

Eastbourne Borough Council

Planning Committee

22 May 2007

Report of the Head of Planning

List of Planning Applications for Consideration

- 1) FLAT 1, 38 SOUTH STREET, EASTBOURNE**
Conversion of first floor flat to one one-bedroom flat and one studio flat.
EB/2007/0233(FP), MEADS
- 2) FLAT 7, 32 ST JOHNS ROAD, EASTBOURNE**
Installation of six UPVC replacement windows to all elevations of top floor flat.
EB/2007/0250(FP), MEADS
- 3) 28 SEASIDE ROAD, EASTBOURNE**
Change of use from retail shop (Class A1) to form café bar/restaurant (Class A4) with kitchen facilities.
EB/2007/0202(FP), DEVONSHIRE
- 4) 4 KIRK WAY, EASTBOURNE**
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- 5) 1 FREEMAN AVENUE, EASTBOURNE**
Addition of dormer to front roof slope and single storey extension to front and side with roof space over in association with the demolition of the existing garage.
EB/2007/0232(FP), HAMPDEN PARK
- 6) TJ's NIGHTCLUB, 146 TERMINUS ROAD, EASTBOURNE**
Construction of a first floor smoking deck and raised parapet wall at rear of nightclub.
EB/2007/0241(FP), MEADS
- 7) TWEED, 8 - 10 SILVERDALE ROAD, EASTBOURNE**
Creation of three parking spaces to the front.
EB/2007/0175(FP), MEADS
- 8) MOTCOMBE FARMHOUSE, 2 MOTCOMBE ROAD, EASTBOURNE**
Conversion of outbuilding to ancillary residential accommodation.
EB/2007/0242(FP), OLD TOWN

- 9) MOTCOMBE FARMHOUSE, 2 MOTCOMBE ROAD, EASTBOURNE**
Conversion of outbuilding to ancillary residential accommodation to include insertion of four velux rooflights, removal of existing staircase, internal walls and roof trusses and insertion of new staircase and partition wall.
EB/2007/0243(LB), OLD TOWN
- 10) 20 SOUTHFIELDS ROAD, EASTBOURNE**
Use of one room on the ground floor for teaching students for a maximum of 45 days each year.
EB/2007/0179(FP), UPPERTON
- 11) 35 HARDY DRIVE, EASTBOURNE**
Erection of wall and gate 1.75 metres high and 1 metre in from footpath in Vian Avenue replacing existing wall.
EB/2007/0246(FP), SOVEREIGN
- 12) LAND TO THE REAR OF, 2 DILLINGBURGH ROAD, EASTBOURNE**
Outline application for the erection of a one-bedroom bungalow.
EB/2007/0214(OL), OLD TOWN
- 13) TUTTS BARN NURSERY, TUTTS BARN LANE, EASTBOURNE**
Erection of single storey dwelling to provide owners accommodation for existing nursery..
EB/2006/0841(FP), UPPERTON

J. F. Collard
Head of Planning

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Report of the Planning Manager

Background Papers

1. Town and Country Planning Act 1990
2. Planning (Listed Buildings and Conservation Areas) Act 1990
3. The Planning and Compensation Act 1991
4. The Town and Country Planning General Regulations 1992
5. The Town and Country Planning (General Permitted Development) Order 1995
6. The Town and Country Planning (General Development Procedure) Order 1995
7. The Town and Country Planning (Use Classes) Order 1987 (as amended)
8. The Town and Country Planning (Control of Advertisements) Regulations 1992 and Amendment Regulations 1994
9. DoE/ODPM Circulars
10. DoE/ODPM Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs)
11. East Sussex and Brighton & Hove Structure Plan 1991-2011
12. Eastbourne Borough Plan 2001-2011
13. Eastbourne Townscape Guide 2004
14. East Sussex County Council Manual for Estate Roads 1995 (as amended)
15. Statutory Instruments
16. Human Rights Act 1998
17. The Planning and Compulsory Purchase Act 2004

Note: The documents listed above and the papers referred to in each application report as "background papers" are available for inspection at the offices of the Economy, Tourism and Environment Department at 68 Grove Road on Mondays, Tuesdays, Thursdays and Fridays from 9.00 a.m. to 5.00 p.m. and on Wednesdays from 9.30 a.m. to 5.00 p.m.

Eastbourne Borough Council

Planning Committee

22 May 2007

Report of the Planning Manager

List of Planning Applications for Consideration

- 1) FLAT 1, 38 SOUTH STREET, EASTBOURNE
Conversion of first floor flat to one one-bedroom flat and one studio flat
EB/2007/0233(FP),MEADS**

EXECUTIVE SUMMARY

The conversion of the first floor to a one bedroom flat and a studio would create a studio that has a living space of 10.26m². This would have a southerly aspect and a view onto a courtyard garden to the rear of the building. Although a separate kitchen and bathroom would be provided it is considered that the small living space would create an unacceptable form of accommodation.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises a three storey end of terrace property situated on the southern side of South Street. Currently the ground floor of the property is a vacant shop unit whilst the upper floors are in residential use. The entrance to the first floor flat is via a side entrance door off an alleyway and can also be accessed internally from the shop.

PLANNING HISTORY

An application for the conversion of part of the ground floor to a studio flat and the existing first floor flat to a one-bedroom flat and a studio flat was refused by the Planning Committee at their meeting on 3 April 2007. It was refused on the grounds that the conversion of part of the ground floor would be out of character with the pattern of development in the area and would harmfully affect the useability of the retail shop.

CURRENT APPLICATION

The current application seeks permission to convert the existing first floor two-bedroom flat into one, one bedroom flat and a studio flat.

PLANNING POLICY

The following policies of the Eastbourne Borough Plan 2001-2011 are considered relevant to the determination of this application:

UHT1 Design of New Development
HO9 Conversions and Change of Use
HO20 Residential Amenity

CONSULTATIONS

Letters of notification were sent to the occupiers of the surrounding properties and a site notice was placed to the front of the application site. At the time this report was completed, 9 May 2007, no representations had been received.

APPRAISAL

The property is situated within an established secondary shopping area and is close to the town centre and the amenities that it provides. The majority of the surrounding properties have residential use on the upper floors and no external alterations are proposed as part of the application. Therefore, it is considered, that the main issue to deliberate in the determination of this application is the standard of accommodation that the development proposes.

The existing flat comprises two bedrooms, a living room to the front of the property and kitchen and bathroom to the rear. The proposed development would convert the rear kitchen and bathroom to a self contained studio flat comprising a living/sleeping area, kitchen and bathroom. The aspect of the studio flat would be predominantly to the south which would provide light and a view onto a courtyard garden. There would also be a window to the side elevation, divided into two to serve the kitchen and bathroom, providing little view due to its size and position. The main living space would have a floor area of 10.26m² and although the flat would have a separate kitchen and bathroom, increasing the floor area to 19.44m², it is considered that the small size of the studio room would create an unacceptable form of accommodation.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development would not adversely affect the rights of adjoining residents to the peaceful enjoyment of possessions and protection of property.

RECOMMEND: Permission be refused for the following reason:

That, by reason of its size, the proposed studio flat would provide an unacceptable form of accommodation and as such would be contrary to Policy HO9 of the Eastbourne Borough Plan 2001-2011.

2) FLAT 7, 32 ST JOHNS ROAD, EASTBOURNE
Installation of six UPVC replacement windows to all elevations of top floor flat
EB/2007/0250(FP),MEADS

EXECUTIVE SUMMARY

The property still retains traditional features, including the majority of its sliding sash timber windows, especially on the visible elevations of the building. Therefore, the inclusion use of UPVC in the top flat would be against Adopted Council Policy. Whilst it is acknowledged that the existing windows are not historical in design it is considered that any replacements should be an improvement on the existing and should include traditional designs and materials.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises a large detached property situated on the northern side of St. Johns Road. The property has been converted into 7 flats and the application relates to the top floor flat. The property is a historic building situated within an Area of High Townscape Value that adjoins the Meads Conservation Area.

