

**Report to:** PLANNING COMMITTEE

**Date of Meeting:** 06 February 2019

**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** 68 Lower Park Road, Hastings, TN34 2LD

**Proposal:** Link footbridge from first floor level (upper flat) to garden. Sundry landscaping, terracing including provision of raised planters, access steps, water features, external lighting and power (Retrospective).

**Application No:** HS/FA/18/00950

**Recommendation:** Grant permission

**Ward:** BRAYBROOKE 2018

**Conservation Area:** Yes - Blacklands

**Listed Building:** No

**Applicant:** Mr Fitzpatrick per Town & Country Planning Solutions  
Sandhills Farmhouse Bodle Street Green  
Hailsham BN27 4QU

**Public Consultation**

Site Notice:	Yes
Press Advertisement:	Yes - Conservation Area
Letters of Objection:	2
Petitions of Objection Received:	0
Letters of Support:	0
Petitions of Support Received:	0
Neutral comments received	1

**Application Status:** Not delegated -  
Referred by Councillor

## 1. Site and surrounding area

The application site comprises a substantial three-storey, semi-detached Victorian property which has historically been sub-divided into a ground floor flat with a maisonette above (1<sup>st</sup> and 2<sup>nd</sup> floors). The site is located on the south side of Lower Park Road opposite the Grade II\* registered Alexandra Historic Park. The property is set back in a raised position

from the road with steps up to the ground floor entrance level. At the rear the house has a steeply sloping rear garden. A shared access path down the side of the property leads to narrow steps that give occupants access to the rear garden. There is a rear paved patio area for the ground floor flat that is set down at a lower level from the sloping garden level beyond. The site is located within Blacklands conservation area. Neighbouring houses in the area have similarly been converted into flats.

Planning permission was approved 30.05.2018 (see planning history HS/FA/18/00344 below) for development of a rear link footbridge from first floor level to the rear garden. The bridge as approved spanned the rear paved patio area of the ground floor flat and gave the upper flat direct access to their garden area. The footbridge as built is a shorter version of the bridge that was approved. The upper rear garden area has recently been landscaped to provide new pathways, walls, planting, lighting scheme and water features.

### Constraints

Setting of Grade II\* listed park

Conservation Area

Floodrisk 1 in 1000

## **2. Proposed development**

Development of link footbridge from first floor level (upper flat) to garden. Sundry landscaping, terracing including provision of raised planters, access steps, water features, external lighting and power (Retrospective).

The application has been submitted as a result of a related planning enforcement case reference ENF/18/00413 in response to complaints received from neighbouring property. The planning enforcement matter under investigation is:

- (i) Alleged failure to comply with Planning Permission HS/FA/18/00344 for link footbridge from first floor level (upper flat) to terraced garden:
- (ii) Alleged engineering works associated with re-contouring of garden area.

The enforcement investigation found that the footbridge had not been developed according to the approved plans. The footbridge was materially shorter (some 4m) than the 9m footbridge approved and the contravener was advised to apply for planning permission retrospectively in an attempt to regularise the footbridge as developed and the recent rear garden landscaping works that appeared to involve engineering works for re-contouring of garden area.

### The application is supported by the following documents:

Design and Access Statement

Heritage Statement

Planning Statement – January 2019

Site Waste Management Plan

Illustrative Lighting Scheme

Illustrative Water Feature Scheme

Agent response Letter to objections received

## **Relevant planning history**

- HS/FA/18/00344 Link footbridge from first floor level (upper flat) to terraced garden.  
Granted 30.05.2018
- HS/FA/86/00485 Second Floor Flat, 68 Lower Park Road, Installation of new dormer window and internal alterations. Granted 27.08.1986
- HS/FA/48/00151 Internal alterations and change of use from dwellinghouse to two flats.  
Granted 14.09.1948

## **National and local policies**

### Hastings Local Plan – Planning Strategy 2014

- Policy FA2 - Strategic Policy for Central Area  
Policy EN1 - Built and Historic Environment  
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

### 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 DM6 - Pollution & Hazards  
Policy HN1 – Development Affecting the Significance and Setting of Designated Heritage Assets  
Policy HN2 – Changing Doors, Windows and Roofs in Conservation Areas

### Other policies/guidance

#### 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 179 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

### **3. Consultation comments**

#### **Conservation Officer - No objection**

Comment received is that the proposal is not viewable from a public area and therefore has no effect on the setting of the conservation area. No conservation objection.

