

Report to: PLANNING COMMITTEE

Date of Meeting: 12 December 2023

Report from: Planning Services Manager

Application address: 40 Norman Road, St Leonards-on-sea, TN38 0EJ

Proposal: Proposed change of use from shop (Class E) to cafe and bar (Class E and Sui Generis) and the installation of two louvered vents within the ground floor rear elevation of building (amended description).

Application No: HS/FA/23/00620

Recommendation: Grant Full Planning Permission

Ward: CENTRAL ST LEONARDS 2018

Conservation Area: Yes - St. Leonards East

Listed Building: No

Applicant: Mr Parkin and Ms J Lloyd per Elevations Design Ltd
Junction House 1 Sedlescombe Road South St
Leonards on Sea, East Sussex. TN38 0TA

Public Consultation

Site notice:	Yes
Press advertisement:	Yes - Conservation Area
Neighbour Letters:	No
People objecting:	27
Petitions of objection received:	0
People in support:	13
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

The application site relates to the ground floor of No. 40 Norman Road, a three-storey, Victorian terraced property with a mansard attic addition. The ground floor until recently was

used as a retail shop but is now vacant, situated above is residential accommodation. The surrounding development is similar to that of the existing building with commercial uses found at ground floor level with residential use above. The site is located within the St Leonards East Conservation Area and the St Leonards Centre Shopping Area. The property is located on the south side of Norman Road, east of the Grade II listed buildings Nos. 66 and 68 Norman Road and Nos. 1-8 Undercliff Terraces, and west of the London Road junction. To the front at ground floor there is an impressive timber glazed shop front with slimline joinery, ornate pilasters, consoles and brackets and a glazed recessed doorway, all of which allow clear views through to the premises. The rear elevation has a more subservient appearance, with a two-storey, flat roof rear addition that faces on to the narrow footpath, Market Passage. The rear façade of this addition has a distinctive service access appearance, with fenestrations that reflect those on neighbouring properties and a ground floor elevation which is obscured from Market Street by the high boundary walls opposite and the local steep topography.

Constraints

SSSI Impact Risk Zone

Groundwater Flooding

GCN District Licensing Scheme IRZ - White

St Leonards East Conservation Area

St Leonards Centre Secondary Shopping Area

2. Proposed development

This application is seeking planning permission for a change of use of the shop (Class E) to cafe and bar (Class E and Sui Generis).

The café and bar will serve a varied and flexible food offering with a range of hot and cold small plates on Monday to Thursday, plus larger plates on Friday to Sunday. In terms of drinks a variety of cocktails, wines, local beers, spirits, low alcohol beers and soft drinks will be available. There will not be any live music on the premises. The floor plan for the café and bar shows internal seating for approximately 37 customers comprising of 20 seats around tables and a further 17 stools around the bar, wall and bay window areas. Overall, the proposed customer floor space for the café and bar would measure approximately 32sqm plus the bar space area of some 6.5sqm. The floor space to the rear would consist of a kitchen, storage space, ventilated bin store and WC facilities. The cafe and bar will provide employment with 2 full time and 4 part time.

The proposed opening hours for this application are:

17:00 - 23:00 Monday - Tuesday, including Bank Holidays

11:00 - 23:00 Wednesday - Sunday

The application also includes some minor external alterations to the ground floor rear elevation of building with the installation of two small louvered vents to be fitted within the existing fenestration to provide ventilation for the café and bar. No other external alterations are proposed.

This application is for café and bar use at ground floor level only and does not relate to the residential accommodation above.

The application is supported by the following documents:

- Location and block plans (23.492.1).
- Existing and proposed rear elevation (23/492/04).
- Proposed floor plan (23.492.03A).
- Proposed ventilation plan (05B).
- Ventilation report (dated: 4.9.23).
- Planning statement (revision A).
- Operation and management of business statement.
- Risk assessment plan (23.492.3B).