PLANNING HISTORY

There is no planning history relevant to this application.

CURRENT APPLICATION

The current application seeks permission to install replacement windows to all elevations of the property. The windows will be the same style as the existing but will be UPVC instead of timber.

PLANNING POLICY

The following Policies of the Eastbourne Borough Plan 2001-2011 are considered relevant to the determination of this application:

UHT1 Design of New Development
UHT16 Protection of Conservation Areas

The following guideline of the Eastbourne Townscape Guide is also considered relevant.

WD3 Windows in Areas of High Townscape Value

CONSULTATIONS

Letters of notification were sent to the occupiers of the surrounding properties and a site notice was placed to the front of the application site. At the time the report was completed, 9 May 2007, no representations have been received.

The Council's Historic Buildings Consultant states that the replacement of traditional windows within an Area of High Townscape Value is against policy and should be refused.

APPRAISAL

The main issue to consider in the determination of this application is the impact the proposed windows would have on the surrounding Area of High Townscape Value.

Policy UHT16 of the Eastbourne Borough Plan 2001-2011 states that "Proposal within areas of high townscape value will be required to generally preserve the character and appearance of the area".

These issues are further detailed in Guideline WD3 of the Eastbourne Townscape Guide which states that in these areas the Council will normally:-

"a) expect the retention of the original doors and windows where these are in the majority on visible elevations of the individual building or the terrace if the premise forms part of the terrace..."

The windows to be replaced, as proposed by this application, would be on all elevations of the property, the front and sides being visible from St. Johns Road. The majority of the existing windows in the property, especially on visible elevations, are timber and therefore the use of UPVC in the top flat would be against policy. The designs of the replacement windows are similar to those existing which are not traditional in design. However, it is considered that any replacements should be an improvement on the existing and incorporate traditional designs and materials.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed windows will not have a negative impact on the above noted rights for the peaceful enjoyment of possessions and protection of property.

RECOMMEND: Permission be refused for the following reason:

That, by reason of their material, the proposed replacement windows would be detrimental to the character and appearance of the building and the surrounding area of high townscape Value. As such, the proposed development would be contrary to policy UHT16 of the Eastbourne Borough Plan 2001-2011.

**3) 28 SEASIDE ROAD, EASTBOURNE
Change of use from retail shop (Class A1) to form café bar/restaurant
(Class A4) with kitchen facilities
EB/2007/0202(FP),DEVONSHIRE**

EXECUTIVE SUMMARY

The proposed change of use of the premises to a wine bar would result in an unacceptable degree of noise and disturbance to adjacent and nearby residents.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application premises occupy a prominent position on the corner of Susan's Road and Seaside Road. The property has remained vacant for a number of years.

PLANNING HISTORY

Planning permission was granted in 2004 for the change of use of the premises from A1 (retail) to A3 (food and drink) use (EB/2004/0540). Condition No.2 attached to this permission stated:

"That the premises shall be used as a coffee/tea shop/café/restaurant with ancillary takeaway use and for no other purpose (including any other purpose in Class A3 (food and drink)) of the Schedule to the Town and Country Planning (Use Classes) Order 1987."

This condition was attached in order to prevent the premises from being used as a public house, as it was considered that such a use would have an impact on residential amenity. In addition, the hours of opening were restricted to 11.00pm, once again in order to protect residential amenity. This consent was never implemented.

CURRENT APPLICATION

Planning permission is sought to change the use of the ground floor of these vacant premises to a mix of a wine bar (Class A4) with restaurant (Class A3). The drawing accompanying the application shows that the premises would comprise a café bar/restaurant including seating and tables, with toilets and a kitchen preparation area to the rear of the ground floor.

PLANNING POLICY

The Eastbourne Borough Plan 2001-2011 Proposals Map identifies the application site as being within a Secondary Shopping Area and within the Town Centre and Seafront Conservation Area and the following Borough Plan policies are considered relevant to the determination of this application:

Policy TC6 - Town Centre Shopping Areas
Policy HO20 - Residential Amenity

CONSULTATIONS

Letters of notification were sent to occupiers of neighbouring properties and a site notice was displayed. No representations have been received.

Planning Policy Team: The application site is within the Town Center Secondary Shopping Area (Policy TC6). Policies TC6 and HO20 of the Borough Plan are applicable. The level of activity associated with this change of use would be greatly increased both in terms of noise and the potential to cause disturbance. Residential premises on the floors above this unit and adjacent would therefore be unreasonably affected. Taking this into consideration, we recommend that planning permission be refused. (Memo dated 5 April 2007).

Sussex Police: The Inspector responsible for licensing issues and the policing of the night-time economy in Eastbourne has confirmed the following:

"I objected to a previous application which is basically the same as this. Following my objection the previous application was withdrawn and I met with the applicant and other representatives. From the meeting there was nothing contained within the proposals that would lead me to withdraw my objection? I am still wholly opposed to the transformation of these premises to a drinking establishment and officially register my objection again:-

"Sussex Police are concerned about the concentration of licensed premises in Eastbourne Town Centre. The connection between alcohol consumption and crime and disorder has long been recognised. More recent research has identified alcohol as an issue, in particular, pinpointing hotspots for violence and disorder in areas containing high concentrations of licensed premises. The number of criminal incidents peak between 9pm and 3am on Friday and Saturday nights.

"It is important to note that as additional venues are added to a town centre, customer choice increases. The extended options available encourage customers to move between venues to sample the different styles of entertainment available. The resulting lively street scene has the effect of drawing ever more visitors, rather than distributing the existing clientele base. Larger concentrations of people produce more crime, partly due to the increased anonymity available and the consequential lesser chance of detection.

"There is already a high concentration of licensed premises within the immediate vicinity of 28 Seaside Road. Sussex Police are already very concerned about the level of public place violent crime associated with the alcohol fuelled violence in the "hotspot" town centre. Criminal incidents are far more prevalent in the immediate vicinity of licensed premises. The high level of concern both by Police and Local Authorities is reflected in the referral of the "Cumulative Impact Policy" to local cabinet.

"In the rolling year leading up to October 2006, Seaside Road saw 97 criminal acts which are classified as offences of public place violent crime.

In addition, Police have been called to deal with disorder, drunkenness, criminal damage and other incidents of anti-social behaviour. Eastbourne policing district invests heavily in reducing the amount of public place violent crime, but despite this investment, Seaside Road has seen an increase of 19 offences over and above that of the previous 3 months. This equates to a 95% increase in violent crime in that one road.

"Section 17 of the Crime and Disorder Act 1998 gives both police and local authorities a responsibility to *"exercise their various functions with due regard to the likely effect on the prevention of crime and disorder."*

"The Inspector believes that this planning decision is one that will have an impact on crime and disorder and asks that the application is refused.

"Policy TC6 of the Eastbourne Borough Plan seeks to ensure that the town centre does not suffer due to an over concentration of licensed premises" and the Inspector believes that the addition of a wine bar at this location is against the spirit of Policy TC6.

"PPS6 requires local planning authorities to consider the scale and quantity of leisure development and to take into account their cumulative impact and likely effect upon residential amenity. The last few years has seen an increase in approximately 169 residential units within close proximity to the proposed site." The Inspector also believes that as part of the Seaside Road regeneration plan, the number of residential units locally will increase still further.

"The Safer Places document from the ODPM, (2004) offers a good practice guide for the creation of well designed and safe places through the planning system. The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.

"Should you be minded to offer consent for change of use to a licensed premises, can I respectfully request that consideration be given to approving an application that fits within the style of café/restaurant which is open during the day and evening and serves alcoholic drinks to persons seated at tables. I then ask that a time condition of 1am is imposed on that premises.

