

Eastbourne Borough Council

Planning Committee

Tuesday 27 October 2009

Report of the Head of Planning

List of Planning Applications for Consideration

- 1) CONGRESS THEATRE, CARLISLE ROAD, EASTBOURNE**
Display of LED sign to front of building, replacing existing lit Congress Theatre sign, to advertise shows. (Listed Building application).
EB/2009/0491(LB), MEADS **Page 3**
- 2) CONGRESS THEATRE, CARLISLE ROAD, EASTBOURNE**
Display of LED sign to front of building, replacing existing lit Congress Theatre sign, to advertise shows. (Advertisement application).
EB/2009/0492(ADV), MEADS **Page 3**
- 3) LAND TO THE REAR OF, 14 HURST ROAD, EASTBOURNE**
Erection of detached three bedroom dwelling on land at rear of no.14 Hurst Road (amended plan - living room to be provided at ground floor and change to fenestration).
EB/2009/0509(FP), UPPERTON **Page 7**
- 4) LAND NORTH OF JUST LEARNING NURSERY, LARKSPUR DRIVE, EASTBOURNE**
Erection of a residential care home (Class C2) with parking and new vehicular access.EB/2009/0514(FP), LANGNEY **Page 15**
- 5) 9 LISMORE ROAD, EASTBOURNE**
Change of use from wine bar (A4) to Private Hire Office (sui generis).
EB/2009/0575(FP), MEADS **Page 25**
- 6) FLAT 1 PEREGRINE COURT, 51 CAVENDISH PLACE, EASTBOURNE**
Retrospective application under Section 73A for the retention of a timber raised decking area in the rear garden.
EB/2009/0618(HH), DEVONSHIRE **Page 31**

J. F. Collard
Head of Planning

19 October 2009

Planning Committee

Tuesday 27 October 2009

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 Permitted Development) Order 1995 (Amendment) (No. 2) (England) Order 2008
7. The Town and Country Planning (General Development Procedure) Order 1995
8. The Town and Country Planning (Use Classes) Order 1987 (as amended)
9. The Town and Country Planning (Control of Advertisements) Regulations 2007
10. DoE/ODPM Circulars
11. DoE/ODPM Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs)
12. East Sussex and Brighton & Hove Structure Plan 1991-2011
13. Eastbourne Borough Plan 2001-2011
14. Eastbourne Townscape Guide 2004
15. East Sussex County Council Manual for Estate Roads 1995 (as amended)
16. Statutory Instruments
17. Human Rights Act 1998
18. 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

Tuesday 27 October 2009

Report of the Planning Manager

List of Planning Applications for Consideration

Planning Committee 27 October 2009

Item 1 & 2

App.Nos.: a) EB/2009/0491(LB) b) EB/2009/0492(ADV)	Decision Due Date: 10.09.09	Ward: Meads
Officer: Bethan Smith	Site visit date: 31 July 2009	Type: Minor
Site Notice(s) Expiry date: 21 August 2009 Neigh. Con Expiry: N/A Weekly list Expiry: 28 August 2009 Press Notice(s): 26 August 2009		
Over 8/13 week reason: No committee date within time		
Location: CONGRESS THEATRE, CARLISLE ROAD, EASTBOURNE		
Proposals a) and b): Display of LED sign to front of building, replacing existing lit Congress Theatre sign, to advertise shows. (Listed Building & Advertisement applications).		
Applicant: Eastbourne Borough Council		
Recommendation: a) That the Secretary of State be informed that the Council has resolved that Listed Building consent be granted b) Express consent be granted		

Reason for referral to Committee:

Application submitted by Eastbourne Borough Council.

Introduction

Members may recall that this application was brought before Planning Committee on 29 September. However, the decision was deferred as members felt that the design of the sign was not acceptable. It was requested that the sign remain of similar size and colour, white. These amendments have been made and this is reflected in the report below.

Executive Summary:

The proposed sign is considered to be a fitting rather than a permanent fixture. The existing sign is more contemporary and in keeping with the design of the building, however it is considered that the display of the proposed sign would not adversely affect the architectural or historic interest of the building itself.

Planning Status:

- Grade II* listed building

Relevant Planning Policies:

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

UHT1 Design of New Development
UHT18 Protection of Listed Buildings

Site Description:

The application site comprises a large theatre situated on the northern side of Carlisle Road. The building is a Grade II* listed building.

Relevant Planning History:

There have been a number of applications on the property in association with its use as a public theatre, however none are considered relevant to the determination of this application.

Proposed development:

Originally the application sought consent to display an LED sign to the front of the building. The sign will not be as large as the existing and will be 5.88 metres in length and 0.9 metres in depth. However the plans have been amended, at member's request, to show a sign of similar proportions as the existing. It will be 10.7 metres long and 0.8 metres wide, white in colour with blue lettering. This will surround the LED box mentioned above.

Consultations:

The Council's Consultant Historic Buildings Advisor has stated that the proposed advertisement is considered to be a fitting rather than a fixture which does not adversely affect the architectural or historic interest of the building itself.

Neighbour Representations:

The application was advertised by way of a site notice displayed to the front of the application site and a notice in the press. No representations have been received.

Appraisal:

As mentioned above originally it was proposed to display an LED sign 5.88 metres in length and 0.9 metres in depth. The proposal has been amended to show the same LED box surrounded by a white fascia. This will be of similar proportions to the existing sign and will be in the same place, as required by members. It is acknowledged that the existing sign is more contemporary and in keeping with the design of the building. However, it is often not updated due to health and safety implications which results in a poor impression of the theatre's offer being portrayed.

The proposed sign is a fitting rather than a permanent fixture of the building. It is considered that it will not adversely affect the architectural or historic interest of the building itself and therefore would comply with Borough Plan policies.

Human Rights Implications:

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

Conclusion:

It is considered that the proposed sign would not be detrimental to the appearance of the listed building or its architectural or historic interest.

Recommendations:

- a) EB/2009/0491(LB): That the Secretary of State be informed that the Council has resolved that Listed Building consent be granted.

Conditions to include:

- 1) Commencement of development within three years

Informatives:

- The proposal is acceptable because it complies with the relevant policies of the Eastbourne Borough Plan 2001-2011.
- For the avoidance of doubt, the plans hereby approved are: Appendix 1 received on 22 June 2009

- b) EB/2009/0492(ADV): Advertisement consent be granted subject to the following standard conditions:

Conditions to include:

- 1) 5 standard advert conditions

Informatives:

- Approved plan refs:- Appendix 1 received on 22 June 2009

Item 3

App.No.: EB/2009/0509 (FP)	Decision Due Date: 18.09.09	Ward: Upperton
Officer: Bethan Smith	Site visit date: 26.08.09	Type: minor
Site Notice(s) Expiry date: N/A		
Neigh. Con Expiry: 30 August 2009		
Weekly list Expiry: 28 August 2009		
Press Notice(s): N/A		
Over 8/13 week reason: No committee date in time after expiry of consultation		
Location: LAND TO THE REAR OF 14 HURST ROAD, EASTBOURNE		
Proposal: Erection of detached three bedroom dwelling on land at rear of no.14 Hurst Road		
Applicant: Mr Day		
Recommendation A: Approve subject to conditions and securing of contribution towards Local Sustainable Accessibility Improvements		
Recommendation B: In the event that the appropriate financial contributions towards Local Sustainable Accessibility Improvements are not provided by 09 November 2009 planning permission be refused.		

