

Report to: PLANNING COMMITTEE

Date of Meeting: 12 December 2018

Report from: Assistant Director of Housing and Built Environment

Application Address: Land adjoining, 14-16 Harley Way, St Leonards-on-sea

Proposal: Outline application (seeking approval of Access), for the erection of up to 4 no.2 bed apartments

Application No: HS/OA/18/00726

Recommendation: Grant Outline Planning Permission

Ward: WEST ST LEONARDS 2018

Conservation Area: No

Listed Building: No

Applicant: Mr BBCn per WS Planning & Architecture Europe
House Bancroft Road Reigate RH2 7RP

Public Consultation

Site Notice: Yes

Press Advertisement: Yes - General Interest

Letters of Objection: 11

Petitions of Objection Received: 1

Letters of Support: 0

Petitions of Support Received: 0

Neutral comments received 0

Application Status: Not delegated - Petition received

1. Background

This application follows two earlier applications. The first, a full application, was refused on grounds of design, highway safety, ecology and land stability in 2017. The second, an outline application, was refused at Planning Committee in June 2018 contrary to officer advice, in respect of insufficient information on matters of land stability.

2. Site and Surrounding Area

The site comprises an irregular shaped area of open space, partly vegetated with shrubs and trees. It is located at the end of Harley Way on the edge of the turning head on its southern side, and the rear of the site slopes steeply downwards towards the south east.

A block of garages and hard standing area is located at the head of the turning head, adjacent to the site on its western side. Whilst the western end of Harley Way is made up of two storey semi-detached properties with a single residential unit within each, the dwellings at this end of Harley Way are made up of 4 flats in properties of a semi-detached appearance. All existing properties have a front garden area, and a grass verge separates the pavement from the road on the southern side.

Relevant site constraints

- Area affected by surface water flooding (1 in 1000)
- 2km buffer zone of high pressure pipeline (Scotia Gas Networks)
- 250m buffer zone of historic landfill site

3. Proposed development

This is an outline application for the erection of up to 4 x 2 bedroom apartments on an area of existing green space at the end of a residential cul-de-sac. At this stage, approval is for access only, with all other matters reserved. Building design, mass and scale, is not defined at this stage.

4 parking spaces are to be provided at the front and side of the site, together with some soft landscaping and a decking area to the west. The proposed building measures 8.1m in width, and 10.5m in depth. Amenity space is provided to the rear of the existing garages and the southern end of the site, forming part of the land that slopes away from the building. Drawing number GEG/100/01 provides an indicative layout.

The application is supported by the following documents:

- Covering letter (10 August 2018)
- Sustainability Statement, October 2017 (WSP Planning and Architecture)
- Design and Access Statement, October 2017 (WSP Planning and Architecture)
- Update Ecology Appraisal, September 2017 (David Archer Associates)
- Ecological Appraisal Report (The Ash Partnership, May 2016)
- Report on Badger Activity at Harley Way (Peter Mortimer Badger Consultant, March 2017)
- Mitigation and Method Statement (Peter Mortimer Badger Consultant, March 2017)
- Report on Bat Survey (Eagle Trees Tree Management, December 2016)
- Ground Conditions letter, Enzygo Geo Environmental Ltd, 24th August 2017
- Ground Conditions update letter, Enzygo Geo Environmental Ltd, 31 July 2018
- Geo-Environmental Data and Historical Maps (Ashdown Site Investigations Ltd, August 2016)
- Drainage Strategy Report (Stillwell Partnership, September 2016)
- Preliminary Ground Contamination Risk Assessment Report (Ashdown Site Investigations Ltd, September 2016)
- Topographical Survey

Relevant Planning History

- HS/OA/17/00930 Outline application (seeking approval of access) for the erection of up to 4 no. 2 bed apartments
REFUSED 21 June 2018
- HS/FA/16/00568 Erection of 4 no. 2 bed apartments
REFUSED 16 June 2017

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)

- Policy FA1 - Strategic Policy for Western Area
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy SC7 - Flood Risk
Policy DS1 - New Housing Development
Policy EN3 - Nature Conservation and Improvement of Biodiversity

