

**Report to:** PLANNING COMMITTEE

**Date:** 04 March 2015

**Report from:** Head of Housing and Planning Services

**Application Address:** **Rocklands Private Caravan Park,  
Rocklands Lane, Hastings, TN35 5DY**

**Proposal:** **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.**

**Application No:** **HS/FA/14/01036**

**Recommendation:** **REFUSE**

**Ward:** OLD HASTINGS

**File No:** RO45100T

**Applicant:** Mr & Mrs Guillard per CLM Planning Limited 14  
Magpie Close Bexhill on Sea East Sussex  
TN39 4EU

**Interest:** Freeholder

**Existing Use:** Holiday let

**Policies**

Hastings Local Plan 2004: T7, L1, L2, L3, DG1, DG3, DG7, DG8, DG21,  
C1 and C6

Conservation Area: No

National Planning Policy Framework: Paragraphs 17, 109, 115, 117, 118, 120, 121,  
126, 128, 129, 131, 132, 133

Hastings Planning Strategy: SC1, FA5, EN1, EN5 and EN7

Hastings Local Plan, Development  
Management Plan, Revised

Proposed Submission Version: DM1, DM3, DM4, DM5, HN1 and HN4

**Public Consultation**

Adj. Properties: Yes

Advertisement: Yes - General Interest

Letters of Objection: 463

Petitions Received: 1

Letters of Support: 4

**Application Status:** Not delegated - Previous application refused by  
Committee

## Summary

The proposal is a full planning application to retain a holiday let building that has been partially constructed without planning permission in the south west corner of Rocklands Holiday Park. The building is similar to a previous planning consent granted in 2012, but the differences are considered to be sufficiently material to warrant a fresh planning application. The main issues are the relationship of this proposal to the previous planning consent, the landscape impact, the impact on the historic environment, the impact on residential amenity, the impact on nature conservation interests, the ground conditions and drainage and tourism development.

On balance I am of the opinion that planning permission should be refused.

This proposal relates to a previous application heard at planning committee. The Council's scheme of delegation requires this application also to be put to the planning committee for determination.

## The Site and its Location

The application site lies within the Rocklands Caravan Park, which sits within the Hastings Country Park and within the High Weald Area of Outstanding Natural Beauty (AONB). The application site lies at the south western edge of the caravan park.

The site also lies within the setting of the Hastings Old Town conservation area, the boundary of which lies to the west and south of the application site and shares the southern boundary of the site with the conservation area.

The application site also lies partially on, and within the setting of a Scheduled Ancient Monument (SAM) and lies within an Archaeological Notification Area.

Land close to the application site, both within Hastings Country Park (which is owned by the Borough Council) and the caravan park (which is owned by the applicants) has been subject to a landslide, which resulted in the loss of vegetation on the southern slopes of the caravan park and the cliff, and has affected a footpath which ran along the southern edge of the caravan park. This footpath is no longer safe to use.

## Details of the Proposal and Other Background Information

This is a full application which seeks planning permission to retain a two-storey holiday let building that has been partially constructed at Rocklands Holiday Park. The shell of the building has been constructed but the building is not complete.

In addition to the retention of the partially constructed building, this application also seeks consent to make some alterations to it:

- A reduction of the size balconies to be similar to a previous planning consent (HS/FA/12/00952),
- The location of solar panels on the roof,
- Further landscaping to the south, east and west,
- Some changes to window and door treatments.
- A ramp constructed for vehicular access will be cleared away and restored.
- Landscaping to the south and the north.

Any other buildings marked on the plan but outside the application site (red line) area do not

form part of this application.

This application is similar to a previous application that was refused by this planning committee in June 2014 (HS/FA/14/00406). That application sought to amend a previous planning consent (HS/FA/12/00952 - granted on delegated authority) which is similar to this current proposal. However the differences between the 2012 proposal and this current proposal are sufficiently material to require a fresh planning application.

In addition, HS/FA/14/00406 was not supported by accurate plans and was not supported by appropriate evidence.

The current application building does not therefore benefit from planning permission.

The main differences between the constructed building and the consented building (HS/FA/12/00952) are:

- The building has been re-sited/re-orientated to face further south
- The ground levels are 0.15m higher.
- The ground floor has been extended in the south west corner
- The height of the building has been increased by 0.6m (to 6.2m in total)
- The balconies extend further from the building.