Reason for referral to Committee: Six letters of objection

Executive Summary:

The principle of residential development on the site has been established by an appeal decision and extant outline permission. This application allows more land for the dwelling, which will result in a better standard of living accommodation in the dwelling and an increased area of private amenity land. This it is considered is an improvement. The design of the property and its location within the site will limit its outlook to the front and southern side thereby preventing undue overlooking to surrounding properties. The proposed dwelling would not be an incongruous feature within the street scene and would comply with the Council's adopted policies with regard to the number of parking spaces proposed. In conclusion it is considered that the proposed development would be acceptable.

Planning Status:

- Archaeologically sensitive area

Relevant Planning Policies:

The following local, regional and national policies are considered relevant to the determination of this application:

Eastbourne Borough Plan 2001-2011

UHT1	Design of New Development
HO2	Predominantly Residential Area
HO20	Residential Amenity
TR11	Car Parking
SPG	Parking Standards at Development

South East Plan

H2	Managing the delivery of the regional housing provision
----	---

National Policy Guidance

PPS3	Housing
PPG13	Transport

Site Description:

The application site comprises a block of three garages, with concrete forecourt, situated to the rear of 14 Hurst Road. The site is at the end of Hurst Lane, a dead end, which is the only access to the application site for both pedestrians and vehicles.

Relevant Planning History:

App Ref: EB/2003/0074	Description: Erection of a new dwellinghouse
Decision: Allowed on appeal	Date: 15 January 2004
App Ref: EB/2007/0018	Description: Renewal of outline planning permission EB/2003/0074 for a two storey, two bedroom house
Decision: Approved	Date: 6 March 2007

Proposed development:

The current application seeks permission to erect a three bedroom dwelling on land at the rear of 14 Hurst Road. The application proposes a house larger than that approved under the extant outline permission; however, the area of the site has also increased. The site proposed under this application is triangular in shape measuring a maximum of 32 metres by 20 metres. The proposed house will have a footprint of 86.75 square metres and so there will be an amenity area surrounding the property.

Applicant's Points:

The application site is situated within a residential area on the outer fringes of Eastbourne Town Centre close to major public transport links. The proposal aims to provide a dwelling of modern appearance using materials to match its surroundings, a low pitch roof is proposed to reduce the building's impact on its surroundings, so as to form a cohesive appearance. The provision of the dwelling will enhance this end of Hurst Lane.

Originally to was proposed to have living accommodation on the first floor floor with bedrooms on the ground floor with the main outlook of the building from the front, east and side, south. The plans have subsequently been amended to show a dwelling of the same size, with a more traditional layout of ground floor living accommodation with bedrooms on the first floor. The main outlook has also been changed to be from the front and rear of the building.

Summary Information:

Site Area: 294.17 square metres

No. Existing units : 0

No. Proposed units : 1

Net gain of residential units: 1

No. bedrooms per unit : 3

Proposed density - dwellings/hectare : 34 dwellings per hectare

Previous land use : Garden area for 14 Hurst Road

Existing parking spaces : 3

Proposed parking spaces : 2

Consultations:

The Local Highways Authority has stated that they do not wish to restrict consent providing that a contribution is paid towards Local Sustainable Accessibility Improvement. The required contribution would be £2210.

The County Archaeologist has stated that the application site is situated within an area of Saxon, medieval and post medieval activity. As such it is suggested that any grant of permission should have attached a condition requiring a watching brief.

Neighbour Representations:

Letters of notification were sent to the occupiers of the surrounding properties. As a result six letters of objection have been received. The objections can be summarised as follows:

- Hurst Lane is an area that serves all the houses in Ocklynge Avenue and a number of properties in Hurst Road. As such the lane is usually heavily parked and more often than not a number of people living in Hurst Lane can not reach their property.
- The proposed erection of a new house, which will undoubtedly have a number of cars, will increase the problem and could potentially stop emergency vehicles accessing the area.
- Due to the location of the proposed dwelling in Hurst Lane any building works and additional traffic will cause problems and discomfort to the residents of Hurst Lane, which is already over-crowded with parked cars.

- The proposed dwelling would be very close to the rear gardens of neighbouring properties and therefore result in overlooking and a loss of privacy.
- The increase in the number of cars in the area could pose a threat to highway safety particularly when considering there are a number of children in the area who play in the Lane.

Further consultation was undertaken once amended plans had been received. As a result, at the time this report was completed, a three letters of objection had been received. These reiterated objections already submitted and summarised above. Any further representations will be reported verbally at planning committee.

Appraisal:

- The main issues to consider in the determination of this application are:
- the impact the proposed development will have on the residential amenities of the occupiers of the surrounding properties;
- the suitability of the site for residential development;
- the design of the dwelling;
- the impact a new dwelling would have on the visual amenities of the surrounding area;
- the impact on the highway network.

The original application proposed a two storey building with bedrooms on the ground floor and living accommodation on the first floor. The main outlook was from the east, front, and south, side. However, this would be over neighbouring land which could be a potential development site. Allowing the main outlook of a property over this site could prejudice the future development of the site. As such the plans have been amended. The proposed dwelling now shows living accommodation on the ground floor and bedrooms on the first floor. The main outlook will be to the front and rear, with high level windows in the southern elevation and roof lights in the northern elevation. The absence of windows from the side elevation will limit the amount of overlooking to neighbouring properties, Lovell Court and land to the rear of 12 Hurst Road. There will be windows in the rear elevation which face 14 Hurst Road. However, there is a distance of 20 metres between the rear building line of the proposed and existing dwellings which is a distance commonly accepted as sufficient to limit overlooking. As such it is considered that the impact of the proposed house on the residential amenities of the occupiers of the surrounding properties will be minimal.

In terms of suitability of the site for residential development, this was determined by way of an Inspector's decision on the 2003 application. As mentioned in the history section of this report there are two previous applications that establish the principle of residential development on this site. The current application does allow for significantly more land, approximately 114.17 square metres, than the previous applications which will result in the proposed dwelling having private amenity space and a better standard of accommodation inside. The application site is situated within a predominantly residential area close to the public transport network and amenities that the town centre has to offer.

