for refusal from the two formally. The application below 180985 was submitted following this advice.
  - 180352 - Savoy Court Hotel Cavendish Place. Planning permission for conversion of existing hotel into 15 residential self-contained flats (Listed Building Consent sought under application 180353) Member overturn flats perceived to be too small against National Space standards. Members were concerned about the size of the rooms as being inadequate even though they fell just within national space standards.

Members did not want to have people living in these sizes of flats within their Borough.

- 180985 - Kempston's Granville Road Demolition of existing building and redevelopment to provide x16 residential apartments (Use Class C3) (x8 net additional), new vehicle access on Granville Road and car parking. Member overturn desire to keep the original building and replacement building out of character. In reviewing these appeal overturns it does reflect the Governments desire to maximise housing delivery and where applications are in the balance then it appears from these decisions that the Government have a tilted balance in favour. Officer submitted a case in defence of the above overturns and as can be seen from the attached letter the Government has decided not to place Eastbourne Borough Council into Special Measures for this survey period.

- 3.4 In reviewing these appeal overturns it does reflect the Governments desire to maximise housing delivery and where applications are in the balance then it appears from these decisions that the Government have a tilted balance in favour.
- 3.5 Officer submitted a case in defence of the above overturns and as can be seen from the attached letter the Government has decided not to place Eastbourne Borough Council into Special Measures for this survey period.
- 3.6 It is important to note the content of this letter and it may result in an external peer review of the service including the operation of planning committee, but it also means that collectively we should be mindful of the potential for any refusal especially in relation to MAJOR applications could lead to an appeal and that appeal could lead to an overturn.
- 3.7 Officers will report on a regular basis the current % overturns that we have in relation to both major and non-major appeals.
- 3.8 The Table 1 below identifies the relevant decisions permutations, and it is acknowledged that the appeal volume is comparable to the levels of previous years.
- 3.9 It is considered important to review and analyse all appeal decisions across all application types as an indicator that we have applied a sound planning judgement at both delegated and planning committee level. It is considered therefore that reporting the appeal decisions in full to planning committee under a separate cover to this report will assist in understanding trends and common issues.
- 3.10 Appeal Analysis Table 1 Column 1
- 3.11 Officer recommendation for approval – Member overturned – Appeal Allowed (Officers right Members were wrong) It is important to keep a watching brief on this column as this is often the scenario where costs are awarded against the Council.
- 3.12 It is accepted that at times there are differences of opinion between officers and Members however for the appeal decisions received to date there only one case where this occurred last year.



- 3.13 Appeal Analysis Table 1 Column 2
- 3.14 Officer recommendation for approval – member overturned – appeal dismissed (Officers were wrong and Members were right) This shows that officers are not always right in the eyes of the Inspector, there no instances this year where this scenario has occurred.
- 3.15 Appeal Analysis Table 3 Column 3
- 3.16 Officer recommendation for refusal – Member support for refusal (committee or delegated) – Appeal allowed – Officers and Member were wrong. This shows that officers and Members are in tune, but the decisions have been overzealous with their recommendation and it has not been supported by the Planning Inspectorate.
- 3.17 This is also often a category where appeal costs can be awarded.
- 3.18 It is acknowledged that there are 5 appeals falling into this category within the survey period however it is important to continue to monitor as it is an indication that Officers may not be following planning policy/advice and skewing recommendations following neighbour concerns or trying to second guess the outcome of planning committee.
- 3.19 In essence it is important that officers do not shy away from making difficult recommendations especially where recommendations are in accordance with national and local advice/policies.
- 3.20 Appeal Analysis Table 4 Column 4
- 3.21 Officer recommendation for refusal – Member support for recommendation (committee or delegated decisions) – appeal refused (officers and Members were right). This column shows when Officers and Members are in tune and supported by the Planning Inspectorate. The higher the % the better, Members will note that this category is usually by far the largest, this is a reflection that the decisions that were taken were consistent with National and Local Policy advice/guidance.
- 3.22 Below in Table 1 are the analysis of the appeals received for the year 2020.

