

Report to: PLANNING COMMITTEE

Date: 25 May 2016

Report from: Assistant Director of Housing and Built Environment

Application Address: **Factory and Premises, 36 Croft Road, Hastings, TN34 3JU**

Proposal: **Retrospective temporary change of use from warehouse (B8) to tile showroom (A1) (amended description)**

Application No: **HS/FA/16/00086**

Recommendation: **Grant Full Planning Permission**

Ward: CASTLE
File No: CR35250T
Applicant: Trade Counters Direct Ltd. per Town & Country Planning Solutions Sandhills Farmhouse Bodle Street Green HAILSHAM, East Sussex. BN27 4QU

Interest: Owner
Existing Use: Ancillary area to tile showroom (use Class A1) - Unauthorized

Policies

Conservation Area: No
Listed Building: No

Public Consultation

Adj. Properties: Yes
Advertisement: No
Letters of Objection: 15
Petitions Received: 1

Application Status: Not delegated - More than 2 letters of objection received

Notes

Neighbours Expire: 21 March 2016 Members Expire: 21 March 2016 or same as advert expiry if later.

Neighbours Checked on site: Yes
Objection letters read: Yes
Site Visited: 18 February 2016

Site and Surrounding Area

The site is broadly rectangular in shape and is situated on the northern side of Croft Road adjacent to Scholars Mews, approximately 60m from its junction with Priory Road to the west and 30m from its junction with Bembrook Road/Collier Road to the east.

The site contains a single storey building positioned within the central part of the site and set back approximately 5m - 8m from the Croft Road frontage. The storage and distribution element to the rear of the building is used by Trade Counters Direct Ltd in association with their bathroom and plumbing retail outlet located at nos. 363, 365 and 367 Old London Road within the Ore Village District Centre, Hastings, TN35 3BD. The front part of the building (previously used as B1 offices and part B8 storage and distribution) has however, been used and is currently still being used as a separate tile show room (A1 retail use), although operated by the same company. The rest of the site is laid to hardstanding.

The area immediately surrounding the site is predominantly characterised by a mixture of residential properties. Castledown Community Primary is located north west of the site and is accessed via Priory Road and Torfield School also located off Croft Road approximately 140m to the east.

Proposed development

This proposal seeks temporary retrospective planning permission (until 1 May 2017) for a change of use from part B8 (storage and distribution) to A1 (retail use for tile showroom). This small area of approximately 25m² is currently used as floor space which forms part of the existing tile showroom. Therefore, the amount of B8 gross internal floor space lost as part of the proposed change of use will be 25m².

The rest of the floor space to the front of the building, which has a gross internal floor area of 97m² benefits from permitted development that allows a temporary 2 year flexible A1 use for a tile showroom. This is pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class I, Clause I (a). The permitted development rights expire in April 2017. The application is for temporary permission which would expire on 2 May 2017 from which point the building would be required by condition to revert back to office (B1) use. This would accord with the permitted development rights for such changes of use where, after the expiry of a 2 year period, the General Permitted Development Order 2015 requires the site to revert to its previous lawful use at the end of the period of flexible use. In other words, the recommendation does not give permission for the loss of the office (B1) or warehouse (B8) use beyond that allowed by permitted development.

The total internal floor space area relating to retail (A1) use on the site would therefore increase to 122m².

The application does not relate to the existing remaining B8 use (storage and distribution) as this already benefits from extant planning permission.

There are no proposed changes to the previously approved access arrangements, the external elevations or the general layout of the rest of the site's curtilage.

The application is supported by the following documents:

Application form, dated 15 February 2016

TCPS 619A/1 (Site Location Plan)

TCPS 619A/2 (Floor Plan - As Approved from planning permission HS/FA/08/00612)

TCPS 619A/4 (Floor Plan - Existing/Proposed) - Revised drawing

Planning Statement prepared by Town & Country Planning Solutions (Ref: CPS 619A) t , dated February 2016

Email from Barclays Bank, dated 27 April 2015 - Acceptance of application for a mobile payment card reader (sent to premises and first used from 1 May 2015)