Hastings Local Plan – Development Management Plan (2015)

- Policy LP1 - Considering planning applications
Policy DM1 - Design Principles
Policy DM3 - General Amenity
Policy DM4 - General Access
Policy DM5 - Ground Conditions
Policy HN8 - Biodiversity and Green Space

Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013

National Planning Policy Framework (NPPF)

Paragraph 11 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Section 12 of the NPPF sets out the requirement for good design in development. Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 127 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:
 - * Layout
 - * Architecture
 - * Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
 - * Building types
 - * Materials
 - * Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 178 states that:

Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments

Paragraph 179 goes on to confirm that responsibility for securing a safe development rests with the developer and/or landowner

4. Consultation comments

Hastings Borough Council (Environmental Health) - **no objection subject to conditions** (17, 18, 21 and 23)

Phase 1 contamination assessment to be acceptable in principle, subject to conditions regarding the construction phase.

Hastings Borough Council (Borough Arboriculturalist) - **no objection subject to conditions** (19, 24 and 25)

The information and proposals provided are not considered to have a significant adverse impact on existing trees on site. Mitigation can be provided through replacement planting

East Sussex County Council (SUDs) - **no objection subject to conditions** (11, 12, 13, 14, 15)

Require a capacity check with Southern Water. Diversion of sewers will require written permission from Southern Water. Additional details required for full application

East Sussex County Council (Highways) - **no objection subject to conditions** (7, 8, 9 and 10)

Note comments are similar to previously submitted application. Public highway needs to be stopped up. Set out dimensions required for parking and manoeuvring. Secure and covered cycle parking will be required. Note high demand for parking in Harley Way but note that parking should not be taking place on the existing turning head, where spaces will be removed. Proposal will not reduce the amount of suitable parking available.

Southern Water - **no objection subject to conditions** (11, 13 and note 8)

Require a formal application for diversion and connection to the sewer.

Building Control - **comments received** (condition 22)

Building Control are aware of resident claims of land instability, and therefore have requested a full site investigation report at outline stage.

5. Representations

18 letters of objection (from 12 individuals), were received following the display of a site notice. These raised the following concerns:

- Stability issue still hasn't been properly addressed
- Presence of badgers, bats and other wildlife
- Japanese Knotweed on site - no methods for removal
- Harley Way itself is difficult to access with parking pressures in the area
- Negative impact on quality of life during building work
- Views will be affected
- Harley Way too cramped for more development
- Existing damage to the road, cannot take more development
- Problems with drainage
- Loss of children's play area

- Health and safety issues arising from delivery lorries
- Overlooking to neighbouring properties
- Access for emergency vehicles/waste lorries is restricted
- Development will eliminate 3 car parking spaces currently used by residents in the area
- Site is too constrained

A petition signed by 34 people was also received. This objects on the following grounds:

- Land stability issues on the site
- Wildlife presence
- Parking pressures
- Loss of amenity and safe play area for children, residents and their dogs

6. Determining Issues

This is an outline application seeking approval for access only. Matters of scale, appearance, landscaping and layout are subject to consideration at the detailed design stage, when a Reserved Matters application is submitted. Therefore, the main issues to be considered with this application relate to the principle of developing the site only, with detailed consideration given to access arrangements.

It is important to note that a similar application was refused by Planning Committee earlier this year (June 2018) on the grounds of lack of information regarding land stability. A full application determined in June 2017, was also refused, on the basis of design, ecology, land stability and parking. This application seeks to address the previous reasons for refusal, where relevant.

a) Principle

Policy LP1 of the Hastings Local Plan - Development Management Plan (2015), paragraph 4.3 of the Hastings Local Plan – Planning Strategy (2014) and paragraph 11 of the NPPF set out a presumption in favour of sustainable development. The site is within a sustainable location with reasonable/good access to public transport, shops, services and facilities and as such the development is considered acceptable in principle subject to other local plan policies.