4. **Table 1**

	Officer Approve Cttee Refuse Appeal decision- Allowed	Officer Approve Cttee Refuse Appeal decision - Refused	Officer Refuse Cttee Support Refusal Appeal decision Allowed	Officer Refuse Cttee Support Refusal Appeal decision Refused
2013	7 (28%)	4 (16%)	2 (8%)	12 (48%)
2014	0 (0%)	4 (40%)	2 (20%)	4 (40%)
2015	0 (0%)	3 (21%)	2 (14%)	9 (65%)
2016	5 (18%)	1 (4%)	5 (18%)	17 (61%)
2017	0 (0%)	3(21%)	1(7%)	10(71%)
2018	0 (0%)	2(17%)	1 (8%)	9(75%)
2019	7 (33%)	1 (5%)	6 (29%)	7 (33%)
2020	1 (5%)	0 (0%)	5 (26%)	13 (69%)

#### 4.1 Appeal Costs

- 4.2 As members will be aware the appeal process can award costs to any party involved in the appeal process where it can be demonstrated that any party has acted unreasonably. During 2020 the Council have received 4 costs appeals with 2 being allowed and two being dismissed.
- 4.3 Committee Decision one costs allowed and one dismissed.
- 4.4 Delegated Decision one costs allowed and one dismissed.
- 4.5 Members should note that collectively we should strive to avoid costs claims. Legal and Planning Officers will advise members at Planning Committee (prior to making a decision where there is the likelihood of a cost claim being successful).

#### 4.6 Risk Area

- 4.7 Given the changes to the way the Government now assess what constitutes a good/well performing Council there is a very high risk of special measures on major applications being overturned at appeal.
- 4.8 To mitigate this risk case officers are encouraged to negotiate extension of time with the applicant/developer.
- 4.9 If/when an award of costs is made there is the potential for financial risk and a reputational risk and as such these must be closely monitored and where possible lessons should be drawn from these cases. In this regard the regular reporting on appeal decisions to planning committee should help to inform this issue.

### 5. **Planning Applications**

- 5.1 Given the new 'Non-Performing' special measure thresholds referred to above it is clear therefore that there remains the need for (quarterly) reporting of performance to Planning Committee so that issues, trends and pressures can readily be identified and dismissed. This report delivers to this aim.
- 5.2 The figures in Tables 1 – 2 below include the data from the Government return (currently excludes 'Notifications Prior Approvals and Certificates of Lawful development, trees and pre application submission). It is accepted that the Government have changed the content of the data that is analysed; however, this data is reported here to give the year of year comparison.

Decisions	2014	2015	2016	2017	2018	2019	2020
All determined	596	545	569	598	531	499	475
Delegated	521 (87%)	472 (87%)	505 (89%)	559 (93%)	478 (90%)	478 (96%)	450 (95%)
Granted	546 (92%)	488 (90%)	515 (91%)	544 (91%)	487 (92%)	426 (85%)	429 (90%)
Refused	50 (8%)	57 (10%)	54 (10%)	54 (9%)	49 (9%)	73 (15%)	46 (10%)

- 5.3 There are two broad conclusions that can be drawn from the above set of figures and these are that the declining number of determinations may be due to the Government expanding the permitted development tolerances; these types of submissions are not reported here and that the approval rate is consistently around 90%.
- 5.4 It is important to retain this approval rating at 90% as this is a key way to support the local construction and employment sector. It is known that most of the applications that were received relate to domestic extensions and these are constructed by local SME's.

## 6. **Recommendation**

- 6.1 That the content of this report and its appendix are noted.

## 7. **Appendices**

Appendix 1 - Summary of appeal decisions in 2020.

Appendix 2 - Ministry of Communities Housing and Local Government letter with respect to Special Measures.

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## Appendix 1 – Summary of Appeal Decisions 2020

### Key to Appeals Reporting:

**Method of decision**  
**Appeal method**  
**A**  
**B**

See Authority label to see if Delegated or Committee Decision  
 All are through written representations unless otherwise specified  
 Allowed  
 Dismissed

### Planning Appeals:

Planning Application No	Authority	Site	Description of Development	Decision
190437	Delegated	8 Chiswick Place, Eastbourne	Demolition of existing single storey garage and construction of a two storey house	<b>A.</b> 03 January 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>• The site is located within the Eastbourne Town Centre and Seafront Conservation Area (the Conservation Area), at a point where the predominantly Victorian villas of the seafront, including Chiswick Place, give way to the more varied mix of properties of a range of ages on Blackwater Road, which are outside the Conservation Area.</li> <li>• The proposed dwelling would be of a contemporary design deliberately not copying the architectural style of either No. 8 or No. 27 which I consider to be an honest approach. Given the variety of architectural styles along Blackwater Road, I do not consider that it would be a discordant feature in the street scene. Although the design has given rise to some objections by third parties, I consider the design to be acceptable in this context, a view I note is shared by the Council.</li> <li>• I therefore conclude that the proposed development would not be harmful to and thus would preserve the character and appearance of the Conservation Area. Consequently, I find no conflict in this respect with Policies D10 and D10A of the</li> </ul>				

Eastbourne Core Strategy Local Plan (2013) I also find no conflict in this respect with paragraph 193 of the Framework regarding designated heritage assets.

