

App.No: 150744 (VCO)	Decision Due Date: 11 September 2015	Ward: Meads
Officer: Jane Sabin	Site visit date: 27 July 2015	Type: Variation of Condition
Site Notice(s) Expiry date: N/A		
Neighbour Con Expiry: 13 August 2015		
Press Notice(s): N/A		
Over 8/13 week reason: N/A		
Location: Koala, King Edwards Parade		
Proposal: Variation condition 6 of permission EB/2011/0023(FP) for the re-development of site with five storey building (with basement) comprising ten apartments (6no. 2 bed apartments, 4no. 3 bed apartments), with car parking together with terrace of four three-storey houses (with basement) and widening of vehicular access, to permit the side windows to have restricted opening (retaining obscure glazing).		
Applicant: Dr Cavlin Xia		
Recommendation: Approve conditionally		

Executive summary:

This application seeks to allow the side windows on all levels to be able to be opened and retaining the obscure glazing.

It is considered that the proposed amendments have been carefully thought through to preserve the amenities of adjacent residents, and that there would be insufficient grounds to refuse the application on adverse impact on residential amenity.

Planning Status:

Residential area
Meads Conservation Area

Relevant Planning Policies:

National Planning Policy Framework

Eastbourne Core Strategy Local Plan Policies 2013

B2: Creating Sustainable Neighbourhoods
C11: Meads Neighbourhood Policy
D10: Historic Environment
D10A: Design

Eastbourne Borough Plan Saved Policies 2007

UHT1: Design of New Development

UHT15: Protection of Conservation Areas

HO20: Residential Amenity

Site Description:

The application site is situated in a prominent position on King Edward's Parade, within the Meads Conservation Area. The rectangular shaped plot measures 27.5 metres in width and 90 metres in depth, and currently comprises a 1950's detached, two-storey dwelling known as "Koala", with a garage and greenhouse at the rear. The existing dwelling is set back 45 metres from the boundary with King Edwards Parade and is screened from the road frontage by a hedge. The site is served by an existing vehicular access off King Edwards Parade.

The site is bounded to the north east by "Kepplestone" a four storey block of flats and to the south west by "Cliff House" a five storey modern apartment block. Immediately to the rear of the site is a terrace of four three-storey, mock Georgian town houses in Chesterfield Gardens. The area immediately surrounding the application site is residential in character with a variety of types, heights and designs of buildings, although the deep front gardens and regular building line is a strong characteristic of this part of King Edwards Parade.

Relevant Planning History:

110013 (EB/2011/0023)

Re-development of site with five-storey building (with basement) comprising ten apartments (6 no. 2 bed apartments, 4 no. 3 beds apartments) with car parking together with terrace of four three-storey houses (with basement) and widening of vehicular access.

Approved conditionally 9 October 2012

150617

Discharge of conditions 3 (materials), 20 (bat survey) and 24 (undercroft materials) of permission EB/2011/0023(FP) for the re-development of site with five storey building (with basement) comprising ten apartments (6no. 2 bed apartments, 4no. 3 bed apartments), with car parking together with terrace of four three-storey houses (with basement) and widening of vehicular access.

Approved 20 July 2015

Proposed development:

Permission is sought to vary condition 6 of the previous approval, which required all windows in the side elevations of the flats and houses facing Cliff House and Kepplestone to be obscure glazed and fixed shut. The proposed changes are:

Flats - north east & south west elevations (identical)

Lower ground floor	Bedrooms (both)	Clear glass	Unrestricted opening
Lower ground floor	Living room (secondary)	Clear glass	Unrestricted opening
Ground floor	Ensuite	Retain obscure glass	Restricted opening
Ground floor	Living room (secondary)	Retain obscure glass	Restricted opening

First floor	Living room (secondary)	Retain obscure glass	Restricted opening
Second floor	Bathroom	Retain obscure glass	Restricted opening
Second floor	Kitchen	Retain obscure glass	Restricted opening
Second floor	Living room (secondary)	Retain obscure glass	Restricted opening
Third floor	Kitchen	Retain obscure glass	Restricted opening
Third floor	Living room (secondary)	Retain obscure glass	Restricted opening

Houses – south west elevation

Lower ground floor	Utility room/WC	Retain obscure glass	Restricted opening
Ground floor	Kitchen/dining	Retain obscure glass	Restricted opening
Ground floor	Living room (secondary)	Retain obscure glass	Restricted opening
First floor	Bedrooms 2 & 3 (secondary)	Retain obscure glass	Restricted opening

Houses – north east elevation

Ground floor	Hall	Retain obscure glass	Restricted opening
First floor	Hall	Retain obscure glass	Restricted opening
First floor	Bathroom (secondary)	Retain obscure glass	Restricted opening

Where obscure glazing is to be retained, this is to be in Pilkington “Pelerine” (grade 5 – the highest grade). Where restricted opening is proposed, panes up to 1.35m above floor level are to remain fixed, with opening panes above this height only.

