

Planning Applications Committee 12 January 2022



Working in Partnership



Time and venue:

5:00pm in the Council Chamber, County Hall, St Anne's Crescent, Lewes, East Sussex, BN7 1UE

PLEASE NOTE: This meeting is a public meeting. The number of public seats, however, are limited and need to be carefully managed to ensure that the meeting is Covid-secure. For this reason, we would like to ask that anyone intending to attend as a member of the public, contacts the Democratic Services team in advance by email: committees@lewes-eastbourne.gov.uk. Anyone attending the meeting will be requested to check in at the venue upon arrival and to wear a face covering for the duration of the meeting and while in the building, unless you have a medical exemption. **All attendees are also requested to take a lateral flow test before attending the meeting.**

This meeting will be webcast.

Membership:

Councillor Sharon Davy (Chair); Councillor Steve Saunders (Vice-Chair); Councillors Graham Amy, Tom Jones, Christoph von Kurthy, Sylvia Lord, Imogen Makepeace, Milly Manley, Laurence O'Connor, Nicola Papanicolaou and Richard Turner

Quorum: 5

Published: Wednesday, 22 December 2021

Agenda

1 Minutes (Pages 5 - 10)

To confirm and sign the minutes of the previous meeting held on 8 December 2021 (attached herewith).

2 Apologies for absence/Declaration of substitute members

3 Declarations of interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972. A supplementary report will be posted on the Council's website prior to the start of the meeting to update the main reports with any late information.

5 Petitions

To receive petitions from councillors or members of the public in accordance with Council Procedure Rule 13 (Page D9 of the Constitution).

6 Written questions from councillors

To deal with written questions from members pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution).

Planning applications outside the South Downs National Park

7 LW/21/0705 - 3 Homefield Road, Seaford, BN25 3DG (Pages 11 - 24)

8 LW/21/0615 - 23 Fairways Road, Seaford, East Sussex, BN25 4EL (Pages 25 - 34)

Planning applications within the South Downs National Park

9 SDNP/21/01724/CND - 44A Morris Road, Lewes, East Sussex, BN7 2AT (Pages 35 - 46)

Non-planning application related items

10 Date of next meeting

To note that the next meeting of the Planning Applications Committee is scheduled to be held on Wednesday, 16 February 2022, in the Council Chamber, County Hall, St Anne's Crescent, Lewes, East Sussex, BN7 1UE, commencing at 5:00pm.

General information

Planning Applications outside the South Downs National Park:

Section 2 of each report identifies policies which have a particular relevance to the application in question. Other more general policies may be of equal or greater importance. In order to avoid unnecessary duplication general policies are not specifically identified in Section 2. The fact that a policy is not specifically referred to in this section does not mean that it has not been taken into consideration or that it is of less weight than the policies which are referred to.

Planning Applications within the South Downs National Park:

The two statutory purposes of the South Downs National Park designations are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas; and
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes. Government policy relating to national parks set out in National Planning Policy Framework and Circular 20/10 is that they have the highest status of protection in relation to natural beauty, wildlife and cultural heritage and their conservation and enhancement must, therefore, be given great weight in development control decisions.

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.

Public participation:

There will be an opportunity for members of the public to speak on an application on this agenda where they have registered their interest with the Democratic Services team **by 12:00pm two working days before the meeting**. More information regarding speaking at a meeting of the Planning Applications Committee can be found on the Council's website: <https://www.leweseastbourne.gov.uk/planningandbuildingcontrol/planningapplications/speaking-at-planningcommittee/>

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:

If Members have any questions or wish to discuss aspects of any application listed on the agenda, they are requested to contact the Planning Case Officer prior to the meeting.

A member of the Council may ask the Chair of a Committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of the Committee.

A member must give notice of the question to the Committee and Civic Services Manager in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

Democratic Services

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

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Planning Applications Committee

Minutes of the meeting held in the King's Church Lewes (Church Building), Brooks Road, Lewes, East Sussex, BN7 2BY, on 8 December 2021 at 4:00pm

Present:

Councillor Sharon Davy (Chair);
Councillors Steve Saunders (Vice-Chair), Roy Burman (Substitute), Julie Carr (Substitute), Christoph von Kurthy (Minute No 50 to 58 and Minute No 60 to 63), Jim Lord (Substitute), Sylvia Lord, Imogen Makepeace, Milly Manley, Laurence O'Connor and Richard Turner (Minute No 50 to 56; Minute No 58 to 59; and Minute No 61 to 63)

Officers in attendance:

Tom Bagshaw (Specialist Advisor, Planning)
Andrew Hill (Senior Specialist Advisor, Planning)
Emily Horne (Committee Officer, Democratic Services)
Jennifer Norman (Committee Officer, Democratic Services)
Leigh Palmer (Head of Planning First)
Nick Peeters (Committee Officer, Democratic Services)
Joanne Stone (Solicitor, Planning)

50 Minutes

The minutes of the meeting held on 6 October 2021 were submitted and approved, and the Chair was authorised to sign them as a correct record.

51 Apologies for absence/Declaration of substitute members

Apologies for absence had been received from Councillors Graham Amy, Tom Jones and Nicola Papanicolaou. Councillor Julie Carr declared that she was acting as substitute for Councillor Amy for the duration of the meeting, Councillor Roy Burman declared that he was acting as substitute for Councillor Jones for the duration of the meeting, and Councillor Jim Lord declared that he was acting as substitute for Councillor Papanicolaou for the duration of the meeting.

52 Declarations of interest

Councillor Richard Turner declared a personal and prejudicial interest in Agenda item 8 (planning application LW/21/0302), as he was previously a Board Member of the RACLT (Ringmer Area Community Land Trust).

Councillor von Kurthy declared a personal and prejudicial interest in Agenda item 10 (planning application LW/20/0390), as he personally knew one of the objectors to the application.

Councillor Richard Turner declared a personal and prejudicial interest in Agenda item 11 (planning application LW/21/0351), as he owned a house close to the application site.

For the purpose of transparency, the Council's Solicitor declared that, as a resident of Ringmer, she knew some people in the public gallery, including both those for and against planning application LW/21/0302 (Agenda item 8) but that this would not affect any legal advice given.

53 Urgent items

There were no urgent items. A supplementary report, 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).

54 Petitions

There were none.

55 Written questions from councillors

There were none.

Planning applications outside the South Downs National Park - considered beginning at 4:00pm

56 Update on LW/20/0245 - Land to the East of Bridgelands, Barcombe Cross, BN8 5BW

That it be noted that planning application LW/20/0245, on the agenda for the postponed meeting on 10 November 2021 at agenda item 8, would be brought to a future meeting of the Planning Applications Committee with an updated report to address an objection received from East Sussex County Council as the lead local flood authority.

57 LW/21/0302 - Land South of Lewes Road and Laughton Road, Chamberlaines Lane, Ringmer, East Sussex

(Councillor Turner declared a personal and prejudicial interest in this item, as he was a former Board Member of RACLT. He therefore left the room for the duration of this item and did not take part in the consideration, discussion or voting thereon.)

Councillor John Whitlock spoke on behalf of Ringmer Parish Council. John Kay (CPRE Sussex), Sarah Phillips (Neighbour) and Anne Duke (Neighbour) spoke

against the proposal. Ben Ellis (Applicant), Gavin May (Local Business Owner) and Max Pengelley (Chair of RACLT) spoke for the proposal. A written representation was read aloud by Jennifer Norman (Committee Officer) on behalf of Councillor Sean MacLeod in his capacity as a Lewes District Ward Councillor. Councillor Johnny Denis and Councillor Emily O'Brien spoke in their individual capacities as Lewes District Ward Councillors.

Resolved:

That outline planning application LW/21/0302 with all matters reserved for a mixed-use scheme comprising up to 97 residential units and community/commercial space, be refused for the following reasons:

- 1) The visual impact of the development on the character and appearance of the surrounding countryside; (with authority granted to the Senior Specialist Advisor (Planning) to review the evidence and decide whether to include the wider visual impact on the setting of the SDNP in the reason for refusal; and
- 2) Lack of sufficient highways information with respect to highways capacity, especially with regard to Earwig Corner.

Planning applications outside the South Downs National Park - considered beginning at 6:00pm

58 LW/21/0262 - Land adjacent Nolands Farm, Station Road, Plumpton Green, East Sussex

Councillor Nick Beaumont spoke on behalf of Plumpton Parish Council. Paul Edmunds (Neighbour) spoke against the proposal. Mark Best (Agent), Sam Lunn (Senior Ecologist) and Tondra Thom (Agent) spoke for the proposal. Councillor Rob Banks spoke in his capacity as the Lewes District Ward Councillor.

