

<b>App.No:</b> 160411	<b>Decision Due Date:</b> 10 June 2016	<b>Ward:</b> St Anthonys
<b>Officer:</b> Anna Clare	<b>Site visit date:</b> 4 May 2016	<b>Type:</b> Planning Permission
<b>Site Notice(s) Expiry date:</b> 8 May 2016		
<b>Neighbour Con Expiry:</b> 10 June 2016		
<b>Press Notice(s):</b> N/A		
<b>Over 8/13 week reason:</b> N/A		
<b>Location:</b> Fitzmaurice Mews, Fitzmaurice Avenue, Eastbourne		
<b>Proposal:</b> AMENDED SCHEME: Proposed demolition of existing garages and development of 6 no.3 bedroomed houses together with parking spaces (Design amended - roof design altered and elevational changes).		
<b>Applicant:</b> MESSRS LEVETT & BISHOP		
<b>Recommendation:</b> Refuse Planning Permission		

**Executive Summary:**

The scheme would remove from the site commercial activity that for some is considered to be inappropriate in a residential area; it is against this background that a number letters of support have been received.

The principle of residential development on this site is supported although the site has not been formally identified for development within the Council's Strategic Housing Land Availability Assessment therefore is considered to be a windfall site. The Council relies on windfall sites coming forward as part of its spatial development strategy (Policy B1 of the Core Strategy Local Plan).

The design of the proposed development has been amended twice during the course of this application in an attempt to mitigate/overcome officers concerns with the relationship of the development to the site and surrounding area however the density of development has remained at 6 dwellings (as originally submitted). The current proposal is considered by virtue of the scale, density and layout of the properties into what is a cramped and relatively narrow plot is such that the resultant properties would be sited in close proximity of boundary walls of the site and also without suitable separation between the proposed dwellings themselves, this would result in a poor living environment for the future occupiers of these buildings.

The scale and density of development is also considered out of keeping with the character of the surrounding development. Officers have requested a reduction in the number of dwellings on the site, the agent has declined to consider this request.

Therefore it is recommended that the application is refused as the adverse impacts, namely the amenity of future residents, the impact on the character of the surrounding area and the potential for loss of, or deterioration of habitats for protected species, would outweigh the benefits of the development.

**Relevant Planning Policies:**

National Planning Policy Framework 2012

- 6. Delivering a wide choice of high quality homes
- 7. Requiring good design
- 11. Conserving and enhancing the historic environment

Core Strategy Local Plan 2013 Policies

- B2 Creating Sustainable Neighbourhoods
- C6 Roselands and Bridgemere Neighbourhood Policy
- D5 Housing
- D10a Design

Eastbourne Borough Plan Saved Policies 2007

- UHT1 Design of New Development
- UHT4 Visual Amenity
- HO1 Residential development within Existing Built-up Area
- HO2 Predominantly Residential Areas
- HO8 Redevelopment of Garage Courts
- HO20 Residential Amenity
- TR6 Facilities for Cyclists
- TR11 Car Parking

**Site Description:**

The site refers to a garage court consisting of 32 garages, part of Fitzmaurice Yard/Fitzmaurice Mews which is accessed from an existing access from Fitzmaurice Avenue.

The site is surrounded by residential properties, with St Philips Avenue to the north/west and Fitzmaurice Avenue to the East. Fitzmaurice Yard to the south which shares the same access as the garage court mostly contains Offices and storage buildings which are single storey.

The majority of the garages are occupied in a variety of uses. The garages and stores are all single storey and abut the boundary walls of the site.

The site as outlined in the application highlights that the back wall of the existing garages forms the common boundary with the neighbouring

residential properties; in part this common boundary is approximately two storey in height.

**Relevant Planning History:**

The site has no planning history the following applications relate to the development of Fitzmaurice Yard directly to the south of the application site sharing the same access.

010624

Erection of three single-storey houses with car ports and parking spaces.

Outline (some reserved)

Approved conditionally

09/11/2001

010688

Erection of three two-storey two-bedroom houses (outline application).

Outline (some reserved)

Refused – That the proposed development by virtue of the two storey height, massing and close proximity to the site boundaries, would have a seriously adverse effect on the amenities of the occupiers of adjoining properties by reason of loss of outlook and privacy.

