

Planning Committee

22 February 2022



Working in partnership with **Eastbourne Homes**

Time and venue:

6.00 pm in the Shackleton Hall, Welcome Building, Devonshire Quarter, Compton Street, Eastbourne BN21 4BP

This meeting is open to the public to attend. We recommend that you wear a face covering (unless medically exempt), observe social distancing. Priority seating will be given to speakers. All attendees are also recommended to take a lateral flow test before attending a meeting.

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, 14 February 2022

Agenda

- 1 **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 25 January 2022 (Pages 5 - 8)**
- 5 **Urgent items of business.**

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.
- 6 **Right to address the meeting/order of business.**

The Chairman to report any requests received to address the Committee from a member of the public or from a Councillor in respect of planning applications/items listed and that these applications/items are taken at the commencement of the meeting.
- 7 **20 Upperton Road. ID: 210647 (Pages 9 - 20)**
- 8 **80 Firle Road. ID: 210482 (Pages 21 - 30)**

9 Land off Brede Close. ID: 210995 (Pages 31 - 42)

10 Date of next meeting

To note the next meeting of the Planning Committee is scheduled to be held on Tuesday, 22 March 2022.

Information for the public

Accessibility:

Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

Filming/Recording:

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

Speaking at Planning

Registering your interest to speak on Planning Applications

If you wish to address the Committee regarding a planning application, you need to register your interest by emailing committees@lewes-eastbourne.gov.uk **by 12 noon on Friday 18th February**. Requests made beyond this date cannot normally be accepted. Please provide your name, address and contact number, the application number and the proposed development to which it refers. You need to make clear whether you wish to speak in favour or against the application and your relationship to the site. Please also let us know if you wish for your speech to be read out on your behalf.

The Public Speaking Scheme rules place a limit on the numbers of public speeches allowed and time allotted apply. So up to 2 members of the public can speak (up to 1 objector and 1 supporter) on a first come first served basis and that one person can act as spokesperson for a group. In addition, the ward member will be allowed to speak. Anyone who asks to speak after someone else has registered an interest will be put in touch with the first person, or local ward Councillor, to enable a spokesperson to be selected. Those who are successful, will receive an email to formally confirm their request to speak has been granted. The speech should take no longer than 3 minutes (which is approximately 500 words).

Please note:

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

You should arrive at the Town Hall at least 15 minutes before the start of the meeting and will be advised which microphone to use.

The Chair will announce the application and invite officers to make a brief summary of the planning issues.

The Chair will then invite speakers to the meeting table to address the Committee in the following order:

- Objector
- Supporter
- Ward Councillor(s)

The objector, supporter or applicant can only be heard once on any application, unless it is in response to a question from the Committee. Objectors are not able to take any further part in the debate.

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).

Councillor right of address:

Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

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Working in partnership with **Eastbourne Homes**

Planning Committee

Minutes of meeting held in The Welcome Building, Devonshire Quarter, Compton Street, Eastbourne, BN21 4BP on 25 January 2022 at 6.00 pm.

Present:

Councillor Jim Murray (Chair).

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

Officers in attendance:

Neil Collins (Senior Specialist Advisor for Planning), Leigh Palmer (Head of Planning First), James Smith (Specialist Advisor for Planning), Joanne Stone (Lawyer, Planning), and Emily Horne (Committee Officer)

64 Introductions

Members of the Committee and Officers present introduced themselves to all those who were present during the meeting.

65 Apologies for absence and notification of substitute members

Apologies had been received from Councillor Taylor. Councillor Metcalfe MBE confirmed that he was acting as substitute for Councillor Taylor.

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

There were none.

67 Minutes of the meeting held on 14 December 2021

The minutes of the meeting held on 14 December 2021 were submitted and approved as a correct record, and the Chair was authorised to sign them.

68 Urgent items of business.

There were no urgent items. An officer addendum, however, was circulated to the Committee prior to the start of the meeting, updating the main reports on the agenda with any late information (a copy of which was published on the Council's website).

69 17 Old Camp Road. ID: 210536

Erection of 3no dwellings consisting of 1no 4X bedroom two storey dwelling with detached double garage. 2no 3X bedroom bungalow with detached garage. Formation of parking, landscaping and vehicle entrance new vehicular access. AMENDED DESCRIPTION/PLANS - 1 x bungalow removed, and width of Plot 1 dwelling reduced – **OLD TOWN**

The Specialist Advisor (Planning) presented the report.

The Committee was advised by way of an Addendum of no further updates following competition of the officer's report.

The Chair exercised his discretion in allowing additional speakers to speak for and against the application, whilst giving equal speaking time to both sides to ensure natural justice.

Sara Spratt (resident) addressed the Committee in objection to the application. Mr Mike Farrell (Architect) spoke in support of the application. Mr Paul Muir (Applicant) also spoke in support of the application. A written representation was read aloud by the Head of Planning First on behalf of Councillor Dow (Ward Councillor) in objection to the application.

Members discussed the proposal and expressed strong concerns regarding the clearance works, biodiversity impact, loss of garden space, vehicular access, overdevelopment and precedent for applications.

The Committee sought clarification on various points: garden grabbing, precedent for other applications and access for refuse and emergency service vehicles.

The Specialist Advisor (Planning) referred to the NPPF and informed the Committee that the development of garden land was not prohibited but was stringently controlled. A significant amount of garden space could be retained to ensure biodiversity gain was delivered. The application was considered on its own merits. Refuse lorries would remain on Old Camp Road whilst personnel would collect the bins. Access by East Sussex Fire and Rescue Service would be addressed at the Building Regulation stage.

Councillor Diplock proposed a motion to refuse the application against the Officers' recommendation. This was seconded by Councillor Lamb and was carried.

RESOLVED: by (7 votes to 1 against) that Planning Permission be refused for the following reasons:

1. The proposed development would be unsympathetic towards the established character of the surrounding area; particularly as a consequence of the backland positioning of the bungalows which result in the loss of green space towards the rear of the site. It is therefore in conflict with saved policies UHT1, UHT4, UHT5 and UHT7 of the

Eastbourne Borough Plan, policies B2, D1 and D9 of the Eastbourne Borough Plan and paragraphs 124 and 130 of the NPPF.

2. The submitted scheme fails to demonstrate that biodiversity net gain can be achieved within the site and is therefore in conflict with saved policies NE22 and NE28 of the Eastbourne Borough Plan, policies B2, D1 and D9 of the Eastbourne Core Strategy and paragraphs 174 and 180 of the NPPF.

70 Langney Shopping Centre Market, Langney Shopping Centre, 64 Kingfisher Drive. ID: 210303 and 210304

210303 - Retrospective Installation of modular retail windscreen fitting and repair kiosk to existing retail car park.

210304 - Retrospective application for display of eight non-illuminated adverts - **LANGNEY**

The Senior Specialist Advisor (Planning) presented the report.

The Committee was advised by way of an Addendum of no further updates following completion of the officer's report.

The Committee was advised that noise from plant being used at the site has now ceased following mains power connection and that a condition of permission would require the prior consent of the details of any plant and/or machinery introduced to the site at a later date.

The Committee's attention was drawn to an extant permission for a tyre fitting use (including land within the application site), which was granted at appeal following the Council's refusal. If approved, this application could not be implemented alongside the extant without revision to one/both scheme/s.

The Committee raised some concerns regarding the retrospective application, loss of car parking spaces and excessive number of illuminated adverts, but welcomed the business into the area.

210303 – Full Planning Permission

Councillor Vaughan proposed a motion to approve the application in line with the officer's recommendation. This was seconded by Councillor Miah and was carried.

RESOLVED: (unanimously) that Planning permission be approved subject to the conditions set out in the officer's report.

210304 – Advertisement Consent

Councillor Vaughan proposed a motion to approve the application in line with the Officers' recommendation. This was seconded by Councillor Miah and was carried.

RESOLVED: (unanimously) that Advertisement Consent be approved subject to the conditions set out in the officer's report.

71 Date of next meeting

It was noted that the next meeting of the Planning Committee was scheduled to commence at 6:00pm on Tuesday, 22 February 2022.