Resolved:

That outline planning application LW/21/0262 for the demolition of 2-No. existing dwellings and outbuildings and the erection of up to 86 No. residential dwellings, including 40% affordable housing, provision of pedestrian and vehicular access, open space, associated infrastructure and landscaping, all matters reserved except access (amended description) be refused, as set out in the report and supplementary report.

59 LW/20/0390 - Sweetwater, 26 Blakeney Avenue, Peacehaven, BN10 8UY

(Councillor von Kurthy declared a personal and prejudicial interest in this item, as he knew one of the objectors to the application. He therefore left the room for the duration of this item and did not take part in the consideration, discussion or voting thereon.)

Fiona Shoop (Neighbour) spoke against the proposal.

Resolved:

That planning application LW/20/0390 for change of use of land to use as a residential caravan site for gypsy/traveller family, involving removal of one

existing stable and siting of one new static caravan/mobile home on existing hardstanding, and retention of the existing bungalow as day room/amenity building (amended scheme) be approved, subject to:

- 1) The conditions set out in the report; and
- 2) That Officers monitor compliance with the conditions, especially the removal of the existing caravan/mobile home, and Officers report back to Members to update on compliance.

60 LW/21/0351 - Site to the rear of 2 - 16 Broyle Close, Ringmer, East Sussex

(Councillor Turner declared a personal and prejudicial interest in this item, as he as he owned a house close to the application site. He therefore left the room for the duration of this item and did not take part in the consideration, discussion or voting thereon.)

Paul Giles (Neighbour) and Peter Lineham (Neighbour) spoke against the proposal.

The Council's Solicitor advised the Committee on the importance of treating planning application LW/21/0351 and LW/21/0350 as separate applications.

Resolved:

That planning application LW/21/0351 for redevelopment of vacant garage site to provide 3-No. three bed affordable homes including associated vehicle parking, Hard and Soft Landscaping be approved, subject to the conditions set out in the report.

61 LW/21/0350 - Land adjacent, 15 Kiln Road, Ringmer, East Sussex, BN8 5PJ

Paul Giles (Neighbour) and Peter Lineham (Neighbour) spoke against the proposal.

Resolved:

That planning application LW/21/0350 for the redevelopment of an Amenity site to provide a terrace of 3-No. two bed affordable homes including associated vehicle parking, hard and soft landscaping, be refused for the following reasons:

- 1) Loss of open space and impact on wider amenity; and
- 2) Detrimental impact on the streetscene.

62 LW/21/0160 - Former Hamsey Brickworks, South Road, South Common, South Chailey

Chris White (Applicant) spoke for the proposal.

Resolved:

That planning application LW/21/0160 for variation of condition 27 in relation to planning approval LW/14/0712 be approved, subject to the conditions set out in the report.

63 Date of next meeting

That it be noted that the next meeting of the Planning Applications Committee was scheduled to be held on Wednesday, 12 January 2022, in the Council Chamber, County Hall, St Anne's Crescent, Lewes, East Sussex, BN7 1UE, commencing at 5:00pm.

The meeting ended at 8:44pm.

Councillor Sharon Davy (Chair)

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Agenda Item 7

Report to: Planning Applications Committee
Date: 12 January 2022
Application No: LW/21/0705
Location: 3 Homefield Road, Seaford, BN25 3DG
Proposal: Lower ground floor, ground floor and first floor extension and associated internal alterations.
Applicant: Mr J Palmer
Ward: Seaford North
Recommendation: Grant planning permission (subject to conditions).
Contact Officer: **Name:** James Emery
E-mail: james.emery@lewes-eastbourne.gov.uk

IMPORTANT NOTE: This scheme is CIL Liable.

Map Location



1. **Executive Summary**

- 1.1 The proposal seeks householder permission for a lower ground floor, ground floor and first floor extension to the side facing elevation – with associated internal alterations.
- 1.2 Approval is recommended, subject to conditions.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework

2: Achieving sustainable development

16: Conserving and enhancing the historic environment

2.2 Lewes District Local Plan

LDLP: – CP11 – Built and Historic Environment & Design

LDLP: – DM25 – Design

LDLP: - DM28 – Residential Extensions

2.3 Seaford Neighbourhood Plan

SEA2 - Design.

2.4 Site Description

2.5 The application property is a two-storey detached dwelling located to the south side of Homefield Road in Seaford.

2.6 The property is not listed nor is it located within an area of established character.

2.7 The property borders a Grade II Listed building ("Star House") to the west, and it abuts the Seaford East Blatchington Conservation Area to the north.

2.8 The surrounding area is leafy and residential, featuring detached dwellings set on large plots. Properties feature front and rear gardens with off street parking.

2.9 The application property sits on a generous deep plot, which slopes down such that the front boundary is at a higher elevation than the rear. Boundary treatments to the rear are comprised of close board fencing, with extensive vegetative screening to the sides and rear.

3. **Proposed Development**

3.1 The proposal seeks householder permission for a lower ground floor, ground floor and first floor extension to the east facing elevation – with associated alterations.

3.2 The application is called into the Planning Committee as Seaford Town Council have objected to the proposed development.

- 3.3 At lower ground floor level, a basement is to be excavated to the rear and side of the property which will accommodate a gym, W.C and steam room. It has an inverse L shaped footprint, measuring a maximum of approx. 11.2m in depth by 22.4m in width. Internal ceiling height will be 3.0m.
- 3.4 The lower ground floor extension features a set of rear (south facing) white UPVC sliding doors and a set of side (west facing) doors which will each lead to a set of natural stone steps leading up to the garden. The steps will both feature a 0.9m high stone wall balustrade.
- 3.5 The works to the basement will necessitate underpinning of the foundations, and the installation of a two-layer retaining wall with liquid membrane.
- 3.6 At ground floor a single storey extension is to be erected to accommodate an enlarged family room and kitchen.
- 3.7 It is to project from the (east facing) side elevation by 5.7m with a depth of 17.3m. The single storey elements of the extension have a flat roof, measuring a maximum of 3.85m high and finished in lead.
- 3.8 The ground floor extension is 2.5m from the boundary with the neighbour at 5 Homefield Road and is stepped back from the principal elevation of the property by 0.5m.
- 3.9 The ground floor element of the extension is to be finished in matching materials with white painted render and white UPVC windows. The extension features doors to the rear which open onto a slightly enlarged terrace formed by the roof of the lower ground floor extension.
- 3.10 The existing 6.1m deep by 16.4m wide terrace will be enlarged to measure 7.2m deep by 22.4m wide and is to be finished in matching natural stone. It will feature a 0.9m high stone wall balustrade.
- 3.11 At first floor level stepped back from the principal elevation by 1.5m there are to be two projections from the east facing (side) elevation. To the northern side of the east elevation there is a bedroom with en-suite measuring 4.7m wide by 5.1m deep. To the southern side of the east elevation there will be a dressing room with rear facing balcony measuring 4.7m wide by 7.5m deep.
- 3.12 The first-floor elements are 5.5m high to the eaves, 8.5m high to the ridge (0.2m lower than the existing ridge height). The first-floor projections feature hipped roofs matching those of the host property in material and angle. The first-floor elements are to be finished in matching white rendered brickwork, red clay tile roofs and will feature white UPVC windows and black UPVC rainwater goods.
- 3.13 The first-floor extension requires planning permission due to a proposed rear facing balcony. The balcony measures 3.3m wide by 1.26m deep, inset to the rear of the proposed first floor extension. It features a 1.1m high timber balustrade.
- 3.14 Associated alterations to the property will see internal works not requiring planning permission, and the installation of front facing windows at ground and first floor level to the north facing elevation.

This application was subject to amendments to remove flint detailing and replace with brickwork so that the finish is more in keeping with the character of the existing building.

4. **Relevant Planning History**

- 4.1 LW/21/0278 – Householder application for a lower ground floor, ground floor and first floor extension and demolition of existing garage and boundary wall and construction of new garage and boundary wall. - Refused
- 4.2 LW/10/1558 - Section 73A Retrospective Application for the retention of boundary wall, eight pillars, iron gates and railings. – Approved

5. **Consultations**

5.1 **Seaford Town Council - Objected to the proposals**

RESOLVED to OBJECT to the application on the following grounds:-

'The proposed extension, taking into account the size, scale massing and design would dominate the street scene in this part of Homefield Road. Although it is acknowledged that the proposals relating to the garage and wall in LW/21/0278 have been removed and the area has no special designation, it adjoins the East Blatchington Conservation Area and this part of Homefield Road derives a clear architectural rhythm from houses built of traditional materials set back from the road in large plots.

