

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

Map Location:



1. **Executive Summary**

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

2. **Relevant Planning Policies**

2.1 National Planning Policy Framework 2021

- 2: Achieving sustainable development
- 4: Decision Making
- 5: Delivering a sufficient supply of homes
- 6: Building a strong, competitive economy
- 9: Promoting sustainable transport
- 11: Making effective use of land
- 12: Achieving well designed places
- 14: Meeting the challenge of climate change, flooding and coastal change.

2.2 Eastbourne Core Strategy Local Plan 2006-2027:

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

2.3 Eastbourne Borough Plan 2001-2011:

NE14: Source Protection Zone

NE18: Noise

NE28: Environmental Amenity

UHT1: Design of New Development

HO1: Residential Development Within the Existing Built-up Area

HO2: Predominantly Residential Areas

HO9: Conversions and Change of Use

HO14: Houses in Multiple Occupation

HO20: Residential Amenity

TR11: Car Parking

US5: Tidal Flood Risk

3. **Site Description**

3.1 The site is occupied by a terraced two-storey building that has had an additional floor formed in part of the roof space, with a dormer window incorporated within the front roof slope. The ground floor is provided with a flat roofed projecting shop front and has most recently been occupied by a beautician. The first and second floor currently accommodate a 3 bedroom duplex residential unit. There is an enclosed yard area to the rear of the site which is accessed via an alleyway which is part of a network running to the rear of properties on Firle Road, Avondale Road, Albion Road and Western Road.

3.2 The terrace of three buildings, which includes the application site, had previously formed a small parade of shops. The adjoining 82 Firle Road is currently in use as a barbers whilst the other adjoining property, No. 78, was converted into a ground floor flat in the early 1970's. Surrounding development is relatively dense and is predominantly residential in the form of terraced dwellings, former shops that have been converted to flats and flats above remaining ground floor commercial uses which include nearby convenience stores. The Langney Road to Springfield Road District Shopping Centre on Seaside is approx. 285 metres to the east. There are also a number of frequently served bus stops on Seaside.

3.3 The site falls within Environment Agency Flood Zone 3 and is therefore subject to an increased risk of tidal flooding. The site is also within a source protection zone (inner). These are buffers maintained around groundwater sources used to provide drinking water. There are no other specific planning designations or constraints attached to the site or the immediate surrounding area.

4. **Relevant Planning History**

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

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

5. **Proposed Development**

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

6. **Consultations**

6.1 Environment Agency

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

7. **Neighbour Representations**

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

There is not enough parking capacity on surrounding streets;

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

Would not enhance the neighbourhood;

Could lead to anti-social behaviour;

Loss of residential amenity;

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

Development almost completed prior to planning permission being sought;

Infrastructure and services are already strained;

Out of keeping with surrounding residential uses.

8. Appraisal

8.1 Principle of Development

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

8.2 Loss of ground floor employment space

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

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

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

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

8.4 Use

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

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

8.5 Design

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

8.6 Living conditions for future occupants

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

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

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

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

8.7 Highways and Access:

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

8.8 Flood Risk

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

9. **Human Rights Implications**

9.1 The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

10. **Recommendation**

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

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

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

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

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

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

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

Reason: In line with the Planning Practice Guidance of the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change to reduce the risk of flooding to the proposed development and future occupants and ensure the safety of future occupants by providing dry, safe refuge in an undefended scenario.

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

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

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

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

11. **Appeal**

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

12. **Background Papers**

12.1 None