Planning Policy Statement 3: Housing (PPS3) (2006) seeks to “*promote more sustainable patterns of development*” and advises that Local Planning Authorities should “*give priority to re-using previously-developed land.*” This is reiterated in policy H2 of the South East Plan where it states “local planning authorities will also take into account ... the scope to identify additional sources of supply elsewhere by encouraging opportunities on suitable previously developed sites...”.

Policy HO2 of the Borough Plan supports schemes for residential development in predominantly residential areas. In addition, Policies HO6 and HO7 support infill development and redevelopment of land for housing within primarily residential areas.

Policy HO11 of the Borough Plan seeks to secure net residential densities of between 30 and 50 dwellings per hectare. The proposed development comprising 1 dwelling would have a density of approximately 34 dwellings per hectare and as such complies with this policy.

For the above reasons, it is therefore considered that the proposed residential development accords with Government guidance and Borough Plan Policy and residential development in this location is considered acceptable.

The application site is situated within a predominantly residential area which has differing styles and types of residential property. The proposed building is a detached, modern property with an asymmetrical roof. It will not be a dominant feature within the street scene and will not look out of place with the other residential properties. The design is considered to be well thought out, helping to minimise the impact on the residential amenities of the occupiers of the surrounding properties. For example, the asymmetrical roof results in little space for first floor windows to the northern elevation which could overlook properties in Lovell Court.

The concerns of the objectors, regarding the existing parking situation, are noted. The Council’s supplementary planning guidance (SPG) Parking Standards at Development, adopted in 2002, indicates that the maximum provision for small dwellings should be one space per unit plus one per three dwellings for visitors. PPG13 advises that there should be no minimum standards (paragraph 52), and that other than in exceptional circumstances, developers should not be required to provide more spaces than they themselves wish (paragraph 51). The application proposes 2 parking spaces which would be an overall loss of one space but in line with the Council’s adopted policy. When considering the loss of parking provision in the 2003 outline application the Inspector noted that the appeal site is unconnected with any adjoining dwellings and any parking that it provides does not appear to serve nearby residents. He considered that in these circumstances the loss of parking spaces would not materially affect parking pressures in the immediate area.

It should also be noted that the site is within easy walking and cycling distance of the town centre and railway station, as well as being located close to several main bus routes, local shops and other facilities in the Old Town area. Consequently, although no restriction on car ownership is proposed, the proposed dwelling would be suitable for non car-owning occupiers.

In April of this year, the Council approved the removal of the interim threshold for when East Sussex County Council seek to secure Local Sustainable Accessibility Improvement Contributions (LSAICs) to mitigate the impact of new development traffic. LSAICs are therefore now applicable to all residential development that results in the net gain of one or more dwelling. As such, the recommendation given below, to grant outline planning permission subject to conditions also needs to be subject to the prior payment of financial contributions towards Local Sustainable Accessibility Improvements.

Human Rights Implications:

It is considered that the proposed development would not affect the rights of occupiers of surrounding residential properties to the peaceful enjoyment of possessions and protection of property.

Conclusion:

In conclusion it is considered that the proposed development in this location would be acceptable in terms of its impact on the visual amenities of the surrounding area; the impact on the residential amenities of the occupiers of the surrounding properties and the impact on the existing parking situation.

Recommendation:

(A) Permission be granted subject to conditions to include:

- (1) Commencement of development within three years.
- (2) Sample of materials to be submitted (++).
- (3) Restriction of permitted development rights.
- (4) Restriction of windows in western and northern elevation.
- (5) Restriction of times for building operations.
- (6) Submission of details for surface water drainage (++).
- (7) Watching brief (++).

Informatives:

- There would be no adverse impact on the visual amenities of the locality, residential and environmental amenity, or on highway safety. It therefore complies with the relevant policies of the Eastbourne Borough Plan.
- Approved plan refs
- ++ indicates pre-commencement conditions if these are not complied with this permission would be invalid.

(B) In the event that the appropriate financial contributions towards Local Sustainable Accessibility Improvements are not provided by 14 August 2009 planning permission be refused for the following reason:

The proposed residential development would not make provision for Local Sustainable Accessibility Improvements to mitigate the impact of new development traffic. As such, the development is contrary to the adopted Interim Supplementary Planning Guidance (SPG) on development contributions towards County Council infrastructure and services - "A New Approach to Development Contributions."

Appeal: Should the applicant appeal the decision the appropriate procedure to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

Item 4

App.No.: EB/2009/0514	Decision Due Date: 27 October 2009	Ward: Langney
Officer: Jane Sabin	Site visit date: 24 September 2009	Type: Major
Site Notice(s) Expiry date: 1 September 2009 Neigh. Con Expiry: 4 September 2009 Weekly list Expiry: 4 September 2009 Press Notice(s)- Type/Expiry: 2 September 2009		
Over 8/13 week reason: N/A		
Location: LAND NORTH OF JUST LEARNING NURSERY, LARKSPUR DRIVE, EASTBOURNE		
Proposal: Erection of a residential care home (Class C2) with parking and new vehicular access.		
Applicant: Minster Care Group		
Recommendation: Refuse		

Reason for referral to Committee:

Major development with a significant number of objections.

Executive Summary:

The proposal is an overdevelopment of the site, which would have an adverse impact on visual amenity and views to and from Eastbourne Park.

Planning Status:

- Main sewer crosses the site
- Archaeologically sensitive area
- Flood zone 2/3
- Compensatory flood storage area

Relevant Planning Policies:

South East Plan

CC1 Sustainable development

CC6 Sustainable communities and character of the environment

BE1 Management for urban renaissance

Eastbourne Borough Plan:

UHT1 Design of development

UHT2 Height of buildings
 UHT4 Visual amenity
 UHT7 Landscaping
 NE23 Nature conservation
 NE28 Environmental amenity
 HO17 Supported and special needs housing
 HO20 Residential amenity
 TR11 Car parking
 US4 Flood protection and surface water disposal

Site Description:

The application site comprises an irregular piece of principally undeveloped land on the west side of Larkspur Drive, 0.4ha in area, adjacent to the Just Learning Nursery. There is a sewage pumping station in the south east quarter of the site, and the whole of the western boundary adjoins the Willingdon and West Langney Sewer. The site slopes down from south to north, and from east to west; a post and rail fence in front of a sparse hedgerow forms the boundary with Larkspur Drive, and the site is mostly covered in scrub, but with a reed bed along the western boundary.