The proposed building would have an unacceptable impact on this street scene and, contrary to the Seaford Design Guidelines, it would dominate the existing property rather than being subservient to it. The extension would also have an overbearing impact on the smaller property adjoining at no. 5 with significant overlooking and loss of privacy issues arising from the proximity and height of the extension and the proposed additional windows at first floor level. The proposals are therefore contrary to para 134 of the NPPF, Local Plan policy DM28 (ii) and (iv) and to paras SW01 and GB03 of the Design Guidelines incorporated in the Seaford Neighbourhood Plan

N.B

1. There is concern that if consent is granted the excavation required to construct the lower ground floor element is likely to cause significant environmental problems in the area. A condition requiring a comprehensive Construction Management Scheme should therefore be imposed

2. Taking into account the refusal of LW/21/0278 and that the plans submitted under LW/21/0705 and /0712 are the fifth and sixth versions of the development plans submitted this year, the District Council is encouraged to take a firm approach to any future proposals to extend the property in order to ensure the best use of officer time and resources..

5.2 **Design and Conservation Officer – No objection**

Approve subject to conditions - impact will be neutral on the street scene, setting of LB and setting of adjacent CA

The flat roof extension as proposed in both applications is PD and as such this element will not be considered. Nonetheless, the applicant has been asked to remove the flint detail and replace with brickwork or tiles so that the finish is more in keeping with the character of the existing building.

Whilst the building will be larger than it is now, the extension is not considered to be overbearing. The extension has been set back further than in the previously withdrawn applications and is no longer considered to be a dominant feature. The insertion of windows to the two-storey element that faces the street is considered a positive intervention as the building will address the street in a more positive way that it does currently. Currently the windowless elevations are quite alienating. On balance, subject to the successful discharge of conditions, the proposals will have a neutral impact on the street scene.

Suggested Conditions

- 1) Prior to the relevant part of the works being carried out a brick sample and brick panel shall be prepared in accordance with the requirements below and approved in writing by the Local Planning Authority. The approved panel shall be retained on site until completion of the works and the new walling shall be constructed in accordance with the approved panel.
- 2) Prior to the relevant part of the works being carried out a sample of the proposed roof, hip and ridge tiles photographed against the existing roof tiles from both the front and rear together with manufacturer's details. The new tiles to the roof/hanging tiles shall precisely match those of the original tiles in respect of unit dimensions, materiality, colour, and texture and ideally clay.

6. Representations

- 6.1 Representations have been received from the District Councillor Sam Adeniji (Seaford South), offering comments that the proposed development is overbearing through its bulk and scale and that the proposal would introduce unacceptable overlooking onto the neighbouring property at number 5 Homefield Road. The representation continues that the proposals amount to overdevelopment of the plot.
- 6.2 Councillor Carolyn Lambert of East Sussex County Council (Seaford South) also opposed the proposed development, querying the validity of the application and citing that the development is out of character, overbearing and that it will unacceptably harm the street scene.
- 6.3 In total, 43 Representations have been received: objecting to the application for the following reasons:
 - Highway hazards caused during construction.
 - Inadequate access for construction vehicles.
 - Noise and disturbance during construction.
 - Out of character, unneighbourly development.

Overdevelopment of the plot.

Overbearing appearance, due to the location and large mass, amplified by the slope and height differences between neighbouring properties.

Effect on the Conservation Area and the heritage value of Easemore House itself.

Harm to the contextual significance of the area.

Development is contrary to policy.

Loss of trees.

Loss of light.

Validity of the application / missing documents.

Safety concerns regarding excavating a basement in the proposed location.

Concerns over inaccurate drawings.

Overlooking from the single storey element being used as a 'balcony by stealth'.

7. **Appraisal**

7.1 Key Considerations

The key considerations are: principle of development, impact of the design on the character of the property and the wider street scene and the effect on the amenities of adjoining neighbours.

7.2 Principle

- 7.2.1 Para. 11 of the revised NPPF (2019) states that decision taking should be based on the approval of development proposals that accord with an up-to-date development plan without delay. Underlining that there is to be a presumption in favour of sustainable development.
- 7.2.2 The development site is within the defined planning boundary of Seaford, and it is not subject to any site-specific policies which would preclude development.
- 7.2.3 There is no objection in principle to extensions being made to the dwelling, subject to the proposals being appropriate in their scale, massing and materials and not significantly affecting the amenities of the adjacent residential properties in accordance Local and national policies against which the development will be assessed in the main body of this report.

7.3 Design and Character

- 7.3.1 The application property is not located within a designated conservation area, area of established character, nor is it a listed building. It is not subject to any site-specific policies which would restrict development.

- 7.3.2 Due to the location of the site sharing a boundary with the Grade II Listed Star house, and abutting the Seaford East Blatchington Conservation Area, weight must be applied to the Design and Conservation aspects of the proposed development.
- 7.3.3 It is noted that the single storey element of the proposal falls within permitted development, as it complies with Schedule 2, Part 1, Class A of the Town and Country (General Permitted Development) (England) Order 2015. The reasons for this are given below: -
- 1). The width of the original dwellinghouse is approx. 14.96m and the proposed side extension (width 5.7m) would not have a width greater than half the width of the original dwellinghouse (7.48m).
 - 2). The single storey element would not exceed 4.0m high and would not project beyond a rear wall by more than 3.0m.
 - 3). The single storey element is not within 2.0m of the boundary, and the height of the single storey element is no higher than the eaves height of the existing dwelling, the single storey element does not exceed 4.0m in height.
- 7.3.4 The application property sits on a generous plot, and as such, it is considered that the development can be accommodated without overdeveloping the plot, in accordance with Policy DM25 of the Lewes District Local Plan and SEA2 of the Seaford Neighbourhood Plan.
- 7.3.5 The proposed lower ground floor element is not visible from the public domain as it is rear facing, with openings located in the rear garden of the property, as such it is not considered that this element will unacceptably alter the character or appearance of the host property or the wider street scene, in accordance with policy DM25 of the Lewes District Local Plan and policy SEA2 of the Seaford Neighbourhood Plan.
- 7.3.6 In the consultation comment, the Design and Conservation officer commented that whilst the building will be larger than it is now, the extension is not considered to be overbearing as the extension has been set back further than in the previous application. They continued that the insertion of windows to the two-storey element that faces the street is considered a positive intervention as the building will address the street and conservation area in a more positive way that it does currently.
- 7.3.7 It is considered that the proposed first floor element complies with GB01 of the Seaford Design Guidelines which requires that development be contained within existing building lines, in that the development does not protrude forward of the existing building line and is sited within the extant alignment of properties. Furthermore, the development is not located within 2.0m of any shared boundary.
- 7.3.8 The first-floor element is compliant with GB03 of the Seaford Design Guidelines, Policy SEA2 (Design) of the Seaford Neighbourhood Plan and DM25 (Design) of the Lewes District Local Plan as it

features a subservient ridge height which is 0.2m lower than the ridge of the existing property.

- 7.3.9 Additionally, it is stepped back from the front elevation of the property by 1.5m, there are no side windows in the proposed first floor extension and it is to be finished in matching materials with a sympathetic roof form matching that of the host property.

7.4 Impact Upon Residential Amenity

- 7.4.1 The basement will not add any bulk or massing to the property that would overbear overlook or overshadow any neighbouring property to a degree that would warrant the refusal of the application. Objection comments regarding the safety of excavating the lower ground floor are noted, however these are not within the remit of this planning assessment. It is considered appropriate to require a CEMP is submitted to outline how access, removal of spoil, parking, highway and other issues will be addressed during construction.
- 7.4.2 It is not considered that the proposal will introduce unacceptable overlooking to number 5 Homefield Road, as the proposal represents a net reduction in the amount of side facing windows at first floor level to the shared boundary, and the rear facing balcony is inset to the rear of the first-floor extension, in a manner which precludes direct views back towards number 5 Homefield Road.
- 7.4.3 This application differs from the refused LW/21/0278, in that the overbearing nature of the refused application is addressed by stepping the proposed extensions in from the principal elevation by 1.5m and by breaking up the massing with the introduction of a single storey element with first floor element further stepped in by 1.0m. The flat roof of the proposed ground floor element will be subject to a condition, preventing its use as a seating area or balcony.
- 7.4.4 It is not considered that the enlarged rear terrace will unacceptably increase overshadowing to adjoining properties. Due to the sloping topography of the rear garden, it is considered appropriate to require details of obscure glazed screening to the northeast side of the enlarged terrace, closest to the neighbour at number 5.
- 7.4.5 The proposals comply with Policy DM28 in that they retain a gap exceeding one metre to the nearest side boundary and they are stepped back from the principle elevation of the property. The proposed development would not breach the BRE 45-degree rule for two storey extensions with regard to overshadowing of habitable rooms. It is not considered that the proposal will introduce an unacceptable loss of light to neighbouring properties.
- 7.4.6 The distance between the first-floor extension and the properties on Blatchington close is approximately 32m, which exceeds 20.0m, which is generally accepted as a reasonable separation to mitigate overlooking.
- 7.4.7 Noise and disturbance generated by use of the extensions and enlarged terrace for 'entertaining' is not a sustainable reason for

refusing this application; it would be no worse than the use of the garden for the same purpose, or by having the living room windows open.