#### **Environmental Health - Noise - No objection**

Comment received is that Environmental Health has no objection to this proposal. They acknowledge the use of low energy bulbs for the lighting and that they are not on at night. They advise that any motors for the water features are maintained according to manufacturers instructions.

## Building Control - **No objection**

The area surveyor has considered the proposal and raised no objection to it.

### **4. Representations**

4 representations received on behalf of 3 different properties have been received as a result of the display of a site notice. 3 were objections, and 1 general comment. 2 letters were submitted on behalf of a neighbouring occupier. These raised the following issues:

- Loss of neighbour amenity
- Loss of privacy / use of bridge as viewing platform / Use of area at end of bridge for sitting out
- Noise nuisance from water feature pumps and water penetration into courtyard
- Harmful visual impact - footbridge is visually dominant and overbearing/ an alien feature to neighbour vantage points
- Loss of light – bridge casts shadows
- Loss of rear patio enjoyment and out-look
- The rear garden has been re-landscaped and no appropriate surface water drainage was seen to be provided – there is concern that surface water will now flow down towards the back of properties and cause damage to brick walls and flooding issues in rear gardens.
- The footbridge as approved was originally 9000mm but is now approximately 3500-4000mm and slopes down slightly to the rear garden rather than horizontal and an additional set of steps have been provided at the garden end. They would expect Building Regulation approval to be needed for the footbridge and that enquires should be made.
- Retaining walls are shown through the length of the rear garden. E.A.R Sheppard Consulting Civil and Structural Engineers would expect designed / detail of these retaining walls including foundations.
- No surface water collection or drainage is noted on the planning drawings. Given the area of hardstanding is increasing E.A.R Sheppard Consulting Civil and Structural Engineers would expect to see provision of water collection/drainage to appropriate discharge points.
- High level flower beds appear to have been provided against the boundary walls along both sides with the boundary walls.
- Where water tanks exist against the boundary walls damp/water can be seen to the boundary wall suggesting the walls are locally saturated as a result of tank presence. The walls will deteriorate over time at a much faster rate.
- The bridge and principle water features have been constructed on top of a shed belonging to the leaseholder of the Lower Ground Floor Flat 68 Lower Park Road.
- As there are now extensive areas of hard landscaping, it is necessary to know that proper consideration was given to the water drainage and sustainable urban drainage (SuDS).
- The panels attached to the bridge mist over making the bridge appear prominent.

The general comment sought reassurance that:

- Works carried out in relation to the rear garden landscaping meet building regulations.
- Whether the garden shared side boundary walls are engineered to cope with the additional weight from landscaping.
- The raised ground level at the top of the garden means loss of some privacy (this could be addressed through improved screening).
- Paving applied increasing surface water and in turn potentially leading to surface

water flooding - would like to understand what measures have been taken to mitigate this.

- Concerned that the current landscaping could damage the boundary walls and ultimately that surface water will now flow down towards the back of our property and cause water ingress.

They would like to emphasise that their intention is not to jeopardise the planning application, but to ensure that the work carried out is fit for purpose.

## 5. Determining issues

The main planning issues in determining this development are the principle of development, design, impact on character and appearance of the conservation area, impact on neighbour amenity and sustainable development. These matters are addressed below.