There have also been some changes in circumstances at the application site in the period since planning permission HS/FA/12/00952 was granted. These are the landslip in February 2014 and the loss of vegetation as a result. Some hedging was also removed on the east/south of the application site as a result of the construction.

## **Previous Site History**

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 05 October 2010

HS/FA/08/00869 Replacement Holiday Dwelling

Refused 16 March 2009

HS/FA/89/01067 Erection of extensions to existing bungalow  
Refused 04 April 1991

## Details of Consultations

At the time of writing there have been 463 objections to the proposal. These follow neighbour consultation, site notice and an advertisement in the Hastings and St Leonards Observer. The neighbour consultation officially began on 5th January 2015. The application was registered complete on 19 December 2014, but the delay in the notification was deliberate so that the statutory 21 days consultation period did not run over the Christmas period. Representations received before the official start of consultation in early January have been taken into account.

The issues raised by local objectors are:

- Adverse visual impact of the building in the AONB and/or Country Park in terms of scale, bulk, massing, design, colour.
- There is no landscape justification.
- There has been a loss of trees on the site.
- The screening will not be adequate.
- Adverse impact on the Scheduled Ancient Monument/Conservation Area
- The original building should not have been permitted.
- The existing building should be removed and the site either returned to its previous condition or to contain a single storey building.
- The changes to the building are not sufficient to make it acceptable,
- The solar panels exacerbate the harmful impact.
- There is criticism of the fact the building has not been constructed according to approved plans.
- Adverse impact on the SSSI and nature conservation interests.
- Criticism of Council actions to date and failure to enforce against breaches of planning control.
- This is the same proposal as previously refused.
- The application is flawed and misleading.
- The building/drainage has caused or will cause subsidence.
- It would set a precedent.
- It negatively affects tourism.
- There is no disabled access.

At the time of writing there have been 3 letters of support, one feels some of the comments and actions are akin to a witch-hunt against the applicants and there is no blight on the landscape.

## Statutory Consultees

The **High Weald AONB Unit** made the following points, noting that this was a desk-based assessment of the application proposals:

- The submitted planning statement makes no reference to landscape impact.
- The High Weald AONB Management Plan recognises the aesthetic appreciation of the landscape and as such, High Weald AONB Unit would have expected a Landscape and Visual Impact Assessment to accompany this application.

- The physical mass, size and scale of the proposed development in such a prominent location is likely to have a considerable adverse effect of peoples enjoyment of the landscape and the building does not contribute to the conservation and enhancement of the natural beauty of the High Weald.

The **Council's Amenities, Resorts and Leisure Department** objects to the development on the grounds that it materially and detrimentally affects the character of the protected landscape and as such, conflicts with local and national planning policy.

The **Council's Head of Environmental Services** raises no objections.

The **Council's Head of Communications and Marketing** supports the principle of development in the light of a shortage of good quality self-catering accommodation in the town and it adding to the local economy. The sensitive location is acknowledged and appropriate screening is supported.

The **Council's Building Control Manager** notes that additional weight of the panels on the roof will require an assessment of the structural ability of the roof to accommodate the load.

The **Environment Agency** raises no objections to the proposal.

**East Sussex Archaeological Unit** broadly agrees with the submitted Heritage Statement. The Unit does not agree that the wider setting has little contributory relevance and finds that the present day coastal promontory location does contribute to its significance. The presence of the building has a potential impact on that setting physically and visually and appropriate mitigation (design and planting) should be agreed to minimise impacts. The Unit agrees that there remains potential for impacts from these proposals. If planning permission is granted a programme of archaeological works should be undertaken to enable archaeological deposits and features. These recommendations are in line with requirements of the National Planning Policy Framework.

**English Heritage** focuses its attention on the heritage significance of the SAM. In summary, EH considers that the proposal will have a number of small effects on the heritage significance of the SAM. However, they recommend that even though great weight should be given to the consideration of designated heritage assets they do not think that the likely harm to heritage significance is great enough to justify refusal of planning permission. If planning permission were to be granted English Heritage recommends that the proposed planting will be effective in year round screening in views from the SAM so that its visibility is similar to the previous bungalow, although it is acknowledged that it is likely to be more visible. Also a programme of archaeological work should be required. It notes that any work that disturbs the ground will require Scheduled Ancient Monument consent.