7.5 Responses to Objectors Comments

- 7.5.1 **Heritage Impacts:** Objection comments regarding design, overlooking, overshadowing and neighbour amenity have been addressed above.
- 7.5.2 Regarding potential heritage impacts of the development, members are reminded that the application property is not located within a designated conservation area, area of established character, nor is it a listed building. It is not subject to any site-specific policies which would restrict development.
- 7.5.3 It is conceded that the development will be visible from the conservation area, in view of the above design assessment, it is not considered that the proposals will negatively affect the conservation area itself.
- 7.5.4 The impact of the proposals has been commented upon by the Design and Conservation Officer, who offered that the proposals are acceptable, having a neutral effect upon the conservation area, the wider street scene and delivering a positive intervention which allows the application property to address the street in a more positive way that it does currently.
- 7.5.5 The proposed development is located approx. 25.0m away from the Grade II Listed Star House and is on an elevation which cannot be viewed from the listed building, and as such it is not considered to negatively impact upon its setting, in accordance with Policy DM33 (Heritage Assets) of the Lewes District Local Plan.
- 7.5.6 **Land Contamination:** Comments regarding the potential for undiscovered contamination of land to be unearthed are considered to have been addressed by the requirement of a remediation strategy upon the discovery of any land contamination on site.
- 7.5.7 **Site Safety:** Comments regarding the safety of excavating the lower ground floor extension are Building Control considerations, and do not form part of this planning assessment. An informative will be added reminding the applicant of the requirements to comply with Building Regulations.
- 7.5.8 **Loss of Trees/Shrubs:** The applicant has outlined in their design and access statement that all screening is to be maintained. In response to queries regarding any screening removed during construction they have expressed that this will be reinstated and have expressed an openness for this to be imposed by condition should members feel necessary.
- 7.5.9 **Overlooking:** It was noted on a site visit that a good deal of screening is sited on the neighbour's side of the boundary at number 5, and as such is within their control. Nonetheless, the applicant has offered that they would agree to a condition requiring that any

screening to the northeast boundary lost is reinstated should the committee feel necessary.

- 7.5.10 **Validity of the applications:** The Local Validation List Document which is available on our website dated 28/04/2021, outlines which supporting documents are required, and in what circumstances they are required. It is not a requirement to submit all the documents listed on the local validation list for a householder application.

8. Human Rights Implications

- 8.1 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.

9. Recommendation

- 9.1 In view of the above the proposed development is considered to be acceptable and approval is recommended subject to conditions.

9.2 Conditions

1. No windows shall be formed in the side walls of any of the extensions hereby approved unless approved in writing by the LPA.

Reason: To protect the amenities of neighbouring residential properties in accordance with Policies DM25 and DM28 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

2. The flat roof of the ground floor extension hereby approved shall not be used as a sitting area or balcony and shall only be accessible for maintenance purposes.

Reason: To protect the amenities of neighbouring residential properties in accordance with Policies DM25 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

3. 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 : To ensure that risks from any land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to

ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with National Planning Policy Framework, para 170, 178 and 179].

4. No development shall commence, including any ground works or works of demolition, until a Construction Environment Management Plan (CEMP) 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;

Reason: In the interests of amenity of the locality and surrounding neighbours in accordance with Policy DM25.

5. Before the terrace hereby permitted is brought into use, details of obscure glazed boundary screening to the northeast side of the terrace, measuring 1.7 metres from finished floor level shall be submitted to and agreed by the LPA in writing.

Reason: to protect the amenities of current and future neighbouring properties in accordance with Policy DM25.

6. Notwithstanding the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development described in Class(es) A to E of Schedule 2, other than hereby permitted, shall be undertaken unless the Local Planning Authority otherwise agrees in writing.

Reason: A more intensive development of the site would be likely to adversely affect the appearance and character of the area having regard to DM25 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework 2019.

7. Prior to the relevant part of the works being carried out a brick sample and brick panel shall be prepared in accordance with the requirements

below and approved in writing by the Local Planning Authority. The approved panel shall be retained on site until completion of the works and the new walling shall be constructed in accordance with the approved panel.

Reason: In the interests of visual amenity in accordance with Policy DM25.

8. Prior to the relevant part of the works being carried out a sample of the proposed roof, hip and ridge tiles photographed against the existing roof tiles from both the front and rear together with manufacturer's details. The new tiles to the roof/hanging tiles shall precisely match those of the original tiles in respect of unit dimensions, materiality, colour, and texture and ideally clay.

Reason: In the interests of visual amenity in accordance with Policy DM25.

9. The development hereby permitted shall be carried out in accordance with the following approved drawings:

PLAN TYPE	DATE RECEIVED	REFERENCE
Proposed Section CC	1 October 2021	JP/15A
Proposed Section AA and BB	1 October 2021	JP/14A
Proposed Front and Side Elevations	1 October 2021	JP/13A
Proposed Rear and Side Elevations	1 October 2021	JP/12A
Proposed Roof Plan	1 October 2021	JP/11A
Proposed First Floor Plan	1 October 2021	JP/10A
Proposed Ground Floor Plan	1 October 2021	JP/09A
Proposed Basement Plan	1 October 2021	JP/08A
Proposed Block Plan	1 October 2021	JP/07A
Heritage Statement	31 August 2021	
Design and Access Statement	31 August 2021	

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

9.3 Informatives:

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice

service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

2. Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.
3. When undertaking demolition and/or building work, please be considerate to your neighbours and do not undertake work before 8am or after 6pm Monday to Friday, before 8am or after 1pm on a Saturday or at any time on Sundays or Bank Holidays. Furthermore, please ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway. You are advised that the Council does have formal powers to control noise and nuisance under The Control of Pollution Act 1974, the Clean Air Acts and other relevant legislation. For further information and advice, please contact - Environmental Health Department Pollution Section.
4. The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:
 - carry out work to an existing party wall;
 - build on the boundary with a neighbouring property;
 - in some circumstances, carry out groundwork's within 6 metres of an adjoining building.Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