"The above comments may be a material consideration in the determination of the application, but may not necessarily be acceptable to the Local Planning Authority. It is recommended, therefore, that before making any amendments to the application, the applicant or their agent first discusses these comments with the Local Planning Authority."

(Email received 13 April 2007).

APPRAISAL

The main issue to take into account in determining this application is the impact of the use on the area in general and adjacent residents in particular.

As mentioned earlier in the "Policy" section of this report, the application premises are within a Secondary Shopping Area. In this particular case Policy TC6 states that planning permission will be granted for food and drink uses subject to the following considerations:

- a) the location and prominence of the premises within the shopping frontage;
- b) the floorspace and frontage of the premises;
- c) the number, distribution and proximity of other ground floor premises in use as, or with planning permission for, class A2 and A3 uses;
- d) the particular nature and character of the use proposed, including the level of activity associated with it;
- e) whether the proposed use on its own, or cumulatively with other such uses in the area, would give rise to unacceptable noise or disturbance, including disorder.

The Policy also states that in Seaside Road (numbers 3-95 and 12-68) no more than three consecutive premises are to be in non-A1 use.

Sussex Police have confirmed that Policy TC6 seeks to ensure that the town centre does not suffer from an over concentration of licensed premises and believe that the addition of a wine bar in this location would be contrary to the spirit of the Policy.

The premises are located on the edge of the town centre commercial area and directly abut residential properties. As pointed out by the Police, over the last few years there have been a significant number of residential units approved/provided within close proximity of the premises. Whilst it is acknowledged that residents of such properties must expect relatively high levels of noise in the evenings, the Borough Plan makes it clear that residential amenity must not be significantly harmed.

There is already a high concentration of licensed premises within the vicinity of 28 Seaside Road and the Police have confirmed that they have recently seen a significant increase in violent crime in this road. It is therefore considered that the existing licensed premises in Seaside Road already have an adverse impact on the closest residents, and it has to be said that no matter how well such establishments are run, there is no control over customers once they have left the premises. Whilst the floor area of the application premises is not particularly large, it would nevertheless result in a significant number of people in the building.

When considering the previously approved application for an A3 use, it was considered that the premises were not suitable for a late night or public house use because of the likely detrimental impacts on residential amenity. The application does not confirm the proposed hours of opening for the wine bar.

It is assumed that later open hours are envisaged. The previous application which was withdrawn, proposed opening hours until 1am Fridays and Saturdays, 12am Mondays – Thursdays, 11.30pm on Sundays. It is considered that later opening hours would extend the hours of noise and disturbance to local residents, and would actually attract more customers from premises that have already closed, resulting in more people, either waiting to enter the premises or being turned away.

A recent appeal decision in west London in respect of a restaurant and bar applying to extend its hours of operation turned on a similar principle. In dismissing the appeal, the Inspector considered that a significant number of customers would leave the premises in the early hours of the morning, when local residents would be more vulnerable to sleep disturbance, and, moreover, that the premises would be likely to attract customers from other food and drink establishments that had already closed; the risk that such people would have to be turned away would create potential for more disturbance, he reasoned.

Taking into account the above, together with the issues raised by the police, it is considered that this is not the correct location for a wine bar, as it would adversely affect the amenities of nearby and adjacent residents to an unacceptable degree.

HUMAN RIGHTS IMPLICATIONS

The proposal is likely to result in an adverse impact on the rights of nearby residents to the peaceful enjoyment of possessions and protection of property.

RECOMMEND: Permission be refused for the following reason:

That the proposed use would be likely to result in an unacceptable increase in both public disorder and noise and disturbance to adjacent and nearby residents, and would therefore conflict with Policies HO20 and TC6 of the Eastbourne Borough Plan 2001-2011.

**4) 4 KIRK WAY, EASTBOURNE
Construction of dormer window on side of chalet bungalow
(retrospective application)
EB/2007/0224(FP), OLD TOWN**

EXECUTIVE SUMMARY

The dormer window constructed is the same size as the structure that would have been formed if the sequence of building a small dormer as permitted development and then planning permission EB/2005/0514 had been followed. The proposal in the current application to use materials on the dormer to match the main roof will soften the visual impact. Furthermore, two windows proposed are to be non-opening and fitted with obscure glazing, thereby maintaining the privacy of the nearest neighbouring dwelling.

RECOMMENDATION: Permission be granted subject to conditions.

SITE LOCATION

The application site is a bungalow with rooms in the roof and is on the north side of Kirk Way. The building and rear garden of 4 Kirk Way is perpendicular to the gardens of 21 and 23 Burrow Down. Work has commenced and has advanced significantly on the construction of an extension to the rear of the bungalow and a dormer on west roof slope.

The properties immediately neighbouring the application dwelling are bungalows. The general pattern of development in this part of the residential estate is mostly bungalows with some two-storey houses.

PLANNING HISTORY

1963 – Granted: Erection of 113 dwellings and 112 garages (EB/1963/0148).

2005 – Refused: Two-storey extension at rear together with flat roof dormer extension to roof at side (EB/2005/0338).

2005 – Granted: Two-storey extension at rear in association with flat roof dormer (EB/2005/0514).

CURRENT APPLICATION AND BACKGROUND

Planning permission is sought retrospectively for the dormer window on the west roof slope that is being constructed at the same time as a two-storey rear extension. The structure of the dormer has been formed but has not been clad. The dormer has an overall width of 9 metres and a height of 2.4 metre. There are apertures for two windows. The drawings submitted show the windows to be fitted with obscure glazing. The windows are to serve a bathroom and a study.

In 2005, an application for the erection of a two-storey extension with a wide dormer on the side was refused consent. The reason for refusal was that the design and materials of the dormer and extension would be inharmonious with the existing building and the street scene. Following the refusal, the applicant sought advice from the Council that the construction of a smaller dormer window on the west roof slope of the existing bungalow would be permitted development. Volume of the smaller dormer was judged to be permitted development and not require planning permission.

Later, a revised application for a two-storey rear extension with a dormer on side was approved. At that time, the applicant was advised the proposed smaller on the side of the existing bungalow would be permitted development only if it was completed before the commencement of approved two-storey extension with side dormer.

In March 2007 the Council was informed that the construction of the 'permitted development' dormer and the two-storey extension were taking place at the same time.

PLANNING POLICY

UHT1 – Design of New Development

UHT4 – Visual Amenity

HO20 – Residential Amenity

CONSULTATIONS

Letters of notification were sent to occupiers of neighbouring properties and a site notice was displayed.

A letter of objection has been received from the occupiers of the neighbouring dwelling at 23 Burrow Down:-

- Invasion of privacy and living conditions.
- Damage to our buildings due to dampness caused by lack of air flow.
- [Loss of] outlook.
- Encroaching within our boundary and property space.
- Oversize and out of character to a suburban spacious area of the 30 metre rule, as quoted by the recent Government Inspector at 10, 12 and 14 Burrow Down.
- Impact on environmentally sensitive area.
- Increased noise level.
- Damage to mature fruit trees.
- Restricted light to our house, greenhouse and garage.
- Breaches of their and our covenants, which Eastbourne Borough Council imposed.
- This build is extremely oppressive.
- An intrusive feature on the street scene.
- The development is contrary to policy HO18 of the adopted Borough Plan.
- This development that has been erected and the chalet bungalow that already exists, an unlawful build, due to all the points as stated above.

(Letter dated 2 May 2007).

The Liberal Democrat's Parliamentary spokesman also objects:-

- It impairs, unreasonably, the outlook from the property at 23 Burrow Down.
- It will have a detrimental impact on living conditions of neighbouring properties, particular that of 23 Burrow Down, as the proposed additional build overlooks the kitchen and bedroom.
- The external alterations to the existing building will change the character of the original property, failing to harmonise with the character and appearance, contrary to policy UHT1 of the Eastbourne Borough Plan.