Relevant Planning History:

App Ref: EB/2003/0023	Description: Erection of 14 residential units
Decision: Refused	Date: 22/7/03

Proposed development:

It is proposed to construct a two storey 40 bed nursing home (Class C2) for elderly mentally infirm (EMI) people close to the western boundary, on a generally linear footprint, but with a canted wing angled towards the southern boundary with the adjacent nursery. The building would be 14m deep and 65m wide, providing 860m² on each floor, and constructed of buff brick on a red brick plinth, with red brick soldier courses under a pitched pantiled roof with a maximum ridge height of 9.5m; a feature gable on the south west elevation would also be of red brick, and would provide a balcony with views over the nursery's garden, and over Eastbourne Park.

The existing vehicular access to the pumping station is to be closed and a new access provided approximately 10m to the north, so that both the home and the pumping station would be served through the car park (containing 14 spaces) at the front of the home. Two small secure, enclosed garden areas are proposed at either end of the building, whilst a 5m wide castingway would be maintained between the rear of the building and the Willingdon and West Langney Sewer, although the latter would be unsuitable for use by residents, of course. Along the southern boundary an overflow swale is proposed leading from the pumping station into the open water course. The steepest parts of the site adjacent to Larkspur Drive would be landscaped and secured by a 900mm high close boarded fence; the boundary treatment adjacent to the nursery would comprise a combination of a 1.3m high timber post retaining wall and a 1.7m high close boarded fence on the ground above (a combined maximum height of 3m in some places. As the site slopes, (as stated above), there would be

changes in ground levels across the site in order to accommodate a building with a continuous floor level.

Applicant's Points:

A Design and Access/Planning Statement has been submitted with the application, and the main points contained therein are:

- The amount of development is appropriate in relation to the proposed use of the building itself and also in relation to the surrounding area and buildings
- The layout and orientation of the building reflects the physical form of the site and provides all bedrooms with an open aspect and the dayrooms with views over open land to the rear
- The scale and proportions generally reflect those of the Causeway School to the north, but incorporates a relatively shallow roof pitch to ensure that the scale pays regard to the adjacent day nursery, while at the same time being much less prominent than the nearby hotel and public house; the building will be 4.5m below the level of Larkspur Drive at the south east corner of the site, such that only part of the first floor and the roof will be above road level
- Located adjacent to the site are a day nursery, public house and hotel; there is little homogeneity between the form and design of the buildings and no particular design pattern to influence a detailed solution to the development of the application site. The adjacent housing estate is unremarkable, but forms the backdrop for the proposal when viewed from the west across Eastbourne Park, and the tree belt beyond that. The submitted montage showing the contextual relationship between the proposal and surrounding development demonstrates clearly the degree of enclosure provided. The relationship of the site to the residential area to the east and the commercial development to the south means that when viewed eastwards from within the park, the proposal will not affect its setting.
- The proposed development will be of high quality design and takes account of the surrounding area (where appropriate); the nearby housing estate is somewhat bland, the hotel is large but contains no distinctive features and is not of particularly design quality, the public house takes the form of Sussex vernacular, and the day nursery has no design quality at all.
- There is a broad evidence base that demonstrates the continuing growth in demand locally and nationally for residential care. The problem is likely to become worse in a county with the highest proportion of men and women over 65 and 60 in the country; the national picture is one of a decline in residential and nursing care provision. There is a clear need for the private sector to contribute to the provision of such care, and

there is a particular need for EMI care and for short stays following discharge from hospital

Consultations:

The Crime Prevention Design Adviser recommends that the main entrance should be denoted by a change in road surface or colour to serve as a psychological barrier, that the perimeter should be robust and fit for purpose, and that a good lighting scheme should cover entrances, parking areas and footpaths.

(Letter dated 25 August 2009)

The Highway Authority raises no objection to the proposal, subject to the upgrading of two bus stops with low floor kerbs and L.E.D. real time displays and the provision of a pedestrian refuge.

(Memo dated 25 August 2009)

Southern Water objects to the proposal on the grounds that it would adversely affect the pumping station access; it is also recommended that no habitable rooms are located less than 15m from the pumping station boundary, to protect residents from odour, vibration and noise.

(Letter dated 27 August 2009)

The Assistant County Archaeologist states that whilst the site is located within an Archaeologically Sensitive Area, an archaeological evaluation excavation has shown the site to be of low Archaeological potential, and is unlikely to impact on the waterlogged prehistoric remains to the south; therefore he makes no recommendations in respect of the development.

(Letter dated 3 September 2009)

The Environment Agency states that the development will only be acceptable if the measures detailed in the Flood Risk Assessment are implemented, and that they must be secured by way of planning conditions. Furthermore any works within 8m of the Willington and West Langney Sewer will require the prior consent of the Agency under the relevant legislation.

(Letter dated 11 September 2009)

Planning Policy advises that the Council is supportive of applications for residential care homes as they are an accepted need, however there are other concerns which the application does not comply with, and these are the impact on views across Eastbourne Park, and harmonisation with the character and appearance of the area. The government Inspector's report on the public enquiry in respect of the Eastbourne Borough Plan 2001-2011 is also cited; he raised concerns regarding the loss of views across Eastbourne Park from development on the site, and reiterated that any building should not occupy a significant part of the site and that a commitment to provide a viewing point for public observation with adequate car parking should be considered.

(Memo dated 23 September 2009)

The Design Review Panel raised concerns regarding the design, site coverage and views to and from Eastbourne Park, whilst agreeing that it is a difficult site because of its constraints. It considered that more consideration should be given to the issues of size, scale, massing, design, materials, landscaping and context; the building should be smaller and therefore sit more comfortably on the site. Further consideration should be given to sustainability, and a clear rationale for this indicated. Concerns were also raised regarding the biodiversity of the site, and the limited amount of amenity provision. (Meeting held on 5 October 2009)

Neighbour Representations:

Nineteen individual objections (including nine proformas) and a letter containing 22 signatures have been received as a result of neighbour notification and a notice posted on site. The objections are summarised thus:

- The development would cause even more traffic congestion, and there are currently inadequate parking facilities for residents of Larkspur Drive/Erica Close and many have to park on the grass verges
- 14 parking spaces will not be enough for staff residents and their visitors
- The findings of the traffic survey are disputed, as there are often long queues as far back as Foxglove Road from the junction with Willingdon Drive; Larkspur Drive is not the quiet street portrayed in the application and at peak times it can take up to 20-30 minutes to travel the length of the road (only 150 yards) to the mini roundabout, and traffic from The Mill and the hotel find it extremely difficult to turn right - a further access would make the problem worse
- The proposal would conflict with the Eastbourne Park Plan
- Development on the site was refused in 2003, as it would have detracted from the Park Plan and would have blocked views of the park; this development is two storeys high and therefore even more restrictive. The proposal should be refused for the same reasons as the previous scheme
- It was recommended that the site be used within the framework of the Eastbourne Park Plan and retain a viewpoint for public observation
- The proposal would set a precedent and likely to lead to pressure for further urban development on sites not allocated for building, encroaching on and diminishing the open area of Eastbourne Park
- The absence of satisfactory drainage in the area would increase the likelihood of flood damage to properties as this is a flood plain
- The proposal would require an unreasonable amount of alteration to existing foul drainage systems in the area (which has broken recently causing severe disruption), and further development would make the situation worse. The pumping station is already at its maximum and will not be able to cope with an increase in housing; in summer it sometimes gives off the smell of rotting sewage as it struggles to keep up with demands
- The development would damage the habitat of a variety of wildlife, including lizards, grass snakes, great crested newts, water voles,