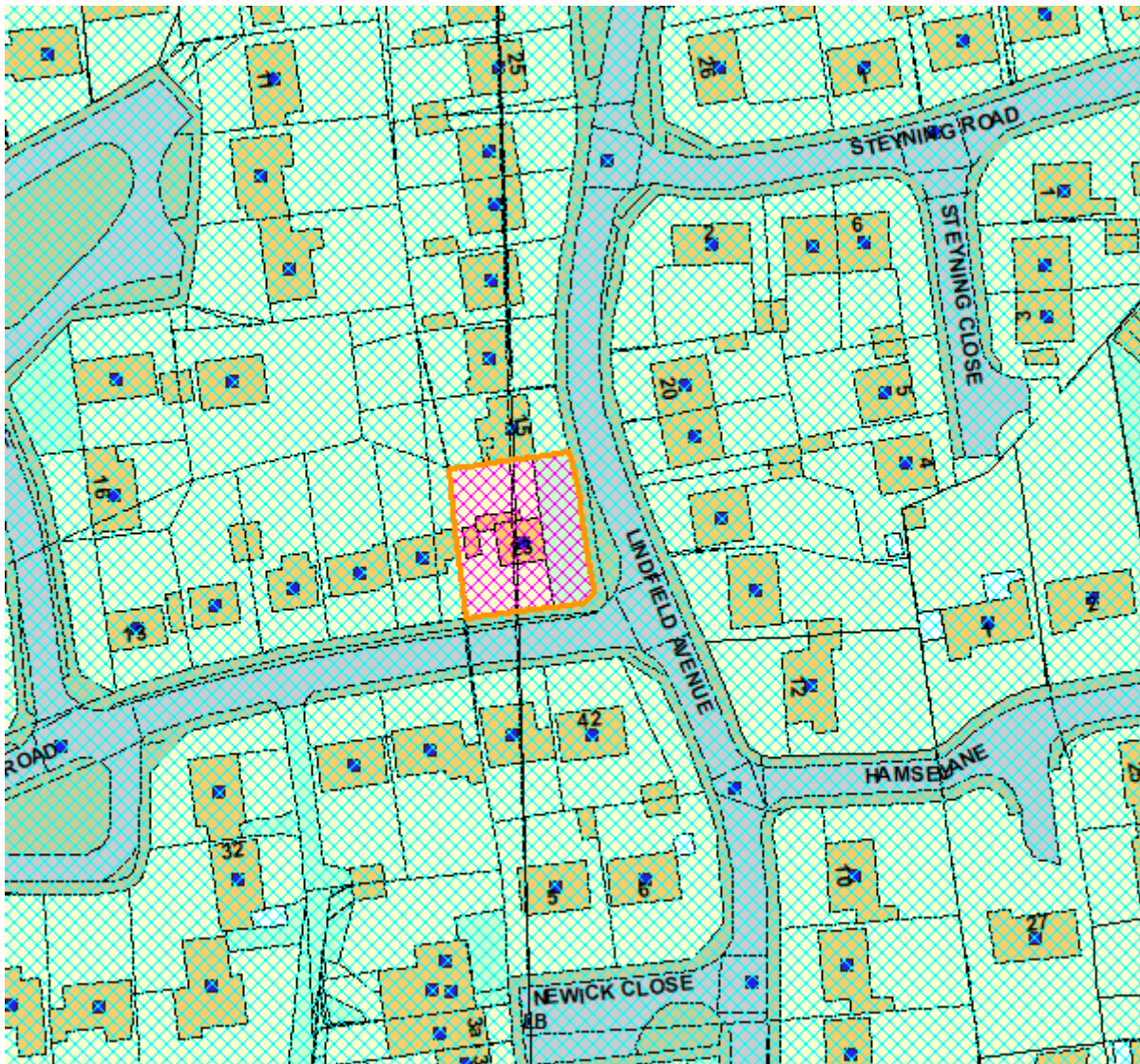
10. Background Papers

10.1 None.

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Agenda Item 8

Report to: Planning Applications Committee
Date: 12 January 2022
Application No: LW/21/0615
Location: 23 Fairways Road, Seaford, East Sussex, BN25 4EL
Proposal: Erection of garage and two-storey side extension annex.
Applicant: K Keen
Ward: Seaford
Recommendation: Grant planning permission.
Contact Officer: **Name:** Tom Bagshaw
E-mail: tom.bagshaw@lewes-eastbourne.gov.uk



IMPORTANT NOTE: This scheme is not CIL Liabe as the development does not create net additional floor space of 100 square metres or more.

Map Location:

1. Executive Summary

1.1 The proposed development is considered to meet all relevant local and national planning policies.

1.2 Approval is recommended, subject to conditions

2. Relevant Planning Policies

2.1 National Planning Policy Framework

Achieving well designed places

2.2 Lewes District Local Plan

LDLP: - CP10 – Natural Environment and Landscape Character

LDLP: – DM1 – Planning Boundary

LDLP: – DM25 – Design

LDLP: - DM28 – Residential Extensions

2.3 Seaford Neighbourhood Plan

SEA2 Design

2.4 Site Description

2.5 The property is a two-storey detached property on the northern side of Fairways Road. The property forms the corner plot on the junction with Lindfield Avenue. The property has a detached garage on the western boundary with No.21 Fairways Road, with a driveway with vehicular access onto Fairways Road.

2.6 The site is situated within the Planning Boundaries of Seaford. The site is not listed nor is it situated within a conservation area, or area of established character.

3. Proposed Development

3.1 The application seeks planning permission for the erection of garage and two-storey side extension annex.

3.2 The application is called in to planning committee as Seaford Town Council have objected to the proposal.

3.3 The proposed two storey side extension would be 4.8 metres in height to the eaves; 7.6 metres in height to the roof ridge; 4.6 metres in width; and 8.4 metres in depth.

3.4 The proposed garage would be 2.3 metres in height to the eaves; 4.8 metres in height to the roof ridge; 2.8 metres in width; and 6.2 metres in depth.

3.5 The single storey conservatory to the rear would be replaced by a single storey rear extension which would retain approximately the same depth and width. The front porch would include a minor extension.

4. **Relevant Planning History**

- 4.1 LW/20/0119 - Demolition of existing detached garage and shed and erection of side extension to form a self-contained dwelling - Refused

5. **Consultations**

5.1 Seaford Town Council Comments:

At last night's Planning and Highways Committee meeting it was RESOLVED to OBJECT to the application.

The Committee acknowledged that the proposals had been amended following the dismissal of the appeal against the refusal of the application for the provision of a separate dwelling. However the side extension was still considered to be an over-development of the plot and out of scale and character with the existing street scene which was of attractive detached houses on generous plots with gaps in between properties to enhance the spacious character.

The extension would also, through its height and mass, be overbearing as regards the neighbouring property at no.21.

The construction of the replacement garage on the eastern elevation would also have an adverse impact on the character of the area by encroaching on the existing gap between the property and the Lindfield Avenue frontage and the vehicle access would cause highway/traffic problems through its proximity to the road junction.

The proposals would therefore be in contravention of policies DM 25 & 28 of the Lewes Local Plan Part 2 and SEA2 and SE01 of the Seaford Neighbourhood Plan and Design Guidelines

6. **Neighbour Representations**

- 6.1 Letters were sent to 8 properties and the applications were advertised via site notice and on the Council's website.

- 6.2 We received 7 letters of objection and 2 letters of support

- 6.3 The objections related to the following issues:

- Highway Hazards
- Out of Character
- Over-development
- Overbearing Building/Structure
- Overbearing
- Overshadowing
- Loss of Outlook
- Loss of Light

6.4 The letters of support related to the following:

- Good Design
- Needed to Support Growing Family

Appraisal

6.5 Key Considerations

6.5.1 The key considerations are: principle of development, design, effect on residential amenity of adjoining occupants.

6.6 Principle

6.6.1 The site falls within the Seaford Planning Boundary and would not be resisted in principle.

6.6.2 Policy DM28 supports residential extensions.

6.6.3 The site was subject to an application to erect a new house which was dismissed in appeal decision APP/P1425/W/20/3256832. The inspector stated that the dwelling would be designed to appear as an extension yet would clearly be its own unit. The resulting property would appear cramped into the site and it would give the impression of a cramped property in an area where properties sit on spacious plots. The inspector does not reference the size of the extension in their decision being harmful, only that the creation of a new dwelling would be out of character. Therefore, any permission will include a condition which requires the extension to remain as ancillary to the main property.

6.6.4 Therefore, the principle of development is considered acceptable subject to the proposal not resulting in unacceptable harm to the character of the area or the amenity of neighbouring properties.

6.7 Design and Character

6.7.1 Policy DM28 (Residential Extensions) of the Lewes District Local Plan - February 2020 (Part 2) Site Allocations and Development Management Policies, states that extensions and alterations to dwellings will only be permitted where the following criteria are met:

- 1) the materials and design, including the pitch, style and span of the roof, complement and enhance the character and appearance of the host building;
- 2) the design respects and responds positively to the scale, height, site coverage, bulk, massing and character of the adjacent properties and the wider street scene – in streets which have a definite architectural rhythm and similar style of dwelling, front extensions will not normally be acceptable;
- 3) two storey or second storey extensions at first floor level will normally be required to retain at least a one metre gap to the side boundary to prevent the creation of a ‘terraced’ appearance;

- 4) extensions would not result in unacceptable overlooking of, or loss of daylight to, the nearest habitable rooms or private amenity space of neighbouring dwellings. They should normally be restricted to within a line drawn from the mid-point of the nearest ground floor window of a habitable room of the neighbouring property. The line should be projected 60° for single storey extensions and 45° degrees for two storey extensions.