(Email dated 8 May 2007).

APPRAISAL

The main issues to consider in the determination of this application are the impacts on the visual amenity of the area and neighbouring residential amenity.

The dormer on the west roof slope that has so far been is the same size as the dormer that was refused as part of the proposed development in planning application EB/2005/0338. However, had the applicant followed the route of constructing and finishing a smaller dormer on the roof of the original building as permitted development, and then started the two-storey rear extension with dormer approved under EB/2005/0514, as was the intention, the same size of roof extension would have been formed.

The large dormer that has been formed differs from application EB/2005/0338 with the use of materials. The application that was refused proposed to clad the dormer with UPVC shiplap which would have been inharmonious with the building. The current application proposes to use vertical hanging tiles as the external material for the dormer, to match the main roof of the bungalow. It is considered that this will better blend the dormer with the original roof. Furthermore, it is considered that the use of vertical hanging will lessen the impact on the street scene and not have a harmful effect on the overall street scene.

The dormer directly faces the rear garden and the rear elevation of the bungalow at 23 Burrow Down as well as 21 Burrow Down. The appearance of the dormer is prominent when viewed from 23 Burrow Down, the nearest dwelling. It is considered that the use of vertical hanging tiles to blend with the main roof will moderate the dormer's appearance when viewed from the neighbouring dwelling. It is proposed to install two windows to the dormer facing 23 Burrow Down. It is proposed that these windows are non-opening and be fitted with obscure glass. It is considered that as the windows will not be main habitable rooms, and that obscure glazing will be used, there will not be overlooking and loss of privacy of the neighbouring dwelling. Furthermore, there is a distance of 23 metres between the side of 4 Kirk Way and the rear elevation of 23 Burrow Down. Loss of neighbouring residential amenity was a reason for refusing application EB/2005/0338.

The rear garden of 23 Burrow Down benefits from a southerly aspect. The size and position of the dormer constructed does not result in detrimental loss of light or overshadowing of 23 Burrow Down.

HUMAN RIGHTS IMPLICATIONS

It is considered that the development does not have adverse Human Rights implications.

RECOMMEND: Permission be granted subject to the following conditions:

(1) That all materials used in the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, texture and colour.

Reason: To secure that the development is in harmony with the existing building.

(2) That the proposed windows in the west elevation shall only be glazed in semi-obscure glass and incapable of being opened and shall be permanently maintained as such thereafter.

Reason: To safeguard the privacy of the occupiers of adjoining properties.

(3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), no windows, doors or openings of any kind (other than those expressly authorised by this permission) shall be constructed in the west elevation of the development.

REASON: To safeguard the privacy of the occupiers of adjoining properties.

SUMMARY OF REASONS FOR DECISION

The proposed development is considered acceptable for the following reasons:-

The development will not detrimentally affect the residential amenity of neighbouring dwellings or have a harmful impact on the visual amenity of the area, complying with policies UHT1, UHT4 and HO20 of the Eastbourne Borough Plan 2001 - 2011.

**5) 1 FREEMAN AVENUE, EASTBOURNE
Addition of dormer to front roof slope and single storey extension to front and side with roof space over in association with the demolition of the existing garage
EB/2007/0232(FP), HAMPDEN PARK**

EXECUTIVE SUMMARY

The proposed front dormer is designed and sited such that it would harm the visual amenity of the area and would be out of keeping with the main property. Although the other extensions are deemed to be acceptable, the front dormer would result in an incongruous feature within the streetscene, and on this basis the application should be refused.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The semi-detached property has a south facing rear garden that is enclosed to the side and rear by the garden of 3 Freeman Avenue. To the eastern boundary are the rear gardens of the properties in Brodrick Road. The property has an existing flat roof garage to the side, accessed from the driveway on Freeman Avenue.

PLANNING HISTORY

The property was granted consent in 1958 (EB/1958/0269). The property remains as built.

CURRENT APPLICATION

Permission is sought for a pitched dormer to the front roofslope, a single storey extension across the front of the property, and the replacement of the existing garage to the side with a single storey extension with pitched roof void over this.

The proposed front extension would project 1m from the front of the property. The side extension would replace the existing garage on a slightly different footprint. The pitched roof would have a maximum height of 6m.

The front dormer would be sited to one side of the front roofslope. It would cover the majority of the height of the roofslope, with a width of 1.2m.

PLANNING POLICY

Policy UHT1	-	Design of New Development
Policy UHT4	-	Visual Amenity
Policy HO20	-	Residential Amenity
Policy US4	-	Flood Protection and Surface Water

CONSULTATIONS

The application was advertised by letters of notification sent to occupiers of surrounding properties and a site notice displayed to the front of the property. No objections have been received.

APPRAISAL

The main issues to determine with regard to this application are the visual impact of the proposed extensions and dormer and the impact to the amenities of occupiers of surrounding properties.

The proposed front dormer is not in proportion to the main roof, with a large height and projection. The visual appearance would not be in keeping with the existing dwelling and would unbalance the semi-detached pair. Front dormers are not characteristic of properties in Freeman Avenue and the addition of a dormer to the front roofslope would therefore be out of keeping with the general appearance of properties in the area. The dormer would result in no significant loss of privacy, light or outlook to the surrounding properties. It is considered that the proposed dormer would create an incongruous feature in the streetscene and would be contrary to policies UHT1 and UHT4 of the Eastbourne Borough Plan 2001-2011.

The proposed front extension would project only 1m from the front of the property and would have little impact on the visual amenity of the area. The side extension would tie in with this front extension and would be sited in the same position as the existing garage. The pitched roof above this would not harm the streetscene, mirroring the pitch on the main roof of the dwelling. The side elevation is visible from Freeman Avenue. The stepped nature to the side of the extension would not it is considered harm the visual amenity of the area. A condition to control the materials used would ensure the extension would harmonise with the existing building.

The distance to the properties in Brodrick Road would prevent any loss of outlook or light to the habitable rooms of these properties and would result in no significant loss of light or outlook to the rear gardens. A condition to prevent any openings in the side elevation would prevent any loss of privacy to the rear gardens in Brodrick road.

The proposed extension would result in no impact to the amenities of the occupiers in 3 Freeman Avenue and the distance to the properties in Glynde Avenue would prevent any loss of amenity to the occupiers of these properties.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed extensions and dormer would not infringe the above noted rights of occupiers of surrounding properties to the reasonable enjoyment of possessions and property.

RECOMMEND: Permission be refused for the following reason:

The proposed front dormer by reason of its siting and design would create an incongruous feature within the streetscene that would harm the visual amenity of the area and would therefore be contrary to policies UHT1 and UHT4 of the Eastbourne Borough Plan 2001-2011.

**6) TJ's NIGHTCLUB, 146 TERMINUS ROAD, EASTBOURNE
Construction of a first floor smoking deck and raised parapet wall at
rear of nightclub
EB/2007/0241(FP),MEADS**

EXECUTIVE SUMMARY

The proposed development would result in an unacceptable level of late night noise and disturbance which would be detrimental to the amenities of nearby residents.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises the first and second floors of a mid-terrace premises on the south side of Terminus Road, above the Milletts store. The nightclub is accessed from a street level door in Terminus Road, whilst at the rear a fire escape is accessed across the roof of Milletts.

PLANNING HISTORY

The property has operated as a nightclub since 1979.

An application for an almost identical development was refused at your meeting on 6 March 2007 for the following reason:

The use of the proposed external deck at the rear to allow customers to smoke outside the building, and access thereto, will result in an unacceptable level of late night noise and disturbance, to the detriment of the amenities of nearby residents, contrary to policy HO20 of the Eastbourne Borough Plan.
(EB/2007/0070 – background paper)

CURRENT APPLICATION

The current application is for the same decked area at first floor level (over the roof of the rear part of Milletts and incorporating part of the fire escape), measuring 4m in width and with a maximum depth of 8.5m. The raising of the parapet wall also remains the same, which is to raise it by 2.5m along the whole of the west side and for 4.5m along the south side. The difference is the height of the wall, which is increased by 10cm, and the provision of acoustic panelling to inside face.