b) Provision of new housing

There is high demand for new housing development in Hastings. Given the lack of available sites in the town, windfall development (smaller sites that are not specifically identified in the Local Plan) play a very significant role in meeting the Council's housing target of 3,400 new homes by 2028. Should permission be granted, the application site provides a valuable contribution to meeting this target, in accordance with Policy DS1 of the Hastings Planning Strategy 2014.

c) Impact on the character and appearance of area

An outline application considers the general principles of how a site can be developed. This application provides an indicative layout only, seeking approval of access in detail. All other matters, including the design and appearance of the building, will be considered at a later stage. These 'Reserved Matters' applications are where the impact on the character of the area will be considered. At that point the detail of the application such as elevations, floor plans and layout will be submitted to the Council for consideration. The development of the land will have an impact in the street scene, whereby an undeveloped parcel of land will be lost and replaced with built form. Nevertheless it is important to note that the scheme will not result in the loss of a formal play area, or designated open space. The land can be fenced off at any point by its owner and no persons should be using the land without the consent of the owner.

Detailed design issues will include the provision of soft landscaping, materials and appearance of the development. The site currently provides an element of openness and amenity space for local residents, although the site is not a designated green space, or formal play area. It should be noted however that this site is privately owned, not designated as public or private open space. It can be fenced off at any point and its land should not be used by members of public for amenity purposes. Whilst the loss of such space in its entirety is regrettable, good design of a future development with sufficient soft landscaping could mean that any negative impact on the character and appearance of the area is minimised. The indicative layout is considered to show an appreciation of existing street patterns, and taken together with good design and appropriate landscaping, will be in accordance with the requirements of Policy DM1 of the Development Management Plan 2015.

d) Layout

Submitted drawing GEG/100/1 identifies the indicative layout of the development. 3 parking spaces are to be provided to the front of the site, to the side of the proposed permeable entrance surface, with the remaining parking space to the west of the proposed building. Soft landscaping, green space and a decking area are also provided.

Detailed considerations such as bin and cycle storage will be considered at the reserved matters stage, although the site appears to provide enough space for these considerations to be accommodated within its boundaries. The waste collection point will be required to be provided within 25m of the access, which is wholly achievable on this site.

The reserved matters application will also be required to ensure that each proposed apartment meets the minimum standards for internal floorspace as set by the government, as part of any future detailed application.

The layout in its current form therefore, is considered to be acceptable on the site, and in conformity with Policy DM3 of the Development Management Plan 2015.

e) Impact on neighbouring residential amenities

Concern has been raised from local residents regarding the impact on neighbouring residential amenities in terms of overlooking. Whilst this is primarily a consideration for the detailed design stage (as good design can help to overcome this) it has also been considered as far as possible here.

The location of the building on this steeply sloping site will mean that there will be a degree of overlooking from the rear windows towards the properties in Bexhill Road below and to the south. There is however, a significant distance separating the buildings (approximately 30m as the crow flies) to reduce the actual impact from this overlooking, and given the hilly nature of the town, it is unreasonable to suggest that development cannot take place in such elevated positions. No properties are sited directly either side, or in front of the proposed development so as to cause a negative impact in terms of overlooking, loss of privacy or overshadowing. Policy DM3 of the Development Management Plan 2015 is therefore complied with in this regard.

f) Wildlife and biodiversity

It is acknowledged that there is some wildlife activity on the site, in accordance with resident's concerns. These issues have been fully considered in the range of submitted ecology reports submitted as part of this application.

Given the limited time between application submissions on this site, it is still considered appropriate to consider the ecological reports prepared for earlier applications, particularly as supplementary updates have also since been submitted. The original ecological appraisal report recommended:

- Further ecological surveys to complete the ecology baseline;
- The successful control of the Japanese Knotweed on site;
- Undertaking the recommendations for mitigation and enhancement within the report.

These additional ecological reports were subsequently commissioned in support of the last application. They comprised a bat survey, a report on badger activity, a supporting mitigation and method statement, together with an updated ecology report (September 2017). The updated ecology report included a Phase 1 habitat survey and desk based research, which concluded that the site contains a low diversity of habitats and has a low intrinsic value which is site specific in terms of benefits arising.