The meeting ended at 7.08 pm

Councillor Jim Murray (Chair)

Agenda Item 7

Report to: Planning Committee
Date: 22 February 2022
Application No: 210647
Location: 20 Upperton Road, Eastbourne
Proposal: Application for variation of conditions 2 (approved plans), 3 (external materials), 4 and 5 (vehicular access) following grant of planning permissions 170868 and 180829 to allow for revised design, layout, access and parking arrangements and external finishing to the approved development.

Applicant: Project Eastbourne Ltd
Ward: Upperton

Recommendation: Approve Conditionally

Contact Officer: **Name:** James Smith
Post title: Specialist Advisor (Planning)
E-mail: james.smith@lewes-eastbourne.gov.uk
Telephone number: 01323 415026

Map Location:



1. **Committee Update**

- 1.1 The application was previously considered by members at the planning committee meeting held on 23 November 2021. Members voted to defer making a decision to allow the applicant to make improvements to the external appearance of the building and wider site, with reference to the approved external work which were granted planning permission under 180829.
- 1.2 The applicant has agreed to remove the timber fencing that was erected on the site frontage. Instead, the frontage would remain largely open, with landscaping providing a soft buffer, and two black masonry walls would be erected adjacent to the site access and egress points. These walls would incorporate the development name 'The Upperton' and would be finished in matt black, similar to the walls approved under 180829. It should be noted that the earlier approval for external works, 170868, did not include any walls or boundary treatment to the site frontage.
- 1.3 The applicant has also agreed to provide a flat roof overhanging porch above the main access to the building. This porch would be formed as a continuation of the existing rebate over the doorway, projecting a further 0.7 metres and it is expected that the porch would extend across the full width of the access door and side glazing panels, similar to the porch shown on plans approved under 180829.
- 1.4 Improvements to the accessibility, capacity and security of cycle parking and bin storage facilities would also be incorporated, ensuring they are consistent with ESCC Highways Guidance and Waste and Refuse Best Practice respectively as per the details shown in para 11.4, 11.5 and 11.6. A disabled parking bay would also be incorporated into the parking area to the front of the building.
- 1.5 As the amendments result from ongoing negotiations with the planning department, full plans showing the suggested revisions have not yet been produced but these will be provided prior to the committee meeting and circulated to committee members and occupants of the building.
- 1.6 Discussions among members at the November Committee meeting also referred to the provision of block paved surfacing to the front of the site. Although this surface was shown on application 180829 it is not reasonable for the Council to demand that it is provided. The external works were not a prerequisite to the conversion of the building to residential use, which was approved under 170527 and tarmac surfacing was already in place prior to the building conversion, where its presence did not appear harmful to visual amenity nor cause any issues with surface water draining into the highway. It is noted that channel drains are provided to prevent surface water run-off onto the highway.
- 1.7 Improvements to the screening/enclosure of the electricity substation to the front of the site were also discussed. These matters are ultimately dictated by the Distribution Network Operator (DNO) who install and maintain the substation and, therefore, require suitable access to be available and for necessary clearance from the substation and infrastructure above and below

ground. Screening is currently provided by landscaped planters and this is considered to be an acceptable arrangement.

- 1.8 It is important that members are aware of the remit of the planning authority in regards to this application, given there was no need for the external works to be applied for or carried out in order for the building to be converted. Attention is drawn to comments provided by the Council's legal officer in below (para. 1.9 and 1.10).
- 1.9 Legally, the committee may only consider the application before them and make their decision having regard to the development plan and all relevant material considerations. The fact that the previously approved scheme may be preferred, is not a material consideration the committee can take into account in reaching their decision. The committee are also advised that refusing the current application will not necessarily result in the previously approved scheme being built. This is because the council has no legal power to require the developer to implement or complete the previously approved scheme as on the facts of this case, this part of the development was not necessary to convert the premises into flats.
- 1.10 Equally, approving the current application would not prevent the applicant from implementing the previously approved scheme as the original permissions remain unaffected by the committee's decision. The outcome of a successful application under s.73 TCPA 1990 is the grant of a wholly new planning permission, which the applicant is entitled to implement or to ignore.
- 1.11 It is therefore considered that the applicant has put forward reasonable and effective improvements to the building frontage which are supportable in planning terms given they would enhance the appearance and accessibility of the development.

2. **Executive Summary**

- 2.1 The application has been submitted to regularise elements of the development that have not been built in accordance with the approved plans and also to allow for additional works to provide a suitable quantum of car and cycle parking spaces.
- 2.2 Provided the proposed works are carried out in a timely manner, it is considered that the alterations to the approved development would provide suitable degree of functional infrastructure and would not detract from visual amenities or the character of the surrounding area.
- 2.3 It is therefore recommended that the application is approved subject to additional conditions to secure a time scale for necessary alterations to be made.

3. **Relevant Planning Policies**

- 3.1 National Planning Policy Framework 2021
 2. Achieving sustainable development
 4. Decision making

- 5. Delivering a sufficient supply of homes
- 12. Achieving well-designed places
- 3.2 Eastbourne Core Strategy Local Plan 2006-2027:
 - B1: Spatial Development Strategy and Distribution
 - B2: Creating Sustainable Neighbourhoods
 - C2: Upperton Neighbourhood Policy
 - D1: Sustainable Development
 - D5: Housing
 - D8: Sustainable Transport
 - D10a: Design
- 3.3 Eastbourne Borough Plan 2001-2011:
 - UHT1: Design of New Development
 - UHT4: Visual Amenity
 - UHT5: Protecting Walls/Landscape Features
 - UHT7: Landscaping
 - UHT15: Protection of Conservation Areas
 - HO1: Residential Development Within the Existing Built-up Area
 - HO2: Predominantly Residential Areas
 - HO20: Residential Amenity
 - TR6: Facilities for Cyclists
 - TR7: Provision for Pedestrians
 - TR11: Car Parking

4. **Site Description**

- 4.1 The site is occupied by a free-standing 6-storey building that was constructed as an office block (East Sussex Fire & Rescue) but has recently been converted to residential use, with 73 apartments being formed (35 x 1 bed, 28 x 2 bed) following the granting of prior approval under application 170527.
- 4.2 The building is set back from Upperton Road and a hard-surfaced parking area is positioned to the front, with separate in/out access/egress from Upperton Road. Additional parking is provided to the rear of the building at ground floor level and within a basement level. This parking is accessed via Upperton Lane which runs to the rear of the site.
- 4.3 The conversion of the building has largely been achieved through internal works but planning permission was granted under 170868 to allow for the formation of balconies, replacement of windows, provision of a canopy over the main entrance to the building, provision of bin and cycle stores and tank

room and site landscaping (including a boundary wall to the front of the site). The approved details were then amended under application 180829.

4.4 The completed development is not fully in accordance with the details that were approved. A full list of the divergence from the approved plans (relevant to planning legislation) will be provided in section 5 of this report.

4.5 The site is in a prominent position alongside Upperton Road which provides a main route into the centre of Eastbourne. Surrounding development includes a mix of uses and building designs and scales. There are several multi-storey buildings on the northern side of Upperton Road which are in use as office blocks or flats whilst the southern side is flanked by more domestic scale dwellings that are also typically older.

5. Relevant Planning History

5.1 170527 - Change of use from Office Building, Class use B1(a) to Residential (use class C3). Comprising of 73 apartments (35 x 1 Bedroom units and 38 x 2 Bedroom Units) – Prior Approval Granted 8th May 2017

5.2 170868 - Alterations to elevations to include replacement of windows and conversion of rear walkway to balconies and alterations to external areas to include installation of new sub-station and cycle stores, amendment to car parking, widening of access ways, redesign of the main entrance and relandscaping – Approved Conditionally 14th September 2017

5.3 180829 - Application for variation of a conditions 2 (approved plans), 3 (external materials), 4 and 5 (vehicular access) following grant of planning permission 170868 to allow for revised design, layout, access and parking arrangements and external finishing to the approved development – Approved Conditionally 1st February 2019

6. Proposed Development

6.1 The application seeks to regularise some existing aspects of the development that differ from the details approved by planning permission as well as to provide additional alterations to the scheme that have not yet been constructed. For these alterations to be accepted, conditions 2 (approved plans), 3 (external materials) and 4 and 5 (access arrangements) would need to be varied.