Relevant Planning History

- HS/FA/16/00016 Variation of Condition 1 of Planning Permission HS/FA/08/00612 - To permit either an office or tile showroom use within the front part of the building (with approved storage and distribution used retained within the rest of the building), withdrawn prior to validation on 22.01.2016 (Council's request)
- HS/FA/15/00711 Change of use to a mixed warehouse/tileshop/showroom, withdrawn on 10.11.2015
- HS/FA/08/00612 Retrospective application for use as offices and stores, granted on 24.10.2008
- HS/FA/03/00751 Remove warehouse roof felt covering and replace with metal sheet profiles, granted on 14.10.2003
- HS/FA/03/00252 Demolition of existing premises. Erection of 3 town houses with parking, refused on 12.05.2003
- HS/80/00106 Erection of an aerial mast for radio taxis, granted on 02.04.1980
- HS/73/01341 Redevelopment by erection of 3 houses and 3 garages, with vehicular/pedestrian access, granted on 13.12.1973
- HS/OA/73/00912 Redevelopment by the erection of six flats and six garages with vehicular access. refused on 12.07.1973
- HS/69/01004 Change of use from milk depot to car repair workshop, refused on 28.11.1969
- HS/61/01014 Single storey extension to form additional storage space., granted on 16.11.1961
- HS/55/00828 Alterations to access, granted on 14.02.1956
- HS/FA/50/00696 Internal alterations and extension of Garage roof shelter, granted on 12.12.1950

Note: HS/FA/15/00711 was withdrawn as the applicant established that the tile showroom (Use Class A1) was in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 for a single period of up to 2 years. That permitted development right is a more recent addition to the legislation that came into effect in April 2015. Although the applicant advised the Council that the current A1 use started in January 2014, the two year permitted development flexible use period cannot start earlier than the right came into effect (4/2015). Further information provided by the agent shows that an electronic card payment device was installed in the showroom in May 2015. Subsequent to the above information, the current A1 use within the front part of the building (97m² area) is still considered to be permitted development until 1 May 2017.

Relevant Environmental Health (Pollution) Complaint History

Environmental Health have not received any noise complaints in relation to the subject premises. This was confirmed on 24.03.2016.

Development Plan Policies and Proposals

Hastings Local Plan – Development Management (DMP) (2015)

LP1 - Considering Planning Applications

DM1 - Design Principles

DM3 - General Amenity

DM4 - General Access

DM6 - Pollution and Hazards

Hastings Local Plan – Planning Strategy (HPS) (2014)

DS2 - Employment Growth

FA2 - Strategic Policy for Central Area

SC1 - Overall Strategy for Managing Change in a Sustainable Way

SC2 - Design and Access Statements

E1 - Existing Employment Land and Premises

T3 - Sustainable Transport

Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013

Retention of Employment Land and Premises Supplementary Planning Document (SPD) 2015

East Sussex County Council Guidance for Parking at Non-Residential Development

National Planning Policy Framework (NPPF)

The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 14 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.

Three dimensions of sustainability given in paragraph 7 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 10 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 1 - Building a strong, competitive economy

Section 7 - Requiring good design

Consultations comment

Enforcement officer, no objection. Stated the following on 22.03.2016:

"We received a complaint in 2011 for a possible change of use and working outside permitted hours.

In July 2015 we received a complaint for a change of use without planning permission.

In November 2015 and March 2016 we received complaints regarding working outside permitted hours."

Environmental Health Manager, no objection. Stated the following on 24.03.2016:

"I refer to the above Planning Application and as there have been no noise complaints received by this department, in relation to the above premises and that the proposal is for an extension of the existing use, I raise no objections to the proposed development."

Waste and Street Scene Services officer, no objection. Stated the following on 17.03.2016:

"I have viewed the application and drawing's and can confirm our approval."

East Sussex County Council ESCC (Highways), no objection. Stated the following on 26.02.2016:

"I do not wish to restrict grant of consent subject to the observations below

An Office or Tile showroom, in accordance with the ESCC, Parking Standards should provide 1 space per 30m².

The proposed site area is 122m² which creates a demand for 4 spaces. The current office area of 97m² plus storage space of 25m² would require the same level of parking provision as is proposed. The 1 space allocated therefore falls short of the recommended number, however, taking into consideration the site has been operating as a tile showroom for 2 years and the potential to park on street this is not considered to be a major concern.

With this in mind, I do not feel that a recommendation for refusal could be justified in this instance as a severe impact would not be created and therefore the proposal is in accordance with the transport requirements of the NPPF."

The owner of no.46 Collier Road, Hastings wrote to ESCC (Highways) on 09.03.2016 regarding the above comments.