A number of recommendations were also proposed, to mitigate any harm arising from the proposed development, which should permission be granted, can be controlled by conditions (19 and 20):

- Badger survey, prior to commencement of site clearance
- Invasive species removal - Japanese knotweed
- Precautionary method of working for site clearance produced to protect badgers, nesting birds and bats
- Biodiversity enhancement measures - within the landscape plan
- Bat roosting provision
- Bird nesting boxes

Subject to these mitigation measures being included in the final scheme (or required by condition), it is not considered that there will be any undue harm to protected species and/or any other wildlife that is present on site. Policy EN3 of the Hastings Planning Strategy 2014, or HN8 of the Development Management Plan 2015 are therefore complied with.

Biodiversity net gain:

New development should always consider opportunities to achieve biodiversity net gain, regardless of the fact that development is proposed on green space. Appropriate planting will be required through an approved soft landscaping scheme to ensure biodiversity is not lost as a result of the development (condition 24).

g) Trees

Information on existing tree cover is included within the ecological report and supports this application. This report maintains that existing tree cover is comprised of young and early mature trees. The loss of these trees can be mitigated through appropriate tree replacement planting, and a full tree report will be required by condition to be submitted at detailed design stage (condition 25).

h) Land stability

Concern has been raised from neighbouring properties regarding the potential for land instability on the site. Whilst this is not known, or has not been recorded by the Council, it is acknowledged that the site is steeply sloping and its development may well incur risks of land and slope stability. Drainage and removal of existing vegetation are also concerns of residents, which could potentially contribute to these land stability issues.

The previous refusal of permission for development on this site was quite clear in that it required the applicant to:

"satisfactorily demonstrate that there is no risk in terms of land stability, or whether any risks are acceptable or can be mitigated to an acceptable level" (HS/OA/17/00930)

Enzygo Geoenvironmental Limited, (a suitably competent and qualified organisation as defined by the NPPF) prepared a letter in August 2017, to be submitted with the original application. This recognised that the site presents challenges in terms of slope and geotechnical constraints, although did also note that with appropriate site investigation and design, these constraints should not prohibit development.

Further to the refusal of permission in 2017, the applicant then supplemented the original desk based review with an additional letter dated 31 July 2018 by the same organisation. This provided further information in the form of an initial stability assessment and foundation proposal, following a further site visit to inspect the site in more detail.

The initial stability assessment dated 31 July 2018 concluded the following:

- There is no indication of failure to the embankment
- The presence of thick vegetation on the crest of the slope indicates that it is currently stable (although were unable to walk over)
- Modes of failure in these situations are usually caused by shallow weathering and erosion.
- It is unlikely that there is a shallow groundwater table on the site, which would be a mitigating factor
- The nature of the geology would limit the potential for a large scale circular slip plane
- There was no indication of structural damage on the existing garage block

The report goes on to recommend detailed methods for construction to ensure that these issues are considered in development, to overcome potential land stability issues. Specifically it is noted that a bespoke drainage system will be required to control and restrict the flow of water in to the soils. Selective planting and the use of reinforced earth is also recommended. This will be fully investigated as part of the land stability and soils report required by condition 22.

Finally, the report recommended a detailed Ground Investigation report to be provided at reserved matters stage to ensure the anticipated ground conditions are fully assessed. This should also include a drainage assessment and shallow excavation near the crest. In conclusion, Enzygo do not see why the site cannot be developed with a well designed engineering solution.

Paragraph 178 of the NPPF requires an adequate assessment of land stability issues to inform decision making, and clarifies in paragraph 179 that it is the responsibility of the developer to secure a safe development. At a local level, Policy DM5 of the Development Management Plan 2015 requires information about the extent of remediation and/or mitigation measures at the application stage, with any further detail conditioned.