6.2 Front Boundary:- The approved scheme included the provision of two freestanding 2-metre-high black rendered walls along part of the site frontage. These walls have not been constructed and, instead, an approx. 2-metre-high timber hit and miss fence is in place across the full site frontage (with gaps for access/egress). The application seeks permission for the provision of this fencing to be regularised by way of amending the approved plans list (condition 2) and the approved external materials (condition 3).

6.3 Frontage area:- The hardstanding car park area to the front of the building was to be block paved as per the approved planning permissions. The parking area has instead been surfaced in tarmac. The application seeks to regularise this by way of amending the approved plans list (condition 2), the

approved external materials (condition 3) and the approved parking arrangements (condition 4).

- 6.4 Frontage car parking :- Only 7 car parking spaces have been marked out to the front of the building rather than the 8 spaces required by the planning approval. The positioning of the spaces differs from the approved layout and no disabled parking bays are provided. The application seeks to regularise the layout as constructed as well as to allow for a new parking bay to be formed between the site access and egress. This would be achieved by way of amending the approved plans list (condition 2) and the approved parking and access arrangements (condition 4) and approved car and cycle parking arrangements (condition 5).
- 6.5 Front Canopy:- The overhanging flat roof canopy approved for the front of the building has not been constructed. The application seeks to regularise its omission by way of amending the approved plans list (condition 2).
- 6.6 Balcony Colour:- The finish of the balcony railings is not black as per the approved planning permission. The application seeks to regularise this by amending the approved plans list (condition 2) and the approved external materials (condition 3).
- 6.7 The wheelchair lift in the ground floor lobby has not been provided as shown on the approved floor plans. The applicant has stated that this will be installed, and it is shown on the submitted plans.
- 6.8 Cycle Parking:- The designated cycle parking areas have not been provided in accordance with the details approved by planning permission. At present there are cycle parking hoops provided within the ground floor and basement level parking areas, with capacity currently being 10 cycles at ground floor and 25 at basement level. The application seeks to regularise the alternative positioning of the cycle parking and the storage method. In addition, a further 14 spaces would be provided at basement level and an additional 27 at ground floor level bringing the total capacity of cycle parking up to 76 spaces. This requires the amendment of the approved plans (condition 2) and car and cycle parking arrangements (condition 5).
- 6.9 Fencing to substation:- The approved plans showed the electric substation being positioned in a fenced enclosure. The substation has been installed with fencing to the sides and rear but being open to the car parking area (where some planters have been positioned). The application seeks to regularise this by way of amending the approved plans conditions.
- 6.10 Refuse compound details:- The number of bins provided in the refuse store is not as shown on the approved plans and access to the enclosure for bin crews is provided by a single gate rather than the double gate approved. The application seeks to regularise this by way of amending the approved plans list (condition 2).

7. **Consultations**

7.1 ESCC Highways

7.1.1 No objections submitted.

7.2 EBC Waste and Refuse

7.2.1 No objections submitted.

8. **Neighbour Representations**

8.1 25 letters of objection have been received from occupants of the building and neighbouring residents. A summary of relevant content is provided below.

- The finished appearance of the development detracts from the character of the surrounding area.
- Disabled access has not been provided.
- The gate to the refuse store is not self-closing as stated and is not secure.
- Tarmac is not attractive and the justification for its use is poor.
- The boundary treatment should be higher quality.
- Site landscaping has not been completed.
- Cycle parking provided is not secure.
- Fencing is flimsy and will require regular maintenance.

8.2 OFFICER COMMENT: A significant amount of the objections relate to the appearance and quality of workmanship as well as how the development appears in relation to the plans shown when it was sold. Whilst these are undoubtedly significant and important concerns, planning legislation does not cover areas such as internal wiring/piping or finishes. The external works to the building were not integral to the approval for its residential use as this was allowed under prior notification legislation. As such, there is no obligation for the approved permission for external works to be fully implements (other than car and cycle parking which was required as a condition of the prior approval). The revised scheme must therefore be judged on its own merits rather than against any previously approved scheme.

9. **Appraisal**

9.1 Principle of Development

9.1.1 The principle of the development has been established following historic approvals for conversion of the building to residential use and external alterations. The application relates only to matters that either qualify as 'development' as per the definition provided in section 55 of the Town and Country Planning Act 1990 (as amended) or matters that involve non-compliance with relevant planning conditions. As such, internal works are not a relevant consideration.

- 9.1.2 The key assessment to be made is therefore how the alterations impact upon compliance with relevant planning policy with reference to visual, residential, and environmental amenity and highway safety.
- 9.2 Impact of the proposed development on amenity of adjoining occupiers and the surrounding area:
- 9.2.1 The proposed amendments have not resulted in any increase in the size or intensity of the development or the removal of any features put in place to protect the amenities of neighbouring residents. It is therefore considered that there would be no adverse impact upon the amenities of neighbouring residents because of the amendments proposed.
- 9.3 Design
- 9.3.1 The proposed amendments result in an altered appearance to the site frontage. Most notable is the presence of hit and miss fencing on the front boundary, flanking the pavement, in place of the approved freestanding rendered walls. Whilst the frontages of neighbouring developments are generally marked by flint and brick walls and, therefore, the materials used on the fence differs from this general character, it is considered that the height of the fencing and its general character is broadly consistent with existing means of enclosure and, as such, the fence does not introduce an unacceptable sense of enclosure. It should be noted that the materials used on the proposed render wall would also have been different to nearby walls and it is considered that a change in materials is reflective of the mixed design and scale of development on the street. The hit and miss design of the fence allows views towards the building to permeate and prevents it from appearing overly oppressive.
- 9.3.2 An initial inspection of the fence by officers resulted in concerns about the permanence of the fence, particularly its strength. It also appeared to be leaning in places. It is important that the long-term appearance of the fence is considered as, if it deteriorates quickly, this will have a harmful impact upon the character of the wider surrounding area. There is also a danger than a weak fence could collapse onto the neighbouring highway, presenting a significant risk to pedestrians and other highway users. In response to this, the applicant has carried out works to reinforce and straighten the fence. It is considered that this overcomes the concerns initially raised.
- 9.3.3 The omission of the overhanging canopy to the front of the building means that it largely appears as it did prior to its conversion. It is therefore considered that there has been no detrimental impact on the wider character of the area.
- 9.3.4 The omission of the fenced enclosure for the substation means that it is slightly more visually prominent although it is screened by fencing to the side and rear and partially screened by planting to the front. To add to this, the substation is of modest size and is recessively positioned. It is therefore considered that the omission of

the fenced enclosure has not detracted from the overall appearance of the site. From a safety and operational perspective, the substation is owned by the Distribution Network Operator (DNO) and they would not allow it to be commissioned if suitable security arrangements were not in place.

- 9.3.5 The tarmac surfacing in the car park is consistent with the appearance of other forecourt parking nearby. The revised finishes to the balcony have a minimal impact upon the overall appearance of the building.
- 9.3.6 It is therefore considered that the 'as built' appearance of the development is visually disruptive or harmful towards the overall character of the surrounding area.

9.4 Living conditions for occupants

- 9.4.1 The permission to convert the building to residential use was awarded through the prior approval process. This allowed for the building to be converted without any external modifications or extensions although the provision of a suitable quantum of car and cycle parking was a condition of the approval. Whilst the overhanging canopy would have afforded a degree of shelter when accessing the building its construction was not a prerequisite for the use of the building for residential purposes and it is not considered that the absence of the canopy has resulted in any unacceptable impact upon the suitability of the residential use of the building.
- 9.4.2 The provision of the wheelchair lift would improve accessibility to the building. It is noted that parts would remain inaccessible but the prior approval legislation which allowed for the conversion to residential use does not include the provision of disabled access in its remit. As such, the provision of the wheelchair lift was not a requirement of the permission. Building accessibility would have been assessed at the building regulations stage and it is noted that building regulations were approved.
- 9.4.3 The provision of adequate facilities for parking and servicing is an important factor and it is noted that the proposed development would ensure the required level of car parking is provided. The original approval included cycle parking with a capacity for 104 cycles, all within a dedicated secure and covered store. Whilst the proposed cycle parking is reduced to 76 spaces, this would meet ESCC Highways standards (1 space per 1 or 2 bed flat) and is therefore considered sufficient. It is noted that some of the cycle parking hoops are not accessible due to being located below a low ceiling and a condition will be used to secure the repositioning of the affected hoops, notwithstanding the details shown on the submitted plans.
- 9.4.4 It is therefore considered that the development, as built, satisfies relevant planning legislation relating to living conditions and facilities provided for occupants of the development.