A supporting letter submitted with application states the following:

“Bearing in mind the impending smoking ban, my client is looking for a solution to satisfy the requirements of the law, health and safety and security issues, whilst retaining the goodwill of neighbours and satisfying the concerns of the Planning Committee.

The easy option is to do nothing, allowing smokers to congregate on the street where they are no longer the responsibility of the Club. This could, of course lead to all types of issues, ranging from disturbance and safety concerns caused by crowding around an emergency exit/entrance to the club, to people taking drinks onto the street, as it would be difficult to supervise comings and goings to and from a public area.

My client is looking to provide a safe, secure area for smokers, which will be under control of the nightclub. The access door to the area will be manned throughout the opening times of the club and no alcohol will be permitted on the deck. Control of numbers and any excess noise can also be easily monitored and controlled.

The new application has been amended to give a higher wall height, which will allow acoustic panelling to be fitted to the new screen wall, reducing reflected sound levels further. Two sets of doors split by a 5 metres long corridor separate the main body of the nightclub from the proposed decking area.

My client is proud to state that no formal complaints have been received regarding noise since the club was first opened.

Of the 26 previous notification letters sent out there were two objectors to the scheme, one from a business (which would be closed when the nightclub was open), the other from a resident who has since moved."

An email from a sound specialist company has also been submitted indicating that the proposed acoustic panels "will absorb up to 100% of the incident sound."

PLANNING POLICY

- UHT1 - Design of new development
- UHT4 - Visual amenity
- HO20 - Residential amenity
- TC7 - Areas for later opening of A3 uses

CONSULTATIONS

At the time of writing this report, one objection had been received from the occupier of 14 Lismore Road, who considers that the proposal would result in increased noise levels and disturbance, and loss of privacy for both his own building and that of his neighbours.
(Letter received 26 April 2007)

No formal response has been received from Environmental Health, although the case officer has discussed the proposed acoustic panelling with the relevant officer. The initial response is that such panelling would not have the desired impact in an open area. A formal response will be reported at your meeting.

APPRAISAL

The main issues to take into account in determining this application are the impact on visual amenity and residential amenity.

The rear elevations of the premises in this part of Terminus Road are glimpsed through the gaps between buildings in Bolton Road and Lismore Road (which are in the Town Centre and Seafront Conservation Area), and above the loading bay of Debenhams. However, the rear elevation of the application site is very utilitarian in appearance, and it is considered that the raising of the parapet wall would have no impact on visual amenity, provided that matching brickwork is used.

The main issue of concern is the impact on nearby residents. Although Bolton Road is allocated as an area suitable for later opening, the application site is not, even though its licence permits operation until 3.00am. This proximity already impacts on the residents of Lismore Road, and it is considered that the provision of a smoking deck at first floor level would result in an unacceptable increase in the level of noise and disturbance to nearby residents at very late hours. The parapet wall would only enclose two sides of the deck, which, no matter how much acoustic treatment is provided, would not prevent noise escaping. It would be impossible to ensure that only one set of doors is open at any one time, with the likely number of people using the facility; similarly, it would be difficult to prevent customers from standing on the fire escape, where there would be no wall. It is noted that the supporting letter expresses concerns regarding smokers congregating around an emergency exit (i.e. the front entrance) and drinks being taken into the street, but the proposal is for a 32m² smoking deck between a rear emergency exit and the fire escape, where drinks would not be permitted.

An area of this size could accommodate a significant number of people, resulting in the potential for considerable noise; the activity within the premises lends itself to becoming noisier as the evening progresses, as customers may become less aware of the impact of their behaviour. The nearest residential property is only 20m away in Lismore Road, and noise at first floor level is likely to have a considerable impact on the habitable rooms at the rear, (which appear to be bedrooms). Whilst it is acknowledged that town centre residents must expect some level of noise and disturbance late at night, it is also reasonable to expect some quiet periods in which to sleep and that their existing amenities should be safeguarded.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development would have an adverse impact on the amenities of nearby residents.

RECOMMEND: Permission be refused for the following reason:

That the proposed development, by reason of its height, design, use and proximity to residential properties, would result in an unacceptable level of late night noise and disturbance which would be detrimental to the amenities of nearby residents and therefore contrary to Policy HO20 of the Eastbourne Borough Plan 2001-2011.

**7) TWEED, 8 - 10 SILVERDALE ROAD, EASTBOURNE
Creation of three parking spaces to the front
EB/2007/0175(FP),MEADS**

EXECUTIVE SUMMARY

The loss of the boundary wall, although it wouldn't require a specific grant of planning permission, has to be assessed in conjunction with the hard surfacing of the front garden as it would result in parking area being more visible from the public highway. It is considered that the use of tarmac would be out of keeping with the late Victorian pair of semi-detached properties and as the attractive front wall would not screen it from view it is considered that the proposed development would be detrimental to the visual amenities of the surrounding Area of High Townscape Value.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises a pair of semi-detached properties situated on the northern side of Silverdale Road. The property is currently be used as a care home.

PLANNING HISTORY

There are no relevant applications.

CURRENT APPLICATION

The current application seeks permission to create a hard standing to the front of the property, which would provide space for three off road parking spaces. This would involve the demolition of the front wall and the use of tarmac paving on mot type 1 sub base to form the parking area.

PLANNING POLICY

The following policies in the Eastbourne Borough Plan 2001-2011 are considered relevant to the determination of this application:

UHT1	Design of New Development
UHT16	Protection of Areas of High Townscape Value

The following guidelines of the Eastbourne Townscape Guide are also considered relevant:

FWCP 4 Front Walls and Car Parking

CONSULTATIONS

Letters of notification were sent to the occupiers of the surrounding properties and a site notice was placed to the front of the application site. No representations have been received.

The Local highways Authority have stated they have no objection to the proposal providing conditions are placed on any grant of permission to ensure provision is made to prevent the discharge of surface water from the proposed site onto the highway and vice versa.

The Council's Arboricultural Officer has stated that there is a cherry tree in the highway verge that is in poor condition. The applicant has agreed to, as part of the highway crossover application, remove the highways tree and replace it with two new specimens.

APPRAISAL

The main issues to consider in the determination of this application are the effects the demolition of the front boundary wall and the provision of the hard standing will have on the visual amenities of the surrounding Area of High Townscape Value.

Policy UHT16 of the Eastbourne Borough Plan 2001-2011 states that "proposals within the Area of High Townscape Value will be required to generally preserve the character and appearance of the area. Development Shall:

a) use materials which respect and complement the predominant traditional materials of the location...".

Specific issues with regard to the importance of front boundary walls and open space to the front of properties are detailed in the Eastbourne Townscape Guide.

Front boundary walls play an important part in the townscape of Eastbourne, particularly in historic areas. They help to enclose space, and emphasise the pattern of development uniting the houses in the street giving them a commonality and creating order. In order to accommodate growing needs for off road parking Guideline FWCP 4 of the Eastbourne Townscape Guide states that in sensitive areas the Council will normally only allow a single vehicular access up to 3 metres wide per property. The retention of the majority of the boundary wall can also act as a screen hiding the replacement hard surface that can be very harsh and unforgiving, and is rarely an attractive foreground for a building, particularly a historic building.