- I therefore conclude that the proposed development would not be harmful to the setting of the listed building and would thus preserve that setting. In this respect, the proposed development would not conflict with paragraph 193 of the Framework as regards development affecting the significance of a designated heritage asset.
- The Council acknowledges that it is unable to demonstrate a 5-year supply of deliverable housing sites as required by paragraph 73 of the Framework. From the evidence before me, as at 1 October 2018, the Council could only demonstrate 1.57 years' supply. Therefore, in accordance with footnote 7 of the Framework, the most important policies for determining the application are out-of-date and clause d) of paragraph 11 of the Framework is engaged.
- Under this clause permission should be granted unless either the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- The proposed development would result in the loss of off-road parking spaces. However, from the evidence before me, the garage and hardstanding are currently used by a third party not associated with any of the surrounding properties. Accordingly, the loss of the appeal site would not create a demand for additional parking in the vicinity. Even if it did, I have no persuasive evidence that this would be harmful to highway safety or the living conditions of the occupiers of surrounding dwellings. The appeal site is within walking and cycling distance of a range of facilities and services in the town centre and the proposals include a cycle storage facility. There is thus the opportunity for the proposed development to be car free.
- In response to the other concerns raised, as the site currently accommodates a garage and hardstanding, the proposed development would not result in the loss of any garden area for No. 8 or any other property. I have no evidence that the appeal site is of particular archaeological interest. The attachment of the proposed dwelling to No. 27 and potential damage to the existing walls would be private matters between the parties involved and are outside the scope of this appeal. The granting of permission for this development would not set a precedent for further development in the rear gardens of 2 – 7 Chiswick Place as the site before me is previously-developed land with a road frontage, which differentiates it from these rear gardens.

Planning Application No	Authority	Site	Description of Development	Decision
190437	Delegated	8 Chiswick Place	Costs Decision	<b>D.</b> 03 January 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>Following the refusal of the application and in full knowledge of the Council's concerns, it was the applicant's decision to submit an appeal. Parties in planning appeals are normally expected to meet their own expenses.</li> </ul> <p>Conclusion</p> <ul style="list-style-type: none"> <li>I therefore find, for the reasons given above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in this appeal.</li> <li>The application for the award of costs is therefore refused.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
190843 Enf: 123178	Delegated	26 Mountbatten Drive	Fence erected without planning permission	<b>D.</b> 20 January 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>I note that since the enforcement notice was issued, a regularising planning application was submitted to the Council (PC/190648) to retain the fence. This application was refused on 22 October 2019. I have had regard to this decision and the Council's reasons for issuing the notice. I therefore consider that the main issue is the effect of the development on the character and appearance of the area.</li> <li>I acknowledge that the fence has been provided to give some privacy and security for the owner's pets. However, the height and design of the fence, together with the materials used and its proximity to the highway, results in an overly stark, dominant and incongruous feature, that is significantly at odds with the open and spacious character of the surrounding area.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
180068	Delegated	2 Old Camp Road	Application for a Lawful Development Certificate for use of land to station a mobile home/annexe for use incidental to the main dwelling house.	<b>A.</b> 06 February 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>The appeal property is a substantial detached house with a generous garden in a residential road in Eastbourne. The appellants consist of an elderly couple who presently live in the main house and their daughter and her husband. They are hoping to have a 'twin unit' mobile home stationed in the rear garden of the property to provide annexe accommodation for the older couple.</li> <li>They state that the couple using the mobile home will be cared for and supported by their daughter and son-in-law and, whilst sleeping in the annexe, will still use the main house for meals, laundry facilities and socialising as a family. This arrangement would mean that the use of the site would remain as a single dwellinghouse, with the mobile home providing ancillary accommodation.</li> </ul> <p>Conclusion:</p> <ul style="list-style-type: none"> <li>For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the stationing of a mobile home/annexe for use incidental to the main dwelling house was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
190391	Delegated	126 Seaside Road	Replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display	<b>A.</b> 27 February 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>That the proposed advertisement would not cause undue harm to amenity. Subject to the imposition of appropriate conditions, a grant of express consent is justified.</li> </ul>				