11/07 / 2001

020698

Erection of three single-storey houses with car ports and parking spaces

(reserved matters application.

Reserved Matters of 010624

Approved unconditionally

07/05/2002

**Proposed development:**

The application proposed the demolition of the garages, and the erection of 6 dwelling houses with 12 parking spaces accessed from the existing driveway from Fitzmaurice Avenue.

The application originally proposed 4 no.4 bedroom houses (plots 1-4 terraced) and 2 no.3 bedroom houses (plots 5 & 6 semi-detached) over three storeys including large dormers to the rear. This has been reduced following negotiation with officers to 6 no.3 bed properties 2 stories in height, removing the rear dormers and also a reduction in the height of the proposed dwellings.

Plots 1-4 are proposed east to west, with plots 5 & 6 south-west to north-east at the northern end of the site. Private amenity space is proposed to the rear of each property.

Parking would be provided to the south of the site, with the properties accessed by a path adjacent to the eastern boundary of the site.

## **Consultations:**

### Strategy and Commissioning (Planning Policy)

The application is supported in principle. The application results in the net gain of 6 dwellings, through redevelopment of a garage court and stores (brownfield land).

The site is located in the Roselands and Bridgemere neighbourhood. The type of residential development proposed is considered appropriate for its neighbourhood location and conforms to the Council's Strategic Housing Market Assessment. The case officer will determine the specific impact of the development on residential amenity and its impact on the local character of the neighbourhood.

The development would not be liable to an affordable housing contribution, but will be liable to make a Community Infrastructure Levy payment if the application is approved.

The site is located in an area of 'stress' for surface water flooding, and as such Sustainable Urban Drainage techniques should be promoted on the site.

The application contributes positively to the Council's spatial development strategy (Policy B1 of the Core Strategy). The proposed development will assist in ensuring the housing target for the neighbourhood is delivered over the plan period. The development would conform with the Roselands & Bridgemere Neighbourhood Policy (Policy C6 of the Core Strategy) by 'delivering housing through making more efficient use of land' and, subject to no harm to residential amenity, should be considered sustainable development.

### Specialist Advisor – CIL

The development would be liable to a CIL charge, the necessary forms have been submitted with the application.

### East Sussex County Council – Highways

The proposed development seeks to demolish the existing 32 garages and erect 6 dwellings with associated parking. The proposed development is to be served from an existing access that was originally constructed to serve the 32 garages and therefore, in traffic generation terms, I do not object to the application in principle.

Whilst I consider that the loss of 32 garages to be significant, it is evident that these garages are not associated with any of the surrounding residential properties, therefore it is unlikely that this development will increase the demand for parking on Fitzmaurice Avenue.

The 16 parking spaces provided within the site for the proposal are in accordance with the ESCC Parking Demand Tool. It is indicated that 12 unallocated spaces will be provided for the residents with an additional 4 spaces provided for Fitzmaurice Yard. It is likely the 4 spaces serving Fitzmaurice Yard will only be occupied during working hours; leaving these spaces free for residential visitors during evenings and weekends. The 2 long-term covered and secure cycle storage spaces should also be provided per dwelling. Each parking space should measure 2.5m x 5m in order to make the spaces easier to use and be provided with 6m circulation space. Parking spaces in a parallel arrangement should be 2.5 x 5.5m. It is noted that the spaces shown are smaller than the recommended dimensions; however, I do not wish to object as I feel that the recommended size spaces can be accommodated.

The internal layout is acceptable in principle; It is noted that the current access to the site narrows to 4.46m however this is wide enough to cater for a two way flow of traffic and would therefore be acceptable in its current form to serve the proposed development, however, tracking drawings should be provided at detail stage to show that larger vehicles (emergency/refuse) are able to access the site from Fitzmaurice Avenue and also turn within the site. The speed hump as shown on the submitted plan (Drawing No. 255300-04) is considered as a potential noise nuisance for adjoining properties and has little reducing merit in this instance.

A Construction Traffic Management Plan would need to be provided with details to be agreed. This would need to include management of contractor parking to ensure no on-street parking occurs during the whole of the demolition and construction phases. This would need to be secured through a condition of any planning permission.