The National Planning Practice Guidance (NPPG) sets out what should be included in a land stability risk assessment, namely:

- a review of existing sources of geological and/or mining information;
- site history;
- site inspection;
- intrusive site investigation (if necessary);
- assessment of land instability risks; and
- mitigation measures

The submitted reports address all these points, albeit that an intrusive site investigation is only necessary at the detailed design stage - 'reserved matters'. Refer to condition 22.

They demonstrate that the site is in a stable condition, and taken together with a suitable engineering solution and appropriate mitigation measures, development can be accommodated on site, subject to the outcome of a detailed Ground Investigation report. This approach is consistent with the requirements of both the NPPF and Policy DM5 as enough evidence has been submitted at the outline application stage to determine that development could be accommodated on site, subject to further information being submitted

at the detailed design stage. It is not considered reasonable to request this information all at outline application stage, as sufficient information has already been submitted to show that development can, in principle, be accommodated on site.

i) Land contamination

Given the sites location in the buffer zone of a historic landfill site, a Phase 1 contamination assessment has been undertaken. Environmental Health officers are satisfied with this report, subject to the imposition of conditions (6, 18, 21) regarding construction impacts and hours of work. Should any contamination be found when carrying out the development, it should be reported to the Local Planning Authority, with proposed remediation measures.

j) Drainage

The drainage strategy submitted with the application provides for surface water to drain into the existing drainage system, subject to Southern Water agreement and a sewer diversion application. Permeable paving will also be used at the front of the site to manage these additional surface water flows. It concludes that no property will be at risk of flooding as a result of the development. Subject to Southern Water agreement and submission of drainage details, it is considered that these arrangements are acceptable, although the potential for other forms of Sustainable Drainage Systems should also be explored. These drainage solutions should be carefully considered to ensure that water flow into the soil is restricted.

Subject to a more detailed site investigation, together with foundation and drainage design required by conditions 10-15, it is considered that the requirements of Policy DM5 of the Development Management Plan 2015 and SC7 of the Hastings Planning Strategy have been met. The application has taken opportunities to reduce the risk of flooding, and will minimise risk in terms of any instability on the site through conditions and the detailed design stage.

k) Air quality and emissions

Having regard to guidance contained within 'Air Quality and Emission Mitigation' 2013 produced by Sussex Air Quality Partnership, the proposed development will not exceed statutory guidelines for airborne pollutants and Environmental Health Officers have no objection in this respect. Matters of external lighting and residential amenities are not assessed here. The development will not give rise to ground or surface water pollutions and conditions are attached (10, 11, 12, 14, 15), which require details of surface and foul water drainage. The development is therefore in accordance with Policy DM6 of the Development Management Plan 2015.

l) Highway safety, parking and access arrangements

The proposal is to create a new access point onto Harley Way, in the area currently used as a turning head. Following consultation with the Highway Authority, it has been confirmed the footpath adjoining this highway would need to be closed off (stopped up) to provide for the new access point and to enable the application to be considered acceptable.

Four car parking spaces of appropriate dimensions are to be provided on site, which meet the requirements of the Highway Authority for a development of this type. The paved area provides enough space within to enable the cars to be easily manoeuvred and used in this part of the cul-de-sac.

Many concerns have been raised as a result of neighbour consultation regarding the pressure on existing parking capacity. It is argued that spaces will be lost as a result of the development, although this would be on the existing turning head, where parking should not be taking place. The Highway Authority therefore, do not object to the development in this regard, and the proposed access and parking arrangements accord with the requirements of Policy DM4 of the Development Management Plan 2015. The Highway Authority have suggested a number of conditions (7, 8, 9, 10) to mitigate against any harm including on-site car parking and cycle provision, adequate access to be provided and approved by the planning authority and vehicle gradient. An informative (6) requiring the highway to be closed (stopped) up to remove highways rights over it is to be applied.

The development is proposed within an existing cul-de-sac where waste lorries already serve the development. It is not considered that the development would further impact on their ability to access the site.

m) Environmental Impact Assessment

The National Planning Practice Guidance (Paragraph: 017 Reference ID: 4-017-20170728) states that "Projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not at least partly in a sensitive area, are not Schedule 2 development."