The **Council's Conservation and Design Team** notes the previous consent granted in 2012 and that, at that time, due regard was had to the SAM, but that the setting of the conservation area was not referenced. Whilst the development as constructed does demonstrate visual subservience to the adjacent built form on the site, it is visually dominant in view within the Country Park, the AONB and the conservation area. It is noted that had the building been constructed as consented, it would still have been a perceived adverse visual impact in the conservation area. The increase in height adds further harm to the setting of the conservation area. The harm to the setting has already been established by the determination of the 2012 consent. However this is compounded by the loss of established trees and hedging. The remodelling of the west elevation is largely screened and does not adversely affect the conservation area, SAM or AONB. Moving the solar panels from the grassed bank is welcomed, but their location on the roof would be an unwelcome intrusion

into the landscape.

**Natural England** raises no objection. Regarding statutory nature conservation sites it raises no objection. On protected landscapes it does not wish to comment, and advises the Council to seek the advice of the AONB partners (High Weald AONB Unit). On protected species it refers to its Standing Advice. On local sites the authority should ensure it has sufficient information before an application is determined.

**Southern Water** raises no objection.

The **Borough Arboriculturalist** describes the site's character and constraints. New planting is challenging and new plants take a long time to mature. He notes that the landscaping scheme includes a mix of deciduous trees and evergreen shrubs, intending to provide all year round screening. He agrees that the choice of species is acceptable and suggests adding in Aspen and Holm Oak. He has some doubts if the number of plants will cover the two sites proposed for planting and requests that they be required at denser plantings.

### **Other Consultees**

The **Hawthorn Area Residents Association** objects to the application. It considers that this current application still seeks to deceive the Council and third parties. It points out inconsistencies between all previous planning applications. It considers that this application remains insufficiently detailed. It feels that the refused application for a similar development should stand and that enforcement action should be taken to demolish the building. The application does not conform to policies in the adopted and emerging development plan relating to layout, density of building design, visual appearance and finishing materials, inadequate or inappropriate landscaping, loss or effect on trees, adverse impact on nature conservation interests and biodiversity opportunities and effect on listed buildings or conservation areas.

**Save Ecclesbourne Glen** objects on the following grounds:

- Too large and prominent
- No dimensions are shown on the drawings
- Destroys beauty of Country Park and AONB
- Design fails to address disabled access
- Natural England Consultation is flawed
- Contravenes Ecological Policies/EU Directives and UK Statutes
- Contrary to local and national planning policies
- The application documents are misleading and elements are missing
- Serious flaws in the planning process that require to be addressed.
- It is the applicant's intention to make the building permanently residential.
- There is concern that the application is not a full planning application, that it remains an amendment of a previous application, and consultees have not appreciated this point.

**Save Ecclesbourne Glen** also makes further comments on the Heritage Statement;

- It does not adequately cover the required issues,
- The group does not agree with English Heritage's response on the impact on the SAM,
- The previous works have not been addressed,
- The application site was not assessed by the Coffey report,
- Foul and surface water drainage needs to be assessed,
- The submitted geotechnical report has drawn its own conclusions.
- There is no consultation with Building control on foundations

- Underground services will affect the SAM

**Save Ecclesbourne Glen** also object on the lack of an ecological survey on the application site.

A petition of 17 names has been received. Some of the names listed also wrote independent letters of objection. The petitioners object on the following grounds:

- This building is significantly larger than the previous bungalow and has an adverse impact on the SAM, Ecclesbourne Glen and the High Weald Area of Outstanding Natural Beauty,
- It is overbearing and out of character with the conservation area
- Destroys the beauty of the Country Park,
- Has damaged the SAM
- The planting will not achieve screening,
- Contravenes Ecological policies
- Provides insufficient information on drainage
- Application is insufficient and incorrect with elements missing
- There are flaws and omissions in the planning process
- Fails to meet disabled access requirements.

The **Croft Residents Association** objects on the grounds that the additional solar panels and the retention of balconies would have a harmful impact on the High Weald Area of Outstanding Natural Beauty. The previous application should not have been granted. The proposed building is located close to a favourite walk and alters that part of the park from rural to suburban. Permission should be revoked. Trees were removed or cut back to construct the building. Should planning permission be granted a scheme of replacement planting should be submitted, approved and implemented before occupation.

