

Report to:	PLANNING COMMITTEE
Date of Meeting:	19 January 2021
Report from:	Assistant Director of Housing and Built Environment
Application address:	Rocklands Private Caravan Park, Rocklands Lane, Hastings, TN35 5DY
Proposal:	Variation of condition 2 (approved plans) of Appeal Decision APP/B1415/C/15/3029007 (EN/15/00028, HS/FA/14/01036) Amendments to balcony fenestration, appearance of the dining area window (north side - omitting opening casement) and omission of middle balcony post on south side
Application No:	HS/FA/20/00470
Recommendation:	Grant Full Planning Permission
Ward:	OLD HASTINGS 2018
Conservation Area:	No
Listed Building:	No
Applicant:	Mr & Mrs Guilliard per CLM Planning Limited 14 Magpie Close Bexhill on Sea East Sussex TN39 4EU
Public Consultation	
Site notice:	Yes
Press advertisement:	Yes - General Interest
Neighbour Letters:	No
People objecting:	9
Petitions of objection received:	0
People in support:	0
Petitions of support received:	0
Neutral comments received:	0
Application status:	Not delegated - 5 or more letters of objection received

1. Site and surrounding area

This application relates to the existing holiday let building, sited at the southern end of Rocklands Caravan Park. The caravan park itself is sited wholly within the High Weald Area of Outstanding Natural Beauty (AONB), the Hastings Historic Core Archaeological Notification Area (ANA), and is an area susceptible to groundwater flooding in its entirety.

In addition to the above, the following designations also affect the holiday let building and its surrounding area, to which this application relates:

- Scheduled Ancient Monument (SAM) designation
- Conservation area buffer zone (20m)

The caravan park boundary is also directly adjacent to the:

- Old Town Conservation Area
- Hastings Country Park
- Hastings Country Park and Fairlight Place Farm Local Nature Reserve
- Hastings Country Park Local Wildlife Site

Land both within Hastings Country Park (owned by Hastings Borough Council) and the caravan park (owned by the applicants) has in the past been subject to a land slip, which resulted in the loss of vegetation on the southern slopes of the caravan park and the cliff.

The caravan park is screened in the most part from the surrounding Country Park by the protected woodland on the north-eastern and south-western boundaries. The caravan park is accessed by a narrow lane leading off Barley Lane to the north.

2. Proposed development

This application seeks to vary condition 2 (approved plans) of Appeal Decision APP/B1415/C/15/3029007 (EN/15/00028, HS/FA/14/01036), an application for a holiday let building, originally approved under HS/FA/12/00952. The holiday let building has been subject to an extensive planning history, with an appeal against an enforcement notice being upheld at appeal in 2016 but varied to allow the retention of the holiday let, thereby approving planning permission for the holiday let building (as amended under HS/FA/14/01036), which was initially refused by the Local Planning Authority.

This application proposes 3 amendments to the scheme approved at appeal, to regularise development that has not been undertaken in accordance with the approved plans. These works are:

- Inclusion of additional balustrade posts within glazed balcony for structural support reasons
- Amendment of window design on north elevation, to omit the opening casement
- Omission of middle balcony post on the south side, between the ground and balcony above

The white upvc down pipes included on the submitted drawing were approved as part of the drainage discharge of condition application HS/CD/16/00655 and are not for further consideration here.

No other elements of the holiday let building are being considered as part of this application. Any other alterations may be subject to further applications for planning permission, if necessary.

The application is supported by the following documents:

- Heritage Statement (CLM Planning, July 2020)

Relevant planning history

HS/FA/19/00172	Construction of paving slab patio around holiday let building GRANTED 14 August 2019
HS/PR/19/00279	Application for a Certificate of Proposed Lawful Use of parking area for temporary siting and storage of caravans REFUSED 29 August 2019
HS/TP/18/00769	Works relating to trees identified as L1 to L6 and L9 to L13 inclusive, including pruning, cutting back of branches, reduce in height and re pollard GRANTED 26 July 2019
HS/FA/17/00772	Application for prior written consent for various tree works as reserved by condition 4 (works to trees) of Planning Application HS/FA/78/00708 GRANTED 13 December 2017
HS/FA/17/00294	Erection of 13 ground based solar panels on hardstanding to be retained with associated cabling and wall mounted controllers GRANTED 19 October 2017
HS/TP/16/00089	Various tree works GRANTED 15 July 2016
HS/FA/15/00528	Retention of ground mounted solar panels within the garden REFUSED 11 December 2015
EN/15/00028	Without planning permission, the construction of a two storey building ENFORCEMENT NOTICE UPHeld AND AMENDED, PLANNING PERMISSION GRANTED FOR SCHEME '3A' 7 June 2016
HS/FA/14/01306	Retention of holiday let building (with reduction to balcony area to the dimensions permitted by HS/FA/12/00952) and access ramp. Relocation of solar panels to roof of holiday let building. REFUSED 4 March 2015
HS/FA/14/00406	Variation of condition 2 (approved plans) of planning permission HS/FA/12/00952 - Minor amendment showing change of ground floor plan, additional & altered window positions & extended balcony (Retrospective) REFUSED 18 June 2014