Planning Application No	Authority	Site	Description of Development	Decision
190744	Delegated	4 North Street	Proposed Second Floor	<b>D.</b> 13 March 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>North Street is a narrow street close to the town centre of Eastbourne. It comprises a mix of commercial and residential uses within an eclectic mix of buildings. Commercial buildings, which immediately abut the footway and appear to be 3 and 4 storeys in height, almost completely enclose its western side.</li> <li>That the proposal would not result in any harmful loss of light, outlook or privacy for adjoining occupiers. Neither of the policies cited in the Council's decision notice specifically address living conditions, so are not relevant to my assessment of the scheme in respect of this issue. However, I am satisfied that the scheme accords with the Framework's objective of ensuring a good standard of amenity for existing and future users.</li> <li>The proposal would provide additional floorspace for the business thereby providing economic benefits through the ongoing commercial use of the building. I have also found that there would be no harm to the living conditions of neighbours. These factors weigh in favour of the scheme.</li> <li>The design of the extension would be harmful to the appearance of the building, arising from the size of the windows proposed on the front elevation.</li> <li>The economic benefits arising from the scheme would be outweighed by the permanent harm to the appearance of the building. For this reason, I conclude that the appeal should be dismissed.</li> </ul>				

Appeal Reference	Authority	Site	Description	Decision
190264	Committee	Glebe Cottage, 4 Grassington Road	Demolition of existing dwelling. Proposed 16N° block of flats with associated parking to rear.	<b>D.</b> 20 March 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>No 4 is a two-storey dwelling of simple design in a good-sized plot. The rear garden is laid to lawn and there are significant gaps between the house and the shared boundaries with No 6, the adjacent pair of semis to the south, and Saffron Meads a 5-storey apartment block immediately to the north.</li> </ul>				

- The proposed building would be of a contemporary design and 5-storeys high. The gable ended elements to the front and rear elevations would reflect similar features on both original and more modern nearby buildings. The ridge height would be similar albeit marginally smaller, than Saffron Meads, while the outer edge of the gable would approximately align with the ridge of No 6. This would help to integrate the increased height of the building into the street scene.
- On the other hand, I have found that the scheme would harm the area's character and appearance and the living conditions of neighbours would be adversely affected. These are factors which weigh significantly against the scheme, particularly as the area has been identified as one of High Townscape Value.
- This leads me to conclude that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply in this case.
- I have found that the scheme conflicts with the development plan and there are no other considerations, including the advice of the Framework, which outweigh that conflict.
- For this reason, I conclude that the appeal should be dismissed.

Planning Application No.	Authority	Site	Description of Development	Decision
190264 Costs	Committee	Glebe Cottage, 4 Grassington Road	Demolition of existing dwelling. Proposed 16N° block of flats with associated parking to rear.	<b>D.</b> 20 March 2020

#### Inspector's Reasoning

- I therefore conclude that while the Council could have relied on conditions to address the drainage and should have undertaken the balance required by Paragraph 11(d) of the Framework, it did not behave unreasonably in refusing the scheme. I have found that the decision did not prevent or delay development which should have been permitted, neither did it result in any unnecessary expense for the appellant in the appeal process. It therefore follows that no award of costs is justified.

Planning Application No	Authority	Site	Description of Development	Decision
190096	Delegated	St Lukes Reformed Church, Elm Grove	Variation of approved plans and removal of condition 5 (Retention of wall) of planning reference EB/2006/0752 (Appeal reference APP/T1410/A/07/2033878)	<b>A.</b> 03 April 2020

#### Inspector's Reasoning

- The application sought to remove condition 5 which provides for retention of the front boundary wall, in order that the appellant can demolish it. It is clear from the application form that the application also sought minor material amendments to the approved scheme to form parking spaces and associated vehicular accesses at the front of the site, albeit that as the 'plans' condition was un-numbered it was not listed on the application form. At the time of my site visit the front wall remained in place and no parking or access had been formed.
- The removal of the front boundary wall would not harm the character and appearance of the area, discourage use of non-motorised travel or harm the living conditions of neighbours and would not conflict with national or local policies on these matters. Condition 5 of the original permission is therefore not necessary and, in this respect, the appeal is allowed.
- The proposed amendments to the development to form car parking and vehicular access in the configuration proposed would however result in an unacceptable impact on highway safety and conflict with the Framework. This harm would not be outweighed by any other consideration, including the benefits of the proposal. Therefore, I conclude that in this respect the appeal should not succeed. For the avoidance of doubt therefore, the plans condition remains unchanged.

Planning Application No	Authority	Site	Description of Development	Decision
190603	Delegated	Land Adjacent to 45 Desmond Road	Re-application (ref: 180765) for partial demolition & change of use to create 1 no one bedroom residential unit	<b>D.</b> 08 June 2020

#### Inspector's Reasoning

- The proposed dwelling would provide 57m<sup>2</sup> of internal floor area and would therefore fall 1m<sup>2</sup> under the requirement of the Nationally Described Space Standards (amended May 2016) for a one-bedroom dwelling situated over two-storeys. The rectangular shape to the building would enable a satisfactory internal layout otherwise. The minor shortfall would not significantly impact on living conditions for future occupiers.