Relevant planning history

Application No.	HS/FA/88/01183
Description	CHANGE OF USE FROM SHOP AND DWELLING TO SHOP AND PRIVATE GUEST HOUSE
Decision	Refused on 22/03/89

Application No.	HS/FA/89/00331
Description	CHANGE OF USE FROM SHOP AND LIVING ACCOMMODATION TO OFFICE PREMISES.
Decision	Permission with conditions on 17/05/89

National and local policies

Hastings Local Plan – Planning Strategy 2014

Policy FA2 - Strategic Policy for Central Area
Policy FA4 - Strategy for Central St Leonards
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy EN1 - Built and Historic Environment
Policy E3 - Towns, Districts and Local Centres

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications
Policy DM1 - Design Principles
Policy DM3 - General Amenity
Policy DM4 - General Access
Policy DM6 - Pollution and Hazards
Policy HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)
Policy HN2 - Changing Doors, Windows and Roofs in Conservation Areas
Policy SA2 - Other Shopping Areas
Policy SA4 - Drinking Establishments and Hot Food Take-Aways
Policy CQ1 - Cultural Quarters

National Planning Policy Framework (NPPF)

Paragraph 8 sets out the three overarching objectives of the planning system in order to achieve sustainable development. Those are: 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 (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities'

health, social and cultural well-being); and environmental (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy)

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.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 of the NPPF states that the development plan is the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Paragraph 47 of the NPPF sets out that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 120 of the NPPF states, amongst other things, that decisions should promote and support the development of under utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 123 of the NPPF states that Local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

- a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and
- b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Paragraph 124 of the NPPF states that planning decisions should support development that makes efficient use of land.

Paragraph 130 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

in order to create an attractive, welcoming and distinctive places to live, work and visit.

- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 131 of the NPPF states that decisions should ensure new streets are tree lined, that opportunities are taken to incorporate trees elsewhere in developments.

Paragraph 134 of the NPPF states that development that is not well designed should be refused but that significant weight should be given to development that reflects local design policies and government guidance on design and development of outstanding or innovative design which promotes high levels of sustainability and raises the standard of design in the area, provided they fit with the overall form and layout of their surroundings.

Paragraph 135 of the NPPF seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 183 of the NPPF states that decisions should ensure a site is suitable for its proposed use having regard to ground conditions and risks arising from land instability and contamination.

Paragraph 184 of the NPPF sets out that where sites are affected by land stability or contamination, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

3. Consultation comments

Conservation Officer - **No objection**

Environmental Health - **No objection**

Refuse - **No objection**

Licensing - **No objection**

Licensing have had pre application meetings with the applicant ahead of them submitting a

premises licence application. Advice has been given relating to the premises sitting in the Cumulative Impact Zone (CIZ) and residential area. If planning permission is given, the applicant will need to address the CIZ within their subsequent licensing application to show how the premises will address the Four Licensing Objectives. The operating hours proposed in the licensing application must be within Hastings Borough Council matrix, which can be found by reviewing the Council's Statement of Licensing Policy.

The applicant has been advised that the Licensing Team will not grant an application for a premises licence until planning permission has been given.

Informative note 9 has been added to the recommendation to advise the applicant that a separate application under the Licensing Act 2003, for a premises licence will need to be submitted.

Sussex Police - **No objection**

Sussex Police have requested that the proposed hours of trading are conditioned in order to protect the amenity of the above and nearby residential occupiers, and to accord with Policies DM3 and DM6 of the Hastings Development Management Plan.

The proposed opening hours of the cafe and bar have been attached as a condition to the recommendation (condition 5).

Planning Policy - **No comments received**

Planning Practice Guidance (2021)

What happens where a statutory consultee is unable to meet the deadlines for responding?

Local planning authorities are expected to determine applications for planning permission, within a time period of 5, 8, 13 or 16 weeks (depending on the type of development).

Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in the absence of their advice.

Paragraph: 016 Reference ID: 15-016-20190722

Revision date: 23 07 2019 See previous version

4. Representations

In respect of this application a site notice was put up outside the premises along Norman Road.