- butterflies, cormorants, kestrels, kingfishers, weasels and mink; it would result in the loss of amenity i.e. trees, hedges and biodiversity
- The area is of archaeological importance, due to the nearby Bronze Age discoveries, and there is evidence of Roman settlements in the park
 - There is no direct bus service to the hospital, and residents would be forced to travel into town or cross a major road to access the hospital
 - There is no need to build a residential home on this site; there are plenty of brownfield sites in and around the town that would not cause so much disruption
 - There is no need for a new residential home in the town when there are old homes lying empty, being closed or only partially used; these could be rebuilt to modern day standards
 - The building would be a blot on the landscape – it looks more like a hospital, a monstrosity
 - A home for mentally and physically disabled people is inappropriate adjacent to a childrens nursery

(Letters and e-mails dated 14 August to 25 September 2009)

Appraisal:

The main issues to consider in determining this application are the impact on the character and appearance of the area, visual and environmental amenity and highway safety.

Character and appearance

Larkspur Drive forms a main spine road through this part of North Langney and marks the abrupt difference between urban development to the east and the rural landscape of Eastbourne Park to the west. Consequently, many roads to the adjoining residential estate join Larkspur Drive at 90° from rising land, which provides regular and important views across the Levels into Eastbourne Park.

The estate is characterised by low height, two storey dwellings, typical of its time (late 60's/70's), arranged in groups and cul-de-sacs with wide green verges and small grassed amenity areas. The rural landscape is interrupted by three buildings at the junction with Willingdon Drove (Premier Inn, The Mill and Just Learning Nursery), however, due to the significant change in ground levels here, the latter two buildings sit well below the road, and a significant distance from it, so that their impact is considerably mitigated.

The application site is broadly triangular in shape, and at the thin end of the wedge (having been part of the larger site before any of the above development took place), is relatively shallow, awkwardly shaped and not as far below road level as the adjoining developments; indeed, at the northern end of the site the difference is as little as 500mm.

The proposed building would be constructed with a finished floor level of 3.34 AOD to comply with Environment Agency requirements, and would have a ridge height of 9.5m. Combined with its overall length (when seen from the road and taking into account the angled footprint) of 58m, it is considered that the proposal would result in an overdevelopment of the site by way of a building of such height, massing and large footprint that it would dominate the surrounding

area, both from the residential estate and from within Eastbourne Park. Notwithstanding the assertion that it would be 4.5m below the level of the road, this would only be the case for the southern end of the site; the difference at the northern end would be reduced to approximately 1m. It is also the case that much of the hedgerow would have to be removed to provide the new vehicular access to the site, which would provide increased views of the building, at much closer proximity to the public highway than either the nursery or the public house. The design of the building is particularly bland, with long, unrelieved elevations, punctuated only by the front entrance and two diminutive bays facing Larkspur Drive, and a feature gable with balcony at the rear; the overall impression is insipid and uninspiring. The choice of materials – buff brick, red brick plinth and soldier courses, red/orange pantiles – neither enhances the poor design, nor attempts to blend the building into the landscape.

The proposed building is an unusual shape and extends as close as possible to three boundaries of the site in avoiding the route of the main sewer which crosses it; the car park and access occupies much of the remainder, with seven of the parking spaces 1m from the bedrooms on the ground floor. There is very little space, usable or otherwise, around the building, and much less than would be expected for a development of this size and in this area. The development not only takes advantage of the views over Eastbourne Park, it totally relies on it for any outlook from windows on the rear elevation, as well as views into and over the rear garden of the adjacent nursery. This demonstrates that the development has been designed to fill up as much as possible the developable space on the site, rather than designing a building that fits into the landscape, and is further evidence of overdevelopment of a restricted site. The agent has indicated that the size of the development (i.e. comprising 40 beds) is the smallest that would be viable in financial terms, and that the target market would be at the lower end of the scale.

Visual amenity

The scale, massing and height of the proposed building would adversely affect views into and from Eastbourne Park, and would represent an incongruous and strident feature in the landscape. No landscaping would be possible on the castingway other than grass (to maintain access) and therefore the building could not be softened from views from within the Park. It is considered that the building could not be adequately screened from Larkspur Drive since there would be an insufficient planting margin to achieve an adequate degree of landscaping. It is also noted that a 900mm high close boarded fence is proposed along the length of the boundary, a domestic feature which would be totally out of character with the open nature of the western side of Larkspur Drive. It is therefore considered that the proposal would not respect the local distinctiveness afforded by the rural appearance of Eastbourne Park.

Environmental amenity

Whilst the site has no allocation as a site of nature conservation interest, it is clear that it has some interest/value from the presence of a mixed hedgerow on the boundary with Larkspur Drive and the reed bed along the boundary formed by the open water course (and patches further in the site). No information in the form of surveys or assessments have been submitted with the application, and given that the majority of the site is proposed to be either built on or hard

surfaced, it must be concluded that there would be some impact on biodiversity, and that it is unlikely to be positive. Objectors have referred to several protected species in the vicinity, and whilst there is no evidence to confirm that any are on or using the site, it is considered that it is a matter that should be addressed.

Highway safety

A Transport Statement and a Travel Plan Statement have been submitted with the application, and it is noted that the Highway Authority has not raised any concerns in respect of highway safety. It is considered unlikely that a home of this nature would result in any unacceptable degree of additional congestion on the road network. The proposal complies with the parking standards for a development of this nature. The agent has confirmed that the applicant accepts the requirements of the Highway Authority in respect of upgrading of the bus stops and the provision of a pedestrian refuge.

Other matters

The nearest residential properties would be 30m away on the opposite side of Larkspur Drive; as such it is considered that there would be no direct impact on residential amenity as a result of the development.

A full archaeological survey and flood risk assessment has been submitted with the application and found to be satisfactory. The proposal would require a financial contribution towards compensatory flood storage within Willingdon Levels, and the agent has indicated that the applicant is agreeable to the sum identified.

