

Report to: PLANNING COMMITTEE

Date of Meeting: 28 February 2024

Report from: Planning Services Manager

Application address: 7-9 Langham Road, Hastings, TN34 2JE

Proposal: Variation of condition 1(hours of use) of Planning Permission HS/FA/21/00829 (Current approved hours 0930 – 1630 hours, Monday to Saturday, with the exception of related office uses which can take place between 0800 – 1800 hours, Monday to Saturday.) Hours proposed 08:00 to 21:00 Monday to Friday and add Sundays from 09:00 to 18:00.

Application No: HS/FA/23/00585

Recommendation: Grant Full Planning Permission

Ward: ST HELENS 2018
Conservation Area: No
Listed Building: No

Applicant: Sensory Soft Play 168 Edmund Road Hastings, East Sussex. TN35 5LQ

Public Consultation

Site notice:	Yes
Press advertisement:	No
Neighbour Letters:	No
People objecting:	9
Petitions of objection received:	0
People in support:	51
Petitions of support received:	0
Neutral comments received:	0

Application status: Not delegated - 5 or more letters of objection received

1. Site and surrounding area

This application relates to a single storey, flat-roofed unit located at the eastern end of a quiet residential Road. The building is situated in between No.5 and 11 Langham Road, both of which are residential dwellings.

The site is flat, with a small carpark for approximately 6 cars, however these spaces are not currently marked out. To the front, the application site is bounded by a low brick wall and two wooden gates which provided access to the carpark. This section of Langham Road is predominately residential on both sides and opposite. Langham Road is off Elphinstone Road, where the Hastings United Football Club's playing field are located.

The site is used as a day centre with sensory soft play and therapy, falling within Class E, originally approved in 1994 and amended in 2021 (HS/FA/21/00829) to extend the hours of use to 8:00 to 18:00 Monday to Saturday.

Constraints

Historic Landfill 250m Buffer.

Great Crested Newts - Green Zone

2. Proposed development

This application seeks to vary the current hours from:

Day Centre 0930 – 1630 hours, Monday to Saturday and ancillary office 0800 – 1800 hours, Monday to Saturday.

To:

08:00 to 21:00 Monday to Friday and Sundays from 09:00 to 18:00. There are no changes to the hours on Saturdays, which will remain 08:00-18:00.

The reason for the proposal is due to the centre becoming increasingly busy, with the Saturday respite clubs becoming oversubscribed. The application form mentions there is a huge need for respite sessions for children with SEND issues and the Sunday availability would allow them to offer more respite sessions for struggling parents and carers. The evening extensions would further allow them to run after school clubs for children and offer more support to the parents and carers of SEND children and young adults through social activities, like art and crafts sessions, but also training to help them deal with their children and young adults more effectively. The charity is also registered with the Sussex Family Hubs program so it would also allow space for those activities.

The application is supported by:

- Noise Impact Assessment report dated 28th November 2023

Relevant planning history

Application No. HS/FA/49/00685

Description: Addition to workshop - renewal of temporary consent.49/685A - Addition to work-shop - renewal of temporary consent - GTD - 12/12/1950.49/685B - Addition to workshop - renewal of permission- GTD - 09/02/1954.49/685C - Addition to workshop - renewal of permission. - GTD - 12/03/1957.

Decision Permission with conditions on 08/11/49

Application No. HS/FA/78/00555

Description: Addition of one office at builders yard.

Decision Permission with conditions on 04/10/78

Application No. HS/EX/84/00653

Description: Establish use as builders yard and offices

Decision Permission with conditions on 30/11/84

Application No. HS/FA/94/00597

Description: Change of use from builders workshop and stores to day centre

Decision Permission with conditions on 06/12/94

Application No. HS/FA/21/00829

Description: Variation of condition 2 (hours of use) of Planning Permission HS/FA/94/00597 - Sensory play sessions on Monday - Saturdays 9:30-16:30 and 2 Offices with up to 3 employees hours between 8:00 - 18:00 Monday - Saturday to operate under a Mixed Use Class(E) (revised scheme omitting 24 hour call centre)

Decision Permission with conditions on 10/01/22

National and local policies

Hastings Local Plan – Planning Strategy 2014.

Policy FA2 – Strategic Policy for Central Area.

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

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 HC3 – Community Facilities

Revised Draft Local Plan (Regulation 18)

Policy SC1 - Design - Key Principles

Policy SC2 - Design - Space and Accessibility Standards

Policy DP7 - Access, Servicing and Parking

Policy DM6 - Pollution and Hazards

Other policies/guidance

National Planning Practice Guidance

National Design Guide

National Planning Policy Framework (NPPF)

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 135 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 139 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 191 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.

Planning Practice Guidance

Noise Paragraph: 001 Reference ID: 30-001-20190722

When is noise relevant to planning?

Noise needs to be considered when development may create additional noise, or would be sensitive to the prevailing acoustic environment (including any anticipated changes to that environment from activities that are permitted but not yet commenced). When preparing plans, or taking decisions about new development, there may also be opportunities to make improvements to the acoustic environment. Good acoustic design needs to be considered early in the planning process to ensure that the most appropriate and cost-effective solutions are identified from the outset.

Paragraph: 002 Reference ID: 30-002-20190722

Can noise override other planning concerns?

It can, where justified, although it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.

Paragraph: 003 Reference ID: 30-003-20190722

How can noise impacts be determined?

Plan-making and decision making need to take account of the acoustic environment and in doing so consider:

whether or not a significant adverse effect is occurring or likely to occur;
whether or not an adverse effect is occurring or likely to occur; and
whether or not a good standard of amenity can be achieved.