9.5 Access and Servicing

- 9.5.1 The original planning approval required 8 car parking bays to be provided to the front of the building, with a further 51 spaces to the rear, providing an overall quantum of 59 x car parking bays. The development was built with only 7 car parking spaces to the front. The proposal includes the formation of an additional parking bay to the front of the building, adjacent to the landscaped island formed between the access and egress points. The proposed parking bay meets ESCC Highways recommended dimensions and suitable space would be provided to allow for manoeuvring in and out of the bay. The proposed parking bay would not obstruct existing parking bays.
- 9.5.2 The amount of cycle parking provided exceeds ESCC standards for 1 and 2 bed flats. The parking is provided in a covered area to the rear of the building. A condition will be used to confirm details of how parked cycles would be kept secure. All cycle parking outside of the covered car park area will also need to be provided with adequate coverage to protect parked cycles against the weather and to provide additional security.
- 9.5.3 The 'as built' scheme includes a single self-closing gate to provide access to the bin store rather than the double gates shown on the approved plans. The Council's waste and refuse team have not raised any concerns and the development has been serviced by refuse collection teams since it was first occupied. It is therefore considered that bin store arrangements are acceptable. Residents have raised concerns that an insufficient number of bins have been provided and a condition will be used to require the applicant to confirm the amount of bins available in order to ensure the number meets good practice standards.
- 9.5.4 It is therefore considered that the development, as amended. Incorporates a suitable quantum of car and cycle parking that meets relevant standards and that it can be adequately serviced.

9.6 Flooding and Drainage

- 9.6.1 The use of tarmac to the front of the building may potentially result in lower permeability than the block paving originally proposed. The hard-surfaced area slopes down towards Upperton Road and channel drains have been installed across the site access and egress points to prevent surface water discharge onto the highway. ESCC Highways have not raised any objections regarding surface water runoff. It is therefore considered that the proposed amendments have not resulted in any unacceptable increase in risk of surface water flooding.

10. **Human Rights Implications**

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

11. **Recommendation**

11.1 It is noted that the conversion to residential use could have been carried out without any of the additional works applied for by planning permission.

11.2 It is considered that the proposed amendments do not compromise the development in terms of compliance with relevant planning legislation. It is therefore recommended that the application is approved, subject to the conditions originally attached to 170868 and 180829, with necessary modifications made to allow for the amendments and additional conditions attached to secure final details of bin storage arrangements and relocation of cycle hoops that are not currently accessible due to the low ceiling height above them.

11.3 ADDITIONAL CONDITIONS:

11.4 The amount of waste and refuse bins provided shall accord with good practice guidance at all times, this being 2 x 1110 litre bins (one for waste one for recycling) per 12 dwellings unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of visual, residential, and environmental amenity in accordance with saved policies HO20, NE28 and UHT1 of the Eastbourne Borough Plan, policies B2 and D1 of the Eastbourne Core Strategy and para. 124 of the National Planning Policy Framework.

11.5 Notwithstanding the plans hereby approved, all cycle storage hoops with less than 2 metres clearance above them shall be repositioned in accordance with details to be submitted to the Local Planning Authority within 1 month of the date of this decision. Details of how parked cycles will be kept secure and covered in all areas shall also be submitted for approval and provided thereafter.

Reason: In order to ensure all cycle storage facilities are accessible and usable in the interest of encouraging the use of more sustainable modes of transport in accordance with policies B2, D1 and D8 of the Eastbourne Core Strategy and para. 106 of the National Planning Policy Framework.

11.6 The additional car parking bay and cycle parking facilities shall be installed within 1 month of the date of this permission.

Reason: In order to ensure suitable facilities are in place to prevent nuisance parking on the surrounding highway network and to encourage the use of more sustainable modes of transport in accordance with policies B2, D1 and D8 of the Eastbourne Borough Plan and para. 106 and 110 of the National Planning Policy Framework.

12. **Appeal**

12.1 Should the applicant appeal the decision the appropriate course of action to be followed, considering the criteria set by the Planning Inspectorate, is written representations.

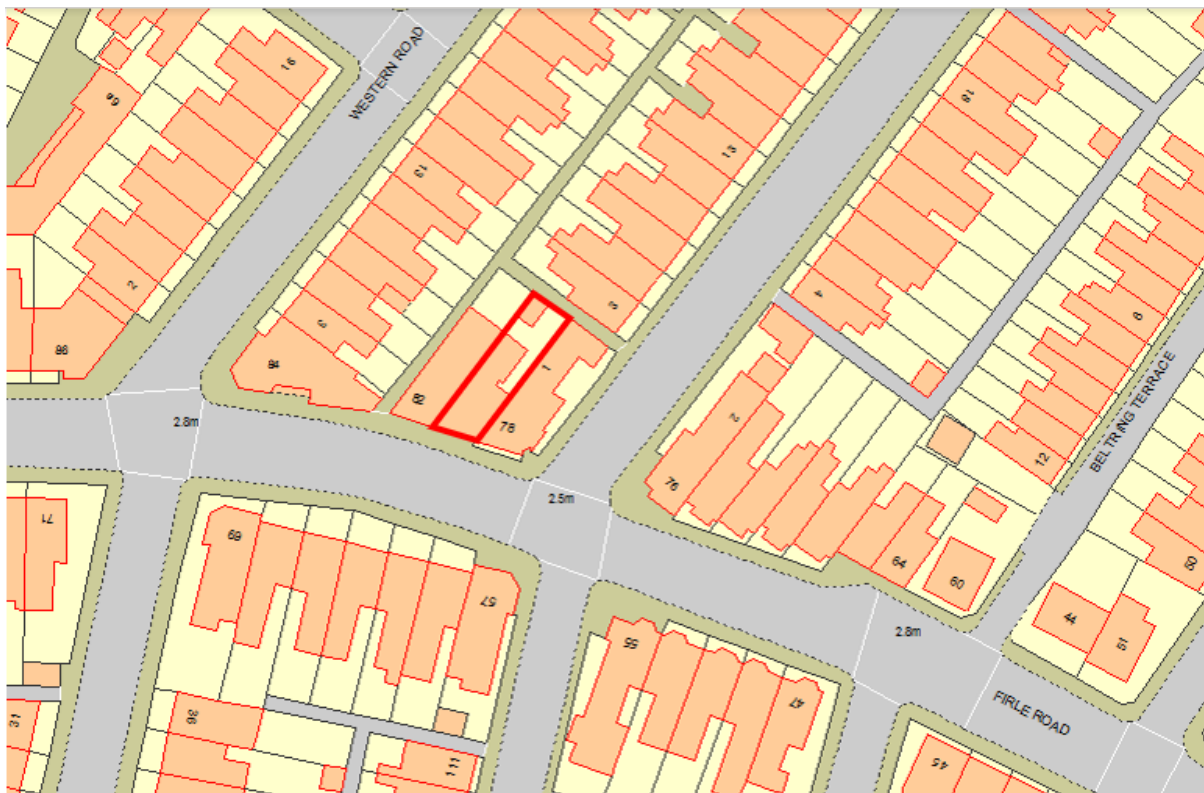
13. **Background Papers**

13.1 None

Agenda Item 8

Report to: Planning Committee
Date: 22 February 2022
Application No: 210482
Location: 80 Firle Road, Eastbourne
Proposal: Change of use of Beauty shop & Dwelling house (sui generis/C3) to 7 bed HMO (Sui Generis)
Applicant: Mint Investment Property
Ward: Devonshire
Recommendation: Approve Conditionally
Contact Officer: **Name:** James Smith
Post title: Specialist Advisor (Planning)
E-mail: james.smith@lewes-eastbourne.gov.uk
Telephone number: 01323 415026

Map Location:



1. **Executive Summary**

- 1.1 The proposed development would involve a more intensive residential use of the existing building as well as the loss of a ground floor commercial unit.
- 1.2 It is considered that the loss of the commercial unit is mitigated by proximity to the nearby district shopping centre whilst the building is considered to be of a sufficient size to support the intensified residential use whilst providing a suitable standard of living conditions.
- 1.3 It is considered that the overall nature and level of activity associated with the proposed use would be consistent with surrounding residential development and would not result in unacceptable harm to residential amenity.
- 1.4 Due to the sustainable location of the site, it is not considered that occupants of the proposed development would be reliant upon car ownership and, therefore, it is considered that the proposed use would not result in unacceptable parking stress upon the surrounding highway network.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework 2021

- 2: Achieving sustainable development
- 4: Decision Making
- 5: Delivering a sufficient supply of homes
- 6: Building a strong, competitive economy
- 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.