32 letters of objection were received from 27 different properties raising the following concerns:

- The shop is not disused and has been successfully run for 7 years, and independent shops are much more important.
- Boutique clothing shops, as well as antique stores, all play a significant role in enhancing Norman Road's appeal.
- Plenty of other unused premises on the road which could be used for a new venture.
- Too many cafe/restaurants and bars already in the area.
- Concerns to noise, odour, disturbance and anti-social behaviour in this residential street.
- Concern to the venue being used as a music venue and screen films.
- This new cafe/bar could harmfully affect the trade of other businesses nearby.
- Concerns to parking and deliveries.
- Extra food waste and rubbish could be a detriment to the area and pose health risks with vermin.
- The area falls within a Cumulative Impact Zone, licensing objectives should be addressed.

- The application form incorrectly states that the shop is disused and there will be no trade waste from the premises.
- The risk assessment plan does not help the application and excludes some local businesses.

13 letters of support were received from 13 different properties raising the following:

- The proposed use will fit in well and complement the existing array of uses found along Norman Road.
- A different option will only add to the vitality of food and drink establishments for residents and visitors alike.
- The new cafe/bar will provide new full time and part time employment.
- The business will be professionally run and managed and will be an asset to the area.
- Other food and drink businesses manage their waste without detriment to the area and there is no reason why No. 40 will be any different.
- The investment and input from local businesses over the past few decades has made this area a safer and much better place.
- The loss of the shop should not be considered as this could happen anyway.

5. Determining issues

The main considerations which need to be considered is the acceptability of the principle of the proposed cafe and bar use in this location, the impact on the character and appearance of the conservation area, neighbouring residential amenities, waste storage matters, and highway parking and safety matters.

a) Principle

The site is in a sustainable location and the application is therefore in accordance with Policy LP1 of the Hastings Local Plan - Development Management Plan 2015 in this respect and acceptable in principle subject to other Local Plan policies.

b) Existing / proposed use

The ground floor until recently was used as a retail shop (class E use) but is now vacant, in the St Leonards Secondary Shopping Area (SA2), Cultural Quarter (CQ1) and St Leonards district centre (E3).

The loss of the shop is cited in several objection comments, but it is important to note that the shop (use class E) can be converted to another use within use class E under permitted development rights, for example a restaurant/café, as proposed. It is noted the application seeks permission to use the premises as a cafe and bar, and as the application is proposing a bar use (sui generis which is a use class of its own kind), a change of use to café and bar requires planning permission.

The application site is located within St Leonards district centre and Policy E3 of The Hastings Planning Strategy (2014) is relevant which advises that within the Town, District and Local Centres the vitality and viability of the Town and District Centres will be maintained and, where appropriate, enhanced. Amongst others, measures to achieve this vitality and viability include safeguarding the appearance, safety and environmental quality of the centre; encouraging diversity of uses within the centre and the provision of a wide range of retail, leisure, social, educational, arts, cultural, residential and commercial uses; promoting the use of vacant buildings; and maintaining and enhancing access to the centre by sustainable

modes of transport and encouraging multiple purpose trips.

It is considered the proposed use would not only maintain, but enhance, the vitality and viability of the district centre by creating greater employment, encouraging multi-use trips and 'dwell time', whilst broadening the culinary and beverage offerings within Norman Road, particularly given the future of our high street is no longer reliant on retail, all of which is welcomed and in accordance with Policy E3 of the Hastings Local Plan - Hastings Planning Strategy (2014), and the broad aims of the National Planning Policy Framework.

The National Planning Policy Framework considers retail centres, and places an emphasis on flexibility, the ability to "respond rapidly to change" and the changing climate of shopping habits. This advice is also reflected in the Planning Practice Guidance. In addition, information from a range of national studies indicates that due to a long-term change in shopping habits, percentage thresholds may restrict the overall vitality of town centres. The general position is that town centres must "find a focus other than retail in order to survive" (UK Parliament, 2019).