The agent submits that the objection by Southern Water is essentially a matter between the two parties and is of not of any real importance in planning land use terms. It is also contended that the new access provides a more usable facility for any tankers that may need to use the site (on very rare occasion). Southern Water has reiterated its objection, pointing out that a tanker would only need to be on site in an emergency, and would need clear and immediate access. It is considered that it is preferable for a separate access to be maintained, which would result in tankers not only having clear access, but would also mean that they would not be directly outside, and in very close proximity to, the building. It is also of concern that the pumping station would be in front of the home within view of bedroom windows, at a distance of 10m at its closest point, and located on raised ground compared to that of the home (by 1m); Southern Water also raised concerns that windows to habitable rooms should not be within 15m of the station, due to the impact of odour, vibration and noise should a tanker be required to operate on the site.

The application has not referred to any provision for cycle parking on the site, and whilst it would be possible to locate such storage, it would be at the expense of landscaping, as very limited areas are available; this is also an indicator that the site would be overdeveloped.

No proposals in respect of sustainability have been included with the application. The agent/architect for the scheme has stated verbally that this aspect had not been considered at this stage, but that it was likely that some measures would be taken into account in order to reduce running costs, but that they would be constrained by building budgets.

Human Rights Implications:

None.

Conclusion:

It is acknowledged that the site is difficult to develop due to the constraints of shape, topography, its location on the Willingdon Levels (including the boundary with the Willingdon and West Langney Sewer) and the presence of both a pumping station and a main sewer pipe on part of the site. Nevertheless, it is considered that the proposal is ill-conceived and represents an overdevelopment of a restricted site, and results in an inappropriate building in terms of design, scale and massing, which would have an adverse impact on the character and appearance of the area, and views to and from Eastbourne Park.

Recommendation:

REFUSE for the following reasons:

1. The proposed development would be an overdevelopment of a restricted site and of an inappropriate design, by reason of scale, massing, materials, means of enclosure and landscaping, which would be detrimental to the visual amenities of the area and the setting of, and views to and from Eastbourne Park. The proposal therefore conflicts with policies UHT1, UHT2, UHT4 and UHT7 of the Eastbourne Borough Plan 2001-2011.
2. Insufficient information has been submitted to ensure that there would be no adverse impact on the biodiversity or nature conservation value of the site, or on environmental amenity. The proposal therefore conflicts with policies NE23 and NE28 of the Eastbourne Borough Plan 2001-2011.
3. No legal agreement has been concluded to secure a financial contribution towards compensatory flood storage off site, or secure improvements to highway infrastructure. The proposal therefore conflicts with policy US4 and highway safety.
4. Access to the pumping station would be unacceptably impaired, which would impede the ability of Southern Water to exercise its statutory function. Furthermore, habitable rooms would be within 15m of the pumping station, where they would not be protected from odour, vibration and noise.

INFORMATIVE

1. Refused plan references.

Appeal: Should the applicant appeal the decision the appropriate procedure to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

Item 5

App.No.: EB/2009/0575(FP)	Decision Due Date: 14 October 2009	Ward: MEADS
Officer: Bethan Smith	Site visit date: 10 September 2009	Type: Minor
Site Notice(s) Expiry date: N/A		
Neigh. Con Expiry: 17 September 2009		
Weekly list Expiry: 17 September 2009		
Press Notice(s): N/A		
Over 8/13 week reason: No committee date within time after consultation expiry		
Location: 9 LISMORE ROAD, EASTBOURNE		
Proposal: Change of use from wine bar (A4) to Private Hire Office (sui generis).		
Applicant: Mr Julian Ledger of Call-a-Cab		
Recommendation: Permission be granted subject to conditions.		

Reason for referral to Committee:

Number of objections exceeds 6 and two requests to speak received.

Executive Summary:

It is acknowledged that the proposed use may cause some noise and disturbance to the occupiers of the surrounding residential properties; however it is considered that this would be no more than the existing authorised use as a wine bar. There is no available space outside of the property to provide a designated taxi rank. However, this is no different to the established taxi office located at 2a Pevensey Road. The applicant has stated that the drivers will not have to use the application site as a base as fares will be allocated to cars automatically. For these reasons it is considered that the impact of the proposal on both the residential amenities of the occupiers of the surrounding properties and on highway safety will be minimal.

Planning Status:

- Within defined town centre

Relevant Planning Policies:

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
TC6	Town Centre shopping area
TC7	Area for Later opening of class A3 uses

Site Description:

The application site comprises a mid terrace property situated on the southern side of Lismore Road close to the junction with Terminus Road. The property has accommodation over ground and first floor which has been refurbished in recent years. The entire property was last in A4 use (drinking establishment).

Relevant Planning History:

App Ref: EB/2003/0450	Description: Change of use of first floor from offices/storage to retail use (A1).
Decision: Approved conditionally	Date: 10 September 2003

App Ref: EB/2005/0700	Description: Change of use of ground and first floors from retail shop (Class A1) to bar (Class A4).
Decision: Approved conditionally	Date: 8 December 2005

App Ref: EB/2006/0677	Description: Variation of condition 2 of planning permission EB/2005/0700 to allow opening hours between 10.00am – 2.00am
Decision: Approved unconditionally	Date: 23 October 2006

Proposed development:

The current application seeks permission to change the use of the property from wine bar (Class A4) to a private hire office and waiting room (Sui-Generis). It is intended that the property will operate 24 hours a day 7 days a week. It will be staffed by two receptionists and a business manager. The private hire vehicles themselves will be on journeys with fares and will not need to use the premises as a base as a computer system will allocate jobs to cars automatically. At times when the cars do not have a fare they will wait in the Eastbourne area but will not be parking directly outside the office.

Applicant's Points:

The current customers of Call-A-Cab are keen to see the introduction of these new central offices. A central location is the key to the growth and success of the business which is still relatively new. This will make it far more appealing to new drivers looking to join a firm that remains open 24/7 and have the ability of getting work from phone calls and also customers calling into the office.

There are traffic restrictions outside the application site however; the same situation exists outside of 2a Pevensey Road which is currently occupied by Sussex Cars. This private hire office was already in place before the introduction of the new parking control measures which the Local Highway Authority acknowledged. As there is no difference in the frontage situation between 2a Pevensey Road and the application site, the applicant considers that there are no highway concerns.

The applicant contends that the impact of the proposed use on the amenity of nearby occupiers has to be considered against the backdrop of the former use of the site as a late night wine bar. The planning history of the site allows a drinking establishment to operate up until 2am. The site is also within the town centre where some noise and disturbance is to be expected and near the edge of an area recognised in the Local Plan to contain late night uses. Attention has also been drawn to Radio Cars at 8 Pevensey Road which is directly beneath residential properties. In considering the change of use of application for this property the Local Planning Authority considered that a 22 hour operation would be acceptable. The applicant contends that the operation of a 24 hour use of the application premises would not give rise to any significant demonstrable harm and in many respects the immediate neighbours would benefit overall from increased surveillance of the street.