ESCC (Highways) (additional comments to objector) replied to the above email stating the following on 10.03.2016:

"Thank you for your comments and the information provided.

Although I understand your concerns, this application seeks permission for change of use to permit either an office or tile showroom. We can only take into account the change of use rather than the storage and distribution that has already been approved.

The tile showroom or office space is unlikely to generate the need for additional deliveries by lorry, it will generate the need for additional parking however there is capacity to accommodate this within the vicinity without causing a severe issue.

I hope this clarifies my views."

Representations

There have been 16 objections received against the proposal and a petition with 16 signatures.

Note: Some notification letters were not initially sent to Croft Hall (Internal GIS error, which has since been rectified) during the first consultation period and therefore the application was re consulted with a revised deadline for comments being 21.03.2016.

Summary of objections

- Direct contravention of policies.
- Out of character with the area and street pattern and in unsuitable location.
- Concerns in relation to highway safety (residents, children) including parking, congestion, traffic generation.
- Noise and disturbance.
- Rubbish from skip which is unsightly.
- Croft Road is a Heritage site and not an Industrial one. Ivy House Lane is the Industrial site not Croft Road.
- Opening hours have not been stipulated. Highly likely that the premises will be used after working hours/at the weekend.
- Devaluation of neighbouring nearby properties.
- Insufficient enforcement action.
- It will become impossible for the Council to determine which part of the premises operates as a show room and which part operates as a warehouse, making enforcement impossible.
- Questions the number of estimated proposed customers to the business each day.
- Questions the neighbour notification process as to who should have been notified of this planning application.
- Nos 1-7 Scholars Mews consulted on the last application but not this application. Nos. 1 to 7 use the same gates as nos. 8 to 12 Scholars Mews and Croft Hall and therefore are equally affected by the problems caused by the Tile Centre. Planning was alerted to this omission, but it has not been rectified.

- Torfield School not been consulted either.
- Size the business has grown to over the last few years.
- Associated garish banners.
- Harm to residential amenity.
- No Design and Access Statement.
- Disagree with closing statement of Planning Statement “Would not give rise to any unacceptable conflict with planning policies or give rise to demonstrable harm.”
- If the use of just offices were to be granted, it is feared that an immediate repeat use of the current Development Rights to use the 2 year rule again to keep the current Hastings Tile Centre open.
- No provisions at all for disabled employees or even customers ie toilets, ramps, wide doorways and parking.
- Breach of the Human Rights Acts 1998, Article 8 – the right to respect private life and our homes.
- A new planning application was meant to be made by the end of December 2015.
- Further damage to road and properties from large lorries.
- Questions the comments made by East Sussex County Council (Highways).

Summary of petition:

- Loss of privacy from delivery vehicles when loading and unloading.
- Waste provision inadequate.
- Rat infestation at Nos. 8-12 Scholars Mews.
- Highway Safety in relation to large delivery vehicles.
- Felt that Policy DM3 not achieved in terms of achieving a good living standard for future users of proposed development and neighbours.
- Traffic congestion at certain times from delivery vehicles.
- Commercial business is not suitable in a residential area.
- Business has reached a certain size and been an issue now for approximately 5 years, in terms of impact on the area and life generally.
- Permission would further impact the area and people's lives would be further deteriorated.
- Residents state that reports on highways and amenities are inaccurate.

Determining Issues

The main planning issue is therefore, whether the temporary retrospective (until 1 May 2017) change of use from part B8 (storage and distribution) to A1 (retail use for tile showroom) has given rise to any demonstrable harm having regard to relevant planning policies and other planning considerations. Based on the relevant policies listed above the main considerations are the principle of the proposal, loss of Part B8 use (approximately 25m²) for a temporary period, impact on character and appearance of area, impact on neighbouring residential amenities and highway safety/parking.

Principle of development

The site is in a sustainable location and the application is therefore in accordance with policy LP1 Hastings Local Plan - Development Management (2015) in this respect and acceptable in principle subject to other local plan policies. Although located within a residential area, the application site has been in commercial use for many years dating back to at least the early 1950's. The Council has previously granted consent for the current B1 and B8 uses on site. A change in planning regulations on 15 April 2015 to the General Permitted Development Order means that the existing tile showroom at the front of the building (97m² area) is currently authorised for a temporary flexible period ending on 1 May 2017. Therefore, this part of the building doesn't require planning permission or further consideration as part of this application. Furthermore the loss of the office (B1) use does not need to be justified during the permitted development period. The temporary consent means that the retail (A1) will revert to the office (B1) in May 2017.