Policy SA2 seeks to control changes of use within the shopping area, in order to preserve the vitality and viability of the shopping area as a whole. The policy sets out the Council's approach "Within district, local and neighbourhood Primary Shopping Areas, as defined on the Policies Map, at ground floor level, proposals for Class A1, A2, A3, A4, A5 and other uses appropriate to the character of the shopping area will be permitted provided both of the following criteria are satisfied:", limb a places a percentage restriction on non-retail uses within the shopping area, and limb b seeks to restrict an excessive concentration of non-retail uses which would cause a significant interruption in the shopping frontage.

Since the adoption of the local plan, changes to the Use Class Order in 2020 and the Part 2 Retail Study both encourage a more flexible approach moving away from a percentage-basis assessments and towards a significantly greater focus on limb b of Policy SA2, which states that changes of use away from retail functions will only be permitted where "The proposal would not result in the excessive concentration of non-A1 uses which would cause a significant interruption in the shopping frontage, reducing its attractiveness and thus harming the vitality and viability of the centre as a whole." Paragraph 3.24 of the Part 2 Retail Study provides clarity on what might constitute a "significant interruption" and concludes that this would be a case-by-case matter for planning judgement based on:

- The location and prominence of the premises;
- The size and width of the premises;
- The number and distribution of other existing and committed non-A1 uses within the defined primary retail frontage (including any premises subject to current Permitted Development changes of use);
- Where applicable, the length of vacancy of the premises and evidence of marketing for the current permitted use;
- The nature and character of the proposed use; and
- The design of the shop-front.

Norman Road and the surrounding area currently has a vibrant mix of centre uses. Policy CQ1 limb b states "proposals will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance their attraction to visitors." The premises will continue to maintain an active frontage, with the existing glazed shop front to be retained, with the proposed use considered in keeping with the current character of the surrounding area. Due to the multifunctional use of the street as a secondary shopping area and the

location of current café and bar provision in the area, it is not considered that the proposal will have a negative impact on the vibrancy and vitality of the centre. Having visited the site it is evident that the area is well served by retail and gallery spaces, with retail and gallery spaces positioned either side of the site. As mentioned above, the existing glazed shop front is to be maintained which provides an active frontage with views through to the premises. As such, condition 6 has been attached to the recommendation to ensure the shop front remains free of any advertisements, window film etc. anything that would obscure views into the premises.

Furthermore, Policy SA4 states that planning permission for new drinking establishments will be granted provided that:

- a) the precise nature of the use proposed (which should be specified in the planning application), including opening hours, is given;
- b) the proposal would not adversely affect neighbours, for example, causing excess noise or odour; (discussed in paragraph d) of the report).
- c) the proposal would not, on its own, or cumulatively with other such uses in the area, be likely to result in problems of disturbance or public disorder; (discussed in paragraph d) of the report).
- d) suitable off-street parking is or can be provided where there is insufficient on-street parking; and; (discussed in paragraph f) of the report).
- e) it would not cause inconvenience or danger on the public highway as a result of the additional stopping and manoeuvring of vehicles (discussed in paragraph f) of the report).

With regard to point a above, the applicant has confirmed opening hours of 17:00 - 23:00 Monday - Tuesday, including Bank Holidays and 11:00 - 23:00 Wednesday - Sunday and the nature of the application has also been specified. Points b to e are discussed in the following sections. The change of use is therefore considered to be acceptable and in line with Policy SA4 of the Hastings Local Plan - Development Management Plan (2015) in this regard.