The **Old Hastings Preservation Society** objects. The structure as built is detrimental to the SAM and the AONB. It is highly visible from the AONB and the loss of the screening vegetation is to be regretted. The proposed planting does not represent the range that has been lost. The trench required for the planting will remove any archaeology; if this is granted then all works should have archaeological supervision. The works undertaken to date have caused the loss of historical information and there should be added protection for any archaeological information. The current building detracts from the setting of the SAM. The December 2012 consent should not have been granted.

The **Burtens' St Leonards Society** object. They objected to HS/FA/14/00406 and the same grounds apply. Hastings Country Park is greatly admired and has been so for many years, before it was designated. If consent is granted it will be irreparably spoilt and the tourist industry would suffer.

The **Friends of Hastings Country Park** object. Planning permission should not have been granted for the previous consent, which has led to the construction of the current building and loss of screening. Previous consultation responses were based on flawed information. The current application is flawed, misleading and confusing. The Area of Outstanding Natural Beauty and the SAM must be given great weight and the application must therefore be refused. The applicants should consider replacing the current building with a single storey in brick and tile and like for like replacement of screening. A reasonable and proportionate scheme would be acceptable to statutory authorities and local people. The building is a disaster to the landscape, the SAM and should be removed.

Public comments were also sought on an additional document, figure 1 of the geotechnical report that was submitted on 5th February 2015.

The **Save Ecclesbourne Glen Campaign Group** has objected on the grounds that the missing figure 1 from the submitted geotechnical report was not noticed until late in the planning process, that there is confusion over dates and figure reference numbers, the figure 1 (with hand-written notation) is not legible, was supplied by the applicants experts and distorts the facts and has inaccurate measurements and that the Coffey report should have been submitted with this planning application. It also expresses concern regarding a letter sent to Amber Rudd MP from Natural England.

A further objection on figure 1 comments on its illegibility.

## **Assessment**

### **Planning Considerations**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 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 following policies and guidance are relevant to this application:

#### Adopted policy

Hastings Local Plan 2004: T7, L1, L2, L3, DG1, DG3, DG7, DG8, DG21, C1, C6, Hastings Planning Strategy policy SC1, FA5, EN1, EN5, EN7.

The National Planning Policy Framework

#### Emerging policy

Development Management Plan proposed submission version: DM1, DM3, DM4, DM5, HN1, HN4

The following issues are material to the consideration of this planning application:

- The planning history
- The landscape impact and landscaping
- The impact on the historic environment
- The impact on residential amenity
- Nature conservation Interests
- Ground conditions and land drainage
- Tourism Development

### **The Planning History**

The application site has been subject to a number of applications, consented and refused, which are material to this case. Whether implemented or not, previous decisions made by this Council are material to the consideration of this application.

If this Council previously granted planning permission by finding that a proposal accords with the development plan and that all other material considerations were deemed to be acceptable, this has an influence on further proposals on the same site. This applies to the consents referenced HS/FA/10/00492 and HS/FA/12/00952, neither of which have been



revoked or challenged by Judicial Review. The latter remains extant. If there have been significant changes in circumstance, whether in policy terms or in terms of the physical conditions at the site, these are also material to the consideration of the application.

Many of the local objectors commented that the previous planning consent granted in 2012 (HS/FA/12/00952) should not have been granted, and that the application building should now be removed. Members will understand that the consent granted in 2012 was not challenged at Judicial Review and nor has it been revoked. For the purposes of this report, it must be considered a valid planning consent and material to the consideration of this application.

Save Ecclesbourne Glen submitted a counsel's Opinion. This states, amongst other points, that a new chapter in the planning history of the site began with the physical erection of the current building and therefore all previous grants of planning permission for the site may be regarded as having been abandoned. Therefore, the Opinion contends, there is no realistic fallback position that has to be taken into account in determining the current application.

A barrister acting for the Council has advised on this position. On the issue of the weight to be afforded the planning history, he is not convinced the planning permission HS/FA/12/00952 has been abandoned. He acknowledges that the point may not be entirely straightforward but is of the view that where a building, purportedly constructed pursuant to a consent but actually found to be unauthorised, is demolished, it can, in principle, be replaced by the permitted building. That is provided that the permission has not expired and that the site, after demolition of the unauthorised building, is in a physical state that still allows the original permission to be implemented in accordance with the approved plans and imposed conditions. Therefore, for the purposes of the current application, we have assumed that if the current building, the subject of this application, is demolished, the building granted under HS/FA/12/00952 could be built while it is extant. That consent expires in February 2016.