### **Neighbour Representations:**

Objections received from;

- Flat 14 Sussex Court
- 72 St Philips Avenue
- 78 St Philips Avenue
- 6 Fitzmaurice Avenue
- 13 Fitzmaurice Avenue

Covering the following points;

- Impact on privacy, overlooking to Sussex Court
- Impact on overshadowing garden of Sussex Court
- Design
- Density of development
- Proximity to boundary, pitch of roofs
- Access for Fire Brigade
- Access for waste collection truck
- Impact of noise/light pollution caused by traffic flow.
- Parking, 12 spaces unlikely to be sufficient

- Lowering the height of the boundary walls
- Location of the bin store
- Loss of light to rear gardens
- Potential for newts and slow worms on the site

Additional comments of support in principle from;

2 Fitzmaurice Avenue – Support the proposal

3 Fitzmaurice Avenue – support the proposal

5 Fitzmaurice Avenue – not opposed to residential development in principle but objects to the density proposed on basis of impact on parking/traffic generation.

9 Fitzmaurice Avenue – redevelopment could have a positive impact on residents however concerns over scale of development, proximity to boundary and overlooking.

10 Fitzmaurice Avenue – Support the proposal in principle however concerns over height of buildings and level of parking provision.

11 Fitzmaurice Avenue – no objection in principle however concerns over height of buildings, proximity to boundary and therefore impacts on privacy, overlooking and overshadowing.

12 Fitzmaurice Avenue – Support the proposal

14 Fitzmaurice Avenue – no objection to two storey but three storey too high due to overlooking impacts and out of scale with existing properties.

Flat 8 Sussex Court – no objection in principle but three storeys too high

Mark Bishop Plumbing and Heating, Fitzmaurice Yard – support the application as the garages are noisy and have many vehicles coming and going, houses will enhance the area and make it more peaceful.

Comments received following first revision;

10 Fitzmaurice Avenue revisions do not overcome previous objections.

11 Fitzmaurice Avenue object to the revisions to the application. Lowering the height marginally to plots 1-4 does not overcome objections. Revised plans still represent over development. Plots 5&6 would be higher than 1-4

Comments received following second revision;

8 Fitzmaurice Avenue – Support the proposal, will allow more parking and less nuisance to the area. The revised drawings will look good for the area.

9 Fitzmaurice Avenue – achieved a good outcome for plots 1-4.

11 Fitzmaurice Avenue – welcomes revisions to plots 1-4, queries regarding ground levels for plots 5&6 and height of boundary walls.

**Appraisal:**

Principle of development:

The National Planning Policy Framework is clear that sustainable residential development should be granted planning permission to ensure greater choice of housing in the local market and to meet local and national housing needs.

However whilst there is a presumption in favour of allowing permission for sustainable development the National Planning Policy Framework is clear in that permission should be refused where adverse impacts would significantly and demonstrably outweigh the benefits of the development.

The site has not been formally identified for development within the Council's Strategic Housing Land Availability Assessment therefore is considered to be a windfall site. The Council relies on windfall sites coming forward as part of its spatial development strategy (Policy B1 of the Core Strategy Local Plan).

Policy HO8, Redevelopment of Garage Courts, states that planning permission will be granted for the redevelopment of garage courts for residential purposes subject to a well-designed development in terms of siting and scale, and that there would be no significant harm to residential amenity.

It is also noted that the current use of the site for commercial purposes causes issues for neighbouring properties through noise and disturbance. Therefore the proposal to redevelop the site for housing is considered acceptable in principle providing the development provided a good standard of accommodation for future occupiers and did not cause significant harm to surrounding residential properties through overlooking or an overbearing relationship.

#### General impacts upon the site and surrounding area.

The site is surrounded by residential properties. The existing garages abut the boundary walls with these properties. When the garages have been removed buttressing is proposed to maintain the existing walls.

The design of the proposed properties has been revised to provide gable ends to front and rear reducing significantly the proposed overall height of the buildings and therefore the bulk visible to surrounding residential properties.

The plans state that the wall to Sussex Gardens will be reduced to 2.2m in height but otherwise maintained as is existing to reduce overlooking, specifically to Fitzmaurice Avenue properties given the close proximity of the proposed dwellings to the rear garden boundaries.