6.7.2 The proposed development should comply with the provisions of Policy DM25 of the Lewes District Local Plan (part 2) sets out that development which contributes towards local character and distinctiveness through high quality design will be permitted where the following criteria are met:

- 1) Its siting, layout, density, orientation and landscape treatment respond sympathetically to the characteristics of the development site, its relationship with its immediate surroundings and, where appropriate, views into, over or out of the site;
- 2) its scale, form, height, massing, and proportions are compatible with existing buildings, building lines, roofscapes and skylines;
- 3) it incorporates high quality, durable and sustainable materials of an appropriate texture, colour, pattern and appearance that will contribute positively to the character of the area;
- 4) existing individual trees or tree groups that contribute positively to the area are retained;
- 5) adequate consideration has been given to the spaces between and around buildings to ensure that they are appropriate to their function, character, capacity and local climatic conditions;
- 6) any car parking or other servicing areas are appropriate to the context and sensitively located and designed so as not to dominate the public realm;

And that outside the planning boundaries, as defined on the Policies Map, dwelling extensions will only be permitted where there would be no harmful impact on the surrounding landscape

6.7.3 DM28 permits extensions that complement and enhance the character and appearance of the host building, respects and responds positively to wider street scene in terms of scale, height, site coverage and bulk.

6.7.4 Seaford Town Council have objected to the proposal on the grounds that it is out of keeping with its surroundings and would be an overdevelopment of the site.

- 6.7.5 The proposed two storey side extension would be designed to appear subordinate to the main dwelling. It would be set back from the front of the property and set down from the roof ridge. The proposal would retain a 1 metre separation distance to the boundary of the neighbouring property and would maintain characteristic gaps between the dwellings and avoid creating a terracing effect.
- 6.7.6 Whilst the width of the extension would retain the same width as the dismissed appeal scheme in which its scale was not stated as a significant harm but rather the impact upon the streetscene of creating an additional dwelling. Overall, the proposed two storey side extension would be in keeping with the main property, subordinate to the dwelling, and would be acceptable in terms of design.
- 6.7.7 The proposed single storey porch extension would be designed to appear as a porch. It would command little visual presence in the streetscene as porches are not an uncommon feature of the area. Overall, the proposed single storey porch extension would not unacceptably dominate the front elevation of the property and is considered to be in accordance with Policies SEA2, DM25 and DM28.
- 6.7.8 The proposed single storey extension would have limited impact on the streetscene and would not unacceptably impact the character of the property. Therefore, it would be acceptable in terms of design.
- 6.7.9 In appeal APP/P1425/W/20/3256832 the proposed garage was not raised as an issue and the inspector states ' I have also noted the appellants submissions with regard to the replacement garage for No 23 and agree that this element alone is unobjectionable'. The garage is a modest addition to the property and would not unduly harm the character or appearance of the area or streetscene
- 6.7.10 Overall, the proposal is considered to be acceptable in terms of design and visual amenity.

6.8 Impact Upon Residential Amenity

- 6.8.1 Policy DM25 of the Lewes District Local Plan (part 2) sets out that proposals seeking new development will not be approved unless it can be shown that there will be no unacceptable adverse impact on the amenities of neighbouring properties in terms of privacy, outlook, daylight, sunlight, noise, odour, light intrusion, or activity levels.
- 6.8.2 Neighbour objections have raised concerns regarding loss of light and overbearing caused by the two-storey side extension. The proposed two storey side extension would not project beyond the rear of the neighbouring property and would be located adjacent to a side passageway and would retain one metre separation distance to the boundary of the property. The proposed two storey side extension would include two side facing windows above ground floor level however these will be obscurely glazed via condition to prevent overlooking. Therefore, the proposed two storey side extension would not be considered to result in any unacceptable impacts upon neighbouring amenity in terms of overbearing, overlooking, overshadowing or daylighting/sunlighting.

- 6.8.3 The proposed single storey front extension would be located at the front of the property and would not be located in close proximity to the boundary of either neighbouring residential property. The proposed single storey front extension would not include any side facing windows above ground floor level. Therefore, the proposed extension would not be considered to result in any unacceptable impacts upon neighbouring amenity in terms of overbearing, overlooking, overshadowing or daylighting/sunlighting.
- 6.8.4 The proposed garage extension would not be situated adjacent to any residential properties and would be a single storey extension. The proposed garage would not be considered to have any unacceptable impacts in terms of overbearing, overshadowing overlooking or daylighting/sunlighting.
- 6.8.5 The proposed single storey rear extension would be situated approximately one metre from the site boundary and would be a modest height and depth. Therefore, the proposed single storey rear extension would not be considered to result in any unacceptable impacts upon neighbouring amenity in terms of overbearing, overlooking, overshadowing or daylighting/sunlighting.

6.9 Conclusion

- 6.9.1 The application would not result in unacceptable harm to the character of the property, the street scene or the surrounding landscape and resolve the concerns raised by the inspector in appeal decision APP/P1425/W/20/3256832 .
- 6.9.2 The proposals have been designed in such a way that they would not unacceptably harm the amenity of any neighbouring property in terms of overbearing, overshadowing, overlooking or daylighting/sunlighting.
- 6.9.3 The proposal is therefore considered to be acceptable.

7. Human Rights Implications

- 7.1 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.

8. Recommendation

- 8.1 In view of the above the proposed development is considered to be acceptable and approval is recommended subject to conditions

8.2 Conditions

- 1. The development hereby permitted shall be carried out in accordance with the following approved drawings:

PLAN TYPE	DATE RECEIVED	REFERENCE
Existing and Proposed Floor Plans, Roof Plans and Elevations	17 February 2021	2036 / P01 Rev. A
Proposed Block Plan and Site Location Plan	4 May 2021	2036 / P02

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

2. The development hereby approved shall be finished in external materials which are those stated on the application form.

Reason: To ensure a satisfactory development in keeping with the locality having regard to policy DM28 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

3. The proposed extension shall only be used as an ancillary accommodation to the main dwelling and shall hereafter be retained as such. The proposal shall not be occupied as an individual planning unit.

Reason: To protect the amenities of neighbouring residential properties in accordance with Policies DM25 and DM28 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or Orders amending or revoking and re-enacting the same, no windows or other openings (other than those shown on the plans hereby approved) shall be formed in the flank elevations of the development without express planning consent from the Local Planning Authority first being obtained.

Reason: In order to safeguard the privacy and amenity of the neighbouring residents having regard to policies ST3 and CP11 of the Lewes District Local Plan Part 1 and the National Planning Policy Framework.

5. Before occupation of the extension hereby permitted the first-floor side windows proposed in the two-storey side extension shall be obscurely glazed and non-opening below 1.7 metres from finished floor level. The window glazing treatments shall thereafter be retained.

Reason: to protect the amenities of current and future neighbouring properties in accordance with Policy DM25

8.3 Informatives:

1. In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given

every opportunity to submit an application which is likely to be considered favourably.

2. Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works. Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.
3. When undertaking demolition and/or building work, please be considerate to your neighbours and do not undertake work before 8am or after 6pm Monday to Friday, before 8am or after 1pm on a Saturday or at any time on Sundays or Bank Holidays. Furthermore, please ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway. You are advised that the Council does have formal powers to control noise and nuisance under The Control of Pollution Act 1974, the Clean Air Acts and other relevant legislation. For further information and advice, please contact - Environmental Health Department Pollution Section.
4. The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:
 - carry out work to an existing party wall;
 - build on the boundary with a neighbouring property;
 - in some circumstances, carry out groundwork's within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