## **Landscape and Visual Impact and Landscaping**

The landscape is designated High Weald Area of Outstanding Natural Beauty. As such it benefits from the highest status of landscape protection, parallel to that of a national park. Great weight should be given to conserving landscape and scenic beauty. This is reflected in the NPPF paragraph 115, Hastings Local Plan policies L1, L2, DG7 and DG8, Hastings Planning Strategy policies FA5 and EN7, all of which seek to protect the landscape character of the High Weald Area of Outstanding Natural Beauty, the Hastings Country Park and the setting of the town.

Policies seek to protect, manage and enhance the distinctive landscape setting of the town and the High Weald Area of Outstanding Natural Beauty (EN7 and FA5 of the Hastings Planning Strategy) and to disallow development that would substantially compromise the distinctive landscape setting of the town and would adversely affect the natural beauty of the AONB (L1 and L2 of the Hastings Local Plan)

The application building is highly prominent in views from the country park and from the wider landscape. The form, scale and colour of the building all contribute towards a building that is clearly visible in views from the east, south and west within the country park.

In views from the east, the application building is clearly visible, and can be seen within the context of the whole caravan park. It is comparatively larger than other buildings; the caravan park appears as a collection of white boxes settled into the hillside, and although the application building appears as a part of this collection, it has a larger mass and bulk than

other structures. In views from the west, East Hill, the conservation area and the SAM, the application building is more visible and prominent. The second floor is readily apparent in medium and short views. From the west, the building is an incongruous addition to the landscape. In close views from the south, the building appears large and dominant.

The application provides no specific landscape justification, relying on the previous planning consents granted on the site, stating that the quantum of development on the site has already been granted.

Two previous planning consents are relevant to this issue, HS/FA/10/00492 and HS/FA/12/00952. The former is a planning consent for an additional storey to the former existing single storey building in a chalet style pitched tiled roof with dormers. The ridge of this building would have been marginally higher than the application building, although would be less prominent due to the tiled, pitched roof form. The latter is a building similar to that constructed but at a lower height, marginally smaller footprint and orientated facing further south east.

When planning permission was granted for a building under HS/FA/12/0952, it was acknowledged that redevelopment within the High Weald is only considered acceptable provided that the development does not consist of a significant increase in size, height and layout from the existing. That application was considered to have an acceptable landscape impact with screening to the south east provided.

It is considered that the building HS/FA/12/0952 would also have been highly visible in the landscape. The additional landscaping proposed at the time was intended to screen the east elevation from views within the caravan park. The natural landscaping of the area is short growing trees and shrubs. Sea winds limit the height of trees in the vicinity. The form, height and massing of the 2012 consented building, as well as its pale coloured render, could not have been wholly screened on views across the country park.

There are, in any event, a number of notable changes between this current application and that granted in 2012. This proposal is 600mm higher. The reasoning for this is given as the increase door height (from 1.8m to 2.1m) and the depth of steelwork required to support the roof. It also sits on slightly higher ground levels. The balconies on the building as constructed would be cut back to the 2012 depth. The footprint is enlarged in the south west corner to square the building off. There are some alterations to windows and doors.

With respect to landscape, the height, form and colour of the building are the most important factors. The re-orientation of the building and the balconies are more minor and, on their own, would not materially affect the impact the building has in the landscape. It is also not considered that the solar panels will exacerbate the impact, as they would lie below the profile of the parapet roof in views of the building from the Country Park and the AONB.

Since HS/FA/12/00952 was granted there have also been some material changes in the physical environment. The landslip has lowered ground levels to the south east of the site, exacerbating the prominence of the application building. The Coffey report 2014 (commissioned by the Borough Council into the landslip) notes the difficulty in estimating the extent of the vertical drop, but it is conjectured to be 'several metres'. There has been a significant loss of vegetation on the lower slopes of the caravan park due to the landslip (south east of the application site) and some hedging has been removed in the implementation of the current unauthorised building (south, north and east of the application building). These physical changes are material to the consideration of this current application. These changes affect the longer views of the application building from the east and the more immediate views from the south.

The principle question therefore is whether the increase in height over the 2012 consent, in combination with the material physical changes that have occurred since 2012, would result in the application building materially more harmful in the landscape to the extent that it no longer meets development plan policy? This raises the question then as to whether this effect be mitigated against in the form of landscaping or other measures?