- The shortfall in internal floor area and the absence of external amenity space and cycle storage facilities would result in only limited harm for occupiers of the proposed dwelling. There would not be conflict with Policy HO20 of the EBP which relates primarily to the residential amenity of adjoining occupiers and no significant conflict with Policies UHT1 and TR2 of the EBP or with Policy D10a of the ECS in relation to the design of new development and managing travel demands.
- The Council cannot demonstrate a five-year supply of deliverable housing sites. It also has a poor recent track record of delivering new housing. Its Housing Delivery Test (HDT) result published in early 2020 shows just 38% of housing required by targets being delivered in the previous three years. The paucity of the Council's current housing provision is such that the presumption in favour of sustainable development applies. Footnote 7 to Paragraph 11 of the Framework makes this clear. As such, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
- Having regard to the Government's objective to significantly boost the supply of homes set out at Paragraph 59 of the Framework, and the persistent recent under supply of housing in Eastbourne, housing need is a matter that attracts significant weight in favour of the proposal in the overall planning balance.
- The site is in a sustainable, urban location reasonably close to services and to public transport options. The proposal would result in the benefit of an additional dwelling in such a location. This would make a small contribution to helping the Council meet the local need for additional housing. The limited harm arising from the shortfall in floor area against national standards and the absence of external amenity space and a dedicated cycle storage space would not outweigh the benefit arising from the proposal.
- But the development would result in just one small dwelling in relation to overall housing need. The adverse impacts arising from the proposal would be long-term. In my judgement, the harm arising in relation to its impact on the character and appearance of the area and on the living conditions of the occupiers of adjacent dwellings would significantly and demonstrably outweigh the benefit arising from this single additional dwelling.

Planning Application No	Authority	Site	Description of Development	Decision
181049	Delegated	10 Wallis Place	Proposed erection of 3 bed chalet bungalow on land at 10 Wallis Place with 2no off road parking spaces accessed via St Anthonys Avenue.	<b>D.</b> 30 June 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>Whilst I do not find harm in relation to highway safety or living conditions, the lack of harm in these regards are neutral factors which therefore do not outweigh my finding in respect of the harm to the character and appearance of the area.</li> <li>I note the social, economic and environmental benefits of the provision of a new dwelling including economic benefits during construction, additional spend by future occupiers, provision of housing in an accessible location and the development of an under-utilised area. It is also put to me that the site is available now. However, given the size of the development, a single dwelling, these benefits are limited in their scale.</li> <li>The Council cannot demonstrate a five-year housing land supply and the Housing Delivery Test results indicate that the presumption in favour of sustainable development contained within the Framework will apply. However, the identified permanent and public harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposed development discussed above.</li> <li>The proposal would not accord with the development plan and there are no material considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons set out above, this appeal is dismissed.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
181049 Costs Decision	Delegated	10 Wallis Avenue	Proposed erection of 3 bed chalet bungalow on land at 10 Wallis Place with 2no off road parking spaces accessed via St Anthonys Avenue.	<b>A.</b> 30 June 2020
<b>Inspector's Reasoning</b> <ul style="list-style-type: none"> <li>I reach the conclusion that the development should not clearly have been permitted and therefore the appeal would be required in any case. However, the reasons for refusal relating to highway safety were unreasonable, and the appellant has experienced wasted expense in defending these reasons for refusal at appeal.</li> </ul>				

- I therefore find that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.
- 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 the Council of Eastbourne Borough Council shall pay to Mr Colin Dowding & Mrs Joanne Shave, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against reasons for refusal 4 and 5 relating to highway safety.
- The applicant is now invited to submit to the Council of 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.

Planning Application No	Authority	Site	Description of Development	Decision
190787	Delegated	16 Dene Drive	Retrospective application for retention of fencing and decking erected to the rear of the host dwelling.	<b>D.</b> 07 July 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>• While the development does not harm the character or the appearance of the area and it makes garden maintenance easier, this does not outweigh the harm identified to the privacy of surrounding occupiers. For the reasons given above, I conclude that the appeal should be dismissed.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
200078	Delegated	93 Percival Road	Retrospective application for car port and upvc windows with built in security shutters.	<b>D.</b> 16 July 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>• The main issue is whether the car port meets the standard of design sought in local and national policies, with particular regard to the effect on the street scene. Policy UHT1 of the Eastbourne Borough Plan sets out criteria that all</li> </ul>				

development is required to meet including harmonising with the appearance and character of the local environment, respecting local distinctiveness, and being appropriate in scale, form, materials (preferably locally sourced), setting, alignment and layout

- The length of time that the structure is said to have been in place and the support of local residents is acknowledged, but those considerations do not outweigh or justify the harm. The proposal does not reach the standard of design sought in national and local policy, and for the reasons given above it is concluded that the appeal should be dismissed.