The development proposed under this application involves the removal of the majority of the front boundary wall and the paving of over half of the front garden using black tarmac to create three parking spaces. It is considered that the use of tarmac would not be in keeping with the late Victorian pair of semi-detached properties and as the boundary wall will not screen any of it from view it will be detrimental to the visual amenities of the surrounding area. Whilst it is acknowledged that the demolition of the boundary wall in itself would not require planning permission the loss of this attractive feature has to be assessed in conjunction with the loss of the garden and the fact that without the screening from the wall the new tarmac will be a dominant feature within the street scene.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development would not affect the rights of adjoining residents to the peaceful enjoyment of possessions and protection of property.

RECOMMEND: Permission be refused for the following reason:

That the demolition of the front boundary wall and hard surfacing of the front garden would be detrimental to the visual amenities of the building and the surrounding Area of High Townscape Value. As such it would be contrary to policies UHT1 and UHT16 of the Eastbourne Borough plan 2001-2011.

- 8) MOTCOMBE FARMHOUSE, 2 MOTCOMBE ROAD, EASTBOURNE
Conversion of outbuilding to ancillary residential accommodation
EB/2007/0242(FP),OLD TOWN**

- 9) MOTCOMBE FARMHOUSE, 2 MOTCOMBE ROAD, EASTBOURNE
Conversion of outbuilding to ancillary residential accommodation to
include insertion of four velux rooflights, removal of existing staircase,
internal walls and roof trusses and insertion of new staircase and
partition wall
EB/2007/0243(LB),OLD TOWN**

EXECUTIVE SUMMARY

The proposed conversion of the building to residential accommodation ancillary to the main building is acceptable in principle, however the works required to achieve this would have an unacceptable impact on the character of the listed building.

RECOMMENDATION A: Permission be refused.

RECOMMENDATION B: Listed Building Consent be refused.

SITE LOCATION

The building forms one of a number of outbuildings to the main Grade II listed 'farmhouse' and is located within the Old Town Conservation Area. The building is tucked in at the rear of the property and accessed by a small courtyard. It backs onto the rear alleyway to the properties in Lower Road. The adjoining outbuilding has previously been converted to ancillary residential accommodation.

PLANNING HISTORY

The following applications are relevant to the determination of these applications:

Permission was granted in 1978 and 1983 for the conversion of the existing stable block to an ancillary granny annexe (EB/1978/0589 and EB/1983/0207).

CURRENT APPLICATION

Planning permission is sought to convert the outbuilding to be used as ancillary accommodation to the main house. In association with this listed building consent is sought for the alterations required to allow this conversion. This is to include the provision of two additional rooflights to the front roofslope, the removal of three roof trusses, the removal of the existing staircase and provision of a new staircase, and the insertion of a stud partition wall.

PLANNING POLICY

Policy UHT1	-	Design of New Development
Policy UHT15	-	Conservation Areas
Policy UHT17	-	Listed Buildings
Policy HO20	-	Residential Amenity
Policy NE14	-	Source Protection Zone

CONSULTATIONS

The application was advertised by letters of notification sent to occupiers of surrounding properties and a site notice displayed to the front of the property. No letters of objection have been received.

The Council's Historic Buildings Consultant has raised objection to the proposed rooflights, and has identified that the existing two rooflights do not have listed building consent. Objections are also raised to the removal of the roof trusses as no justification has been given for this. More details regarding joinery and rainwater goods are also required (Memo 30 April 2007).

The Environment Agency was consulted and observations will be reported verbally at the Planning Committee.

APPRAISAL

The main issues to determine with regard to these applications are the impact of the proposed works to the listed building, the suitability of the building for the proposed use and the impact to the amenities of occupiers of surrounding properties.

The proposed external alterations are minor and would not impact on the conservation area due to the hidden location of the building. The two existing rooflights in the roofslope are unauthorised and the provision of an additional two would result in a significant number of interruptions in the roofslope that would harm the character of the listed building. Their proportions and even spacing do not reflect the utilitarian nature of the outbuilding. The removal of the roof trusses would also result in the loss of the historic fabric of the listed building and no justification has been made for this. Details regarding the joinery of the staircase and the detailing of the rainwater goods could be controlled by condition.

Although in principle a residential use ancillary to the main building is acceptable, and could be controlled by way of a condition, the plans as submitted would result in the works to achieve this having an unacceptable impact on the character of the listed building. As such the proposal would be contrary to policy UHT17 of the Eastbourne Borough Plan 2001-2011.

The proposed change of use and external alterations would not it is considered result in any adverse impact to the amenities of occupiers of surrounding properties with regard to loss of light, outlook or privacy. The additional accommodation would not it is considered give rise to any significant increase in noise and disturbance to the surrounding properties.

It is not considered that the proposed alterations would pose a threat to the protected water source.

HUMAN RIGHTS IMPLICATIONS

The proposed conversion would not infringe the above noted rights of occupiers of surrounding properties to the reasonable enjoyment of possessions and property.

RECOMMEND A: Permission be refused for the following reason:

That the proposed alterations as shown on the plans submitted for the change of use of the building would have an unacceptable impact on the character of the listed building and as such would be contrary to policy UHT17 of the Eastbourne Borough Plan 2001-2011.

RECOMMEND B: Listed Building Consent be refused for the following reason:

That the proposed velux rooflights would harm the character of the listed building and no justification has been made for the removal of the roof trusses and as such the proposed works would cause unacceptable harm to the special character and visual amenity of the listed building and would be contrary to policy UHT17 of the Eastbourne Borough Plan 2001-2011.

**10) 20 SOUTHFIELDS ROAD, EASTBOURNE
Use of one room on the ground floor for teaching students for a
maximum of 45 days each year
EB/2007/0179(FP),UPPERTON**

EXECUTIVE SUMMARY

The proposed development would not have an adverse impact on the amenities of adjacent or nearby residents.

RECOMMENDATION: Permission be granted subject to conditions.

SITE LOCATION

This large detached period property is located on the south side of Southfields Road, approximately 30m from the junction with Dittons Road.

PLANNING HISTORY

Planning permission was granted in 2005 for the provision of three parking spaces in the front garden, which involved the excavation of a significant part of it, however this has not yet been implemented.

CURRENT APPLICATION

Planning permission is now sought for the use of one room on the ground floor of the property for part time teaching purposes. The use would take place during the mornings only (9.15am to 12.15am) and for no more than 45 days each year. A supporting letter submitted with the application states the following:

"The property is my main home. I am a Marketing Consultant and part-time English teacher and wish to apply to use my front room on the ground floor for part-time teaching purposes.

The conditions would be as follows:

- The number of students would not exceed 15
- The teaching hours would be mornings only (9.15-12.15); no afternoons or evenings
- There would be no teaching at weekends or on public holidays
- Teaching would be seasonal: 8 days over the Easter period, 24 days during the summer, 9 days in October
- The students would not be residential

- The students would be kept on the premises (in the house or garden) during the morning break (15 mins) and would be instructed not to loiter outside the house before or after lessons
- There will be no catering on the premises
- The students would be supervised by two teachers at all times
- No parking will be required
- There would be no pick-ups or drop-offs outside the house "

PLANNING POLICY

HO20 - Residential amenity

CONSULTATIONS

Five letters have received as a result of neighbour notification, four from Marlborough Court (on the opposite side of Southfields Road) and one from a flat in the adjacent property. Three of these are objections, whilst two express concerns. The letters are summarised thus:

- no objections provided that the restrictions on dates and times are strictly adhered to
- Southfields Road is the wrong area, due to the presence of nursing and retirement homes
- noise, disturbance, rowdy behaviour and litter from students
- it will start with one room and may expand to more
- congestion on pavements/extra traffic
- the applicant should ensure that adequate rubbish bins should be provided for the students litter (for drink cartons, wrappers etc.)
- adequate supervision of students whilst they are in the garden to keep down the volume of music/shouting

APPRAISAL

The main issue to take into account in determining this application is the impact on the amenities of neighbouring and nearby residents.