The existing landscaping is shown in the form of a low hedge of dense ivy-covered thorn. The proposed landscaping shows native species of holly, oak and field maple to augment this hedging, replace what has been lost and to naturalise the site into its setting so that the development would blend more into its setting. The proposed landscaping would not wholly screen the site in the wider landscape. Additionally, there is limited space on the southern and western boundaries within the application site to add significant further landscaping. Landscaping would have a softening effect, particularly if the landscaping had an all-year effect on the southern and western edges of the site.

The colour of the building could be changed to a darker neutral shade. This could reduce its landscape impact, although the effect would not be significant overall.

On balance, although the application building is similar to HS/FA/12/00952, it is considered that the increase in height, along with the changes in the landscape, have materially altered its impact in the Area of Outstanding Natural Beauty and the Country Park, that the landscape and visual impact is harmful and the application proposals do not protect, manage or enhance the AONB or the setting of the town. It is therefore contrary to policies EN7, FA5, L1 and L2 and paragraph 115 of the NPPF.

This is a finely balanced issue, based on the assumption that the building could be demolished and a new building could and would be erected in conformity with HS/FA/12/00952. Even on that assumption, on balance it is nonetheless considered that the landscape and visual considerations outweigh the planning history and the fallback position. If the applicant in fact would in reality not be able to or not wish to construct the building as approved, given the previous concerns they have expressed regarding the door height and increased depth of steel needed to support the roof, then the balance would be increased against approving the application.

### **Impact on the Historic Environment**

The application site lies adjacent to the Old Town conservation area. It lies partially within a Scheduled Ancient Monument (SAM) (Iron Age Cliff Castle and site of St. George's Churchyard on East Hill). It lies in an Area of Archaeological Interest.

The submitted Heritage Statement has stated that the development proposal will have a minor impact on the fabric of the SAM, will have no impact on the setting of the SAM or the Conservation area and overall, no harm to heritage assets.

### **Conservation Area**

The Old Town conservation area covers a large area, encompassing both the Old Town, its setting, East Hill and the SAM. The conservation area wraps the eastern and southern edges of the caravan park, but the application site lies outside the conservation area. The application building affects the setting of the conservation area.

The conservation area in the location of the application site is open and natural in appearance. In this location, the conservation area primarily serves to protect the character

of the SAM, and the open setting of the Old Town. It is its open aspect which characterizes this part of the conservation area. The 2004 Local Plan in paragraph 9.116 discusses the planning issues facing each conservation area. The Old Town needs to balance the needs of visitors with the conservation of the historical and cultural heritage.

The submitted Heritage statement suggests that the east and west hills (whilst they have their own historic interest) mainly serve as buffer zones to the Old Town, protecting it from encroachment. It states that inter-visibility between parts of the conservation area is therefore blocked and the application site is not visible from the majority of the conservation area.

English Heritage focuses on the impact on the SAM but acknowledges that the proposal has other effects on landscape character. The ESCC Archaeological unit considers the setting of the conservation area to contribute to its significance, and the application building does have potential to affect the setting and appropriate mitigation should be agreed. The Borough Conservation and Design Team consider that the building does represent harm to the setting of the conservation area. It recognises that some harm would arise to the setting of the conservation area if the 2012 consent were constructed. This current proposal represents further harm by virtue of the increase in height, loss of vegetation, and location of the solar panels.

The setting of the conservation area makes a substantial contribution to its significance. The application building is highly visible and interrupts the open aspect which characterises the setting. The height and massing of the proposed development, over that granted at HS/FA/12/00952, does not conserve or enhance the character or appearance of the conservation area. The planting proposed is not sufficient to mitigate this impact.

It is considered that the proposal fails to accord with policy C1 of the Local Plan which requires development within or adjacent to conservation area to preserve or enhance the buildings, related spaces, the streetscene and other features that contribute to the character or appearance of the area. It fails to accord with policy EN1 of the Hastings Planning Strategy which seeks to protect the significance and settings of conservation areas. Paragraphs 129 and 132 of the NPPF attaches great weight to the preservation of the significance of the heritage asset and its setting.

Again, the fact that the building could be demolished and erected in conformity with HS/FA/12/00952 has been taken into account on the same basis as for my assessment of the landscape and visual impact of the proposed development. Although this is a material consideration, on balance it is considered that the impact on the setting of the conservation area outweighs the planning history and the fallback position.