This development is not within a sensitive area as defined by Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and does not exceed the thresholds of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

n) Screening of Application under Habitats Regulations 2017 - Impact of Development on Ashdown Forest Special Area Conservation (SAC)

The Council undertook an Air Quality Impact Assessment in 2018. The purpose of the assessment was to identify likely significant effects of planned housing and employment growth in Hastings Borough on the conservation objectives of Ashdown Forest Special Area of Conservation (SAC) from 2017 to 2033. The assessment took account of the traffic growth expected on roads within the vicinity of the Ashdown Forest SAC/Special Protection Area (SPA), not just arising from development within Hastings, but also, compliant with the requirement of the Conservation of Habitats and Species Regulations 2017, in combination with the anticipated growth arising from the development plans of other neighbouring authorities. The focus of the Assessment was on Ashdown Forest SAC and SPA.

It was not considered necessary to consider air quality implications of growth in Hastings Borough on the Pevensy Levels SAC and Ramsar site or the Lewes Downs SAC. In respect of Pevensy Levels SAC/Ramsar site the interest feature of this SAC (*Anisus vorticulus* - aka. a snail) is not affected by nitrogen from vehicle emissions. Lewes Downs SAC is too far

removed to be affected. Nitrogen deposition from additional traffic beyond that modelled would have to be four times that currently expected from all traffic to exceed critical load at this location.

The Council has modelled the expected growth in Hastings to 2033 including the Local Plan, existing planning permissions and the emerging Area Action Plan and demonstrated that development will not result in an adverse effect on the integrity of Ashdown Forest either alone or in combination with other plans or projects. As such the proposed development is considered to be within the allowances made within the strategic modelling and is not considered to harm the special conservation objectives of Ashdown Forest, Pevensey Levels or Lewes Downs Special Areas of Conservation.

o) Sustainable construction

No details have been submitted regarding sustainable construction techniques or methods at this outline stage. The applicant will be required by condition to submit details of appropriate climate change mitigation and adaptation measures as required by Policy SC3 of the Hastings Planning Strategy 2014 (condition 28).

7. Conclusion

The proposed development will provide additional housing required to meet the Council's overall housing target. The access into the site has been demonstrated as acceptable and in accordance with the Highway Authority's standards, subject to the stopping up of the existing pathway. Whilst land stability issues are still a key consideration, the work undertaken so far has determined that the site is suitable for development, subject to a full ground investigation report at detailed design stage. There are no reasonable grounds on which a recommendation of refusal could be made.

The development is therefore considered to comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

8. Recommendation

Grant Outline Planning Permission subject to the following conditions:

1. Approval of the details of the layout, scale and external appearance of the building, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the siting, design and external appearance of any buildings to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. The development hereby permitted shall be carried out in accordance with the following approved plans:

GEG-100-1-B and TSP/BBCN/P3114/002
6. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

08.00 - 18.00 Monday to Friday
08.00 - 13.00 on Saturdays
No working on Sundays or Public Holidays.
7. The reserved matters application required by condition 1 shall include details of the means of vehicular access to the site, including road widths, kerb radii, visibility splays and details of finishes and materials. The approved details shall be implemented prior to occupation.
8. The access shall have maximum gradients of 2.5% (1 in 40) for the whole width of the footway and continuing for 5m into the site and 11% (1 in 9) thereafter.
9. The reserved matters application required by condition 1 shall include details of covered and secure cycle parking. The approved details shall be implemented prior to occupation and shall thereafter be retained for that use and shall not be used other than for the parking of vehicles and cycles.