### a) Principle

The site is in a sustainable location and the application is therefore in accordance with Policy LP1 of the Hastings Local Plan - Development Management Plan (2015) in this respect and acceptable in principle subject to other local plan policies. The previous application reference HS/FA/18/00344 for a longer footbridge was approved and therefore the principle of whether a footbridge at first floor level between the maisonette and the rear garden is already established.

### b) Impact on character and appearance of conservation area

The site lies with the Blacklands Conservation Area and Policies HN1 and HN2 of the Hastings Development Management Plan and Policy EN1 of Hastings Planning Strategy set policy protecting the significance and setting of heritage assets including conservation areas and seek development that sustains and enhances the heritage asset. In this case the Conservation Officer has been consulted and her comment is that the proposal is not viewable from a public area and has no harmful effect on the setting of the conservation area. The Conservation Officer has no objection to this proposal.

### Footbridge

As per the previously approved footbridge this shorter version would still introduce a somewhat alien feature into the residential rear garden, however, this matter alone is not considered a reason for refusal as the footbridge is located in the rear garden and is not visible from public vantage points.

In addition, the footbridge is formed of visually lightweight materials which ensure that the footbridge is not overly dominant or prominent when viewed from the ground floor neighbouring properties. It is considered that the proposal, by reason of the materials, design and siting, does not overwhelm or harm the character of the application property.

The alteration to the rear elevation fenestration including the replacement of a window for a door to allow access to the footbridge is considered to be minor and would not unacceptably harm the character of the area or the application property. The new door suitably matches the existing timber fenestration on the rear of the building.

The proposed footbridge constitutes a resourceful approach to the stepped gradient of the site by providing direct access to the terraced rear garden for occupants of the upper floor maisonette.

Overall this footbridge is some 4m shorter than the approved footbridge (reference HS/FA/18/00344). It is 5m long, whereas the approved footbridge measured 9m in length. It is attached to the same door opening in the property's rear elevation and slopes gently down to join the upper garden at a lower level than the previously approved longer footbridge that was horizontal. Its reduced height and scale are considered to reduce visual impact on the character of this back garden and surroundings compared to the approved footbridge.

The footbridge link remains as previously approved in terms of its 1.2m width and its construction in galvanised steel beams with perforated decking and with a stainless steel handrail supported by stainless steel tensioned wires with stainless steel balustrade posts. There is a design difference in that transparent plastic panels have been added to in-fill below the handrail on both sides in order to comply with Building Regulations. While concern has been raised that these panels mist over in certain weather conditions and thereby increase the visual solidity of the structure, this is not considered to be significant as to justify refusal of this application.

Overall the scheme is almost identical in design to the approved footbridge, just a shortened version and so as regards impact on the character of the surrounding area is considered to reduce rather than increase visual impact. The proposed footbridge development is considered to be acceptable from a design and conservation perspective and would be in accordance with Policy DM1, HN1 and HN2.

#### Landscaping works

With regard to the rear garden landscaping works that have taken place, it was noted on the site visit that these are not out of character with the walled pathways of the tiered rear garden landscaping at the neighbouring property No.69.

Garden landscaping works that are not part of new housing development do not generally require planning permission. In this case there has been concern raised that the landscaping works that have taken place have amounted to engineering works and for that reason require planning permission. The matter of alleged engineering works that require planning permission is addressed below under the heading 'Sustainable Development'. As regards design impact on the character of the area from the landscaping there is considered to be no planning harm. The choice of landscaping style is personal to the applicants and they have turned what was previously an unkempt rear garden in a smartly designed urban garden scape for the enjoyment of occupants of the maisonette and this is acceptable.

#### c) Impact on neighbouring residential amenities

Policy DM3 of Hastings Development Management Plan requires new development to avoid any adverse impact on the amenity of neighbouring properties. Neighbour objections received include concern over loss of privacy, overshadowing and loss of outlook.