Planning Application No	Authority	Site	Description of Development	Decision
200030	Delegated	7 Annington Road	Proposed Rear Conservatory	<b>D.</b> 23 July 2020

**Inspector's Reasoning**

- To conclude, the proposal does not reach the standard of design sought in national and local policy and would further diminish the quality and quantity of amenity space available on the property. For the reasons given above it is concluded that the appeal should be dismissed.

Planning Application No	Authority	Site	Description of Development	Decision
190835	Delegated	145a Ashford Road	Proposed conversion and adaptation of the existing roof space including the lifting of the existing roofline to permit the formation of 2x 1 bed and 2x 2 bed flats upon the existing footprint	<b>A.</b> 30 July 2020

**Inspector's Reasoning**

- That the limited adverse effects of the scheme would not significantly and demonstrably outweigh the moderate benefits, when assessed against the Framework as a whole. The presumption in favour of sustainable development therefore applies in this case and leads me to the view that the appeal should succeed.

- I have found only limited conflict with the development plan. However, there are other considerations, arising from the advice of the Framework, that outweigh that conflict. This leads me to conclude that the proposal is acceptable, and the appeal should be allowed, subject to conditions.

Planning Application No	Authority	Site	Description of Development	Decision
190835 Costs Decision	Delegated	145a Ashford Road	Proposed conversion and adaptation of the existing roof space including the lifting of the existing roofline to permit the formation of 2x 1 bed and 2x 2 bed flats upon the existing footprint	<b>D.</b> 30 July 2020

#### Inspector's Reasoning

- The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 appeal has given the appellant the opportunity to present additional information in support of her case. This has satisfied me that the scheme is acceptable and should be allowed. The expenses incurred in presenting her case have therefore not been wasted.
- I therefore find that although the Council acted unreasonably in failing to undertake the balancing exercise required by Paragraph 11(d)(ii) of the Framework, the appellant has not incurred unnecessary or wasted expense in the appeal process.
- The application for costs is therefore refused.



Planning Application No	Authority	Site	Description of Development	Decision
190624 & 200177	Committee	Land at Shortdean Place	Re-development of site to form 3 no. residential dwellings.  Revised outline application for 2no two bed detached houses with all matters reserved.	<b>D.</b>  30 July 2020
<p><b>Inspector's Reasoning</b></p> <ul style="list-style-type: none"> <li>• Milton Road is characterised by good sized detached and semi-detached houses set in generously proportioned plots. Shortdean Place is an L-shaped cul-de-sac off Milton Road which serves a group of modest two-storey blocks of flats surrounded by neatly maintained areas of communal open space. At one end of the cul-de-sac is a turning area and a series of garages in a poor state of repair. The appeal site is an open area of ground to the rear of Nos 71 and 73, part of which was occupied by 2 garages that have been removed.</li> <li>• There have been several previous attempts to secure permission for residential development on the site, all of which have been dismissed on appeal<sup>1</sup>. The most recent of these was in 2008 when a scheme for a terrace of 3 two-storey houses was rejected. However, the appeal site now includes 25% more land and all the earlier schemes would have been assessed under different planning policies. These previous decisions therefore have little bearing on my assessment of the current proposals.</li> <li>• That Appeal A would result in significant harm to the character and appearance of the area, arising from its cramped layout and would also be harmful to the living conditions of occupants of nearby dwellings. These adverse impacts would significantly and demonstrably outweigh the limited benefits associated with 3 houses. The presumption in favour of sustainable development therefore does not apply to Appeal A.</li> <li>• In relation to Appeal B, with its more spacious layout, I have concluded it would cause only limited harm to the local environment, but given the lack of detail associated with an outline application, I could not be certain that the privacy of neighbours would be not harmed. In these circumstances, although more finely balanced, I consider that the collective adverse impacts would significantly and demonstrably outweigh the social and economic benefits of two additional homes. The presumption in favour of sustainable development therefore does not apply.</li> <li>• That both schemes would conflict with the development plan and there are no other considerations, including the advice of the Framework and the acute shortfall of housing supply in Eastbourne, that outweigh that conflict. I therefore conclude that both appeals should be dismissed.</li> </ul>				