Although the building (and the land) as a whole is occupied by Trade Counters Ltd, the two existing uses (i.e storage and the tile showroom uses) are not mutually dependent upon each other and instead form two separate 'planning units'. The authorised B8 use is directly related to the applicants existing and separate retail outlet located elsewhere in the local area. The storage area is used to receive bathroom and heating items ordered at the retail outlet within Ore Village for onward distribution to (or collection by) customers.

The applicant's separate retail outlet in the Ore Village District Centre has space only for a small display of tiles. The tile showroom use at the application site provides for the display of a much greater range of tiles for customers.

The Council can only consider the temporary change of use for part of the building rather than the use of the whole building as storage and distribution element, which already has planning permission and does not form part of this application. Given that the additional ancillary internal floor space (approximately 25m²) to the tile showroom is unlikely to generate an increase in noise levels (no tile cutting taking place on site), no need for additional deliveries by lorry and can accommodate parking on site without causing harm to highway safety or parking, the principle of the development is considered to be satisfactory.

Character and Appearance of the Area

No external changes are proposed. Therefore, the character and appearance of the local area will not be compromised. The impact on the character of the area arising from the change of use between B8 to A1 is not considered to be significant or harmful.

Amenity of Neighbouring Residents

Policy DM3 Hastings Local Plan – Development Management (2015) seeks among other matters, to ensure that the use of a building has an acceptable impact upon the amenities (i.e. living conditions) of neighbouring properties. Although the site has been in commercial use for over 65 years, it is now surrounded by residential properties, including a relatively new housing development that has taken place on land immediately to the west (a former Education Centre) under the provisions of Policy H15 (65) of the former Hastings Local Plan (adopted in April 2004).

The application site is surrounded by residential properties. The major amenity issues to be considered are covered within parking and highway safety, noise and hours of use sections of this report.

Based on evidence provided by the applicant, comments from the consultees and the fact that the tile showroom is lawfully authorised for a temporary use until 1 May 2017, it is considered the proposal will not have an unacceptable impact on the amenity of neighbouring residents. Furthermore, conditions of consent will be included to ensure that the amenity of neighbouring residents is protected.

Finally, due to the small proposed temporary additional ancillary internal floor space area of the tile showroom (approximately 25m²), the impact upon neighbouring residential occupiers is not considered to be harmful or any different to what lawfully exists on site at present.

Hours of use

No operating hours have been proposed as part of this application. It is reasonable to condition this consent to have the same existing operating hours as per approved planning application HS/FA/08/00612. This will ensure there will be a neutral impact in terms of operating hours. The premises will therefore be limited by condition to 8am to 5pm, Monday to Fridays, 8am to 12:30pm Saturdays and no operation on Sundays.

Given these considerations the development is acceptable in principle subject to other local plan policies and considerations below.

Noise

Policy DM6 of the Hastings Local Plan - Development Management Plan, 2015 states that noise and odour that is detrimental to neighbouring and/or local amenity is kept to a practical minimum.

It is considered that the proposed use will have a minimal impact with regards to noise as there will be no tile cutting taking place on site and customers will only be attending the site to view samples within the tile showroom, an activity which will not increase the type of noise levels currently experienced at the site. It is noted that Environmental Health have received no noise complaints regarding the current use and they have no objections to the application.

Refuse

While the tile showroom use generates a limited need to dispose of refuse and recycling, this is also minimal and is unlikely to be greater than the alternative B8 use approved previously. The refuse and recycling needs generated by the remainder of the storage and distribution use is not relevant to the current application. The Council's Waste Services have reviewed the application and have no objections. In terms of refuse this proposal is considered to be satisfactory.

Temporary loss of Part B8 (storage and distribution) use

Policy E1 of HPS seeks to retain existing employment floor space and the Retention of Employment Land and Premises SPD further supports this and explains what information is needed to justify the loss of employment space.

The element of the proposed A1 use that is taken from the existing warehouse (B8) use is ancillary to the existing tile showroom (approximately 25m²) and is temporary until 1 May 2017. It would not therefore result in any significant or material loss in terms of employment potential during this temporary period. The loss of part of the B8 use will not require compliance with the SPD on employment as the amount of floor area lost is a) small and b) temporary. A period of 12 months from now until the temporary consent expires would allow the applicant sufficient time to market the premises in order to prepare a case for any future planning application should the applicant subsequently wish to make the proposed changes of use permanent. A marketing exercise of this nature would be needed to fully address the requirements of Policy E1 of the Hastings Planning Strategy and Retention of Employment Land Supplementary Planning Document.