The reasons for the proposal are principally for natural ventilation, whilst for the lower ground floor flats ventilation and outlook from the bedrooms is required.

Consultations:

Neighbour Representations:

Thirteen objections have been received from residents of Cliff House (12 of the flats and the residents association) and cover the following points:

- The proposal would result in the loss of privacy to residents of Cliff House, and the potential for an increase in noise and fumes; this objection primarily relates to the proposed flats
- Residents on the Koala side would be seriously impacted from having opening windows directly facing their living space, which includes bedrooms and lounges
- The issue was particularly recognised by the Planning Committee in 2012 when condition 6 was imposed to safeguard the privacy of residents of adjoining properties. This was a perfectly reasonable compromise to which the developer did not object at the time, and there have been no material change in circumstances to support the relaxation of the condition in any way
- The living rooms and open plan kitchens will have natural ventilation from the windows at the front; furthermore, many modern flats have bathrooms and kitchens with no external windows, relying on mechanical extraction systems, the case for increased natural ventilation does not stand

Appraisal:

The main issue to take into account in determining this application is the impact of the proposal on adjoining residents, since the proposal would not impact on the design of the proposed building in any way.

Flats

For the purposes of this application, it is considered that the lower ground floor should be considered separately from the upper floors. This is because the windows to the flats on this floor sit entirely below the level of the retaining/boundary walls on both sides of the site, and there could be no overlooking as a result of either opening or clear glazed panes. The walls would be 3.8m high adjacent to Cliff House, and 3m high adjacent to Kepplestone, measured from the reduced ground level required to construct the building. Furthermore, the living room windows are high level and secondary, whilst the bedrooms would have no other windows for outlook or ventilation and therefore could not comply with Building Regulations. It is considered that there would be no adverse impact from the use of clear glass or opening panes.

With regards to the floors at ground level and above, regard should had to the separation distances between the proposed and existing buildings. In respect of Kepplestone, this would almost 10m; Cliff House does not have a straight flank wall, and therefore this varies between 9.3m and 5.3m. The projecting element of Cliff House does not appear to contain principal windows, as would be expected taking into account that it was built much later than Koala, to avoid direct overlooking of the property. It is proposed to retain obscure glass to all the windows at these levels and only have opening panes where they are 1.35m above floor level; the windows affected serve a mixture of rooms and hallways. Whilst it is correct that it is not a requirement of the building Regulations to have natural ventilation to kitchens, bathrooms and hallways, it is considered that it is reasonable to desire it, if it is achievable and would have no adverse impact on adjacent residents. The case is lessened in respect of secondary windows.

The method of opening also requires consideration; all the windows affected by the application are top hung casements, which would, by their very nature, restrict views out of the window. The use of side hung, sliding sash or pivot windows would significantly change how much could be viewed when in the open position, and it is considered that these would not be acceptable.

In terms of noise and fumes, it is considered that these are unlikely to be significant issues from domestic flats of this nature.

Houses

The proposal would not have an adverse impact on residents, given the location of the proposed houses to the rear of the site and the distances between them and existing properties.

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:

It is considered that the proposed amendments have been carefully thought through to preserve the amenities of adjacent residents. Whilst it is acknowledged, as the objectors state, that there has been no material change in circumstances, the application falls to be determined on whether there would be any demonstrable harm as a result of the proposed modifications to the scheme. Having considered the proposals and the specifically the impact on adjoining residents, it is concluded that there would be insufficient grounds to refuse the application on adverse impact on residential amenity.

Recommendation: Condition 6 be varied as follows

Condition 6: The proposed windows in the side elevations of the houses and the flats at ground, first, second and third floor levels shall only be glazed in Pilkinton grade 5 obscure glass or similar, and only capable of being opened where they are 1.35m above internal floor level. All opening windows shall be bottom hung and inward opening, and shall not be changed to side opening, sliding sash or pivot units.

Informative

All other conditions attached to permission EB/2001/0023 remain valid and must be fully complied with.

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**.