Taking the above into account, it has been demonstrated that the proposals comply with the overall objectives of the Council's district centre and shopping policies. It is demonstrated that the proposals will not only maintain, but enhance, the vitality and viability of the district centre by creating greater employment, encouraging multi-use trips and 'dwell time', whilst broadening the culinary and beverage offerings within Norman Road, particularly given the future of our high street is no longer reliant on retail. The proposal is considered to accord with Policies E3, SA2, CQ1 and SA4 of the Hastings Local Plan and the broad aims of the National Planning Policy Framework.

c) Impact on character and appearance of conservation area

Policy EN1 of the Hastings Planning Strategy (2014) states development which sustains and enhances the significance of heritage assets and/or their setting will be encouraged. Policy DM1 of the Hastings Development Management Plan (2015) establishes all proposals must reach a good standard of design, which includes efficient use of resources, and takes into account: protecting and enhancing local character. Furthermore, Policy HN1 of the Hastings Development Management Plan (2015) states permission will be given for those schemes that show a full understanding of the significance of the asset and convincingly demonstrate how their chosen design sustains and enhances the significance of any heritage assets affected (including conservation areas).

The only external alterations proposed under this application are for two small and discrete 650mm by 250mm louvered vents to be installed within the existing rear, ground floor fenestrations, to provide ventilation for the café and bar. No other external alterations are proposed under this application. It is noted that the rear ground floor elevation where these works will be located is obscured from view from Market Street by the high boundary walls opposite and the local steep topography. Conservation was consulted and have concluded that the proposals would not affect the character or the appearance of the St Leonards East Conservation Area and would not impact on the setting of any other designated or non-designated heritage asset. Therefore, on this basis Conservation raises no objections to the proposal.

d) Impact on neighbouring residential amenities

Policy DM3 of Hastings Development Management Plan requires proposals to demonstrate that amenity has been considered as appropriate. And policy DM6 provides that planning permission will only be granted provided noise and odour that is detrimental to the neighbouring and/or local amenity is kept to a practical minimum.

Policy SA4 supports new drinking establishments providing that the requirements of (a) to (e) are met:

b) the proposal would not adversely affect neighbours, for example, causing excessive noise or odour.

c) the proposal would not, on its own, or cumulatively with other such uses in the area, be likely to result in problems of disturbance or public disorder.

The application site is located within the St Leonards Centre Shopping Area, with the surrounding area made up of a mixture of uses, including residential and commercial, mainly with commercial units found at ground floor with residential accommodation above. As such, it is not unusual to have a use as proposed within this location. This application relates solely to the ground floor of the building, with residential accommodation above and to either side above the ground floor units. There have also been a number of objections received for this application that raise concern of possible issues of odour, noise or disturbance to neighbouring dwellings. As such, the proposal needs to consider the amenity of the neighbouring residential units to ensure that they are not unduly harmed as a result of the proposed change of use.

The opening hours for the café and bar will be 17:00 - 23:00 Monday - Tuesday, including Bank Holidays and 11:00 - 23:00 Wednesday - Sunday. The proposed opening hours put forward by the applicant are similar to that of other businesses which are in proximity to the premises, some of which have residential use above or nearby also. Given the location of the building, it is not expected that the proposed café and bar will be out of place within this given setting, as such the proposed opening hours are not considered excessive and are considered acceptable. A condition has been attached to the recommendation detailing these opening hours (condition 5).

It is noted that the proposed internal and external construction works have the potential to cause noise and disturbance, which can impact on the people who live and work in the area. As such, condition 3 has been attached to the recommendation to ensure these works are controlled.

There have been no sound insulation details submitted with this application to demonstrate how the proposal would protect the amenity of the residential accommodation above the proposed café and bar. As such, condition 7 has been attached to the recommendation to require the submission of noise insulation and vibration reduction details.

It is noted the initial scheme proposed live music and occasional film screenings. However, concerns relating to these aspects in relation to excessive noise were discussed with the agent and these elements have since been removed. Condition 4 has been attached to the recommendation which specifies that no live music or amplified sound system shall be used or generated which is audible outside the building, within the residential unit above or within adjoining buildings.

The applicant has submitted a proposed ventilation plan (05B) and a EMAQ ventilation report (dated: 4.9.23) where it has been identified that it is proposed for the kitchen to be provided with a recirculation hood and background ventilation, with the two vent louvered to the ground floor rear of the building. Environmental Health were consulted and they have concluded that the information in the EMAQ report is satisfactory commensurate to the type of premises being proposed. However, if the catering operation was to change in the future, the proposed ventilation extract system may well need to be upgraded. The proposed level of catering would not impact on neighbouring properties as a source of noise or odour, and the application would be acceptable in this regard. Informative note 7 has been attached to the recommendation to advise the applicant that if the catering level increases and further ventilation is required then a new planning application may be required. If this is the case, the applicant is advised to contact the Local Planning Authority.