9. Background Papers

9.1 None.

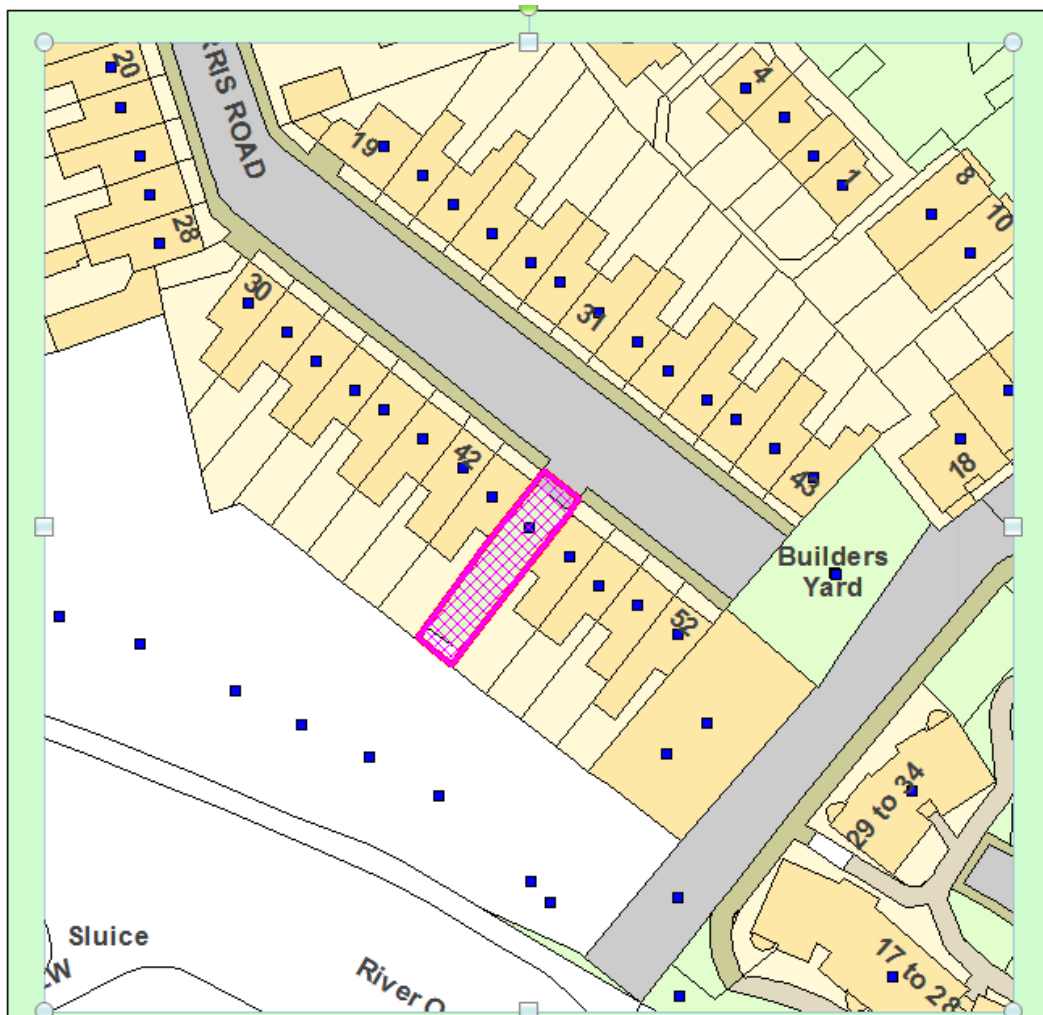
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Agenda Item 9

Report to: Planning Applications Committee
Date: 12 January 2022
Application No: SDNP/21/01724/CND
Location: 44A Morris Road, Lewes, East Sussex, BN7 2AT
Proposal: Variation of condition 15 of planning application SDNP/16/01310FUL to remove requirement for public thoroughfare to be retained.

Applicant: Rob Williams
Ward: Lewes
Recommendation: Permission is granted.
Contact Officer: **Name:** Christopher Wright
E-mail: christopher.wright@lewes-eastbourne.gov.uk

IMPORTANT NOTE: This scheme is CIL liable.
Map Location:



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Downs National Park Authority, Licence No. 100050083 (2021) (Not to scale).

1. **Executive Summary**

- 1.1 The applicant seeks the variation of condition 15 of application SDNP/16/01310/FUL such that the requirement for the public thoroughfare to be retained, is removed.

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework

2.2 South Downs Local Plan

Core Policy SD1 - Sustainable Development

Strategic Policy SD19 - Transport and Accessibility

3. **Site Description**

- 3.1 The application site falls on the south side of Morris Road, a residential street accessed off Cliffe High Street, falling within the Lewes Conservation Area towards the eastern edge of the town. The site is within the South Downs National Park.
- 3.2 The site was a vacant space between two end of terrace, two storey properties, 44 and 46 Morris Road, and historically provided a secondary access to Chandlers Building Yard that formerly sat on the southern side of the Morris Road dwellings. This former builder's yard is currently being redeveloped with dwellings (LW/11/1284/NP) and as part of that approval the application site is maintained as a pedestrian access.
- 3.3 As well as falling within the designated Conservation Area the application site falls within the planning boundary of Lewes as defined by the Lewes District Local Plan and the South Downs National Park.
- 3.4 A dwelling has been constructed on the site, ref. SDNP/16/01310/FUL.

4 **Proposed Development**

- 4.1 It is understood that the applicant is having difficulties with the sale of the property owing to the passageway that goes underneath the first floor level of the house and connects Chandlers Wharf, a private development that is not part of the public highway, and Morris Road.
- 4.2 The applicant seeks the variation of condition 15 of application SDNP/16/01310/FUL such that the requirement for the public thoroughfare to be retained, is removed.

5 **Relevant Planning History**

- 5.1 SDNP/17/04876/FUL - Approved [Condition 11]
- 5.2 SDNP/16/01310/FUL - Approved [Condition 15]

6. Consultations

6.1 Main Town or Parish Council –

There was discussion regarding an application to discharge a condition attached to development consent. Members had spent some time assessing this matter and considered that the original condition should stand.

The condition originally stated:

'The development shall not be occupied until details for the surfacing and lighting of the path linking through to Chandlers Wharf have been submitted to and agreed in writing by the Local Planning Authority. The path shall then be constructed and completed to the satisfaction of the Local Planning Authority before the development is occupied and thereafter retained as a public thoroughfare at all times.'

Members, aware of local feelings of irritation that the route was obstructed by a locked gate, were also aware that there was a distinction between a public thoroughfare and the actual right of way to use it. They considered that the condition was applied for good reasons and should stand; but they ask the landowner to open the access for public use, acknowledging that it may be blocked periodically, for short periods, to prevent 'prescriptive rights' arising.

6.2 ESCC - Public Rights of Way

The passage is not a public right of way.

6.3 Lewes CAAG - Objection

7 Neighbour Representations

7.1 Twenty-three letters of objection have been received, the comments summarised below:

- Safe route for children
- Safe route to Cliffe High Street
- Link between Timberyard Lane and Morris Road
- Not in spirit of Neighbourhood Plan
- Loss of right of way
- Poor condition of Timberyard Lane
- Longer walk into town
- No pavement along Timberyard Lane
- No in the public interest
- Will discourage walking
- Applicant aware of situation from the outset

7.2 One letter has been received in support of the application:

- Passageway ends at boundary with Chandlers Wharf, which is a private development

- The passageway was created, paid for, and maintained, for the use of Chandlers Wharf owners
- There is no public right of way through Chandlers Wharf

7.3 Friends of Lewes – Objection

Friends of Lewes raised no objection to SDNP/16/01310/FUL because it made provision to retain a public thoroughfare for the benefit of the local community. The thoroughfare provides a safe route to Cliffe High Street for pedestrians especially children, the disabled and the elderly.

The applicant has profited greatly from this and other development locally and the Society objects to the removal of the condition.

8 **Appraisal**

8.1 Sec 38 (6) of the Planning Compulsory Purchase Act 2004 requires that regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

8.2 The NPPF also advises that there is a presumption in favour of sustainable development.

The site is located within the South Downs National Park and therefore determine by the SDNPA who further to the presumption in favour of sustainable development and sec 38 (4) of the statutory purposes and duty of the National Park are:

- o Purpose 1: To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
- o Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.
- o Duty: To seek to foster the social and economic wellbeing of the local communities within the National Park in pursuit of our purposes.

8.3 Principle of Development

8.4 Condition 15 of application SDNP/16/01310/FUL reads as follows:

"The development shall not be occupied until details for the surfacing and lighting of the path linking through to Chandlers Wharf have been submitted to and agreed in writing by the Local Planning Authority. The path shall then be constructed and completed to the satisfaction of the Local Planning Authority before the development is occupied and thereafter retained as a public thoroughfare at all times.

Reason: In the interests of highway safety having regard to Policy ST3 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework 2012."

8.5 Details of the surfacing and lighting of the pathway have been approved, ref. SDNP/20/02988/DCOND.

8.6 The error here appears to be the wording of condition 15, attached to application SDNP/16/01310/FUL, in referring to the passageway as a public thoroughfare. To establish why, it is necessary to look in detail at the history of the site.

8.7 When the application for 13 houses in Timberyard Lane (now Chandler's Wharf) was submitted, the passageway was included within the red edge plan. Submitted with application LW/11/1284/NP was a Transport Statement which described at paragraph 2.1.1 the site as having two access points:

The site is served by 2 accesses, one along Timberyard Lane, and one through to Morris Road, between Numbers 44 and 46.

8.8 At paragraph 3.1.5 the Transport Statement is quoted as saying:

The primary access to the site will be along Timberyard Lane. A secondary access, limited to pedestrians and cycles, links the site with Morris Road, between Number 44 and 46.

The area of land between 44 and 46 Morris Road was private land and formed part of the application site. The application proposed to keep the passage as an access point to the housing development - which is private. This is fine, because future residents of the housing development could use the access, but it does not mean necessarily that it could be used by any Member of the Public.