Summary Information

Site Area: 51.7 square metres

Previous land use(s) and floorspace(s): A4 use 51.7 square metres

Proposed floorspace of each use(s): Private hire office 51.7 square metres

Number of jobs created/lost: 8 full time jobs created

Existing parking spaces: none

Proposed parking spaces: none

Consultations:

The Local Highways Authority does not wish to restrict grant of consent to the application as there is almost an identical situation to that proposed already in existence further along the street and therefore no valid objections on highway grounds.

The Council's Economic Development Unit have no objection to the proposal.

Neighbour Representations:

Letters of notification were sent to the occupiers of the surrounding properties. As a result 12 letters of objection and 12 letters of support have been received. The comments can be summarised as follows:

Objections

- This side of the Terminus Road junction, where these premises are located, is mainly residential surrounded by flats and mews premises. The provision of a taxi office in this location will attract customers leaving the nightclubs and public houses. This will increase the amount of anti-social behaviour and noise and disturbance in the area which will lead to further disruption to local residents.
- In a 250 yard area there are already six premises with planning permission for taxi offices with 24hr usage, only three of which are occupied. As such the general public requiring taxis home are well provided for within Pevensey Road and Susans Road. Therefore a further taxi office is not required.
- At a recent Council Hackney Carriage review it was mentioned by Sussex Police, who were present, that they were satisfied with the general dispersal at night of persons in the centre of Eastbourne.

Support

- Call-a-cab is a quality, reputable business offering a reliable and friendly service. It is being run in a highly professional manner with an ethos which is very much needed in the town's taxi services. The opportunity to locate the head office within the town centre would promote both employment services and provide healthy competition for other taxi companies.
- This company, which is so well run, is a great asset to the town and would be even more so in a central location.
- Another taxi office within the town centre would aid the quick dispersal of 'party goers' out of town at the end of the night to minimise any anti-social behaviour. It would give a safer environment for the customers to wait in the early hours of the morning, something that is lacking in town when dealing with the level of people out over the course of the weekend.

In addition the 18 residents of Windermere Court, 22 Trinity Trees objected to the application but have subsequently withdrawn their objection after a meeting with the applicant in which they were reassured that the applicant would be operating a very organised business and will also attend meetings with the residents. It was pointed out that planning could not ensure that this occurred and that another firm may move into the premises but it was still felt that the controls of the licence would be sufficient to ensure there residential amenities were maintained.

Appraisal:

The main issues to consider in the determination of this application are the impacts the proposed use will have on the residential amenities of the occupiers of the surrounding properties and the impact on highway safety.

The application site comprises a two storey building all of which is proposed for a change of use to private hire taxi office. As such there are no residential properties above the application site; however, there are residential properties in the immediate vicinity. It is an accepted planning precept that residential properties within the town centre generally have a different level of amenity to purely residential areas. Residents living within the town centre, whilst having better access to facilities, must also expect greater levels of evening noise and

activity. It is acknowledged that the proposed use does have the potential to attract noise and disturbance from late night revellers, however no more than the current authorised use, a drinking establishment. In fact the provision of an additional private hire office is considered to give rise to the potential to clear people from the town centre faster and more efficiently. These people are likely to be in the vicinity of the premises due to other late night uses and therefore it is considered that any increase in noise and disturbance from the taxi office would be minimal. Taxi offices do require an operators licence and therefore some control over the operation of the premises will be in place through legislation other than planning.

Outside the application there are pay and display parking bays, white zig-zag lines associated with the pedestrian crossing and double yellow lines. As such there is no space for a designated taxi rank. This is a similar situation to the Sussex Cars frontage which is located at 2a Pevensey Road, which was already established before the new parking restrictions came into force. In a supporting statement the applicant has stated that a computer dispatch system will allocate jobs to cars automatically and therefore they will not need to use the premises as a base. At times when the cars do not have fares they will wait in the Eastbourne area but will not be parking outside the office. The existing traffic regulations will apply to the drivers of private hire vehicles and it is not considered that the planning system should duplicate this legislation. For these reasons the Local Highway Authority does not wish to restrict grant of consent to this application.

The current authorised use does not fall within retail (class A1) and therefore there is no loss of A1 associated with this application. As such it is considered that impact on the surrounding shopping area will be minimal. The property is not located within an area identified for late night opening however it is near to this area. As mentioned above the current authorised use could also attract noise and disturbance to the area and it is therefore considered that will be minimal impact on the residential amenities of the occupiers of the surrounding properties.

There are no external alterations proposed as part of this application and therefore it is considered that the impact on the visual amenities of the surrounding area will be minimal.

Human Rights Implications:

It is acknowledged that the change of use of the application premises to a taxi office may give rise to some noise and disturbance to the occupiers of the surrounding properties. However, considering its current authorised use it is considered that the increase in noise and disturbance is not significant enough to warrant refusal of this application.

Conclusion:

It is acknowledged that the proposed use may cause some noise and disturbance to the occupiers of the surrounding residential properties; however it is considered that this would be no more than the existing authorised use as a wine bar. There is no available space outside of the property to provide a designated taxi rank. However, this is no different to the established taxi office located at 2a Pevensey Road. The applicant has stated that the drivers will not

have to use the application site as a base as fares will be allocated to cars automatically. For these reasons it is considered that the impact of the proposal on both the residential amenities of the occupiers of the surrounding properties and on highway safety will be minimal.

Recommendation:

GRANT subject to conditions

Conditions to include:

- (1) Commencement of development within three years.
- (2) Approved plan – plan showing floor plans

Informatives:

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

It would have no harmful effects on the character and appearance of the locality and the amenities of occupiers of surrounding residential properties and would therefore be in accordance with the relevant policies of the Eastbourne Borough Plan 2001-2011.

Appeal: Should the applicant appeal the decision the appropriate procedure to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

Item 6

App. No EB/2009/0618(FP)	Decision Due Date: 02.11.09	Ward: Devonshire
Officer: Lucy Parsons	Site visit date: 23.09.09	Type: Minor
Site Notice(s) Expiry date: 09 October 2009		
Neigh. Con Expiry: 09 October 2009		
Weekly list Expiry: 15 October 2009		
Press Notice(s): N/A		
Over 8/13 week reason: N/A		
Location: FLAT 1 PEREGRINE COURT, 51-53 CAVENDISH PLACE, EASTBOURNE		
Proposal: Retrospective application under Section 73A for the retention of a timber raised decking area in the rear garden		
Applicant: Mr Evans		
Recommendation: Approve subject to conditions		

Reason for referral to Committee:

A request to speak in response to neighbour consultation.