2.2 Eastbourne Core Strategy Local Plan 2006-2027:

- B1: Spatial Development Strategy and Distribution
- B2: Creating Sustainable Neighbourhoods
- C3: Seaside Neighbourhood
- D1: Sustainable Development
- D5: Housing
- D8: Sustainable Transport
- D10: Historic Environment
- D10A: Design

2.3 Eastbourne Borough Plan 2001-2011:

NE14: Source Protection Zone

NE18: Noise

NE28: Environmental Amenity

UHT1: Design of New Development

HO1: Residential Development Within the Existing Built-up Area

HO2: Predominantly Residential Areas

HO9: Conversions and Change of Use

HO14: Houses in Multiple Occupation

HO20: Residential Amenity

TR11: Car Parking

US5: Tidal Flood Risk

3. **Site Description**

- 3.1 The site is occupied by a terraced two-storey building that has had an additional floor formed in part of the roof space, with a dormer window incorporated within the front roof slope. The ground floor is provided with a flat roofed projecting shop front and has most recently been occupied by a beautician. The first and second floor currently accommodate a 3 bedroom duplex residential unit. There is an enclosed yard area to the rear of the site which is accessed via an alleyway which is part of a network running to the rear of properties on Firle Road, Avondale Road, Albion Road and Western Road.
- 3.2 The terrace of three buildings, which includes the application site, had previously formed a small parade of shops. The adjoining 82 Firle Road is currently in use as a barbers whilst the other adjoining property, No. 78, was converted into a ground floor flat in the early 1970's. Surrounding development is relatively dense and is predominantly residential in the form of terraced dwellings, former shops that have been converted to flats and flats above remaining ground floor commercial uses which include nearby convenience stores. The Langney Road to Springfield Road District Shopping Centre on Seaside is approx. 285 metres to the east. There are also a number of frequently served bus stops on Seaside.
- 3.3 The site falls within Environment Agency Flood Zone 3 and is therefore subject to an increased risk of tidal flooding. The site is also within a source protection zone (inner). These are buffers maintained around groundwater sources used to provide drinking water. There are no other specific planning designations or constraints attached to the site or the immediate surrounding area.

4. **Relevant Planning History**

- 4.1 **540357** – Provision of new shop front – Approved Conditionally 7 December 1954

- 4.2 **790709** – Alterations to change the use from a shop with living accommodation to a lock-up shop on the ground floor and four self-contained bed-sitting room units – Refused 16 November 1978
- 4.3 **950314** – Use as four bedsits – Certificate of Lawful Use granted 7 February 1996
- 4.4 **010495** – Single-storey rear extension to bedsit to provide toilet and shower facilities, to form self-contained flat – Approved Conditionally 11 December 2001

5. **Proposed Development**

- 5.1 The proposal includes the conversion of the property (including the ground floor shop unit) into a 7 bedroom House in Multiple Occupation (HMO). A shared kitchen and living room area would be provided as well as communal toilet and shower facilities. Some rooms would be provided with en suite facilities.
- 5.2 The majority of works carried out to enable the conversion would be internal, the exception being the removal of the existing shop front fascia infilling with a rendered wall with a single ground floor window array.

6. **Consultations**

6.1 Environment Agency

- 6.1.1 We have reviewed the application and have no objection to the proposal, as submitted.

7. **Neighbour Representations**

- 7.1 12 letters of objection have been submitted by neighbouring residents. A summary of relevant comments made is provided below:-

There is not enough parking capacity on surrounding streets;

Devonshire Ward has the largest number of HMO's and temporary accommodation in the town;

Would not enhance the neighbourhood;

Could lead to anti-social behaviour;

Loss of residential amenity;

Should be converted into two or three self-contained units to provide affordable accommodation for families;

Development almost completed prior to planning permission being sought;

Infrastructure and services are already strained;

Out of keeping with surrounding residential uses.

8. Appraisal

8.1 Principle of Development

- 8.1.1 The site is located within the built up area boundary where the principle of residential development is deemed to be acceptable is per saved policy HO1 of the Eastbourne Borough Plan. The area is also identified in the Eastbourne Borough Plan as being predominantly residential.
- 8.1.2 HMO's (communal accommodation) contribute towards housing delivery targets as per para. 041 of the Planning Practice Guidance for Housing supply and delivery. The contribution is based on ratios set in the Housing Delivery Test Measurement Rule Book (2018). The contribution in terms of net dwellings is calculated as the net increase in bedrooms divided by the average number of adults in households in England. The current average figure is based on the 2011 census and is set at 1.8 adults per household. As such, the net amount of units provided as a result of the proposed development would be 4 units (rounded down).
- 8.1.3 The Council is unable to demonstrate a 5 year housing land supply and should therefore employ a 'tilted balance' when assessing applications for residential development, with development only being refused when it clearly impacts upon an area or asset of particular importance or where the overall harm of the development would significantly and demonstrably outweigh the benefits when assessed against the objectives of the NPPF and relevant local planning policies as per para. 11 of the NPPF.

8.2 Loss of ground floor employment space

- 8.2.1 The ground floor of the building had previously been in use as a beauty salon. This is regarded as a sui generis use and, as such, does not benefit from rights to convert to residential use, or other commercial uses, either under the use class order or prior approval legislation.
- 8.2.2 Saved policy HO9 of the Eastbourne Borough Plan states that the conversion of a non-residential use to residential use will be permitted where it can be clearly demonstrated that the premises are redundant for continued commercial and/or business use. Whilst the application does not include any material in this regard it is considered that, in this instance, the specific circumstances of the site and the surrounding area are such that the proposed conversion would not damage the status of the shopping offer in Eastbourne or remove an important community or employment facility.
- 8.2.3 The primary reason for this is that the property is outside of any recognised shopping area but is within close proximity to a district shopping centre on Seaside where there is a wide range of shops and services that are accessible to residents on Firlie Road. The unit is modestly sized and therefore does not offer any significant employment space and the sui generis use is also not considered to

provide an essential community function. It is therefore considered that the loss of the ground floor use is acceptable particularly as it would allow for a residential use for which there is a high level of need in the Borough.

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

- 8.3.1 It is considered that the nature and intensity of activity generated by the 7 bedroom HMO would not be significantly different to that which would be expected should the previous mixed use arrangement be maintained. Indoor and outdoor communal areas would be provided, ensuring that the amenity needs of future occupants can be served within the site envelope and in areas where amenity use would not be unacceptably disruptive to neighbouring residents.
- 8.3.2 The proposed development would not increase the footprint, height or mass of the building and the only new windows formed would be within the remodelled frontage, where existing shop front windows are present. As such, it is considered that no unacceptable overlooking, overbearing or overshadowing impact would arise.
- 8.3.3 It is therefore considered that the proposed development could integrate effectively with the surrounding community, provided a suitable management and maintenance programme is in place to ensure the upkeep and security of the building and that noise and activity is controlled so as to protect residential and environmental amenity. This will be secured through the use of a planning condition.
- 8.3.4 It should also be noted that all HMO's occupied by more than 5 persons must be licenced by the Council's Housing Department. The security and maintenance standards of the HMO are fully assessed as part of the licencing process as per The Management of Houses in Multiple Occupation (England) Regulations 2006 and any licence granted has to be renewed every 5 years. A licence can also be revoked at any time.