Southfields Road is a fairly busy thoroughfare, being a bus route, and also a route into town avoiding the Upperton Road traffic lights. It is considered that the proposed low level use would not result in any impact on the general ambience of the street, and probably much less than the existing coming and goings generated by the nursing and retirement homes in the street.

The property is detached and, together with the limited times and frequency involved, it is considered that there would be little impact on residential amenity.

HUMAN RIGHTS IMPLICATIONS

It is considered that the impact on adjacent and nearby residents would be within acceptable limits.

RECOMMEND: Permission be granted subject to the following conditions:

(1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

(2) That no more than fifteen students shall be accommodated at any one time.

Reason: In the interests of the amenities of adjoining and nearby residents.

(3) That the use hereby permitted shall only take place between the hours of 9.15am and 12.15pm on Mondays to Fridays, for no more than 45 days per year, and not at weekends or Public/Bank Holidays

Reason: In the interests of the amenities of the area.

SUMMARY OF REASONS FOR DECISION

The proposed development is considered acceptable for the following reason:

There would be no adverse impact on the amenities of adjacent or nearby residents, and therefore the proposal complies with the relevant policies in the Eastbourne Borough Plan 2001-2011.

11) 35 HARDY DRIVE, EASTBOURNE

**Erection of wall and gate 1.75 metres high and 1 metre in from footpath in Vian Avenue replacing existing wall
EB/2007/0246(FP),SOVEREIGN**

EXECUTIVE SUMMARY

The proposal to erect a fence along the boundary of 35 Hardy Drive, 1 metre from the public footpath, would result in a built up appearance to the detriment of the visual amenities of the surrounding open plan estate.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises a detached property situated on the corner of Hardy Drive and Vian Avenue.

PLANNING HISTORY

Planning permission was granted in 1960's for the use of the land for residential development and the property remains as built.

CURRENT APPLICATION

The current application seeks permission to erect a wall and gate 1.75 metres high 1 metre from the footpath in Vain Avenue, replacing the existing wall.

PLANNING POLICY

The following policies of the Eastbourne Borough Plan 2001-2011 are considered relevant to the determination of this application:

UHT1	Design of New Development
HO20	Residential Amenity

CONSULTATIONS

Letters of notification were sent to the occupiers of the surrounding properties and a site notice was placed to the front of the application site. As a result, at the time this report was completed, 9 May 2007, two letters of objection were received. The objectors are concerned that allowing the grassed area to be enclosed into the private garden of 35 Hardy Drive would be detrimental to the visual amenities of the area and would set a precedent for other properties to follow. This would then, they are concerned, change the open plan character of the area.

APPRAISAL

The main issues to consider in the determination of this application are the effects the positioning of a 1.75 metre wall and gate 1 metre from the highway, and enclosing the strip of grassed area into the private garden of 35 Hardy Drive would have on the visual amenities of the surrounding area.

The surrounding area is characteristically an open plan neighbourhood that gains its soft feel from the grassed areas to the front and side of the properties. It is considered that the erection of a 1.75 metre wall so close to the public footpath would result in a built up appearance that would be detrimental to the visual amenities of the surrounding area. There are instances in the immediate vicinity of boundary walls being approximately 1 metre from the highway, however, these properties were built as such and the presence of more would be harmful to the open plan nature of the surrounding area.

Being situated on the corner of Hardy Drive and Vian Avenue there are no residential properties adjacent to the proposed development. It is therefore considered that the resultant effects on residential amenities would be minimal.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development would not adversely affect the rights of adjoining residents to the peaceful enjoyment of possessions and protection of property.

RECOMMEND: Permission be refused for the following reason:

The proposed wall would, by reason of its siting and height have a detrimental impact on the openness and character of the area to the detriment of the visual amenity of the street scene contravening Policy UHT1 and UHT4 of the Eastbourne Borough Plan 2001-2011.

**12) LAND TO THE REAR OF, 2 DILLINGBURGH ROAD, EASTBOURNE
Outline application for the erection of a one-bedroom bungalow
EB/2007/0214(OL), OLD TOWN**

EXECUTIVE SUMMARY

It is planning policy to achieve new residential development in the existing urban area. It is considered that the proposed development of a bungalow would not be detrimental to neighbouring residential amenity or demand for on-street car parking. However, the development of a bungalow in the rear garden would be out of context with the two-storey houses in the vicinity and the established street scene.

RECOMMENDATION: Permission be refused.

SITE LOCATION

The application site comprises part of the rear garden of 2 Dillingburgh Road, a detached house at the junction of Dillingburgh Road and Upwick Road. The rear garden is adjacent to Upwick Road and the access road between the rear gardens of Dillingburgh Road and Victoria Road dwellings.

PLANNING HISTORY

There is no planning history for this address.

CURRENT APPLICATION

Outline planning permission is sought to develop part of the rear garden with the erection of a bungalow. The application shows the proposed means of access. All other matters (siting, landscape, design and external appearance) are reserved. The drawing showing a front elevation and plan for a bungalow are for indicative purposes only.

PLANNING POLICY

UHT1 – Design of New Development
UHT4 – Visual Amenity
HO2 – Predominantly Residential Areas
HO6 – Infill Development
HO20 – Residential Amenity
TR11 – Car Parking

CONSULTATIONS

Letters of notification were sent to occupiers of neighbouring properties and a site notice was displayed. Four letters of objection have been received from the occupiers of 3 neighbouring dwellings:-

- The size and appearance of a new building is not in keeping with the neighbour's and surrounding area; local distinctiveness would be eroded.
- Loss of privacy for neighbours.
- It will cause overshadowing.
- There would be an increase in noise and disturbance.
- It will add to overcrowding and parking difficulties.
- There will be a loss of 2 parking spaces.
- It will create a precedent for all other available corner sites in this area.

(Letters received 24 and 25 April 2007).

Highway Authority: Does not wish to restrict grant of consent, subject to conditions: no discharge of water or loose material from the site on to the public highway, maximum gradient of 1:9 for the driveway and the construction of the vehicular crossover to be in accordance with the Highway Authority's requirements.

APPRAISAL

The main issues to consider in determining this application is the principal of residential development providing extra accommodation and the impacts on the visual amenity of the area, neighbouring residential amenity, and car parking and highway safety.

The application seeks approval for the principal of developing part of the rear garden of 2 Dillingburgh Road. National and local planning policy for new housing is that such developments should take place within existing urban areas. The proposed development is within the built-up boundary of Eastbourne. The proposed development therefore complies with policy HO2 to concentrate development in existing residential areas. New residential developments must, however, be appropriate in the context and not detrimental to the amenities of neighbouring properties.

The general pattern of development in the area is two-storey houses with garages or sheds in long rear gardens. A garage currently occupies part of the area identified for the development site. It is considered that developing the rear portion of this rear garden with a bungalow facing Upwick Road would be out of character with the street scene. Upwick Road has two-storey storey houses facing the highway or the sides of two-storey houses on corner properties. It is considered that a bungalow development would not harmonise with the appearance and character of the local environment and erode local distinctiveness, contrary to policies UHT1, UHT4 and HO6. The applicant refers to the development of the bungalow at 34A Broomfield Street, which was approved in 1989. The Broomfield Road development involved a larger plot in the rear gardens of 66 and 68 Dillingburgh Road and was close to a 1970s backland development in Victoria Drive. It is considered that the current proposals for a bungalow would appear incongruous in the Upwick Road street scene and that it does not comply with the current Borough Plan policies.

The indicative drawings show a bungalow with a low-pitched roof. It is considered that the position such a building to the rearmost part of the garden would not result in a harmful loss of light to the closest neighbouring dwelling. The plans indicate that a bungalow could be some 15 metres from the house at 4 Dillingburgh Road and adjacent to its garage. Windows also shown on the indicative drawings would face the boundary fencing and not directly face the rear of the neighbouring house. It is therefore considered that a development could take place without harming neighbouring residential amenity.