#### Impact on Fitzmaurice Avenue

Given the angle of the terrace plots 1-4 these are between 3 and 5m set back from the existing eastern boundary. The existing properties of Fitzmaurice Avenue are approximately 18m from this boundary giving a separation distance (front to rear) of between 21 and 24m.

Given the existing wall is to be retained this would effectively block overlooking from the windows in the front elevation towards the existing

buildings it is not considered that there would be significant impacts on the privacy or amenity of occupiers of these properties.

Plot 6 which is proposed side on to properties of Fitzmaurice Avenue have two windows at first floor level in the side elevation, however these serve the stairwell and a small window is secondary to the rear bedroom therefore these are both proposed to be obscurely glazed removing issues of overlooking.

The amendments to the design of the properties, removing the additional bedroom in the roof space, and creating gable ended front elevations has significantly reduced the height of the proposed properties. The height of the boundary wall to be retained blocks most of the visual appearance of the dwellings with only the roof visible to Fitzmaurice Avenue. Therefore it is considered that the amended design has overcome the concern in relation to the over bearing relationship given the close proximity of the dwellings to the boundary.

Therefore the impact on properties of Fitzmaurice is considered acceptable.

#### Impact on Sussex Court;

The proposed terrace plots 1-4 would be set back from the boundary with Sussex Court by between 5 and 8m. Giving a separation distance (rear to rear) of approximately 21m.

The boundary wall is proposed to be lowered to 2.2 to Sussex Court which has a higher ground level approximately 1.5m above the proposed dwellings. To keep the existing boundary wall would be considered overbearing on the proposed properties given the relatively short gardens proposed. In terms of overlooking/privacy, the two windows in the rear elevation serve bedrooms with one angled and high level to minimise overlooking. Therefore the overlooking impacts towards Sussex Court and their communal gardens is considered acceptable given the distances involved.

It is not considered that the proposed dwellings given the height and distance from the boundary would be overbearing on or detrimental to the amenities of residents of Sussex Court to warrant the refusal of the application on this ground.

#### Impact on St Philips Avenue;

Any impacts in terms of amenity would be limited to properties of St Philips Avenue given the properties are proposed to the northern end of the site. Parking is proposed to the southern end of the site with the height of the boundary wall maintained.

#### Impact on amenity of future occupiers:

The size of the dwellings is considered acceptable as they exceed the national space standards as set out below. Each property also has an acceptably sized rear garden.

Plots	Number of bedrooms/bed spaces	Floorspace	National recommendation
1-4	3 bed, 4 person	88m <sup>2</sup>	84m <sup>2</sup>
5 & 6	3 bed, 4 person	89m <sup>2</sup>	84m <sup>2</sup>

In terms of the overall amenity for future occupiers, the front elevations of plots 1-4 are particularly close to what is a substantial wall. The design has been altered to provide angled windows to the front elevations which will slightly improve the outlook and light. To the rear the height of the boundary wall going towards the north of the site, is also substantial given the difference in ground level with Sussex Court and as St Philips Avenue is on a slope. The rear wall given the small rear gardens would at points be overbearing.

The plots are laid out such that 5 and 6 would be between approximately 25-30m from the parking area and bin store and whilst this is not ideal it is not considered sufficient to form a reason from refusal in and of itself.. Where the plot narrows the path would be only 1m in width in front of plot 4. There is also only a distance of 6m between the side elevation of plot 4 and the front of plots 5 & 6 however it is noted there are no windows in the side elevation of plot 4 this is a cramped and overbearing relationship.

On balance, it is considered that by virtue of the narrowness of the site, the proposed layout is cramped and for the above reasons would result in a poor standard of amenity for future occupiers of the site given the proposal of 3 bed family dwelling houses.

Design issues:

The design of the proposal has been amended twice during the course of the application to attempt to overcome objections.

The design under determination consists of Plots 1-4 being terraced, two storey dwellings with gable end to front/rear 5.8m to eaves and 7.3m in total height. Windows at ground and first floor on the front elevation and to one bedroom at first floor on the rear elevation are angled to minimise overlooking and also to provide more outlook to the side given the close proximity to the boundary at the front (east).

Plots 5 & 6 are a pair of semi-detached dwellings facing south at the northern end of the site. These are also gable ended and the same height as plots 1-4. These properties have a projecting first floor on the front elevation and step in towards the rear.