8.4 Use

- 8.4.1 The site lies within an area that is predominantly residential in character and the building includes an established residential use in the form of the duplex units on upper floors and the historic use to accommodate bedsits. The proposed HMO use is therefore considered to be consistent with the character of the surrounding area whilst also addressing the need to provide a sufficient number and range of homes (NPPF para. 8 b) and providing a wide variety of housing types as a means of helping to create diverse, equitable and resilient communities where people are able to access the homes they want or need (National Model Design Code – Part 2, para. 165).
- 8.4.2 Interrogation of the Council's HMO register shows that there are 5 HMO's on Firle Road, none of which are within the immediate vicinity of the application site. The existing HMO's comprise 6 bed units at 110 and 112 Firle Road and 5 bed units at 53 and 114 Firle Road.

83 Firle Road is also listed but the amount of bedrooms not specified. There are no registered HMO's on immediate surrounding roads including Avondale Road, Western Road, Manifold Road and Sydney Road. As such, it is not considered that the proposed HMO would result in an unbalancing of the dwelling mix in the immediate surrounding area.

8.5 Design

8.5.1 The proposed development would not involve any extensions to the existing building with the only external alteration being the infilling of the existing shop front. The proposed infill would be finished in painted render to match the existing building materials and would include a window which would continue to engage with the wider street scene. It is noted that the shop front of the adjacent 78 Firle Road has been replaced using a similar method to the proposed development and does not appear incongruous or disruptive within the street scene.

8.6 Living conditions for future occupants

8.6.1 Based on the floor plans provided it would appear that all bedrooms meet the required size as per the Council's adopted Standards for Houses in Multiple Occupation. Suitably sized communal kitchen and dining facilities are also provided as well as a communal living room.

8.6.2 All rooms would be served by clear glazed windows and have access to good levels of natural light and ventilation. The main building access would be from the street frontage and, therefore subject to good levels of natural surveillance from surrounding properties. It is recommend that a condition is added to ensure the ground floor window to the front of the building is provided with defensible space so as to create a suitable buffer between it and the pavement to reduce potential for anti-social behaviour. It is noted that the neighbouring property has a dwarf brick wall to the front and it is considered that a similar feature would serve the proposed development well.

8.6.3 The application was originally submitted as an 8 bedroom scheme but the layout was modified, on the advice of officers, to allow for a communal access from the building to the rear amenity space to be formed in order to ensure all occupants would have direct access to this facility.

8.6.4 Although there are a number of properties on Firle Road that store their bins directly to the front of the building, it is considered that bin storage for the HMO should be provided in the yard area to the rear in order to prevent bins being stored directly to the front of the window of bedroom 1. The yard area is within a suitable distance of Avondale Road to allow for bin crews to collect refuse from the yard. The storage of bins to the rear would also reduce impact of the development upon visual amenity within the street scene.

8.7 Highways and Access:

- 8.7.1 The proposed development would not be served by any off-street parking nor does the site have the capacity to provide such facilities. It is important to consider the level of traffic and parking demand generated by the existing uses if the building when establishing highway impact. It is noted that the majority of nearby houses rely upon on-street car parking and a further demand on street capacity is provided by nearby shop uses.
- 8.7.2 ESCC Guidance for Parking at Non-Residential Development estimates parking demand generated for a shop unit to be 1 space per 30 m² and, as such, the beauty salon use, which occupies approx. 26 m² of the building, is estimated to generate demand for 1 space. The ESCC Car Ownership Parking Demand Tool estimates the existing 3 bed duplex unit to generate demand for a further space. As such, the overall existing demand is estimated to be for two on-street parking spaces. This demand would be removed as a result of the proposed development.
- 8.7.3 There is no guidance on level of parking demand generated by HMO's. The demand estimated for 7 individual 1 bed flats would be 5 spaces but flats are more likely to be occupied by more than one person so demand generated by the HMO is likely to be lower than this. Furthermore the site is within walking distance of frequently served bus stops on Seaside and Dursley Road and is also close to shops, services and employment opportunities within the Langney Road to Springfield District Shopping Centre (approx. 250 metres walking distance). As such, the site is considered to be in a sustainable location and there would be a reduced reliance on car ownership as a result.
- 8.7.4 A condition will be used to ensure secure and covered cycle parking facilities for up to 4 bicycles are provided, in line with ESCC standing advice (0.5 spaces per flat, rounded up) in order to encourage occupants to use bicycles for short journeys which may otherwise involve the use of a car.

8.8 Flood Risk

- 8.8.1 Whilst the site is located in Flood Zone 3 and includes ground floor sleeping accommodation, all occupants would have access to the communal kitchen facilities and seating area at first floor level which would provide refuge in the event of a flood.
- 8.8.2 A Flood Risk Assessment (FRA) was submitted with the application and this document includes a schedule of flood resilience measures, such as raised wiring and utilities and non-return drainage valves, that would be provided.
- 8.8.3 The FRA, as well as the application as a whole, has been assessed by the Environment Agency who have raised no objection.

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 It is recommended that the application is approved subject to the conditions listed below.

10.2 **TIME LIMIT:** The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To comply with Sections 91 and 92 of the Town and County Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

10.3 **APPROVED PLANS:** The development hereby permitted shall be carried out in accordance with the following approved drawings:

- 1021.04 – Block and Location Plan
- 1021.03 Rev B – Proposed Floor Plans
- QFRA 2030 Version 1 – Flood Risk Assessment

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

10.4 **FLOOD RISK MITIGATION:** The development shall be carried out in accordance with the submitted flood risk assessment (QFRA 2030 Version 1). The recommended mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In line with the 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 ensure the safety of future occupants by providing dry, safe refuge in an undefended scenario.

10.5 **CYCLE PARKING AND BIN STORAGE:** Prior to the first occupation of any part of the development hereby approved, secure and covered cycle parking and bin storage shall be provided in accordance with details to be submitted to and approved by the Local Planning Authority and shall thereafter be maintained in place throughout the lifetime of the development.

Reason: In the interest of visual and environmental amenity and in order to encourage the use of sustainable modes of transport in accordance with saved policies UHT1, HO20 and NE28 of the Eastbourne Borough Plan, policies B2, D1, D8 and D10a of the Eastbourne Core Strategy and paras 110 – 112 of the National Planning Policy Framework.

10.6 DEFENSIBLE SPACE: Prior to the first occupation of the use hereby approved, defensible space shall be provided to the front of the ground floor window on the southern elevation of the building in accordance with details to be submitted to and approved by the local planning authority.

Reason: In the interest of providing secure environment and safeguarding the amenities of occupants in accordance with policies B2 and D1 of the Eastbourne Core Strategy and para. 97 of the NPPF.