8.9 The Principal Rights of Way Officer at East Sussex County Council has confirmed that there is no public right of way between 44 and 46 Morris Road.

8.10 The Committee Report published in respect of application SDNP/11/1284/NP indicates that, at that time, the gap in Morris Road may have been obstructed. Paragraph 6.31 reads as follows:

By removing the existing buildings the existing gap between 44 & 46 Morris Road would become usable as a pedestrian/cycle link through to Cliffe High Street.

8.11 This suggests that the passage was not usable prior to the housing development being approved and being implemented.

8.12 Curiously, a number of objections were received in respect of the proposed pedestrian access via Morris Road, paragraph 5.12 of the Committee Report reading:

23 neighbour representations have been received. Two letters of broad support. 14 letters objecting to the proposal largely due to the proposed pedestrian access via Morris Road and concern over future vehicle access due to change in character of the road, prejudicing safety of children, and detrimental to amenity.

- 8.13 The permission was subsequently granted, and it is noted that there is no S106 Agreement requiring the passage to be provided as a public thoroughfare. However, condition 21 of the decision notice reads as follows:

The development shall not be occupied until details for the surfacing of the path linking through to Morris Road and lighting, and any width restrictions including bollards to prevent use by vehicle traffic, have been submitted to and agreed in writing by the local planning authority and the path shall then be constructed and completed to the satisfaction of the local planning authority before the development is occupied.

- 8.14 Technically the condition is worded in such a way that following compliance it would not be necessary to "retain the path as such thereafter" or other similar wording. Also, the path is not referred to as a public thoroughfare or right of way.

- 8.15 Condition 21 has since been complied with.

Moving forward to the approval of the infill dwelling, which is now subject to the current application, condition 15 of application SDNP/16/01310/FUL now refers to the passage needing to be retained as a public thoroughfare at all times. **This is understood to be the first reference to the passage as a public thoroughfare.**

- 8.16 In view of the above it is felt that the wording of condition can be altered.

- 8.17 Residents of Chandlers Wharf will continue to be able to use the passage, but will be issued with a code or keycard to do so. To reiterate, Chandlers Wharf is a private development and there is no public highway or right of way within it (with the exception of the riverside walk from Timberyard Lane).

- 8.18 Looking at the history of the site and its development, the wording of the condition to retain the passage as a "public thoroughfare at all times" does not meet the tests for Planning Conditions as set out in the National Planning Policy Framework.

- 8.19 It is not necessary or reasonable, and although it is relevant to planning and the development that was original permitted (i.e. the proposals for 13 houses now known as Chandlers Wharf) private access to residents is to remain. There was no planning reason for the passage to be labelled a public thoroughfare at the time the application for an infill dwelling between nos. 44 and 46 Morris Road was determined.

- 8.20 Access to the town centre will continue to be possible for other local residents via Timberyard Lane and South Street (although this is a slightly longer walk).

Against the proposals:

- o Loss of permeability through Chandlers Wharf into Timberyard Lane and Hillman Close
- o Loss of connectivity similar to a twitten, contrary to the historic layout of the town
- o Local residents (not of Chandlers Wharf) will face a longer walk into town
- o Loss of safe and quiet route into town for local residents (not of Chandlers Wharf)
- o A private agreement needs to be reached between local residents and owners of Chandlers Wharf in order to establish a right of way/access

From an amenity and sustainability viewpoint the loss of this passageway would be harmful to local residents and would make access to the town centre on foot longer, and along less well-laid roads and possibly with more traffic (South Road).

- 8.21 However, legally and factually, there is not actually a right of way here, and the passageway was intended to improve permeability and connectivity when Chandlers Wharf was built, and as this is a private road/development, strictly speaking only these residents should be using the passage.

The passageway can be gated, provided each household in Chandlers Wharf is given a key/code/keycard.

- 8.22 The views of local residents are noted and attract a great deal of sympathy. However, this is private land and technically local residents do not have the right to cross it, unless they reside in Chandlers Wharf.

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 On balance approval is recommended, subject to a condition requiring details of access for Chandlers Wharf residents (e.g. key/code/keycard).

10.2 Conditions

1. The development hereby permitted shall be carried out in accordance with the following plans:

Plan Type	Reference	Date Received	Status
Plans - SITE LOCATION 1:500	0096.01 C	17.03.2016	Approved
Plans - Plans and Elevations	2015/18/PL2 E	20.05.2015	Approved
Application Documents -	ECOLOGICAL SURVEY	17.03.2016	Approved
Application Documents -	FLOOD RISK ASSESSMENT	12.04.2016	Approved
Application Documents -	HER CONSULTATION	01.04.2016	Approved
Application Documents -	HERITAGE STATEMENT	17.03.2016	Approved

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

2. The development hereby permitted began prior to the expiration of 9 June 2019, which would have been 3 years after the approval of application SDNP/16/01310/FUL.
3. The details reserved by condition 3 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND and on 15 June 2020 under application ref. SDNP/20/02051/CND.
4. The details reserved by condition 4 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND; on 15 June 2020 under application ref. SDNP/20/02051/CND; and on 15 October 2020 under application ref. SDNP/20/02988/DCOND.
5. The details reserved by condition 5 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND.
6. The details reserved by condition 6 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND.
7. The details reserved by condition 7 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND.
8. Hours of operation at the demolition and construction site should be restricted to 08:00 to 18:00 hours Monday to Friday and 09.00 to 13:00 hours on Saturdays. No working is permitted at any time on Sundays or Bank

Holidays. No machinery shall be operated, no process shall be carried out and no deliveries shall be made at the site outside of these specified times.

Reason: To protect the amenity of the locality in accordance with *policy SD5 of the South Downs Local Plan*.

9. The development permitted by this planning permission shall only be carried out in accordance with the approved undated FRA and the following mitigation measure detailed within the FRA:

- No habitable accommodation, as defined by section 0.30 of Approved Document M of the Building Regulation 2000, shall be included on the ground floor.

The mitigation measure shall be fully implemented prior to occupation, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority

Reason: To reduce the risk of flooding to the proposed development and future occupants.

10. No fence or walling to be constructed to the front of the dwelling, as approved under condition 6 above, shall exceed 600mm in height.

Reason: In the interest of vehicular and pedestrian safety and to accord with the requirements of *policies SD5, SD19 and SD20 of the South Downs Local Plan* and to comply with the National Planning Policy Framework.

11. The dwelling hereby approved shall be occupied until the vehicle parking space shown on drawing 2015/018/PL2 Rev C has been provided and this space shall be made permanently available for that use.

Reason: To secure satisfactory standards of parking for the proposed development having regard to *policy SD22 of the South Downs Local Plan*.

12. The details reserved by condition 12 have been approved on 26 July 2017 under application ref. SDNP/17/02411/DCOND.

13. 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 the developer has submitted and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: In the interest of health & safety of the future occupiers of the site having regard to Policy ST3 of the Lewes District Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

14. Notwithstanding the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development described in Classes A to E of Part 1 of Schedule 2, other than hereby permitted, shall be undertaken unless the Local Planning Authority otherwise agrees in writing.

Reason: A more intensive development of the site would be likely to adversely affect the appearance and character of the area having regard to *policies SD5 and SD31 of the South Downs Local Plan, policy PL2 of the Lewes Neighbourhood Plan*, and to comply with National Policy Guidance contained in the National Planning Policy Framework.

15. *Prior to the first residential occupation of the dwelling, the path linking between Morris Road and Chandlers Wharf shall be constructed and completed in accordance with the details approved on 15 October 2020 under application ref. SDNP/20/029889/DCOND. Notwithstanding that the passage shall be secured by gates, residents of Chandlers Wharf shall be given access to the linking passage, and the means to unclosethe gates by way of a key/code/keycard/fob. Such access shall be maintained thereafter.*

Reason: In the interests of highway safety and amenity having regard to policies SD5, SD19 and SD20 of the South Downs Local Plan and to comply with National Policy Guidance contained in the National Planning Policy Framework.

16. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the management of surface water does not result in the mobilisation of contaminants having regard to *policies SD5 and SD17 of the South Downs Local Plan* and to comply with National Policy Guidance contained in the National Planning Policy Framework.

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to

groundwater. The development shall be carried out in accordance with the approved details.

Reason: To prevent the mobilisation of contaminants or impact on controlled waters from the construction of deep foundations, including piling activities having regard to *policies SD5 and SD17 of the South Downs Local Plan* and to comply with National Policy Guidance contained in the National Planning Policy Framework.

11 **Background Papers**

11.1 None.

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