10. The reserved matters application required by condition 1 shall include details of the proposed surface water drainage to prevent discharge of surface water from the proposed site onto the public highway, and similarly, to prevent the discharge of surface water from the highway onto the site. The approved details shall be implemented prior to occupation.
11.
 - (i) Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal/management have been submitted to and approved in writing by the Local Planning Authority.
 - (ii) Development shall then be carried out in accordance with the details approved under (i) and no occupation of any of the flats hereby approved shall occur until those works have been completed.

and

 - (iii) No occupation of any of the dwellings or flats hereby approved shall occur until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.
12. The reserved matters application required by condition 1 shall include evidence (in the form of hydraulic calculations) with the detailed drainage drawings showing surface water discharge rates that are limited to 5.0l/s for all rainfall events, including those with 1 in 100 (+40% for climate change) annual probability of occurrence. The hydraulic calculations should take into account the connectivity of the different surface water drainage features. This should include evidence that the Southern Water network has capacity to accept the proposed surface water discharge into its network.
13. If a new connection or diversion of a public sewer is proposed, the reserved matters application required by condition 1 shall include details of the permission on the acceptability of this.
14. The reserved matters application required by condition 1 shall include details of the proposed attenuation, storage tank, permeable paving and water butts outlined in the Drainage Strategy Report (2016). The approved details shall be implemented prior to occupation.
15. The reserved matters application required by condition 1 shall include details of a maintenance and management plan for the entire drainage system, including culverted and open watercourses. This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and the appropriate authority should be satisfied with the submitted details. Evidence that these responsibility arrangements will remain in place throughout the lifetime of the development should be provided to the Local Planning Authority.

16. The reserved matters application required by condition 1 shall include a Site Waste Management Plan detailing measures to minimise and manage waste generated by the construction and demolition works. Thereafter the development shall only be carried out in accordance with the approved details.
17. The reserved matters application required by condition 1 shall include details of any plant e.g. to heat the buildings or other equipment. The works shall be carried out in accordance with the details approved and no occupation of any building approved shall occur until those works have been completed.
18. The reserved matters application required by condition 1 shall include a Construction Environmental Management Plan (CEMP) based on the submitted Construction Traffic Management Statement (CTMS).

The document shall also include:

- a) parking provision for site operatives and visitors;
- b) provision for loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) measures to prevent deposit of mud on the highway;
- e) measures to minimise dust during demolition;

The approved CEMP shall be adhered to throughout the construction period.

19. No development shall take place until the measures outlined in the submitted ecological statements and reports have been fully implemented, unless:
 - (i) the programme for such measures is otherwise specified within that document (for example with regard to measures related to monitoring, further survey work, the erection of bird boxes on buildings or other conservation enhancements), in which case the works shall be carried out in accordance with the timescales contained therein or;
 - (ii) unless the scheme(s), or programme(s) of measures contained within the ecological statements and reports is otherwise first varied, by way of prior written approval from the Local Planning Authority.

The submitted reports include

- Update Ecological Appraisal, September 2017 (David Archer Associates)
- The Ecological Appraisal Report, May 2016 (Ash Partnership)
- Report on Badger Activity February, 2017 (Peter Mortimer Badger Consultant)
- Mitigation and Method Statement, March 2017 (Peter Mortimer Badger Consultant)
- Report on Bat Survey, December 2016 (Eagle Trees Management)

20. The reserved matters application required by condition 1 shall include details of the role and responsibilities and operations to be overseen by an appropriately competent person (e.g. an ecological clerk of works, on-site ecologist). The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
21. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared following completion of measures identified in the approved remediation scheme a verification report must be prepared. All the above should be approved in writing by the Local Planning Authority.
22. The reserved matters application required by condition 1 shall include a full and adequate Land Stability and Soils Report, which sets out intrusive site investigation, undertaken in accordance with established procedures. Work shall not proceed until and unless measures deemed to be necessary by the Authority as a result of such report have been incorporated in the development proposals.
23. The reserved matters application required by condition 1 shall include a detailed scheme of external lighting. The approved details shall be implemented prior to occupation. The scheme shall be maintained and shall not be altered without prior written approval of the Local Planning Authority.
24. The reserved matters application required by condition 1 shall include details of open space, planting, and all boundary fences, including provision for free access to wildlife. The approved details shall be implemented prior to occupation.
25. The reserved matters application required by condition 1 shall include a full tree report, which determines where replanting will take place. The approved details shall be implemented prior to occupation
26. The reserved matters application required by condition 1 shall include details of readily accessible external storage space for refuse bins awaiting collection. The approved details shall be implemented prior to occupation
27. The reserved matters application required by condition 1 shall include details of electric vehicle charging points, including a programme for their installation, maintenance and management. The electric vehicle charging points as approved shall be installed prior to occupation of the buildings hereby permitted and shall thereafter be retained and maintained in accordance with the approved details.
28. The reserved matters application required by condition 1 shall include details of appropriate climate change mitigation and adaptation measures as required by Policy SC3 of the Hastings Planning Strategy 2014. The approved details shall be implemented prior to occupation.