Overall, the small temporary change in floor space to A1 from part B8 will not have a significant conflict with the overall aims of Policy E1 or the SPD and is considered to be acceptable.

Highway safety/parking

The majority of objections submitted relate to the impact of the proposed change of use on traffic congestion from lorries, damage to the road and properties from lorries, highway safety, issues entering and exiting residential properties due to parked delivery vehicles and parking generally on and off the site. The proposal has been considered by the Local Highway Authority (LHA) and no objection has been raised. The submitted objections do not provide sufficient evidence to outweigh the consultation response from the LHA. The LHA have concluded that they can only take into account the change of use rather than the storage and distribution element which already has planning permission.

As stated above a tile showroom (A1), in accordance with the ESCC, Guidance for Parking at Non-Residential Development should provide 1 space per 30m². The new overall temporary total site area for the tile showroom will be 122m² (97m² + 25m²) which creates a parking requirement for 4 car parking spaces. The current combined authorized use of use class B1 (97m²) and part B8 (25m²) requires 3 car parking spaces. The 1 space allocated therefore falls short of the recommended number of car parking spaces; however, as there is potential to park on street and the LHA have not objected to this application, it is considered that a reason for refusal on highway grounds could not be reasonably applied.

The temporary additional ancillary internal floor space for the tile showroom (approximately 25m²) is unlikely to generate the need for additional deliveries by lorry however a condition in relation to delivery times specifically in relation to the tile showroom will be placed on the consent.

Given the comments from the LHA, a recommendation for refusal wouldn't be justified in this instance as a severe impact would not be created from the proposed change of use. The proposal is considered acceptable having regard to policy DM4 Hastings Local Plan – Development Management (2015) and policies SC1 and T3 Hastings Local Plan – Planning Strategy (2014) and the transport requirements of the National Planning Policy Framework.

The stated damage to Croft Road and to residential properties by lorries is currently being investigated by ESSC (Highways).

Air Quality and Emissions

Having regard to guidance contained within 'Air Quality and Emission Mitigation' 2013 produced by Sussex Air Quality Partnership, the proposed development will not exceed statutory guidelines for airborne pollutants and Environmental Health Officers have no objection in this respect. No external lighting is proposed and residential amenities are not harmfully affected. The development will not give rise to ground or surface water pollution. The development is, therefore, in accordance with Policy DM6 of the Hastings Development Management Plan (2015).

Conclusion

The proposal complies with the development plan in accordance with Section 38 (6) of the Page 37 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.

Having reviewed the proposed submission, it is considered to be acceptable and the application is therefore recommended for approval of a temporary consent subject to conditions.

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 plans:

TCPS 619A/1, TCPS 619A/2, TCPS 619A/4, TCPS 619A Planning Statement
2. Deliveries and waste collection to and from the premises shall not take place except between the following hours:-

08:00 to 17:00 Monday - Friday
08:00 to 12:30pm Saturdays, and
at no time on Sundays or Bank Holidays.
3. The premises shall not be used except between the following hours:-

8 am - 5pm Monday - Friday,
8am - 12.30pm Saturdays,
Not at all on Sundays or Bank Holidays.

4. Notwithstanding the provisions of the The Town and Country Planning (General Permitted Development) Order 2015, the approved tile show room (A1 retail use) shall be restricted to the area marked on drawing number TCPS 619A/3 only.
5. The temporary change of use from part B8 to use class A1 shall cease on 1 May 2017. The use class as approved will return back to use class B8 as of 2 may 2017.

Reasons:

1. For the avoidance of doubt and in the interests of proper planning.
2. To safeguard the amenity of adjoining residents.
3. In the interests of the amenity of the neighbouring residential occupiers.
4. In the interests of the amenity of the neighbouring residential occupiers.
5. To safeguard the amenity of adjoining 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 paragraphs 186 and 187 of the National Planning Policy Framework.
3. The proposal may be a material change of use to which the Building Regulations 1991 apply and a building regulation submission may be necessary before the change of use takes place.

Officer to Contact

Mr Y Watt, Telephone 01424 783336

Background Papers

Application No: HS/FA/16/00086 including all letters and documents