Car parking for the proposed dwelling would utilise the crossover for the existing garage in the rear garden. A new parking space for the existing house would be constructed as 'permitted development' in the remainder of the garden. There is no objection from the Highway Authority to the access arrangement proposed. It is considered that proposal makes suitable car parking provision for the existing and the proposed dwellings. The development would not have an adverse impact upon on-street parking.

HUMAN RIGHTS IMPLICATIONS

It is considered that there are no adverse Human Rights implications.

RECOMMEND: Permission be refused for the following reason:

The development of a bungalow in this backland position be incongruous in the established Upwick Road street scene, and out of character with general pattern of development in the area, and therefore contrary to policies UHT1, UHT4 and HO6 of the Eastbourne Borough Plan 2001 - 2011.

**13) TUTTS BARN NURSERY, TUTTS BARN LANE, EASTBOURNE
Erection of single storey dwelling to provide owners accommodation for
existing nursery.
EB/2006/0841(FP),UPPERTON**

EXECUTIVE SUMMARY

The proposal would result in visual intrusion outside the Built-up Area Boundary, which would be out of character with the open nature of the nursery and the surrounding land, and would be an unacceptable departure from borough plan policy for which no justification has been submitted.

RECOMMENDATION: Permission be refused.

SITE LOCATION

Tutts Barn Nursery occupies a site approximately 0.6ha (1.5 acres) on the east side of Tutts Barn Lane, adjacent to the Gorrings Road allotment site and opposite the Marchant Field allotments. All the land to the north is used for agricultural use.

The site lies within the Eastbourne Park Boundary, but outside the Built-up Area Boundary.

PLANNING HISTORY

The nursery was originally part of a larger farm and market garden, but was sold off sometime before 1966 and continued to operate as the Tutts Barn Cloche Gardens. Planning permission was refused in that year for the erection of a bungalow on the grounds that it would have been contrary to the development plan and that there was no connection available to the public sewer.

Planning permission in outline was granted against officer advice in 1996 for the erection of a bungalow on the site and renewed in 1999, subject to a legal agreement to secure a financial contribution to flood storage provision on Willingdon Levels and to tie the use of the dwelling to the nursery business. An application for the Reserved Matters was approved in 2004. The permissions lapsed in 2006.
(EB/1996/0009, EB/1999/0523, & EB/2004/0682)

CURRENT APPLICATION

Full planning permission is now sought to erect exactly the same dwelling as previously approved, in the same location at the rear of the nursery site, served by a long drive on the north east boundary. The plans show a simple bungalow 12.4m by 8.7m under a hipped and pitched roof 6m high to the ridge. The walls would be clad in horizontal timber weatherboarding, with stained timber windows and doors; the roof would be artificial slate. A double garage/storage building is also proposed, and this would be of the same design and materials.

The agent states in a letter supporting the application that although trading has been particularly difficult over the past few years, his client is prepared to finance the project by the sale of her own house, and that this will enable much needed further investment in the nursery. He goes on to state that it is quite clear from her circumstances that through no fault of her own the approved Reserved Matters unfortunately lapsed last year; with poor trading figures and little or no goodwill value, if the on site living accommodation is not provided the nursery could close, resulting in not only his client being unemployed, but also the redundancy of her two disabled employees. He concludes that he thinks it would be totally unfair and unreasonable if the planning consent is not renewed and therefore requests a positive recommendation to the Planning Committee.

The applicant has submitted her own supporting statement which is as follows:

"I am applying for the renewal of the earlier planning permission, which unfortunately lapsed last year, for a small bungalow on the site of my nursery because I am finding it harder to run the business from a distance.

Because of the changes in our climate I am now working 12 hours a day from April to September as it is impossible to close the greenhouses until sunset. Although the windows are thermostatically controlled, in one greenhouse the temperature can rise to 35°C if the doors are closed and then the plants do not survive. Also if the wind becomes stronger, as often happens in the evening, there could be a loss of glass if the windows were still open which happened on a regular basis last summer. The nursery is still suffering from vandalism which is repeatedly reported to the Police but with little success in its control.

As you are aware, my late husband applied for the original planning consent, but unfortunately died very suddenly involving me in a very long and drawn out court case over his Estate and the Court costs involved placed me under a great deal of financial pressure. However, I have just managed to keep the nursery running to provide employment for myself and my two employees who would find it difficult to get work elsewhere.

A couple of years ago my daughter suggested running the business with me and living on site. But when she eventually managed to return from Australia property prices here in the south east had risen so much that it was impossible to raise the capital for the building work based on the very low level of income/return from the nursery. We even enquired about the possibility of a mobile caravan on the site until the bungalow was built, but that was ruled out.

It is therefore solely due to my personal circumstances that I was unable to start the building of the bungalow, which is as important as ever, to keep the nursery running.

Having given the matter a lot of thought and now intend to sell my property to finance the project leaving further capital to invest in the business which is now sorely needed. With the closure of the Garden Centre at Willingdon we have seen an upturn in our trading and I am confident that we can keep the business running as a going concern."

PLANNING POLICY

- HO1 - Residential development within the built-up area
- NE1 - Development outside the built-up area boundary
- NE24 - New development in Eastbourne Park
- UHT1 - Design of development
- US4 - Flood protection and Surface water disposal

Specific advice regarding agricultural dwellings is contained in PPS7.

CONSULTATIONS

A letter has been received from the Eastbourne Allotment Gardens Society reaffirming its previous objections to the application (on the grounds that the land is not suitable for such a building as it regularly floods and that there are no other dwellings on the north east side of Tutts Barn Lane).
(Letter dated 6 December 2006)

The Economic Development Officer recommends the proposal is refused, as no clear evidence of the state of the company's finances has been submitted, and how these would be improved should the build commence. If the proposal was essential, then he challenges why it failed to materialise during the last 10 years. He notes that the site is in close proximity of suitable housing and wonders why this has not been considered. The proposal is contrary to Borough Plan policy and he considers that no justification has been submitted to support a departure.

The Environment Agency objected to the application and requested a Flood Risk Assessment. This has now been submitted, and their revised comments are awaited.

APPRAISAL

The application to construct a dwelling on the site conflicts with policies HO1, NE1 and NE24. Any justification therefore must meet government guidance as set out in Planning Policy Statement 7 Annex A Agricultural, Forestry and Occupational Dwellings.

This guidance states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns and villages, or suitable existing dwellings. However there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved. The criteria for such justification include: a clearly established existing functional need, that the functional need could not be fulfilled by another dwelling on the site or in the area, and that the business is currently sound with a clear prospect of remaining so. If these criteria are met, then a financial test is necessary.

The officers' report in 1996 concluded that there was no justification for a dwelling on the site, although the Planning Committee disagreed with this view. The nursery has continued to operate since that time without such a dwelling, which demonstrates that it is indeed not necessary. There are also many dwellings in the area which are within a short walk of the site (Gorrington Road, Lewes Road, Prideaux Road, Mill Gap Road) which would fulfil the same function. With respect to vandalism, PPS7 notes that the protection of *livestock* may be a contributory factor in allowing such a dwelling, but even this would not be sufficient justification by itself.

It is therefore concluded that no functional need has been adequately demonstrated, nor has any financial justification been submitted. Although there is great sympathy for the personal circumstances of the applicant, this cannot justify a departure from approved borough plan policies.

HUMAN RIGHTS IMPLICATIONS

None.

RECOMMEND: Permission be refused for the following reasons:

(1) That the provision of a permanent residential dwelling on the site would be out of character with the open nature of the site and the surrounding land, to the detriment of the visual amenities of the area.

(2) That further to Reason 1 above, the proposal would conflict with policies HO1, NE1 and NE24 of the Eastbourne Borough Plan 2001-2011.