Appeal Reference	Authority	Site	Description	Decision
200246	Committee	Land South of Langney Shopping Centre and West of Langney Rise	Application for variation of condition 3 (Drawings) and 22 (Ground Contaminated Risk assessment) and removal of condition 17 (Internal Layout) and following grant 14/02/2020 for Proposed development of 9 houses(PC/190668)	<b>A.</b> 10 September 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>• The permitted scheme is for 9 units each with 2 bedrooms, one double and one single, and the effect of the changes sought would be to provide a 'home office' in 5 of the units (numbers 1, 6, 7, 8 and 9) by effectively sub-dividing the single bedroom, through the substitution of drawings 2C and 4C for the equivalent revision B drawings listed in condition 3). It is argued that condition 17) is no reasonable and should not have been attached in the first place.</li> <li>• The Standards require 70m<sup>2</sup> gross internal floor area for a 2-bedroom 3-person unit, and this total is exceeded by 8m<sup>2</sup> in units 1 and 6, and by 12m<sup>2</sup> in units 7 – 9. As permitted, the single bedrooms in units 1 and 6 exceed the 7.5m<sup>2</sup> Standard, being 9.3m<sup>2</sup>, while those in units 7 to 9 are 9.8m<sup>2</sup>, a slightly greater excess. Both unit types would have that bedroom reduced to a new figure of 8.0m<sup>2</sup> and 8.3m<sup>2</sup> respectively which is still in excess of the Standard. The concern is that a 'home office' of a stated 5.4m<sup>2</sup> would be used as a sub-standard single bedroom and would therefore turn the dwellings into 3- bedroom 4-person units which would not be in accordance with the Standards' requirement of 84m<sup>2</sup>.</li> <li>• The Council do not claim that the over-sized single bedrooms would risk being double occupancy, and the existing conditions would not appear to prevent that, only subdivision.</li> <li>• In the event the advantages of a home office have taken on a greater significance during the early stages of the Covid-19 pandemic through the Government's advice to work from home where possible. That advice has recently changed and there is concern as to the effect continued working from home is having on the town and city centre economy, through lack of trade for service providers.</li> <li>• Nevertheless, Government policy includes reducing the need to travel in order to reduce congestion and emissions with a resulting improvement in air quality and public health. In a house with an open plan living/dining/kitchen on the ground floor, the provision of a room separated from those used for sleeping is particularly useful. It allows access to all members of the family for hobbies or homework as well as working from home. Limited weight is attached to the Council's view that a home office is not essential, and it can add to the quality of life of occupiers.</li> <li>• Taking all of the above into consideration, the risks of the units becoming, in effect, 3-bedroom 4-person units, has been designed-out by reducing the size of the single bedroom and by the small size of the home office. In any event, on the figures</li> </ul>				

provided, the harm that is sought to be avoided is a difference between the Standard 84m2 and the stated actual of 82m2 in units 7 – 9, although the shortfall is more in units 1 and 6.

- The conclusion is that the substitution of drawings GEG/1011/2C and 4C in a revised condition 3) would not cause harm and would accord with the tests in the Framework and Guidance;
- For the reasons given above it is concluded that the appeal should succeed. A new planning permission is granted substituting the revised conditions referred to above, and deleting 17), and restating those undisputed conditions that are still subsisting and capable of taking effect. For clarity, the original numbering is retained with 17) not used.

Planning Application No	Authority	Site	Description of Development	Decision
200246  Costs	Committee	Land South of Langney Shopping Centre and West of Langney Rise	Application for variation of condition 3 (Drawings) and 22 (Ground Contaminated Risk assessment) and removal of condition 17 (Internal Layout) and following grant 14/02/2020 for Proposed development of 9 houses (PC/190668)	<b>A.</b> 10 September 2020

**Inspector’s Reasoning**

- Had a robust consideration of the issues been applied, there would not have been a need for an appeal.
- I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.
- 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 Goldeneye Group, the costs of the appeal proceedings; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Planning Application No	Authority	Site	Description of Development	Decision
190827	Delegated	158 Bridgemere Road	Proposed erection of one bedroom attached dwelling	<b>D.</b> 28 September 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>The Council accept that they are unable to demonstrate the required 5-year supply of housing land and the tilted balance in paragraph 11 of the Framework is therefore engaged. The principle of a new dwelling in this location is not disputed, and the visual effect is acceptable, while concerns over parking and access are not a reason to dismiss the appeal on the information provided. However, the shape and size of the site appears to have determined the need for a rear projection that would cause an unacceptable loss of outlook and a sense of enclosure to the occupiers of number 158.</li> <li>That failing in the quality of the design has an adverse impact that would significantly outweigh the benefits of the proposal when assessed against the design aims stated in the Framework, and as demonstrated in the Reasons to this Decision. It is concluded that the appeal should be dismissed.</li> </ul>				