When occupants of the maisonette use the footbridge to access the garden they have a view down to the rear patio of the ground floor flat and view towards the neighbouring dwellings. However, the footbridge is situated above the existing rear lean-to rather than directly over the usable outdoor amenity space of the lower flat. The concern at loss of privacy to the ground floor flat needs to be considered in the context that this rear garden patio area and the property's rear elevation windows can be clearly seen from the rear garden and this was the case before this development took place and remains the case now. While the rear garden may have not been overly used previously, this does not detract from the fact that occupants of the application dwelling may have used the sloping garden and had direct views from it towards the rear of the property and towards neighbouring dwellings. There was nothing to prevent them from laying paved sitting areas if they chose to. The issue is only whether engineering works have taken place and if so whether they have caused significant additional over-looking / loss of privacy.

The natural steep sloping nature of the rear gardens to these properties means that neighbours have garden vantage with pre-existing mutual levels of overlooking between and any additional direct over-looking is not therefore considered to be unreasonable.

The footbridge is not considered to significantly increase overlooking between neighbours as to justify refusal of this application.

The landscaping works that have taken place cover a garden area of approximately 186sqm. They include new hard landscaping pathways, paved areas and sitting areas and such areas are often incorporated into residential gardens without the need for planning permission. The Town and Country Planning (General Permitted Development) (England) Order Schedule 2, Part 1, Class F permits provision of hard surfaces incidental to the enjoyment of a dwellinghouse and while the hard surfacing in this case is for the garden area of flats rather than a dwellinghouse, the extent of hard landscaping is considered to be entirely acceptable. Of the total landscaped area approximately 68.75m is planting beds. The hard landscaping includes a lighting scheme and water features and these features are discussed below under paragraph (e) 'pollution and hazards'.

While the section drawings that have been submitted show that the terracing works that have taken place have pulled some of the higher garden levels forward and provided sitting/viewing areas, it is considered that the additional level of over-looking does not justify refusal of this application. The general comment received from a neighbouring dwelling suggests that this could be addressed through improved screening, but it is noted that the landscaping works have only recently taken place and therefore the planting has not yet had time to mature, which has left the rear garden appearing quite bare at this time. The landscaping works are not considered to cause unacceptable additional over-looking.

At the bottom end of the landscaped area closest to and above the rear patio of the ground floor flat concern has been raised that the occupants of the upper flat now use this garden area partly for utility (to hang washing), partly as a rest area and that the steps from the end of the footbridge cause loss of privacy to the ground floor flat. The garden prior to this development sloped down to the top of the wall that surrounds the rear patio and could at any time be used for domestic utility (to hang washing) or to sit out and so there is considered to be no significant material change in this respect.

The development is considered to cause no significant or unacceptable harm to neighbour privacy.

#### d) Trees and ecology

The development has not resulted in the loss of or adversely affected any trees on or adjacent to the site. The application site comprises a walled, managed residential garden that had limited ecological value in terms of protected species. No ecological surveys are required for this application.

#### e) Air Quality and Emissions/ Pollution and Hazards

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.

Policy SC1 of Hastings Planning Strategy sets policy for managing change in a sustainable way including protecting against light, air, water, land and noise pollution and Policy DM6



seeks to avoid unnecessary light pollution and to protect against noise that is detrimental to neighbour and local amenity.

The Environmental Health Department has been consulted for this application and has raised no objection. There is an external lighting scheme to the garden landscaping and comment received from the Environmental Health Department is that they have no basic objection. Environmental Health acknowledges the use of low energy bulbs for the lighting and that they are not on during the night. The lighting scheme uses two types of lights:

- 1) Modern Matt Stainless Steel Rectangular Double Up & Down Outdoor Wall Light GU10
- 2) Modern Stainless Steel External Up/Down IP44 Rated Outdoor Security Wall Light

The levels of light produced are not considered to have an unacceptably harmful impact upon the residential amenities of neighbouring properties or to cause statutory nuisance.

