

App.No: 141312	Decision Due Date: 30 December 2014	Ward: Old Town
Officer: Richard Elder	Site visit date: 18 December 2014	Type: Variation of Condition
Site Notice(s) Expiry date: 4 December 2014 Neighbour Con Expiry: 4 December 2014 (2 February 2015) Weekly list Expiry: 7 December 2014 Press Notice(s): n/a		
Over 8/13 week reason: Referred to planning committee		
Location: Upwick Mews, 2a Upwick Road, Eastbourne		
Proposal: SITE FORMERLY KNOWN AS LAND TO THE REAR OF 2-8 UPWICK ROAD: Variation of condition 2 of planning permission EB/2011/0193(FP) for a minor material amendment for a first floor rear extension to increase the first floor rear bedrooms of plots 5 and 6 and amendments to plots 5 and 6 (as per planning permission EB/2012/0753(FP) granted planning permission on appeal dated 11 December 2013). (AMENDED APPLICATION TO REMOVE THE FIRST FLOOR ADDITIONS TO PLOTS 1 - 4).		
Applicant: Mr H Goacher		
Recommendation: Approved conditionally		

Executive Summary:

Context:- This case was reported to Planning Committee in January with an officers recommendation that the application should be supported. This recommendation was not endorsed by Members who resolved that the application should be refused. Prior to issuing the refusal notice the applicants submitted revisions to the scheme; these are being reported back to Planning Committee in order to assess whether they have overcome Members concerns with the proposals.

Proposed Changes:- The revised plan received on 9th January shows the first floor additions to plots 1 – 4 have been removed and thereby proposes the an identical scheme in design/scale/appearance terms to that approved under permission EB/2011/0193. The 1 metre deep first floor additions to plots 5 and 6 remain unaltered on the plans and these dwellings have been substantially completed on site. It is the retention of these 1m additions at

first floor level and amendments to the roof over the plots that form the main material consideration to this application.

Planning Assessment:- The changes to the scheme does not materially affect the design of the originally approved scheme.

There would be no significant additional overlooking or loss of privacy to the rear/occupiers of nos. 25-29 Dacre Road from the first floor amendment when compared to the previously approved scheme.

There would be no significant loss of sunlight, daylight or overshadowing than that caused by the scheme already approved.

It is considered therefore, that the variation to the scheme would constitute an acceptable minor material amendment.

Given that the very modest changes as outlined by this proposal do not give rise to any material/substantive harm to either the amenities of the occupiers of the adjacent/nearby properties nor to the character and appearance of the proposed dwellings then any refusal is likely to be challenged and successful at appeal.

Members should be aware that the NPPF clearly outlines that '*sustainable development should be supported without delay*' this further supports the position that in this application there is a highly probable risk of an award of 'Costs' against the Council in any subsequent appeal process.

An Award of Costs:- The National Planning Guidance outlines that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations*
- *failure to produce evidence to substantiate each reason for refusal on appeal*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable*
- *failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances*

Potential Enforcement Action:- Notwithstanding the above and if Members give different weight to the impacts of the proposed changes and

resolve to refuse the application then as Plots 5 and 6 are substantially complete then Members should also authorise enforcement action.

In respect of any enforcement action it is recommended that the Planning Committee resolve to 'Under Enforce' and require that Plots 5 and 6 are adapted/alterd to comply with the approved scheme 120699.

Members should also be aware that the with any enforcement action there are a number of aspects under which an enforcement notice could be appealed; one of which is a Ground A appeal whereby the appellant claims that Planning Permission should be granted. As outlined above there are no substantive/material planning objections to the scheme and as such a enforcement notice appeal is likely to be successful with the Council at risk of an award of 'Costs' against it.

Consultation:- Surrounding residents were consulted on the amendment on 19th January for a period of 14 days. Any representations received will be set out in the Committee addendum sheet.

Recommendation:-

1. That the application should be conditonally approved.
2. In the event that Members resolve to refuse planning permssion then the following reason should be followed:

The proposed amendments to the houses to extend the first floor (rear), alterations to the roof and the incorporation of changes granted under planning permission ref: EB/2012/0753 (120699) would fundamentally change the nature of, and are substantially different from, the development approved under that consent. As such, the proposed amendments do not constitute minor-material amendments and therefore cannot be granted under section 73 of The Town and Country Planning Act 1990 (as amended).

3. In the event that Members resolve to refuse planning permission then Members should also authorise/endorse Enforcement Proceedings. In this regard it is recommended that the Senior Specialist Advisor be authorised to pursue enforcment proceedings to secure under enforcement in order that the dwelling on Plots 5 & 6 are adpated/alterd to comply with those as approved under application EB/2012/0753 (120699).

Previous Report (As reported to January Planning Committee):- The officer report presented to the 6th January 2015 Committee meeting is set out below.

Planning Status:

Predominantly residential area.