Sussex Police have been consulted and initially raised concern that sufficient information should be made available that demonstrates the applicant's application would not add to the cumulative impact of such licensed premises in the present Saturation Area 3 Central St Leonards. Following these comments, the applicant undertook a walk around and photographic survey to confirm the usage of ground floor properties in the immediate area, with a colour coded key. A risk assessment plan was produced with this collected data which demonstrates that whilst there are a number of licensed premises within the immediate area, with a couple of these located close to the site, the western section of Norman Road is well served by retail and gallery spaces. It is considered this small and intimate café and bar will only add to the increased popularity of Norman Road and compliment what is already on offer. The applicant in addition to their planning statement (revision A) has also provided an operation and management of business statement, to demonstrate that the business will be professionally run and managed, including sufficient numbers of staff on duty at all times, CCTV in operation, no advertisements for drink promotions and challenge 25 will apply therefore no ID no service. It is also noted the applicant has been in contact with Sussex Police Licensing Team, continued contact with Sussex Police Licensing Department will be advantageous for both parties. Sussex Police were re-consulted in respect of the submission of the additional information and commented that their concerns had been addressed and they had no objection to the proposed application as submitted from a crime prevention perspective. Following this an objection comment was submitted with concerns that a number of licensed premises along Grande Parade and Gensing Road had not been included within the risk assessment plan, as such the applicant has amended the risk assessment plan to include these premises. Subsequently a further objection comment was received with concerns that other licensed premises have not been shown, including No. 1 Western Road (Three Faces Tapas), which is a restaurant and is not authorised as a drinking establishment. Sussex Police were re-consulted on the amended risk assessment

plan and made aware of No. 1 Western Road, Sussex Police have confirmed they have no objection to the proposed application as submitted from a crime prevention perspective, but have requested that the proposed hours of trading are made a condition of consent (condition 5).

In view of the above, it is not considered that the proposed use would generate odour, noise or disturbance to an extent that would result in harm to residential amenity, subject to the attached conditions. The proposal is therefore considered acceptable in this regard and in line with the aims of Policies DM3, DM6 and SA4 of the Hastings Local Plan - Development Management Plan (2015).

e) Impact on Great Crested Newts

The development falls within the white impact risk zone for great crested newts. This is a minor application, more than 250m from a pond with no ground works being proposed. As such there is no requirement to consult NatureSpace in respect of Great Crested Newts. An informative is added should Great Crested Newts be found on site at any stage of the development works.

f) Highway safety/parking

Policy SA4 supports new drinking establishments providing that the requirements of (a) to (e) are met:

d) suitable off-street parking is or can be provided where there is insufficient on-street parking; and

e) it would not cause inconvenience or danger on the public highway as a result of the additional stopping and manoeuvring of vehicles.

The site is located within a sustainable location with good pedestrian access to the nearby train station and bus stops. There are also several public car parks in proximity to the site. The site does not benefit from any on-site dedicated parking or pick up / collection points, however, given the sustainable location it is considered that the proposed use would not result in any significant increase in traffic or parking demand, or cause inconvenience or danger on the public highway compared to the existing retail use. In view of the location of the site and the wider commercial area, further details regarding parking arrangements are not considered necessary in this case and the proposal is considered to be acceptable from a parking and highways safety perspective.

g) Refuse

Policy DM3 of Hastings Development Management Plan requires adequate space for the storage of waste and the means of its removal.