As regards the water features Environmental Health advise that any motors for the water features are maintained according to manufacturer's instructions and a condition is attached advising the applicant of this.

It should also be noted that should noise or light pollution effects occur, these can be controlled through statutory nuisance regulations, enforced by Environmental Health. To date, Environmental Health colleagues have had no complaints submitted.

#### f) 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. An EIA is not required for this development.

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

The proposed development is located approximately 29 miles km from the Ashdown Forest Special Area of Conservation (SAC), 28 miles from the Lewes Downs SAC and 12 miles from the Pevensey Levels SAC. The proposal is not directly connected with or necessary to the management of the Ashdown Forest, Pevensey Levels or Lewes Downs SACs and therefore it is necessary to determine if the proposal has a likely significant effect on the conservation objective or special integrity of the SACs.

The proposed footbridge is not directly related to increasing the size of the household or the number of households and, therefore, it is considered that the development will not increase the traffic movements generated by the household. The impact on the Ashdown Forest SAC in respect of nitrogen disposition as a result of this application, in combination with other relevant development, will remain unchanged. As such an Appropriate Assessment to consider whether the development could give rise to nitrogen deposition on the SACs is not considered necessary in this instance.

#### h) Sustainable construction

Policy SC1 is for managing change in a sustainable way including managing flood risk. Objection received for this development includes concerns that the landscaping works carried out amounted to engineering works including the development of retaining garden walls and the importation of top soil onto the site such that they required planning permission. Section drawings have been submitted that show the garden levels both before and after the landscaping works and while there have been tiers created which pull the level of some of the higher areas of the garden forward, the increase in levels is not considered to be unacceptable. The new wall to the sides of the created pathways and the walls to the front of paved areas are not considered to give rise to land instability rather they are likely to help retain this sloping garden. There are no identified land instability concerns for this development and the identified level of flood risk is low (only 1 in 1000 change event risk). Prior to the works rainfall soaked into the garden. The way the landscaping has been designed it is considered that the walls will help hold rainwater. At certain points the new pathways are fitted with ACO-drain strips to help the surface water drain and these are not considered to increase rainfall soak-away from the previous garden rate. The submitted Planning Statement states that the garden's water feature has an overflow that, if required during intense rainfall, connects to the existing surface water drainage system linked to the public surface water sewer.

While there has been neighbour concern raised that the re-leveling of the garden and importation of top-soil may have compromised the existing shared garden boundary walls, this would be a civil matter between neighbours and an informative has been attached drawing the applicant's attention to their responsibility under The Party Wall Act.

Building Control has been consulted and their comment is that the area surveyor has considered the proposal and raises no objection to it.

Many of the concerns in the submitted letter by E.A.R Sheppard Consulting Civil and Structural Engineers instructed on behalf of neighbours at No.69 Lower Park Road do not raise significant structural engineering issues, such as:

- whether the garden steps are actually required,
- whether the footbridge is discreet or whether it is overly dominant viewed from neighbour properties,
- whether the perspex side panels to the footbridge are included in this retrospective application,
- whether the footbridge has been used for sunbathing and sitting out while eating,
- whether the bridge gives view of neighbour garden,
- whether the water feature pumps are causing noise nuisance,
- whether the footbridge deck is GRP grating decking when GRP means glass reinforced plastic,
- Drawing to attention that water from the pond on the lower terrace was splashing into/over the courtyard of the Lower Flat of No.68.
- Drawing to attention that flower beds are shown with only low-level plants and no appropriate large vegetation/shrubbery.

The letter does raise the following structural engineering issues and each are addressed in italics below:

- No appropriate guarding exists to the terrace preventing persons falling into the courtyard.

*There is a section of trellis fencing along the edge of the upper garden above the rear patio area. Prior to the landscaping works there was no fencing along this edge. This section of trellis fence is considered to be cosmetic.*

- It asks whether the footbridge beams are in red oxide finish inappropriate for external use.