### Scheduled Ancient Monument

The application site lies partially on the SAM. The SAM wraps around the site tight to the application building on the southwest, south east and north east sides. The building projects into the SAM on the south east side and the balconies project over the SAM. The NPPF makes it clear in paragraph 132 that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be afforded the asset's conservation.

The previous application drawings that were approved showed no building work within the SAM itself. The current building as constructed encroaches onto the SAM. English Heritage is aware of this and has confirmed that the building, as constructed, would have required Scheduled Ancient Monument Consent. As this was not obtained, the works

represent an offence. However English Heritage, whose representative has visited the site and met with the applicants, has decided that the breach is not so notable as to sustain a prosecution.

The works proposed include the removal of three balcony support posts and the excavation associated with their relocation nearer to the existing building. These works may have an impact on archaeological deposits and would require a SAM consent prior to work starting. In addition, any works to the access ramp that has been formed and any tree and shrub planting within the SAM would also need SAM consent. It is for English Heritage to consider such an application and its response to this planning application anticipates that a solution could be found to ensure that works would be acceptable.

English Heritage has considered the impact on the SAM and its setting in accordance with the NPPF, concluding that the development will have a number of small effects on the heritage significance of the SAM but with mitigation, the works are not considered sufficiently harmful to warrant a refusal of planning permission. It is considered that there is some inter-relation between the setting of the SAM and the conservation area. In the circumstances, having regard to the advice of English Heritage and the NPPF, the harm to the setting of the SAM is not considered sufficient to be a self-standing reason for refusal. Nonetheless, the impact to the setting of the SAM is considered, however, to weigh against the proposal.

The East Sussex Archaeological Unit has considered the proposals. It notes the potential for current and further works to impact on archaeological deposits. It requests that if planning permission were to be granted, a condition is imposed requiring a programme of archaeological works to be implemented prior to any work being undertaken.

The impact of the development on the SAM can be mitigated with suitable planning conditions. It appears that English Heritage considers that Scheduled Ancient Monument consent can be negotiated. There is some harmful impact on its setting although, on its own, is not sufficient to warrant a self-standing reason.

### **The impact on residential amenity**

The residences that would be affected by this application proposal are those within Rocklands Caravan Park itself. This would apply to caravans used for holiday purposes and Rocklands House.

The elevations show doors and windows at upper and ground floor level to face in all directions. The north elevation faces directly into the caravan park. A single upper floor window is shown on the north elevation. The side flank of the balcony also looks to the north. The west elevation is shown with a ground floor en-suite window and an upper floor kitchen window.

Other windows and balconies look out over the country park, a public open space.

The building is sited some 50m from the nearest caravan and 8m (offset) from Rocklands House.

It is considered that the application proposals has no adverse impact on residential amenity and conforms with policy DG1(f) which seeks to protect residential amenity.

### **Nature conservation Interests**

The application site adjoins an SSSI, SAC and Local Nature Reserve. The application site

itself does not lie within a designated area of nature conservation interest. The application site has been managed for many years as part of the caravan park. The application building has been erected on a site previously occupied by a building.

English Nature considers that the statutory sites (the SSSI and SAC) are unlikely to be affected by the application proposals. The Council's Environment and Natural resources Manager considers there is no evidence to suggest that protected species will be affected by the proposal, either in its current form or as previously consented.

Although there have been concerns raised by objectors to the scheme that nature conservation interests have been harmed by the development, no specific evidence that this is the case has been presented to date. It is considered that the proposal represents no harm to protected species, the SSSI, the SAC or local nature reserve. As a result, it conforms with nature conservation policies within the Local Plan, the Planning Strategy and the NPPF.

### **Ground Conditions and Land Drainage**

In February 2014 a landslip occurred on land within the caravan park and within the country park, close to the application site. The application site itself was not part of the landslip.

Adopted Local Plan policy DG21 states that planning permission will only be granted on unstable land where the applicant provides evidence that actual or potential instability can be overcome. Planning applications should be supported by a ground conditions report indicating how any problems can be overcome. Emerging Development Management policy DM5 asks that on land subject to instability, evidence from a relevant and suitability qualified individual should be supplied to demonstrate that any instability can be overcome. The National Planning Practice Guidance provides guidance on the role of local authorities in planning for land instability in their areas. If land stability is an issue, developers should seek expert advice to assess the consequences of proposed developments on sites where subsidence, landslides or ground compression is known or suspected. Developers should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development of the site (NPPG paragraph ID 45-006-20140306).

