

CONTRADICTIONS IN THE PLANNING OFFICER'S COMMITTEE REPORT – 11/10/23  
[PA 2022 / 3796 SITE AT 16-18 OATLANDS DRIVE](#)

The Planning Officer's initial Committee report recommended ALLOWING this application. This is completely contradictory and inconsistent with the conclusions of the same planning department on the applications for 8 – 14 Oatlands Drive and 4 – 6 Oatlands Drive (henceforth referred to as 8-14 and 4-6).

We contend that the analysis in the Planning Officer's report strongly indicates that EBC should be consistent and REFUSE this application. We feel confident that this decision would be UPHELD if there was any appeal, as it was for 4-6 O.D. in October.



### 1. Unacceptable impact on Cowey Sale and the Engine River, pond and path in Greenbelt and Area of Biodiversity Opportunity at the Rear of Site

In the Planning Officer's Report, they state:

- EBC Greenspaces objected to the scheme based on the negative impact on the Biodiversity Opportunity Area. (Para 12 of the initial Committee Report)
- The PO noted the recent Planning Inspector's comment about 4-6 - that the combined 3 rear buildings (i.e. at 4-6 and also 8 – 14) would be visually hard and dominant and have an uncharacteristic and urbanising impact on the rear of site, which would materially detract from the rural character and appearance. (Para 58)
- The development would be far closer to the rural area and its footpath than the existing dwellings and when coupled with development at 8 – 14 Oatlands Drive will continue to change the character of the area. (Para 59).

*NB: Planning guidelines have changed since 8-14 was determined, and the Planning Inspector who decided the appeal at 4-6 acknowledged that from the Engine River path, the rear apartment buildings on the adjacent site (8-14) are clearly visible and do detract from the rural character of the path and its setting. Her feelings were so strong on this point that she concluded that the damage to the street scene and parkland behind was too significant and unacceptable to be dealt with by the imposition of conditions.*

*The effect of the lower block B at the proposed site of 16 -18 would be CONSIDERABLY worse as Cowey Sale is used by more visitors than the Engine River path, so enjoyment of existing amenity space would be spoilt and the damage in terms of loss of vegetation and light pollution, irreversible. With some of the trees/shrubs which would be removed from the mature gardens in 16-18, and a natural gap in the trees within Cowey Sale (aligned with this site) to accommodate a footbridge, this proposed development would be even more visible from Cowey Sale, especially as the trees that line Cowey Sale are deciduous.*

## **2. Unacceptable impact on Oatlands Drive**

The PO Committee Report states:

- The proposed blocks are even taller, wider and further ahead of the established build line than the front block A at 8-14 – which already dominates the street scene. With the increased massing and scale this would make the proposed blocks even more prominent. (Para 60)
- It is considered that the proposal would NOT enhance the character of the area or reach the high standards of the Governments ‘Build Beauty’ notion. This development could be considered to exacerbate the overall impact of both developments (including 8-14) and therefore HARM the character of the area. (Para 63)
- One additional block, as would appear in the streetscene, would lessen the impact on the streetscene of the development at 8-14 Oatlands Drive. (Para 63)

*This CONFIRMS the overbearing nature of the current build at 8 – 14, but to suggest that a larger and more incongruous development at 16 – 18 site should be approved as it would lessen the damaging impact of the development next door cannot be an acceptable basis to support a grant of permission.*

*The PO acknowledges in materials used that the bricks proposed to construct 16 – 18 would be YELLOW but there is no further comment. It is our contention that the huge yellow bricked buildings would not sit comfortably in the streetscene, where the existing houses are traditional brick or white render, and this would be made worse due to its scale and massing.*

### **Lift Shaft Overruns/Smoke Shafts**

The PO Committee Report states:

- 66. No significant overruns are proposed as can be seen on the roof plan and elevations provided. The application has to be considered on its merits based on the plans submitted. It would be inadvisable for the applicant to not consider the type of lift and building regulation requirements at this stage as different types of lifts can have different requirements. This application would not confer permission for the type of lift overrun that has been installed without permission at 8-14 Oatlands Drive.
- 67. In summary the proposal, on balance, is not considered to result in harm to the character of the area or the streetscene.

*The plans submitted by the developer do show lift overruns (Proposed Site Roof Plans and Existing and Proposed Street Scenes). However, they are only hinted at in these diagrams and no details of size or type are given. Given the recent refusal of the overruns and smoke shafts at the adjacent site (8 – 14) and noted concerns of local residents, we ask that these plans are clarified and question how the proposal is not considered to harm the character of the area if the proposal is not known!*

*We request that a specific constraint be added that there are no lift overruns or smoke shafts allowed if the*

*plans are approved, and a separate specific planning application would be needed to add them in future, with full details included so they can be properly considered.*

### **3. Lack of Affordable Housing Contributions**

The PO Committee Report states:

– Letters of representation have commented on the proposed sale prices of the development at 8-14 compared to the information provided within the viability assessment and the resultant variation (Para 48).