*This may be a question that the applicant may wish to take this up with his builder.*

- Concern that surface water will drain down toward the back of properties.

*This matter has been addressed above. As discussed above the design of the walls is considered likely to help hold water and the ACO-drain strips across the pathways will help excess soak away. The Planning Statement states that the water feature has an overflow that, if required during intense rainfall, connects to the existing surface water drainage system linked to the public surface water sewer.*

- It appears water is percolating through the rear retaining wall of your/neighbouring properties and also through your courtyard boundary wall where no water percolated before recent landscaping. This is likely to cause damage to the brick walls and flooding issues in the rear gardens.

*As above.*

- Checking the existing outbuilding wall/foundation to accommodate the footbridge loading.

*This is a building control matter. Building Control has been consulted and has raised no objection.*

- Whether the bearing used for the bridge are structurally adequate.

*As above. This may be a building control matter. Building Control has been consulted and has raised no objection.*

- Retaining walls are shown through the length of the rear garden. We would expect designed/details of these retaining walls including foundations.

*Submitted section drawing H3055-31 Rev P3 shows that the walls that may be seen as retaining / supporting walls are of a low height that give rise to no planning concern. Building Control has been consulted and they have no concerns.*

- The area of hardstanding is increasing I would expect to see provision of water collection/drainage to appropriate discharge points.

*A significant part of the garden is covered by soft planting areas (approximately 68.75sqm) that will hold rainfall. A large portion of garden (approximately 117sqm) is now covered in various hardstanding. Much of this hardstanding is slab paving and ACO drain strips have been fitted as shown on drawing no. H3055-031 P3. The*

*Planning Statement states that the paved areas have numerous drainage points, with the surface water being discharged directly into the public surface water drain.*

- It appears high level flower beds have been provided against the boundary walls along both sides with the boundary walls either in half brick thickness and/or in poor condition.

*The applicant's attention is drawn to the provisions of the Party Wall Act.*

- Where water tanks exist against the boundary walls damp/water can be seen to the boundary wall suggesting the walls are locally saturated as a result of tank presence. The walls will deteriorate over time at a much faster rate.

*The applicant's attention is drawn to the provisions of the Party Wall Act.*

The Local Planning Authority is satisfied that the landscaping works that have been carried have not given rise to land instability or a significant increase in flood risk that would justify refusal of this application.

The style of landscaping is down to the applicants. There are soft planting areas sufficient to support biodiversity and water features are incorporated which are generally recommended by Ecology Consultants to enhance biodiversity. The footbridge and sundry landscaping is considered to be acceptable sustainable development.

## **6. Conclusion**

For the reasons set out above the development is considered to be acceptable. There is considered to be no unacceptable harm to neighbouring residential amenity that would justify refusal of this application due to the existing levels of mutual over-looking with and between neighbouring properties. The footbridge is situated at the rear of the property and is not harmful to the character of the conservation area. The development is considered to be reasonable sustainable development that increases the garden enjoyment of occupants to the application maisonette for current and future occupants and includes features that can enhance biodiversity and I recommend approval subject to the imposition of planning conditions.

These proposals 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.

## **7. Recommendation**

### **Grant permission subject to the following conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
H305055-011-P3, H305055-022-P2, H305055-0310-P2, H305055-031-P3, H305055-032-P1, H305055-030-P3, H305055-020 P1
2. Motors for the water features must be maintained according to the manufacturer's instructions at all times.

### **Reasons:**

1. For the avoidance of doubt and in the interests of proper planning.
2. To safeguard the amenity of adjoining and future residents.

### **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. Your attention is drawn to the requirements of the Party Wall etc. Act 1996. This planning permission does not convey the right for the development to encroach over, under or on land which is not within your ownership without the consent of the landowner.

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### **Officer to Contact**

Ms N Ranson, Telephone 01424 783253

### **Background Papers**

Application No: HS/FA/18/00950 including all letters and documents