Relevant Planning Policies:

National Planning Policy Framework 2012

- 1. Building a strong, competitive economy*
- 2. Ensuring the vitality of town centres*
- 3. Supporting a prosperous rural economy*
- 4. Promoting sustainable transport*
- 5. Supporting high quality communications infrastructure.*
- 6. Delivering a wide choice of high quality homes*
- 7. Requiring good design*
- 8. Promoting healthy communities*
- 9. Protecting green belt land*
- 10. Meeting the challenge of climate change, flooding and coastal change*
- 11. Conserving and enhancing the natural environment*
- 12. Conserving and enhancing the historic environment*
- 13. Facilitating the sustainable use of minerals*

Core Strategy Local Plan 2013 Policies

- B1 – Spatial, Development, Strategy and Distribution*
B2 – Creating Sustainable Neighbourhoods
C4 – Old Town Neighbourhood Policy
D5 – Housing
D10a – Design

Eastbourne Borough Plan Saved Policies 2007

- UHT1 – Design of New Development*
UHT2 – Height of Buildings
UHT4 – Visual Amenity
HO1 – Residential Development within the Existing Built-Up Area
HO6 – Infill Development
HO20 – Residential Amenity

Site Description:

The application site is a backland site to the rear of 2 storey inter-war detached and semi-detached properties at nos. 2-8 Upwick Road, 18-34 Longland Road, 1-25 Dillingburgh Road and 25-29 Dacre Road. The rear gardens to these properties have relatively long back gardens

The site is accessed via a service road to the east side of nos. 2-4 Upwick Road which is a semi-detached building containing two flats (2 and 4 Upwick Road).

The site is currently under redevelopment where previously the site was occupied by twenty-three garages arranged in two rows and the access is from Upwick Road.

Relevant Planning History:

100066

Demolition of the garages at the rear of 2-8 Upwick Road and the erection of 8 houses, car parking, landscaping and amendments to vehicular access from Upwick Road, and external alterations to 2/4 Upwick Road to remove entrance door at side and form new entrance door at front.

Planning Permission

Refused

20/05/2010

110194

Demolition of the garages to the rear of 2-8 Upwick Road and the erection of 6 houses and garages, parking spaces, landscaping and amendments to vehicular access from Upwick Road, and external alterations to 2/4 Upwick Road to remove the entrance door at the side and form a new entrance door at the front.

Planning Permission

Refused

18/07/2011

Allowed at appeal 7 March 2012

120699

Demolition of the garages at the rear of 2-8 Upwick Road and the erection of 2 x 3 bedroom detached houses and garages, parking spaces and access road from Upwick Road.

Planning Permission

Refused

20/03/ 2013

Allowed at appeal 11 December 2013

120912

Discharge of condition 11 of permission EB/2011/0193 (details of access road and turning area)

Approval of Condition

Withdrawn

13/02/2014

140155

Application for approval of details reserved by condition of original permission (EB/2011/0193(FP)). Condition 3: Samples of external materials; Condition 8: Protective fencing for trees; Condition 9: Details of wheel washing for construction traffic; Condition 11: Details of access road and turning area (including details of: finished surfacing materials, gradient and drainage).

Approval of conditions

Approved

14/05/2014

140868

Application for approval of details reserved by condition No.10 (details of steps) of permission EB/2012/0753(FP).

Approval of condition

Approved

06/08/2014

Proposed development:

The application seeks a variation of condition 2 of EB/2011/0193 for a minor material amendment for a first floor rear extension to increase the first floor rear bedrooms of plots 1 - 6 and amendments to plots 5 and 6 (as per planning permission EB/2012/0753(FP) granted planning permission on appeal dated 11 December 2013).

The amended scheme combines both permissions granted on appeal into a single comprehensive scheme together with an amendment to enlarge the first floor rear bedrooms of all 6 houses. The enlargement of the first floor would involve an extension outwards over the existing and previously approved ground floor footprints of all houses by 1 metre outwards bringing the first floor flush with the ground floor. The extension would measure 3.75 metres wide for plots 1-4 would and approximately 4.3 metres wide for plots 5 and 6.

The development has already begun and has reached a stage where plots 5 and 6 are up to roof level and plots 1 – 4 are up to ground floor ceiling level.

Consultations:

Internal:

None

External:

None

Neighbour Representations:

3 objections and 2 general observations have been received and cover the following points:

- Overlooking of surrounding rear gardens.*
- Development already close to rear garden boundary.*
- Applicant has failed to comply with any conditions.*
- Plots 5 and 6 are already overlarge for their plots.*
- Any increase in size will exacerbate the impact on the existing neighbourhood.*
- Would result in higher occupancy and greater car ownership.*
- Reduce sunlight and daylight and increase overshadowing.*
- Extension would increase overshadowing to the rear gardens of plots 5 and 6.*
- Has the sewage system got capacity?*

Appraisal:Principle of development:

The principle of development has already been established by the 2 previous planning permissions granted at appeal for 6 houses (EB/2011/0193) in March 2012 and 2 houses (EB/2012/0753) in December 2013.

The main considerations relate to the acceptability of combining the 2 permissions into an amended scheme and the impact of the proposed enlargement of the first floor on the design of the houses and surrounding residential amenity.