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

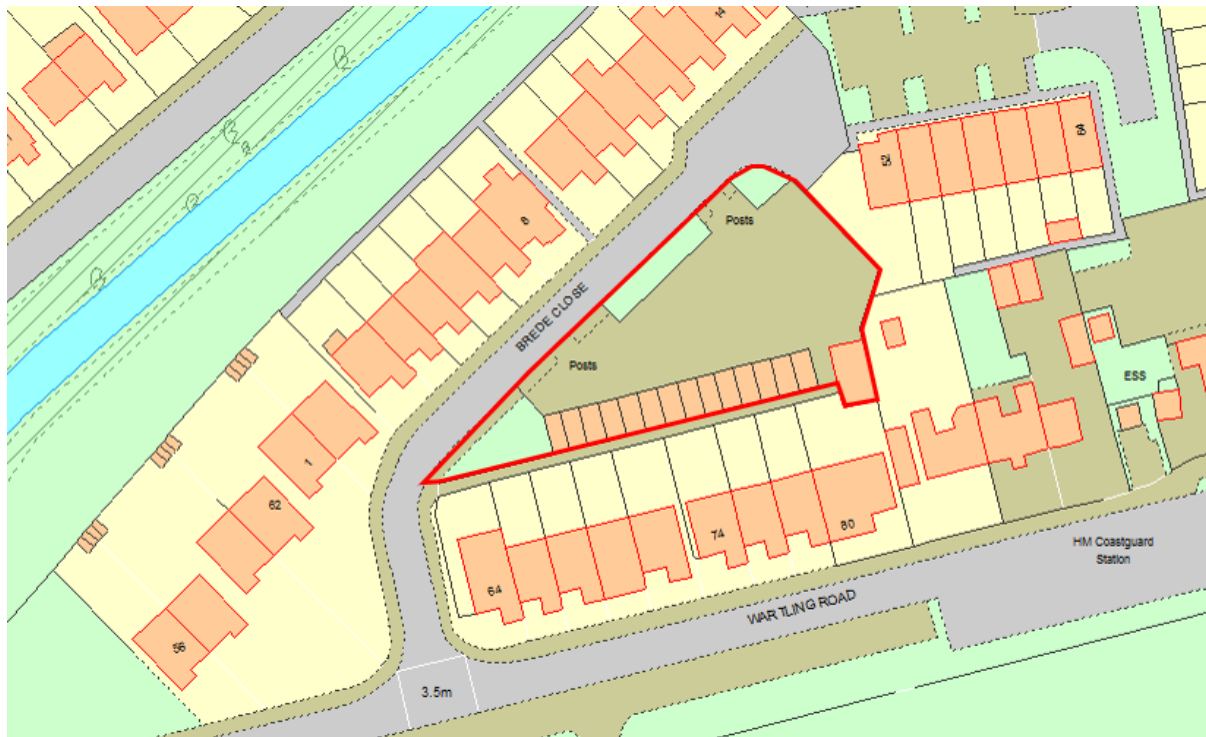
Agenda Item 9

Report to: Planning Committee
Date: 22 February 2022
Application No: 210995
Location: Land off Brede Close, Eastbourne
Proposal: Variation/removal of following Conditions attached to planning approval 180438. Vary Condition 2 (plans) to allow for adjustments to layout and fenestrations, Condition 5 (flood risk) to allow amendments to the schedule of flood mitigation measures and Condition 14 (CMP) to allow for changes to the Construction Management Plan. Remove Condition 15 (Telegraph Pole Relocation) as the pole has now been repositioned.

Applicant : Mr D Ashford
Ward: Devonshire
Recommendation: Approve Conditionally

Contact Officer: **Name:** James Smith
Post title: Specialist Advisor (Planning)
E-mail: james.smith@lewes-eastbourne.gov.uk
Telephone number: 01323 415026

Map Location:



1. **Executive Summary**

- 1.1 The application is being presented at planning committee as the applicant is developing the site on behalf of Eastbourne Borough Council.
- 1.2 It is considered that the alterations the fenestrations and internal layout of the approved dwellings are minor in nature and would not result in any substantial or harmful change in the way the development interacts with the surrounding environment or impacts upon environmental, residential or visual amenities.
- 1.3 The revisions to the construction management plan have been accepted by ESCC Highways and include temporary parking provisions for existing residents on Brede Close. All primary flood mitigation measures
- 1.4 It is considered that the amendment to the list of flood mitigation measures is appropriate in this instance as it would not compromise fundamental flood protection measures and would allow an appropriate level of flexibility for the internal finishes of each dwelling.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework 2021

- 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

2.2 Eastbourne Core Strategy Local Plan 2006-2027:

- B1: Spatial Development Strategy and Distribution
- B2: Creating Sustainable Neighbourhoods
- C3: Seaside Neighbourhood
- D1: Sustainable Development
- D5: Housing
- D8: Sustainable Transport
- D10: Historic Environment
- D10A: Design

2.3 Eastbourne Borough Plan 2001-2011:

- NE4: Sustainable Drainage Systems

NE18: Noise
NE28: Environmental Amenity
UHT1: Design of New Development
UHT2: Height of Buildings
UHT4: Visual Amenity
UHT5: Protecting Walls/Landscape Features
UHT7: Landscaping
HO1: Residential Development Within the Existing Built-up Area
HO2: Predominantly Residential Areas
HO7: Redevelopment
HO20: Residential Amenity
TR11: Car Parking
US4: Flood Protection and Surface Water Disposal
US5: Tidal Flood Risk

3. **Site Description**

- 3.1 The site, which is broadly triangular and tapers from east to west, was formerly occupied by a block of garages and associated hard surfacing but has since been cleared and construction has commenced on a row of 6 new houses approved under 180438.
- 3.2 The eastern site boundary flanks the garden of 52 Wakehurst Road, which is part of relatively recent housing development occupying a former coach and lorry park. It faces towards terraces of two-storey dwellings on the opposite side of Brede Close to the north and backs on to the rear gardens of terraced dwellings on Wartling Road to the south.
- 3.3 The site, which occupies low laying land which is close to the coast and Crumbles Sewer, falls within Environment Agency Flood Zone 3. There are no other specific planning designations or constraints attached to the site or the immediate surrounding area.

4. **Relevant Planning History**

- 4.1 **180438** - Demolition of existing garages, and construction of 6no new dwellings, 1no. 1 bed 2 persons, 5no. of 2 bed 4 person houses; including associated parking, access, & landscaping. Amended plans submitted to provide improved access to proposed garages by moving the proposed development 1.4m further into the site - Approved conditionally - 17/09/2018
- 4.2 **190301** - Approval of details reserved by condition 14 (Construction Management Plan) and condition 15 (Relocation/removal of telegraph poles) of planning permission (ref: 180438) granted 17 September 2018 for demolition of existing garages, and construction of 6no new dwellings, 1no. 1 bed 2 persons, 5no. of 2 bed 4 person houses; including associated parking, access, & landscaping. – Approved 31st May 2019

5. Proposed Development

5.1 **Condition 2:** The application seeks permission for a variation to the approved plans comprising the following:-

- Removal of existing substation and reconfiguration of parking area and landscaping on the eastern side of the site;
- Repositioning of existing telegraph pole approx. 14 metres to the west, towards western corner of the site;
- Replacement of ground floor utility room windows with doors to rear of plots 2-6;
- Alterations to window sizes and position to front and rear of dwellings and revised 'juliet' balcony arrangements to front;
- Increase in size of rooms at second floor level (without altering footprint or design/position of external walls and roof);

5.2 **Condition 5:** The application seeks to amend the list of flood mitigation measures as set out in section 7.14 of the approved Flood Risk Assessment (FRA). The proposed amendment involves the removal of restrictions relating to the use of MDF, chipboard and plasterboard within dwelling interiors.

5.3 **Condition 14:** The application also seeks to amend the construction site layout plan that was included within the Construction Management Plan approved under application 190301. This would include provision of a wheel washing facility, temporary neighbour parking adjacent to Brede Close, contractor parking towards the eastern site boundary and welfare facilities and material storage areas adjacent to the southern site boundary.

6. Consultations

6.1 ESCC Highways

6.1.1 The applicant has submitted an updated management site layout plan, which is considered acceptable.

7. Neighbour Representations

7.1 Three letters of objection received, one of which appears to be against the principle of the original permission rather than against the proposed variations. A summary of relevant comments made is provided below:-

- The balconies would increase in size and result in loss of privacy to residents on Brede Close;
- The positioning of the enclosed bin store is a health and safety hazard;

7.2 Officer Comment: The position of the bin store was agreed as part of the original planning permission, being approved by committee members. Bins would be in an enclosed store and this would ensure odour and litter is controlled. The bin store should only be used on bin collection days. It is included so as to allow east access to bins by refuse collection crews (in

accordance with best practice guidance) and to prevent bins being placed on the highway or the alleyway to the rear of the site where they may cause an obstruction. The balconies are in 'juliet' form and do not provide an external platform. Although the railing of each balcony has been extended and an additional opening door provided, this door would replace a full height glazed panel and it is not considered that the views offered would be materially different to those available from the originally approved scheme.

8. Appraisal

8.1 Principle of Development

8.1.1 The principle of the development has already been established following the approval of 180438.

8.1.2 Section 73 (1) of the Town & Country Planning Act 1990 (as amended) allows planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. This includes the variation of approved plans to allow for minor material amendments as per the Planning Practice Guidance for Flexible Options for Planning Permissions. Para. 017 of the guidance states that 'there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.'

8.1.3 The proposed amendments are not considered to substantially alter the approved development given the general positioning, scale and mass of the dwellings would be consistent with the approved scheme.

8.1.4 The application will therefore be assessed in the context of how the proposed amendments respond to relevant local and national planning policies and legislation.