- HS/CD/13/00792 Discharge of conditions 4 (colour of render) & 5 (screening) of application HS/FA/12/00952
GRANTED 21 January 2014
- HS/FA/12/00952 Proposed demolition of current holiday let and replacement of a new holiday let
GRANTED 13 February 2013
- HS/FA/12/00471 Proposed demolition of current holiday let and replacement of a new holiday let
REFUSED 19 July 2012
- HS/FA/11/00043 Removal of condition 2 from Planning Permission HS/FA/10/00492
REFUSED 16 March 2011
- HS/FA/10/00492 Roof Alterations to form first floor accommodation
GRANTED 5 October 2010
- HS/FA/08/00869 Replacement Holiday Dwelling
REFUSED 16 March 2009
- HS/FA/89/01067 Erection of extensions to existing bungalow
REFUSED 4 April 1991
- HS/FA/78/00708 Siting of 10 additional caravans
GRANTED 4 April 1979

National and local policies

Hastings Local Plan – Planning Strategy 2014

- Policy FA5 - Strategic Policy for Eastern Area
- Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
- Policy EN1 - Built and Historic Environment
- Policy EN3 - Nature Conservation and Improvement of Biodiversity
- Policy EN5 - Local Nature Reserves (LNR)
- Policy EN6 - Local Wildlife Sites (LWR)
- Policy EN7 - Conservation and Enhancement of Landscape

Hastings Local Plan – Development Management Plan 2015

- Policy LP1 - Considering planning applications
- Policy DM1 - Design Principles
- Policy DM3 - General Amenity
- Policy DM5 - Ground Conditions
- Policy HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)
- Policy HN4 - Development affecting Heritage Assets with Archaeological and Historic Interest or Potential Interest
- Policy HN8 - Biodiversity and Green Space
- Policy HN9 - Areas of Landscape Value

Other policies/guidance

National Design Guide
High Weald AONB Management Plan

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.

3. Consultation comments

High Weald AONB Unit – Standard response received advising that the Local Planning Authority should assess the impact of the application on the AONB having regard to relevant national and local plan policies.

Historic England – **no comments received**

Building Control – Comment that if the works will result in the loss of a support post to the balcony that other design solutions will need to be in place to provide the suitable level of structural support.

It is noted that this matter is not within the remit of Planning Services and is not relevant to the determination of the application. Matters of structural stability are governed by Building Control Legislation.

4. Representations

31 letters of objection have been received from 9 different organisations/individuals following publicity of this application by way of site notices placed around the site. These raise the following concerns:

- Retrospective applications should not be allowed to continue.
- Scale of amendments is too great to be considered a variation of condition.
- Issues in respect of structural support of the balcony.
- Fire safety issues from the proposed change to the window.
- Application is on Hastings Borough Council land, and therefore the correct certificates have not been signed.
- Failure to discharge conditions
- Unclear whether a paved area as mentioned in the Heritage Statement is a part of the application or not; archaeological and drainage implications if it is a part of this application.
- Thinks the depth of the balcony is not accurately depicted on the submitted drawings.
- The current application should be amended to include the unauthorised retaining walls and other unauthorised works that have been built in the redline area but are not shown on the plans.
- All references to application H/FA/14/01036 should be removed as this was refused.
- Freedom of Information request did not provide all information.
- Reference to previous communications on other planning breaches on the site with the Enforcement Officer
- Works have been carried out without Scheduled Monument Consent.
- Balcony was built across the entire south elevation extent (non-compliant to the approved plans) and then reduced in size post complaints.
- As the developer did not conform to the approved plans when he added an extension to the balcony - has he rendered the permission invalid, or could it be argued that the

'new' permission has not been implemented as it does not conform to the revised approval?

- The application is partial and does not cover all known issues. A fresh and full application covering all aspects of the building should be submitted once enforcement issues have been investigated and a full independent remeasurement carried out.
- Wishes this response to be considered a Stage 1 Complaint under Council's Complaints Procedure.

The above comments are noted. The relevant planning concerns raised are discussed in the report below. The size (width) of the balcony facing East Hill (southern elevation) has been reduced to be in compliance with the approved plans subsequent to enforcement interventions and as such this aspect does not need to be considered as a part of this application. Whilst it is accepted that the balcony was originally built larger than approved, this does not render the permission invalid, nor does it form part of the consideration of this application, noting that the matter has been regularised.

