

<b>App.No:</b> 200246	<b>Decision Due Date:</b> 20 May 2020	<b>Ward:</b> Langney
<b>Officer:</b> James Smith	<b>Site visit date:</b> N/A	<b>Type:</b> Variation of Condition
<b>Site Notice(s) Expiry date:</b> 28 <sup>th</sup> May 2020		
<b>Neighbour Con Expiry:</b> 28 <sup>th</sup> May 2020		
<b>Press Notice(s):</b> 29 <sup>th</sup> May 2020		
<b>Over 8/13 week reason:</b> N/A		
<b>Location:</b> Land South of Langney Shopping Centre and West of Langney Rise		
<b>Proposal:</b> : Application for variation of condition 3 (Drawings) and 22 (Ground Contaminated Risk assessment) and removal of condition 17 (Internal Layout) and following grant 14/02/2020 for Proposed development of 9 houses(PC/190668)		
<b>Applicant:</b> Goldeneye Group		
<b>Recommendation:</b> Approve subject to original conditions (amended as per description)		

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# 1 **Executive Summary**

- 1.1 This application is being brought to Planning Committee at the discretion of the Head of Planning in order to seek the views of the Members of Planning Committee.
- 1.2 The proposed internal alterations would not present a realistic opportunity for an additional bedroom to be added to the dwellings concerned.
- 1.2 The requirement for monitoring of contaminants on site is an important one and should not be removed.

# 2 **Relevant Planning Policies**

## 2.1 Revised National Planning Policy Framework (2019)

- 2. Achieving sustainable development
- 3. Plan-making
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment

## 2.2 Eastbourne Core Strategy Local Plan (2013)

- B1: Spatial Development Strategy and Distribution
- B2: Creating Sustainable Neighbourhoods
- C8: Langney Neighbourhood
- D1: Sustainable Development
- D5: Housing
- D8: Sustainable Travel
- D10a: Design

## 2.3 Eastbourne Borough Plan – Saved Policies

- NE4: Sustainable Drainage Systems
- NE17: Contaminated Land
- NE18: Noise
- UHT1: Design of New Development
- UHT4: Visual Amenity
- UHT7: Landscaping
- HO2: Predominantly Residential Areas
- HO6: Infill Developments
- HO20: Residential Amenity
- TR7: Provision for Pedestrians
- TR11: Car Parking
- US4: Flood Protection and Surface Water Disposal

## 2.4 Government Planning Practice Guidance

National Design Guide (2019)

Technical housing standards – nationally described space standard (2015)

## 3 **Site Description**

3.1 The site forms part of the car park serving Langney Shopping Centre. It faces towards the southern elevation of the shopping centre, where the majority of shops have their delivery and servicing areas. The site is triangular in shape, and entirely hard surfaced, sharing an access road/path with the servicing yard of the Shopping Centre.

3.2 Immediately south of the site, but at higher level is the 'Woods Cottage' site, where a residential development has recently had a resolution for approval, subject to the signing of a Section 106 agreement. The boundary with Woods Cottage is marked by timber fencing and a line of mature trees. The only existing neighbouring residential properties are No.41 and 42 Swanley Close which are sited to the east of the site.

## 4 **Relevant Planning History**

4.1 190668  
Proposed development of 9 houses  
Approved Conditionally – 14<sup>th</sup> February 2020

## 5 **Proposed development**

5.1 The proposal seeks to amend condition 3 (plans) in order to enable revisions to the internal layout of units 1, 6, 7, 8 and 9. The revisions involve provision of a home office on the first floor. No other internal alterations are included and the proposal does not involve any external changes.

5.2 The applicant also seeks to remove condition 17 as attached to the original planning permission. This condition prohibits any alterations to the internal layout of the dwellings by future occupants.

5.3 Finally, the applicant wishes to amend the wording of condition 17, which relates to the use of mitigation and remediation measures to prevent contaminants being introduced to the site (by way of soil importation) as well as any existing contaminants found within the site (which has been in commercial use) being removed and/or managed in a responsible way.

## 6 **Consultations**

6.1 None received.

## **7 Neighbour Representations**

7.1 No representations received.

## **8 Appraisal**

### 8.1 Principle:

8.1.1 The overall principle of development has been established following the approval of 190668. However, the proposed alterations to the scheme will need to be re-assessed against relevant local and national planning policies.

8.1.2 Para. 73 of the Revised National Planning Policy Framework (NPPF) instructs that 'Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. As the Eastbourne Core Strategy is now more than 5 years old, local housing need is used to calculate the supply required.

8.1.3 The most recently published Authority Monitoring Report shows that Eastbourne can only demonstrate a 1.43 year supply of housing land. Para. 11 (d) of the NPPF states that, where a Local Planning Authority is unable to identify a 5 year supply of housing land, permission for development should be granted unless there is a clear reason for refusal due to negative impact upon protected areas or assets identified within the NPPF or if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

8.1.4 In the context of the submitted application, the revised internal layout of the dwellings will need to be assessed with reference to para. 117 of the NPPF, which states that 'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.' Reference will also be made to the National Design Guide (2019), a companion document to the NPPF, which states in para. 126 that 'well-designed homes and communal areas within buildings provide a good standard and quality of internal space. This includes room sizes, floor-to-ceiling heights, internal and external storage, sunlight, daylight and ventilation.' Finally, guidance will be taken from the Technical housing standards – nationally described space standard (2015).