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

8.2.1 It is considered that the general positioning and nature of fenestrations within each dwelling would remain consistent with the approved scheme and, therefore, no unacceptable overlooking impact would be generated. The scale, footprint, mass and positioning of the dwellings would not be altered and, as such, there would be no increased overbearing or overshadowing impact towards neighbouring residents.

8.3 Design issues

8.3.1 It is considered that the proposed amendments would not result in any significant alteration to the overall character and appearance of the dwellings as approved under 180438. The scale, footprint, mass and positioning of each dwelling would remain consistent with the approved scheme and the provision of additional doors to the rear of the building would improve accessibility to rear garden space.

8.3.2 The revised parking layout is considered to be more functional than that of the original layout and the removal of the substation would allow for enhanced landscaping that would help to soften the impact of the development as well as provide a biodiversity function.

8.4 Flood risk

8.4.1 The proposed amendment to condition 5 seeks to allow the use of MDF, chipboard and plasterboard within the building interior. The FRA submitted with the original application suggested these materials not be used as they are more likely to be rendered unusable if subject to flood damage. The use of the materials in themselves would not reduce the risk of a flood event and more fundamental measures such as raised floor levels and infrastructure would remain in place. The living space within each dwelling is also restricted to first floor level and above meaning the likelihood of flooding impacting on furnishings and internal finishes is minimal. Furthermore, the restriction on the use of more affordable materials impacts on the viability of the scheme, which is being delivered as 100% affordable housing.

8.4.2 All primary flood mitigation measures, which include all living accommodation being at first floor level and above (raised above predicted flood risk levels in the event sea defences are overtopped and allowing for increased rainfall as a result of climate change) and raised utilities and infrastructure, would remain integral to the development.

8.4.3 It is therefore considered that the proposed amendment to flood risk measures would not result in an increased likelihood of flooding within the approved dwellings and, therefore, should be accepted.

8.5 Impacts on highway network and access:

8.5.1 The revised CMP includes an amended layout plan for the construction phase of the development. A hard surfaced parking area has been provided to the front of the site and is available for use by occupants and visitors to existing dwellings on Brede Close. The positioning of material stores and drop-off areas has slightly altered but remains in roughly the same position. ESCC Highways have raised no objection to the proposed amendments and the provision of car parking for existing residents helps alleviate parking pressure on the road and the potential for parked cars to obstruct or be damaged by construction and delivery vehicles associated with the development.

8.5.2 The total amount of car parking spaces provided would remain as per the original approval and the revised layout to the parking and access area maintains the capacity to serve the development and allow for improved manoeuvrability to access parking spaces and turn within the site.

8.6 Infrastructure

8.6.1 An alternative position for the telegraph pole that was previously positioned towards the middle of the site was agreed under discharge of condition application 190301 (relating to condition 15 of the original approval). However, the new position was within the rear garden of 64 Wartling Road and, on further consideration, was not considered to be appropriate. The telegraph pole has now been repositioned further towards the western corner of the site and this is considered to be acceptable. As such, condition 15 can now be removed.

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 It is recommended that the application is approved subject to the conditions listed below.

10.2 **TIME LIMIT:** The development hereby permitted shall be begun before 17th September 2021

Reason: In accordance with the original planning permission, to comply with Sections 91 and 92 of the Town and County Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

10.3 **APPROVED PLANS:** The development hereby permitted shall be carried out in accordance with the following approved drawings;

- 3220 01 Revision B – Site Location and Block Plans
- 3220 03 Revision B – Proposed Site layout
- 3220 04 Revision B – Proposed Site Layout - Overhead Wires
- 3220 05 Revision C – Proposed Ground
- 3220 06 Revision C – Proposed First
- 3220 07 Revision C – Proposed Second
- 3220 08 Revision B – Proposed Roof
- 3220 09 Revision D – Proposed Elevations
- 3220 10 Revision C – Proposed Elevations
- Brede Close Construction Environmental Management Plan (CEMP) Revision 1
- 3220 15 – Proposed Site Management

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

- 10.4 EXTERNAL FINISHES: The external finishes of the development hereby permitted shall be as stated on the approved drawings, unless agreed otherwise by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area.

- 10.5 LANDSCAPING: Prior to the completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a scaled plan showing vegetation to be retained and trees and plants to be plants:
- proposed hardstanding and boundary treatment
- a schedule detailing sizes and numbers of all proposed trees/plants
- sufficient specification to ensure successful establishment and survival of new planting.

Any new tree(s) that die(s), is/are removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which die, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details unless agreed otherwise with the Local Planning Authority.

Reason: To safeguard and enhance the character and amenity of the area.

- 10.6 FLOOD RISK MITIGATION: The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (April 2018) and the following mitigation measures detailed within the FRA:

The measures as stated in paragraph 7.1.2 shall be implemented:

- a) Ground floor is to be used for garages, storage and access only, with living accommodation restricted to the first floor and above
- b) Ground floor levels are set as high as is practicable, and no lower than 3.5mAOD
- c) First floor levels are set no lower than 6.2mAOD

Implementation of the following Flood Resistant and Resilient construction measures:

- i. Providing ground floor electrical sockets at levels as high as practicable above ground floor level, would reduce the risk of electrical damage during a flood event.

- ii. Gas and electricity meters should be sited relatively high to prevent water damage during a flood event.
- iii. Minimise use of laminate covered, medium density fibreboard or chipboard as part of any ground floor works, as these materials damage easily when wet.
- iv. Minimise use of plasterboard in the lower ground floor areas. This would reduce time consuming remedial works during a flood event.
- v. Ensure possible water entry points are sealed at first floor level. Such routes include openings for electricity, gas and water. Telescopic air bricks venting to the outer leaf should be set at an elevated height.
- vi. All foul and surface water inspection covers within the property should be replaced with lockable gas and water-tight units. Additionally, open rainwater pipe inlet gullies should be replaced with sealed units.
- vii. The owner/occupier should sign up to the Environment Agency's Flood Line Warnings Direct Scheme.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: In line with section 9 of the 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.

- 10.7 **NO PERMITTED EXTENSIONS/CONVERSIONS:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or extension, window, dormer window, rooflight or door other than those expressly authorised by this permission shall be constructed, and no internal conversion of the garages shall occur without planning permission obtained from the Local Planning Authority to the dwellings hereby approved.

Reason: To safeguard the amenities of the occupiers of nearby properties

- 10.8 **NO OUTBUILDINGS/PLATFORMS:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no outbuildings, raised platforms or hardsurfacing shall be erected within the curtilage of dwelling houses hereby approved other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area.

- 10.9 **BIN STORE DETAILS:** Notwithstanding the approved drawing, prior to the first occupation of the development hereby approved details of the enclosure to the proposed bin storage shall be provided and approved in writing by the

Local Planning Authority, the development shall thereafter be carried out in accordance with the approved drawings prior to the first occupation of the development.

Reason: To ensure satisfactory refuse and recycling to the properties and to protect the amenity of the adjacent residential property.

- 10.10 CONSTRUCTION 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 unless previously been agreed in writing by the Local Planning Authority.

Reason: In the interest of maintaining the amenities of nearby residents/occupiers.

- 10.11 ACCESS: No development shall commence until the vehicular access serving the development has been constructed in accordance with the approved drawing 3220 03 Revision B – Proposed Site layout

Reason: In the interests of road safety.

- 10.12 ACCESS GRADIENT: The access shall have maximum gradients of 4% (1 in 25) from the channel line, or for the whole width of the footway/verge whichever is the greater and 11% (1 in 9) thereafter.

Reason: In the interests of road safety.

- 10.13 CAR PARKING: No part of the development shall be occupied until the car parking has been constructed and provided in accordance with the approved plans. The area[s] shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

Reason: To provide car-parking space for the development.

- 10.14 CYCLE PARKING: No part of the development shall be occupied until cycle parking spaces have been provided in accordance with the approved details. The area[s] shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

- 10.15 CONSTRUCTION MANAGEMENT PLAN: The approved Construction Management Plan (as amended by plan 3220 15 – Proposed Site Management) shall be implemented and adhered to in full throughout the entire construction period.

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

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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