Many comments have also been made regarding other matters that do not relate specifically to this application, for example, concerns regarding the retaining walls and excavations, other planning breaches on site and communication with various officers of the Council. These have or are being dealt with separately, some through the complaints process, and do not relate to this application. Therefore, such matters are not given consideration within the remainder of this report. The complaint process is a separate procedure and not dealt under Planning Legislation. This has to be addressed by the complainant directly in accordance with the Council's Complaints Procedure.

5. Determining issues

The principle of the holiday let building within Rocklands Caravan Park has already been agreed through an earlier planning consent and the Planning Inspectorate's appeal decision as part of APP/B1415/C/15/3029007. The scale, mass and detailed consideration of the impact of building as a whole has therefore, already been considered and will not be re-assessed here.

This application seeks retrospective approval for some minor amendments to the first floor balcony, balcony posts and window detail only. Given the site's sensitive location in terms of the Area of Outstanding Natural Beauty and other environmental designations, the impact of these amendments on the character and appearance of the area, as well as the wider landscape, are the most key considerations.

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 (2015) in this respect and acceptable in principle subject to other local plan policies.

b) Impact on character and appearance of area

For clarity, each of the three elements of change are discussed in turn below:

Additional balustrade posts

Approved drawing 11.396/14 shows the following numbers of balustrade posts between the glass panes on each of the following elevations:

- East elevation – 4 posts in total (1 on each corner, and 2 spaced out in the middle)
- South elevation – 3 posts in total (1 on each corner, and 1 centrally)
- North elevation – 2 posts in total (1 on each corner)
- West elevation – 2 posts in total (1 on each corner)

The approved plan shows a more significant expanse of glazing forming the balcony than has been constructed. The additional posts are placed approximately 1.2m apart. As a result, the additional balustrade posts are evenly spaced out across the length of the balcony, as it extends around the building.

Whilst the former expanse of glazing gave a more uninterrupted appearance to the balcony glazing, the inclusion of additional posts is not considered to detract from its appearance. The balustrade posts are constructed of the same materials as those approved and ensure consistency in terms of spacing around the balcony. They are not considered to cause any further harm to the character and appearance of the building or affect the wider landscape views.

In respect of the additional balustrade posts therefore, it is considered that the proposal is in accordance with Polic EN1 of the Planning Strategy, as well as Policies DM1 and HN1 of the Development Management Plan, in that they do not cause harm to the quality or character of the area, and the visual impact is appropriate to the location.

Amendments to window design

Approved drawing 11.396/14 shows the upper floor window on the north elevation to include an opening casement. This has been omitted, and the installed window comprises no openings. This does not affect the principle of a window in this location, and its impact in terms of appearance is de-minimus. It is not considered that any harm is caused to the character and appearance of the area as a result of this change in window design. Policy HN1 of the Planning Strategy, and Policies DM1 and HN1 of the Development Management Plan are therefore complied with.

Omission of balcony post

The balcony post not constructed is on the southern elevation, adjacent to the heavy screening separating the holiday let building from the Country Park. Therefore, it is not visible from the public realm, and there is no resultant impact on the character and appearance of the area.

c) Heritage matters

It is acknowledged that the holiday let building is located within a Scheduled Ancient Monument designation area, as well as an Archaeological Notification Area. However, no groundworks are involved with the amended scheme, and as such, these designations will not be affected.

Policy HN1 of the Planning Strategy, and Policy HN4 of the Development Management Plan are therefore complied with.

It is noted that comments have been made in respect of paving areas in the Heritage Statement. No such paving areas have been mentioned in the Heritage Statement submitted with this application. No paving areas are a part of this application.

d) Impact on amenities

The additional balustrade posts and omission of balcony support post will have no impact on the amenities of either future occupiers of the holiday let building, or other residents of the Caravan Park given their minor nature, and the fact they are for the most part, completely out of view.

Concern has been raised regarding fire access given the omission of the opening of the window on the north elevation. Whilst fire access is a Building Regulation matter, it is important to note that there are large, opening patio doors on the eastern elevation, which will ensure access out onto the balcony, are located in the same room and in very close proximity to the proposed non-opening window.

Taking the above into account, the amendments to the approved plan are not considered to cause harm to residential amenities. Policy DM3 of the Development Management Plan is therefore complied with.

d) Trees

The amendments do not have any impact on protected trees within the site, and relate to the holiday building only.

e) Other matters

Retrospective nature of the application

Whilst retrospective applications are regrettable, the submission of this application has followed appropriate enforcement action and seeks to regularise the situation. The retrospective nature of the application is not a material consideration that justifies refusal of permission.