The surrounding properties are predominantly two storey pairs of semi-detached properties, with Sussex Court higher at 3 storeys. The height now reduced is considered more acceptable given the context of the surrounding buildings.

In terms of materials the dwellings are proposed facing brickwork at ground floor level with cladding at first floor level, of off white and blue. These materials are considered acceptable given the context of the site.

Overall on balance the visual appearance of the dwellings is considered acceptable, however the density of the development is considered out of keeping with the character and pattern of the surrounding residential development contrary to Policy D10a of the Core Strategy Local Plan which states that development will be expected to ensure that the layout and design contributes to local distinctiveness and a sense of place and that it is appropriate and sympathetic to its setting in terms of scale, and density.

Impacts on highway network or access:

As outlined in their consultation response ESCC Highways are in support of the scheme.

Therefore it is not considered the proposed development would have severe impacts on the highway network to justify refusing the application on this ground.

Planning obligations:

The proposed development would be liable to a CIL charge the necessary forms have been submitted with the application.

Other matters:

The site is located in an area of 'stress' for surface water flooding, and as such Sustainable Urban Drainage techniques should be promoted on the site. No information has been provided with the application in relation to a proposed SUDs scheme however this could be controlled by condition if permission was to be granted.

Waste Collection

Given the layout of the properties a communal bin store is proposed adjacent to the car parking area, for the collection of waste. It would be considered unreasonable for waste collectors to walk to collect bins from outside properties especially plots 5 & 6. However a communal bin store is less than ideal for residents, plots 5 & 6 could elect to store their bins to the front of their properties presenting them to the communal bin store on collection day. The access road would need to be made to adoptable standard to allow access by a refuse truck.

Fire Access

Objections have been made to the application on the grounds that a fire engine would not be able to access the site in case of emergency. East Sussex Fire and Rescue have been verbally consulted as part of the application and agreed that the access and turning head, provided they met building regulations would allow sufficient access for a fire engine. They also confirmed that the 40m distance from where the engine would need to park, to the farthest property could be met as required under building regulations.

### Ecology

Neighbours have commented on the likelihood of the site providing habitat for newts and that slow worms are prevalent in the rear gardens of properties of Fitzmaurice Avenue which are protected species. A statement from an Ecological Consultant has been submitted in support of the application stating that the site is unlikely to support reptile species given the building and hard standing provide little/no potential for feeding and sheltering opportunities for reptiles.

The applicant has instructed the consultant to undertake an Extended Habitat Survey, should this be submitted and confirm the initial findings as above the reason for refusal on the grounds of potential impact on protected species may be overcome.

### **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:**

Whilst the principle of residential development of the site is supported the scale of the proposed development is considered to result in a cramped over development detrimental to the amenity of future occupiers of the dwellings. Whilst there is a presumption in favour of allowing permission for sustainable development the National Planning Policy Framework is clear in that permission should be refused where adverse impacts would significantly and demonstrably outweigh the benefits of the development.

Whilst the amendments to the scheme have overcome concerns in relation to the impact on the amenity of the surrounding residential properties in terms of overlooking and an overbearing relationship, the scale of development is considered unacceptable for what is a relatively narrow plot.

The density of the development is also considered out of keeping with the character and pattern of the surrounding residential development which is characterised by pairs of semi-detached properties with medium to large rear gardens.

No Ecology Statement or Survey has been submitted in support of the application either confirming the presence or absence of protected species. Given the development has the potential to impact of protected species through loss or deterioration of habitats the development is contrary to Policy.

**Recommendation:**

Refuse planning permission for the following reasons;

1. The proposal by virtue of the size of the plot and the scale of development (6 dwellings) results in a cramped over development of the site that is out of character with the prevailing pattern of development as well as resulting in a poor living environment detrimental to the amenity of future occupiers of the dwellings contrary to policies B2 & D10A of the Core Strategy Local Plan 2013.
2. No Ecology Statement or Survey has been submitted with the application confirming either the presence or absence of protected species. Given the development has the potential to impact on protected species through loss or deterioration of potential habitats the development is contrary to section 11 of National Planning Policy Framework 2012.

**Informatives:**

1. Drawing numbers.
2. Suds
3. Highway to adoptable standards
4. Fixed shut obscure windows

**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**.