8.1.5 In relation to the proposed amendment to condition 22, due regard has to be paid to para. 118 (c) of the NPPF which states that planning decisions should 'support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.' It is therefore expected that any development of potentially contaminated land, of which the site is an example, should include appropriate mitigation and remediation measures. Furthermore, para, 178 (a) instructs that 'a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.'

8.1.6 Finally, in regard to the use and wording of conditions, para. 003 of the Planning

Practice Guidance for Use of Conditions sets out 6 tests that each condition should meet in order to be considered reasonable. These tests establish whether the condition is:-

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

## 8.2 Alterations to internal space:

8.2.1 The revised plans show 5 of the 9 dwellings having an additional first floor room, to be used as office space. The overall Gross Internal Area provided would remain as per the original planning approval and, as such, all dwellings would continue to meet or exceed required standards for GIA as stipulated in the Technical housing standards – nationally described space standard (2015).

8.2.2 In addition to overall GIA, the Technical housing standards – nationally described space standard (2015) also sets out minimum dimensions for single and double bedrooms. The minimum dimensions are as follows:-

- Single bedroom – Minimum floor area = 7.5 m<sup>2</sup>. Minimum room width = 2.15 metres.
- Double bedroom – Minimum floor area = 11.5 m<sup>2</sup>. Minimum width – 2.75 metres.

In the revised internal layout, all bedrooms would continue exceed floor area standards. Width standards in the units containing office rooms would be met by the single bedrooms and exceeded by the double bedrooms.

8.2.3 The proposed office rooms would provide a floor area of approximately 5.4 m<sup>2</sup> and a width of approximately 1.8 metres. As such there is some concern that, if these rooms were used as bedrooms, they would provide substandard bedroom floor space for such as use whilst the overall GIA of each dwelling would also be substandard if it were to accommodate 3 bedrooms.

8.2.4 Irrespective of how the room is annotated on the floor plan, with no restrictive condition in place, it would not be possible to prevent future use of the office as a bedroom. This is a material planning consideration it such as use would result in the provision of substandard living space and, as such, it is considered perfectly reasonable to use a condition to control number of bedrooms provided, particularly as an office room does not serve a purpose fundamental to the occupation of the dwelling (such as a living room or kitchen).

8.2.5 In this instance, as the office rooms are of such modest proportions (1.8 metres width by 3 metres in length) it is considered that the size of the room itself would deter future occupants from using it as a bedroom as there would be little space available to accommodate a bed and associated furniture. As such, it is considered that the potential to convert the room has been 'designed out' to an

appropriate degree.

8.2.6 The provision of office space, in its own right, is considered to respond positively to national planning policy and guidance encouraging internal space within dwellings to be flexible and adaptable to future demands such as increased remote working (NPPF para. 81 (d), National Design Guide para. 156).

8.2.7 Owing to the layout of the dwellings, it is not considered that it would be particularly feasible for further internal alterations to be made to increase the size of the offices without reducing the size of the existing single bedrooms.

8.2.8 It is therefore considered that the revised plans are acceptable and that, with sufficient restrictions in the design and layout of the building to prevent the need for condition 22 to remain in place.

### 8.3 Contaminated Land:

8.3.1 The applicant is concerned that the wording of condition 22 requires over onerous checks to be performed on imported material. This is accepted by officers and that the condition should be amended to ensure that the development shall be undertaken in full accordance with the report supplied by Ashdown Site Investigations Ltd.

8.3.2 The Council acknowledge that the Ashdown report highlights that spot trenches have been dug on the site and there has been no evidence that these trenches have harboured any contamination.

8.3.4 Condition 22 is recommended to be amended to read as follows.

8.3.4 *Condition No 22 The development hereby approved shall be implemented in accordance with the content and findings of the report supplied by Ashdown Site Investigation Ltd.  
Reason: To ensure that the development of the site is undertaken in such a way as to not give rise to health and amenity issues by way site contamination.*

8.3.2 The requirement for strategies to deal with discovery of contaminants provide a vital failsafe that will ensure that, if any contaminants already present on site happen to be discovered, or if contamination is introduced in any other unexpected way, it will be dealt with appropriately. This is considered to be entirely consistent with the requirements of para. 117 (f) of the NPPF and, indeed, with the recommendations of the approved risk assessment (para. 9.9 and 9.10). All of these issues are dealt with within the Geotechnical report.

8.3.5 It is therefore considered that the wording of the condition No 22 should be revised in accordance with the aims and spirit of the condition as referred to above.

#### 8.4 Impact on highway network:

- 8.4.1 The proposed development is served by a suitable amount of on-site car parking to serve 9 x 2 bedroom dwellings. If dwellings were to be converted to 3-bedroom properties this could potentially put strain upon parking facilities and cause overspill onto the surrounding highway network. Whilst parking may be available in the neighbouring shopping centre car park, this is subject to restrictions and, in any case, is not under the control of the applicant.
- 8.4.2 Due to the office room is not considered to be large enough to feasibly support use of the bedroom, and other measures in place to prevent enlargement of dwellings by way of removing permitted development rights, it is not considered that the revised internal layout would result in an unacceptable increase in parking demand.

### **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:

Condition 3 (approved plans) be amended to include the revised internal layout

Condition 17 (restriction on internal alterations) be removed.

Condition 22 to be varied to the wording referred to in this report .

### **11 Appeal**

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