In terms of waste and recycling produced from the café and bar, the applicant will provide an internal ventilated bin store to the rear of the premises, as shown on drawing no. 23.492.03A. All waste and recycling will be collected by a Licensed Waste Contractor on a regular basis. Condition 8 has been attached to the recommendation to ensure that the ventilated bin store is provided before the first use of the premises. The Refuse Team have been consulted on the proposals and support this arrangement.

h) Site constraints

The site is within a SSSI IRZ. The scale of development does not fall within the threshold for consultation with Natural England and as such it is not considered that there will be any impact on SSSIs.

The site is also affected by ground water flooding, however the proposal will not involve any ground works and as such there will be no impact or increase in flood risk on and off site as a result of the application, no further consideration required in this regard.

6. Conclusion

In conclusion, the proposal is considered to be acceptable in principle and would not harm the character of the area, adding to the vitality and viability of St Leonards Centre and providing employment opportunities. It is also found to be acceptable in relation to neighbouring amenity, highway parking and safety and refuse, complying with local and national plan policies. As such is recommended for approval, subject to conditions.

These proposals comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

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

7. Recommendation

Grant Full Planning Permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location and block plans (23.492.1)
Existing and proposed rear elevation (23/492/04)
Proposed floor plan (23.492.03A)
Proposed ventilation plan (05B)
Ventilation report (dated: 4.9.23)
Planning statement (revision A)
Operation and management of business statement
Risk assessment plan (23.492.3B)

3. During construction any work which is audible at the site boundary, including deliveries to and from the premises, shall not take place before 08:00 and after 18:00 hours Monday-Friday or before 09:00 and after 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
4. No live music or amplified sound system shall be used or generated which is audible outside the building, within the residential unit above or within adjoining buildings.
5. The premises shall not be used except between the following hours:-
17:00 - 23:00 Monday - Tuesday, including Bank Holidays
11:00 - 23:00 Wednesday - Sunday
6. The shop front shall remain free of any internally or externally placed advertisements or anything that would obscure views into the premises such as window film.
7. The use approved shall not commence until a report detailing the noise insulation and vibration reduction between the proposed café and bar at ground floor and the existing residential premises at first floor, is submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in accordance with the approved report prior to the commencement of the use of the café and bar and thereafter be retained and maintained.
8. The use approved shall not commence until the ventilated bin store as shown on approved plan No. 23.492.03A is provided and thereafter be retained in perpetuity for that purpose.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the amenity of adjoining and future residents.
4. To safeguard the amenity of adjoining and future residents.
5. To safeguard the amenity of adjoining and future residents.
6. To ensure that clear views into the shop are maintained in order to protect the vitality and viability of the shopping centre.
7. To ensure a satisfactory form of development, and to safeguard the amenity of adjoining and future residents.
8. In order to secure a well-planned development that functions properly and prevents waste becoming a detriment to the surrounding area.

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. If signage is proposed, then this may require consent, the applicant is advised to consult Advertisement Regulations. If consent is required, this should be obtained prior to any signage being installed.
4. The Food Business Operator will be required to register the food establishment with the Local Council 28 days prior to opening. The registration form can be found online at http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers/
5. The applicant is strongly advised to contact the Environmental Health Division before services, fixtures and fittings etc. are installed for advice on satisfying the requirements of Health and Safety Law.
6. The applicant is reminded that any trade waste produced at this establishment will need to be collected by a registered and licensed trade waste carrier, and the collections will need to be frequent enough to prevent the waste from becoming a detriment to the surrounding area.
7. The applicant is advised that if the catering level increases and further ventilation is required then a new planning application may be required. If this is the case, the applicant is advised to contact the Local Planning Authority.
8. The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to: deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstructing access to a resting or sheltering place. Planning consent for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

More details on the district licensing scheme can be found at www.naturespaceuk.com

Contact details: info@naturespaceuk.com

9. The applicant is advised that such proposals, will require a separate application under the Licensing Act 2003, for a premises licence, with the full 28 day consultation process, with copies provided to all responsible authorities, of which planning are one of the statutory consultees.

Officer to Contact

Miss Louise Brooks, Telephone 01424 783261

Background Papers

Application No: HS/FA/23/00620 including all letters and documents