Design issues:

Policy UHT1 of the Eastbourne Local Plan states that proposals will be required to harmonise with the appearance and character of the local area and be appropriate in scale, form, materials (preferably locally sourced), setting, alignment and layout. Policy UHT4 states that proposals which have an unacceptable detrimental impact on visual amenity will be refused.

Policy D10a requires new development to make a positive contribution to the townscape and urban heritage.

The first floor extension to infill the first floor side recess is a minor addition to the houses. The design of the houses are not significantly affected by the alteration which now take on the appearance of a standard and traditional build and layout with a flush elevation at the rear. As such, it is considered that the amendment does not materially affect the design of the originally approved scheme and would accord with the aims of Policies UHT1 and UHT4 of the Eastbourne Local Plan and Policy D10a of the Eastbourne Core Strategy.

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

Policy HO20 of the Eastbourne Local Plan requires new development proposals and extensions to existing buildings to respect residential amenity.

Policy B2 of the Eastbourne Core Strategy seeks to protect the residential and environmental amenity of existing and future residents.

The amendment would bring the first floor rear bedrooms of the houses closer to the rear garden boundaries and the rear windows of houses along Dacre Road and Longland Road by 1 metre.

The ground floor and first floor windows of plots 1 and 2 would be set 7 metres from the rear garden boundaries of Longland Road properties and plots 3 and 4 would be set 6.25 metres away. The rear windows of plot 5 would be 7.2 metres from the rear garden boundaries of Dacre Road and plot

6 would be set 5.6 metres away. These distances are acceptable and have been considered to be acceptable distances through recent planning application approvals and appeal decisions for backland housing sites.

With regard to distances between the rear first floor windows of the proposed houses and the rear windows of existing houses, they would be as follows:
Distances to rear windows of 18 – 34 Longland Road:

Plot 1 – 25.35 metres

Plot 2 – 25.35 metres

Plot 3 – 24.7 metres

Plot 4 – 24.7 metres

Distances to rear windows of 25 – 29 Dacre Road:

Plot 5 – 22.75 metres

Plot 6 – 21 metres

These distances are considered acceptable given the pattern of development in the area. However, the main consideration is the impact of an additional 1 metre closer to the rear of these properties which is not a significant increase given the existing considerable separation distances. As such, it is considered that there would be no significant additional overlooking or loss of privacy from the first floor amendment than previously approved.

With regard to any loss of sunlight, daylight and overshadowing, similarly to above, the minor addition to the first floor of the houses would not result in any significant loss of sunlight, daylight or overshadowing than that already approved.

It is considered therefore, that the variation to the scheme would constitute a minor material amendment which is acceptable and would impact significantly on surrounding residential amenity in accordance with Policy H020 of the Eastbourne Local Plan and Policy B2 of the Eastbourne Core Strategy.

Human Rights Implications:

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

Conclusion:

The design of the houses are not significantly affected by the alteration which now take on the appearance of a standard and traditional build and layout with a flush elevation at the rear. As such, it is considered that the

amendment does not materially affect the design of the originally approved scheme.

There would be no significant additional overlooking or loss of privacy from the first floor amendment than previously approved and there would be no significant loss of sunlight, daylight or overshadowing than that already approved. It is considered therefore, that the variation to the scheme would constitute an acceptable minor material amendment.

Recommendation:

Approve conditionally

Conditions:

1) Other than may be required by other conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, 10-44-02 A, 10-44-04, 10-44-05, 10-44-06 A and 10-44-07 A.

2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order) no extensions, curtilage buildings or structures, walls or fences of any kind, other than those expressly authorised by this permission, shall be erected within the curtilages to the dwellings hereby permitted.

3) The development shall be carried out in full accordance with the approved materials to be used in the construction of the external surfaces (140155 - dated 14 May 2014).

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order) no first floor windows or dormer windows (other than those expressly authorised by this permission) shall be constructed without the prior approval of the Local Planning Authority.

4) Prior to first occupation of the dwellings on plots 5 and 6, the first floor side facing windows shown in relation to those plots shall be fitted with obscure glazing and shall be permanently retained in that condition thereafter.

5) The protective fencing around trees shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

6) The approved wheel wash facilities (140155 - dated 14 May 2014) provided on-site shall be used and maintained until completion of construction.

7) The garaging and parking spaces shown on plan No 10-44-02 A, shall be provided prior to first occupation of the associated dwelling and shall be kept available for the parking purposes at all times thereafter.

8) The details of the access road and turning area shall be provided in accordance with the approved details (120912 - dated 13 February 2013) prior to first occupation of any dwelling on site.

9) The stepped access to no.2 Upwick Road shall be provided in accordance with the approved details (140868 - dated 6 June 2014) within 1 month of the date of the permission.

10) Building operations shall take place only between the hours of 08.00 and 18.00 on Mondays to Fridays and between 08.00 and 13.00 on Saturdays and at no time on Sundays or Bank/Public holidays.