Reasons:

1. The application is in outline only.
2. The application is in outline only.
3. This condition is imposed in accordance with the provisions of Section 92 of the Town & Country Planning Act 1990.
4. This condition is imposed in accordance with the provisions of Section 92 of the Town & Country Planning Act 1990.
5. For the avoidance of doubt and in the interests of proper planning.
6. To safeguard the amenity of adjoining residents.
7. In the interests of road safety.
8. In the interests of road safety.
9. In the interests of vehicular and pedestrian safety.
10. In the interests of highway safety and for the benefit and convenience of the public at large.
11. To prevent increased risk of flooding.
12. To prevent increased risk of flooding.
13. To prevent increased risk of flooding.
14. To prevent increased risk of flooding.
15. To prevent increased risk of flooding.
16. To minimise the amount of construction and demolition waste being disposed of in landfill sites.
17. To ensure a satisfactory standard of development.
18. To safeguard the amenity of adjoining and future residents.
19. To protect features of recognised nature conservation importance.
20. To protect features of recognised nature conservation importance.
21. To protect those redeveloping the site and any future occupants from potential landfill gases and soil contamination.
22. To ensure that the construction takes account of the local ground conditions and the sloping nature of the site.
23. To safeguard the amenity of adjoining and future residents.

24. To ensure a satisfactory standard of development.
25. In the interests of the visual amenity and to improve biodiversity.
26. To ensure a satisfactory standard of development.
27. To ensure a satisfactory standard of development.
28. To ensure a satisfactory standard of development in accordance with the requirements of Policy SC3 of the Hastings Planning Strategy.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
3. The applicant is advised that they must ensure the proposed works, hereby approved, do not contravene laws protecting wildlife including the Countryside and Wildlife Act 1981. Where the applicant is in doubt they should contact Natural England on wildlife@naturalengland.org.uk Telephone 020 802 61089 or Environment and Natural Resources on parks@hastings.gov.uk Telephone 01424 451107 prior to commencement of any works.
4. There may be badgers on the site and your attention is drawn to the provisions of the Badger Protection Act 1992. It is a criminal offence to kill or injure a badger; to damage or obstruct access to its sett; or to disturb a badger when it is occupying a sett.
5. No site clearance or tree or hedge removal shall be carried out on site between 1 March and 31 July inclusive in any year, unless otherwise approved in writing by the Local Planning Authority.
6. The applicant is advised that the development is likely to be reliant on the existing public highway being incorporated into the development site and as such must be formally Stopped Up to remove the highway rights over it. A 'Stopping Up' order would need to be processed separately to the planning process in accordance with the Town & Country Planning Act 1990. This process must be successfully completed prior to any highway land being enclosed within the development and before any reserved matters application. In order to commence the stopping up order process, the applicant will need to contact the Department for Transport's National Casework Team (0207 9444115).

The applicant should note that the stopping up is subject to public consultation and objection and therefore success cannot be guaranteed.

7. The applicant's attention is drawn to the need for a licence to construct the access. The applicant should contact East Sussex Highways on 0345 6080193 to apply for a licence to ensure the construction is to an acceptable standard.
8. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk”.

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order of:

- a) Adequate soakaway or infiltration system
- b) Water course
- c) Where neither of the above is practicable sewer

Southern Water supports this stance and seeks through appropriate planning conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. The design of drainage should ensure that no land drainage or ground water is to enter public sewers network.

Officer to Contact

Mrs S Wood, Telephone 01424 783329

Background Papers

Application No: HS/OA/18/00726 including all letters and documents