Scale of amendments

There is no clear definition of what constitutes a minor material amendment, although the Council has adopted its own guidelines on this matter. The amendments proposed are minor in nature and therefore this variation of condition application is an appropriate mechanism to regularise the works undertaken.

Balcony Depth

Concerns have been raised in respect of the depth of the balcony not being in accordance to the submitted drawings. It has been commented that the depth might be some 0.4m deeper than what is shown on the drawing. However, this allegation is baseless. Both balconies have been measured, are 2m in depth and are in accordance with the approved plans.

Structural Stability

It would appear that there should be no concerns regarding the structural stability of the

balcony as a result of the omission of the balcony support on the south elevation, noting that the spacing without support posts on the eastern elevation (as approved) exceeds the spacing on the south. Building control have commented that the removal of the post could require mitigatory measures elsewhere in the design. Nevertheless, the issue of the structural stability of the building in terms of its construction, is a matter to be dealt with through the Building Regulations process, outside of Planning control.

Ground Stability

Furthermore, a structural report has been submitted to demonstrate that the removal of the support post underneath the balcony on the south elevation will not impose risk of instability/collapse in respect of ground stability.

Land ownership

The holiday let building is not on land owned by Hastings Borough Council. As such, the correct ownership certificates have been signed. In any instance land ownership issue is a civil matter and cannot be dealt under Planning Legislation.

Discharge of conditions

For information purposes only, applications have been received to discharge all the conditions set out in the Appeal Decisions, subject to being implemented in accordance with the details approved. The relevant discharge of conditions applications are as follows:

HS/CD/16/00655 - Discharge of condition 4 (details of the planting scheme and soft landscaping), 6 (archaeological monitoring), 7 (foul and surface water drainage scheme) and 8 (external colour scheme) of Appeal A ref: APP/B1415/C/15/3029007 - (EN/15/00028),
HS/CD/18/00371 - Discharge of condition 8 (external colour scheme) of Appeal A ref, APP/B1415/C/15/3029007 - (EN/15/00028)

The details submitted were considered to be acceptable.

6. Conclusion

The amendments to the approved scheme in terms of additional balustrade posts, window design and the omission of a support column are not considered to cause additional harm to heritage assets, the character and appearance of the area, or the wider landscape. Residential amenities will not be affected. The proposals therefore 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 Full Planning Permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plan: Dwg No 11.396/14D. It shall involve a reduction of 400mm in the height of the parapet of the constructed building surveyed by M J Zara Associates as set out in Standen Associates Ltd's report submitted to the Local Planning Authority on 14 September 2014 (Document C6).
2. The building permitted by this planning permission shall be used as holiday accommodation only and shall not be occupied by any one person for more than 56 days in any one calendar year, and at no time shall be used as permanent accommodation or as the sole living unit of any occupant.
3. The planting and soft landscaping is to be provided in accordance with the Planting Schedule and Planting Maintenance Specification (The Mayhew Consultancy Ltd, July 2017), approved under HS/CD/16/00655.
4. All planting, seeding and turfing detailed in the approved planting and soft landscaping scheme shall be carried out in accordance with the approved implementation programme, or with the written agreement of the Local Planning Authority, in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. Archaeological works shall be completed in accordance with the Written Scheme of Investigation (Archaeology South-East, August 2016) and Watching Brief Report (Archaeology South East, December 2016) approved under HS/CD/16/00655.
6. The drainage scheme shall be implemented prior to occupation, in accordance with drawing 11.396/03E approved under HS/CD/16/00655.
7. The external colour scheme for the building shall be implemented in accordance with drawing 11.396/03F approved under HS/CD/18/00371 prior to occupation, and retained in full thereafter.

Reasons:

1. For the avoidance of doubt and in the interests of proper planning.
2. To protect the amenity of the area where the establishment of a permanent

residential unit would be unsustainable

3. In the interests of visual amenity
4. In the interests of visual amenity
5. To safeguard the archaeological and historical interest of the site
6. In the interest of environmental health.
7. In the interests of visual amenity

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. This planning permission has been issued as a variation to Appeal Decision APP/B1415/C/15/3029007 (EN/15/00028, HS/FA/14/01036) . The conditions listed above are copied from the previous permissions and may have already been discharged. If the conditions have been dealt with previously you will not be required to deal with those conditions again, unless matters associated with those conditions have changed. Any outstanding matters required by condition should be submitted to the Local Planning Authority as soon as possible. There may also be informatives from the previous permissions which still apply.

Officer to Contact

Ishita Sheth, Telephone 01424 783329

Background Papers

Application No: HS/FA/20/00470 including all letters and documents