Executive Summary:

The raised decking area to the ground floor flat although considered to be rather unsightly, cannot be seen from the public domain and therefore has no impact on the character of the conservation area. The impact on neighbouring residential amenity is considered to be acceptable; the neighbouring basement flat at 51 Cavendish Place already suffers a degree of overlooking and shading due to the nature of being at basement level, whilst other neighbouring properties in Langney Road and Pevensey Road are a significant distance away.

As such with a condition to provide a privacy screen to further reduce the impact on neighbouring residential amenity, the decking area is not considered to cause significant harm to neighbouring residential amenity as to warrant refusal for this application.

Planning Status:

- Town Centre and Seafront Conservation Area
- Source Protection Zone

Relevant Planning Policies:

The following local, regional and national policies are considered relevant to the determination of this application:

Eastbourne Borough Plan 2001 - 2011

UHT1	Design of a New Development
HO2	Predominantly Residential Area
HO20	Residential Amenities

Site Description:

The application site relates to a ground floor self contained flat in a large residential property (Peregrine Court, 51-53 Cavendish Place). The property has been divided into 9 flats, with two entrances, one at 51 and one at 53 Cavendish Place having been converted from a guest house and flats sometime after 2005.

The property is situated on the north eastern side of Cavendish Place.

Although the ground levels of the site are relatively flat the part of the development to the north, at 53 Cavendish Place, has a 2 bedroom flat at basement level.

Relevant Planning History:

App Ref: EB/1980/0682	Description: Alterations to change the use of No.51 Cavendish Place from 3 flats to a guest house, in conjunction with No.53 Cavendish Place.
Decision: Granted	Date: 16 December 1980

App Ref: EB/2005/0710	Description: Conversion of guest house to 7 no. two-bedroom flats and 2 no. one-bedroom flats together with addition of flat roof dormer at rear, 6 rooflights to front and minor external alterations
Decision: Granted subject to conditions	Date: 19 December 2005

Proposed development:

Retrospective planning permission is sought for the retention of the raised decking area in the rear garden of the ground floor flat. The decking area measures 2.3m wide x 5.0m long and is approximately 450mm above the rear garden level.

The decking projects 5.0m beyond the recessed rear elevation of the main building and is bounded on two sides by the rear and side elevations of 51 Cavendish Avenue, and a 1.80m high trellis style fence along the side boundary with 53 Cavendish Place.

Consultations:

No consultations were carried out.

Neighbour Representations:

Letters of notification were sent to the occupiers of neighbouring residential properties. One letter of objection and a request to speak have been received.

The objection received from raises concern with regards to the following:

- Amount of overlooking and loss of privacy caused to bedroom windows and rear decking area
- Impact on the 12 ft high boundary fence which neighbour is responsible and against which decking is fixed.
- The loss of light caused by the trellis screen fencing and possible planting along the boundary to bedroom windows in the basement flat.
- The noise caused by children and adults on the decking area.

Appraisal:

The main issue to consider in the determination of this application is the effect the decking area has on the residential amenities of neighbouring residential properties; particularly the impact on the adjoining neighbour of the basement flat at Flat 5 Peregrine Court, 51-53 Cavendish Place and the impact on the character of the conservation area.

Although the ground levels to the garden of the ground floor application property are relatively level the neighbouring section of the property, formerly 53 Cavendish Place, has a basement flat which is set at a level approximately 2m lower. The basement flat has use of a private rear garden area which is accessed via its bedroom. There is a 1.20m high close board fence along the common boundary between 51 and 53 Cavendish Place set at the garden level to 51 which is therefore at a height of approx 3.5m above the garden level of the basement flat at 53.

Due to the relationship between the application site and the neighbouring basement flat there is considered to be an established degree of overlooking to the neighbouring basement flats windows and rear garden area from the application site. Although it is largely the rear garden of Flat 5 that is overlooked, it is considered that the decked area does cause additional potential for overlooking to the windows of the basement flat. However, this impact is exacerbated due to the fact that there is a significant difference in ground levels between the application site and the basement flat at 53 Cavendish Place.

The decking area is raised 450mm above the existing ground level at 51 Cavendish Place. Permitted development, under Class A of the General Permitted Development Order 2008 (as amended) allows for decking areas to be raised 300mm above ground level without the need for planning permission. Whilst there are no permitted development rights afforded to the application site as it constitutes a flat, this gives a clear indication as to the acceptability of raised platforms and decked areas in residential areas. Whilst it is acknowledged that many flatted developments typically have less outdoor amenity space than single private dwellings it is not considered that the additional height and depth of the timber decking area causes an unacceptable amount of overlooking to the neighbouring property at Flat 5, Peregrine Court. This flats garden is already subject to a degree of overlooking from the application property and also from the flatted properties on the upper floors.

To protect the privacy of occupiers of Flat 5 a condition is proposed to secure the provision of a privacy screen along the boundary in place of the trellis that has been provided. This will be conditioned to be implemented within one month from the date of the permission and to be permanently maintained as such thereafter.

There is considered to be no additional impact on the amount of overshadowing caused to the basement flat by the development. It is considered that there is an established amount of shading caused to this flat, not only due to the nature of the property being below ground level, but also because it is set to the north east of the main dwelling which is in the shade of the main dwelling for the majority of the day.

The other concern raised by the objector with regards to the amount of noise caused by users of the decking area is not an issue that can be considered or controlled under planning legislation.

The decking area is considered to have no adverse impact on the residential amenities of occupiers of neighbouring residential properties. At the rear of the site residential properties in Langney Road and Pevensey Road are some 15m away, and the adjoining residential properties in Cavendish Place are also considered to be unaffected by the development. There is an established degree of overlooking caused to rear gardens in this area as the majority of properties in the vicinity have been converted into flats. As such it is considered that the decking area does not significantly affect this relationship with neighbouring properties.

As the decking is sited at the rear of the property and is not visible from the public domain there is no detrimental impact on the character of the conservation area.

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.

Conclusion:

In conclusion, after assessing the concerns raised by the objector with regards to the loss of privacy and day light caused it is considered that although the decking area is rather unsightly, it cannot be seen from the public domain and therefore has no impact on the character of the conservation area. With a condition to provide a privacy screen to further reduce the impact on neighbouring residential amenity, the decking area is not considered to cause significant harm such as to warrant refusal of this application.

Recommendation:

Permission be granted subject to conditions to include:

Conditions

- 1) Details of privacy screen to be submitted within 2 weeks (++)
- 2) Approved privacy screen to be installed within 1 month from date of permission
- 3) Approved plan ref

Informatives

- The decking area, together with the proposed privacy screen would not cause an unacceptable degree of overlooking to neighbouring properties, it also has no harmful effects on the character and appearance of the locality. As such the development complies with the relevant policies as set out in the Eastbourne Borough Plan 2001 - 2011.

Appeal

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