Planning Application No	Authority	Site	Description of Development	Decision
190500	Delegated	1 Elmwood Close	Outline application for residential development of land requesting consideration of access and scale	<b>D.</b> 22 October 2020
<b>Inspector's Reasoning</b>				
<ul style="list-style-type: none"> <li>The proposal would deliver 3 additional dwellings, making a small contribution to housing supply. The site is close to facilities and services, some of which are within walking distance. The development would make efficient use of land and could be delivered quickly. There is therefore no objection in principle to a residential development on the site. The Framework (paragraph 68) is supportive of such developments, stating that great weight should be given to the benefits of using suitable sites within existing settlements. The associated social and economic benefits therefore attract moderate weight in view of the acute shortage of housing.</li> </ul>				

- The proposal would not prejudice highway safety and would be capable of providing sufficient parking for vehicles and bikes. The scheme therefore complies with the Framework's approach of providing safe access for all users and opportunities for choice of travel mode. These matters are therefore neutral in the balance.
- However, the Framework also seeks to achieve well-designed places where development is sympathetic to local character and adds to the overall quality of the area. I have found that the proposal would cause considerable harm to the character and appearance of the area. It would therefore fail to comply with the Framework in this respect. This is a matter to which I attach very significant weight.
- In my view this adverse impact significantly and demonstrably outweighs the moderate benefits associated with the scheme, when assessed against the Framework as a whole. The presumption in favour of sustainable development therefore does not apply in this case.
- I have found that the proposal conflicts with the development plan. There are no other considerations, including the advice of the Framework, that outweigh that conflict.
- For this reason, the appeal is dismissed.

Planning Application No	Authority	Site	Description of Development	Decision
200098	Delegated	11 Okehurst Road	Loft Conversion with rear dormer	<b>D.</b> 29 October 2020

#### Inspector's Reasoning

- Furthermore, the gradient of the road is such that the full depth and width of the extension would be visible from many of the gardens to the rear and side of No 11. Consequently, I conclude that the proposal would be highly prominent in this location and incongruous with the character and appearance of the area.
- Accordingly, the proposal is contrary to Policies D10a, B2 and saved Policies UHT1 and UHT2 of the Eastbourne Core Strategy Local Plan 2013, which say, amongst other things, that development must create an attractive, safe and clean built environment with a sense of place that is distinctive and reflects local character.
- For similar reasons, the proposal does not meet the aims of Paragraph 127 (c) of the *National Planning Policy Framework* which says, that developments must be sympathetic to local character and history, including the surrounding built environment and landscape setting.

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Ministry of Housing,  
Communities &  
Local Government

Rt Hon Christopher Pincher MP  
Minister for Housing

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Rob Cotrill  
Chief Executive  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW

902 November 2020

*Dear Mr Cotrill,*

**Local planning authorities that may be liable for designation under section 62A of the Town and Country Planning Act 1990 – decision**

A strongly performing planning system is a crucial part of delivering on our commitment to increasing housing supply and local planning authorities play a key role in enabling development through an efficient planning service. We introduced the planning performance regime in order to ensure that all authorities are fairly contributing to this objective and that those requiring performance improvements can be given access to appropriate guidance and support.

In considering whether or not your authority should be designated against performance for quality of decision-making in the 2020 designation period I have considered the exceptional circumstances your authority has submitted. I have recognised the events that have triggered performance above the threshold, the actions taken to improve performance, the upward performance trajectories achieved and the plans you have put in place to ensure improvement will continue. On this basis I have decided not to designate your authority.

Whilst no further action will be taken at this time, we continue to monitor the performance of all local authorities and this decision does not preclude the potential for further action should the performance of your local authority fail to meet the required thresholds. I would strongly encourage you to continue to peer review your performance and make use of the support offered by the Planning Advisory Service.

Should you have any questions arising from this letter, please contact Stephen Gee ([stephen.gee@communities.gov.uk](mailto:stephen.gee@communities.gov.uk)) or Fionnuala Wolff ([fionnuala.wolff@communities.gov.uk](mailto:fionnuala.wolff@communities.gov.uk)).

*Yours Sincerely,*  
*Christopher Pincher*

RT HON CHRISTOPHER PINCHER MP

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