The PO considers this matter closed as it has been reviewed by the expert consultants.

- The Development Contributions SPD 2021 sets out that for applications such as this, where it is not viable for a policy compliant contribution to be provided, the Council will seek to secure review mechanisms (early and late) through legal agreements. The SPD is a supplementary document, and it has been set out in multiple recent appeal decisions that review mechanisms must be detailed in the Development Plan to be applied, though a number of appeal decisions have not raised this as an issue. As such, at this time, a review mechanism is not considered appropriate for this application. Therefore, in summary the application would comply with Policy CS21. (Para 47)

*We continue to question the fact that the flats are being marketed at significantly higher prices than those proposed in the viability assessment.*

*It is noted that the developer removed the prices of flats at 8-14 that had previously been marketed on their website during EBC's review process, changing the prices to "Not Released". This would have prevented the council's expert consultants from using these figures in their assessment.*

*The Inspector at 4 – 6 O.D. DID consider this to be an issue and maintained that the agreement failed to make adequate provision for affordable housing. This fact was well known to the same PO who, in relation to 4 – 6 took an opposite view. In fact, the PO on 4 – 6 stated "As such it remains that the applicant has failed to submit the necessary S106 to secure the LRM and is therefore considered to be contrary to Policy CS21 and the Developer Contributions SPD."(para 52 of the 2022/2118 Report).*

***Why is there an inconsistency of approach here? We consider that 16 – 18 fails to make adequate provision for affordable housing and should be refused. As the Inspector notes "the purpose of review mechanisms is to strengthen a local authority's ability to seek compliance with relevant policies over the lifetime of a project. They are not a tool to protect a return to the developer. "***

### **4. Poor Living Conditions for Future Residents**

The PO Committee Report states:

- It is acknowledged by the PO that the Council does not have a minimum requirement for outdoor amenity space for flatted development within the existing Development Plan, although the local emerging plan will set minimum external space standards. (Para 80).

*What are the minimum standards to be applied? To say that this is not a material consideration disadvantages potential residents of this site in terms of their living conditions and enjoyment of amenity space. Open public space at Cowey Sale and a steep slope at the rear of the site is just not sufficient. What the developer's plans/PO's Report do not highlight are the dark, dank, boggy mosquito-ridden conditions at the rear of the site which would adversely affect residents of Block B.*

*The Planning Inspector, in refusing 4-6, noted that the Biodiversity Net Gain was only met by green roofs (of which there is NO detail) leaving little meaningful space for amenity or landscaping at ground level. This is also true for the similar design at 16-18.*

- *The PO confirmed that the majority of the site is located within Flood Zone 1; however the north-western portion of the site is located within Flood Zone 3B - the functional floodplain where the site abuts the open green space at the rear boundary that hosts the Engine River (Para 99).*

*The Inspector disagreed with the LPO that the (4 – 6) proposal was in accordance with Policy CS26 and the Flood Risk SPD 2016.99. For both 4 – 6 and 16 – 18 O.D. the north-western portion of the site is located within Flood Zone 3B. The Inspector commented that the "proposed development would result in inappropriate development in an area at high risk of flooding, resulting in unjustified flood risk to people and property." Also that "flood risk mapping is not an exact science and it may be that the extent of flood risk is greater than that shown." Regarding the adjacent site at 8 -14 O.D. the Inspector noted that that appeal took place prior to the publication of the current 2021 Framework and the advice in the PPG which was updated in 2022.*

*It cannot be acceptable to build flats where the flood zone projects up to and/or close to the living room Juliet balconies and bedroom windows of the basement level apartments; or contrary to Policy CS26, the risk of development impeding flow giving rise to backwater effects or divert water to other neighbouring properties.*

## **SUMMARY**

Based on the comments, above, from the Planning officer's report (and as the Inspector concluded for the similar 4 – 6 Oatlands Drive proposal), we believe that the Planning Officer should have recommended REFUSAL of this application. We contend that the proposals contained in PA/2022/3796 conflict with all the following and should be rejected:

CS Policies CS1, CS3, CS 14, CS 15, CS17, CS21 & CS26, the objectives of the SPD-FR, paragraphs 130, 159, 160, 161,162, 163, 164, 166 and 174 of the Framework, DMP policies DM1, DM2, DM6, DM10 and Paragraphs 023, 024, 027 & 028 of the PPG policies.