Due to the proximity of the application site to the landslip, such evidence was requested of the applicant. The submitted report is from Ocus, a firm of consultant civil and geotechnical engineers and meets DM5's requirements.

The report examines the geological formation of the area and concludes that the building is 40m from the existing landslip complex, and is situated on a sandstone band which would hinder the upward migration of the current landslips. A migration of the current landslip area would not affect the application site, and there is no evidence of landslips directly downslope of the application site. The storm and foul drains for the building are linked into local authority storm and foul sewers. The building will have a marginally greater foundation load than the former building, but this will have a negligible effect of slope stability.

The report concludes that there is no reason to believe that the building, as constructed, would be subject to landslip in the future. Nevertheless it is not possible to mitigate against the risk of cliff erosion, but that the holiday let will not contribute to it.

The Borough Council has instructed Coffey Geotechnics to assess the submitted Ocus report on the Council's behalf. Coffey Geotechnics concludes that while the findings could be correct, there is a possibility they might be incorrect. There is insufficient information to

demonstrate that the new building is not likely to be affected by the landslide and that the current building loads would have a negligible impact on slope stability. They suggest further information on site history, ground investigations, groundwater conditions, slope stability assessment and drainage is required.

The foul and surface water drains are shown on the application drawings as being connected to the existing system at Rocklands which are connected to the public mains drainage. No additional water would be drained directly onto the land.

Southern Water, the Environment Agency and Building Control have investigated the foul and surface water drainage that has been shown on the application drawings. No objections are raised.

Nevertheless, further information would be required to fully determine whether the current building might be affected by landslips or would affect slope instability in its own right.

### **Tourism Development**

The application proposals represent the creation of additional tourist accommodation. Such development is supported in principle by policies T7 of the Local Plan and E4 of the Planning Strategy. Policies encourage the provision of new tourist accommodation, particularly on the seafront and the Old Town, as well as resisting the loss of existing tourism accommodation. Tourism is seen as one of Hastings' vital economic assets and is key to meeting its overall regeneration objectives.

The benefit to tourism of this application proposal should not be overlooked. It will create high quality visitor accommodation that will bring about economic benefits.

However the creation of new visitor attraction must be balanced against the visual impact. Policy T7 requires that new development within caravan sites should not be visually intrusive.

### **Conclusion**

On balance, the planning history/fallback position and the benefits of the scheme to the visitor economy are outweighed by the harm to the landscape character and visual amenity of the AONB, the Country Park and the setting of the conservation area.

As a result these proposals do not comply with the development plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004.

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

### **Recommendation**

#### **Refuse for the following reasons:**

1. The proposal, by virtue of its height, form and colour which is highly visible in long, medium and short views from the east, south and west, has a harmful impact on the landscape character and visual amenity of the High Weald Area of Outstanding Natural Beauty, the Hastings Country Park. Therefore the proposal does not accord with Local Plan 2004 policies L1 and L2, Hastings Planning Strategy Policies EN7 and FA5, and the National Planning Policy Framework paragraphs 132, 133. The conflict with the

development plan and the National Planning Policy Framework is not outweighed by any other material consideration.

2. Insufficient evidence is submitted to demonstrate that the application building would not be affected by landslips close to the application site and that the additional loading on existing building would not affect slope stability. As a result adopted Hastings Local Plan policy DG21 and emerging Development Management Plan proposed submission version policy DM5 are not complied with.
3. The proposal, by virtue of its height, form and colour, would be highly visible within the setting of the Old Town conservation area and the setting of the SAM and would be harmful to the significance of each of these designated heritage assets. The proposal therefore does not accord with Local Plan 2004 policy C1 and Hastings Planning Strategy Policy EN1 and the National Planning Policy Framework paragraphs 131 and 132. The conflict with the development plan or the National Planning Policy Framework is not outweighed by any other material considerations.

#### **Note to the Applicant**

1. 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 paragraphs 186 and 187 of the National Planning Policy Framework.

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#### **Officer to Contact**

Mrs T Bahcheli, Telephone 01424 451315

#### **Background Papers**

Application No: HS/FA/14/01036 including all letters and documents