Paragraph: 004 Reference ID: 30-004-20190722

What are the observed effect levels?

Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.

Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.

No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

Although the word 'level' is used here, this does not mean that the effects can only be defined in terms of a single value of noise exposure. In some circumstances adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise and the time of day the noise occurs.

Paragraph: 005 Reference ID: 30-005-20190722

How can it be established whether noise is likely to be a concern?

At the lowest extreme, when noise is not perceived to be present, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed effect' level. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it. The noise may slightly affect the acoustic character of an area but not to the extent there is a change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

At the lowest extreme, when noise is not perceived to be present, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed effect' level. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it. The noise may slightly affect the acoustic character of an area but not to the extent there is a change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.

At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided

Paragraph: 006 Reference ID: 30-006-20190722

What factors influence whether noise could be a concern?

The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.

These factors include:

the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;

for a new noise making source, how the noise from it relates to the existing sound environment;

for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;

the spectral content of the noise (i.e. whether or not the noise contains particular high or low frequency content) and the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features), and;

the local arrangement of buildings, surfaces and green infrastructure, and the extent to which it reflects or absorbs noise.

More specific factors to consider when relevant include:

the cumulative impacts of more than one source of noise;

whether any adverse internal effects can be completely removed by closing windows and, in the case of new residential development, if the proposed mitigation relies on windows being kept closed most of the time (and the effect this may have on living conditions). In both cases a suitable alternative means of ventilation is likely to be necessary. Further information on ventilation can be found in the Building Regulations.

In cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.

3. Consultation comments

Environmental Health - In terms of noise - **No objection subject to the following condition;**

“No use of the outdoor play areas between the hours of 16:30 – 21:00 Monday to Saturday or between the hours of 16:00 – 18:00 on Sundays.”

4. Representations

In respect of this application a site notice was displayed opposite the site.

8 no letters of objection were received from 8 different properties.

51 no letters of support were received from 51 different properties.

8 letters of objection have been received raising the following concerns:

- Increased hours of operation will cause further disruption with evening hours;
- Increased road traffic congestion late at night and weekends;
- Increased parking and access problems for residents;
- Noise from additional traffic (including car doors slamming) evenings and weekends;
- Noise from activity at the premises evenings and weekends;
- Extra traffic during dropping off and picking up, or parking of vehicles, slamming car doors and impact upon road surface;
- Noise from activities already taking place both inside and outside of the premises;
- Other commercial/retail uses would not be allowed in this residential area and would relocate to more suitable location;
- Extending the hours and days, to operate 7 days a week, will undisputedly have an impact on those living near to it.

51 letters of support have been received raising the following:

- Sensory soft play provides invaluable support to families with SEND children;
- Very few places in the area where it is possible to bring severely autistic children and young adults;
- It will help parents and guardians and carers having somewhere to take their children after usual hours for extra activities and day care;
- The extended hours will allow further support to more families and children in very much need of support and respite;
- Families will be able to meet others families in similar situations and offer each other friendship and support;
- Beneficial for lots of children in the local area;
- A great asset to the community;
- Option to attend the centre in the evenings and Sunday beneficial to those with work commitments;
- Hardly any all inclusive places for SEND children to attend;
- This charity plays massive part of our community;
- The extension of hours will enable more quality time to new and existing users;
- The idea of extending the respite club is incredible;
- Not much to do in Hastings for SEND children;
- Not enough places in Hastings supporting children with any kind of learning disabilities. So any place should be supported and help with any support we are able to;
- Such a wonderful and much needed resource;

- Extension of the operating hours will further enhance the local community, ease the burden on the local authority and allow more families to access much needed services;
- The extension of opening hours will enable it to be more accessible to families that need the support from all those that work and volunteer at the centre. The centre has a car park and is located at the bottom of Langham Road therefore will not impact on any parking in the area, people using the car park are respectful and thoughtful to those around;
- A truly amazing Charity and they are doing an amazing job by supporting local families. There is no other place locally like this and the extended hours will help local families and children;
- The extension of hours is vital to support those parents who work full time and would like to use the facilities at the weekend. There are not enough facilities in Hastings and surrounding areas to support the needs of children with SEND and many current ones are only available during working/school hours (including council run family hubs). Traffic increase will be minimal due to small size classes to meet the children's needs and minimal noise caused by attendees;
- The application should be fully supported by the council;

5. Determining issues

The main issues relevant to the determination of this application is the variation of operational hours, and its impact on the residential amenity of neighbouring occupants.

a) Principle

The site is in a sustainable location, and the development proposed would maintain and improve the existing use of the site. It would facilitate and make better use of an existing facility which provides respite for children with special educational needs.

b) Community and educational needs

Policy HC3 relates to community facilities and states provision of community facilities will be granted planning permission, provided that the development is acceptable in terms of location, design, access and impact on the locality, and is in general conformity with other policies of this Plan, in particular DM1 and DM3.

The supporting text for Policy HC3 of the Development Management Plan highlights the importance of community facilities, noting that they *“provide for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community. The communities of the Borough are set to grow and as such, these facilities will not only need to provide for the needs of the existing population but also for more people as they move to the area.”*

Weight must therefore be given to the benefit of the scheme in terms of the provision of educational facilities for the local community.

The application therefore complies with Policy HC3, as well as Policy LP1 Hastings Local Plan - Development Management (2015), and is acceptable in principle, subject to other local plan policies.

c) Impact on character and appearance of area

No changes are proposed to the external appearance of the building. The premises and the character of the area remains as existing. As such there is no impact in terms of design and appearance.

d) Impact on neighbouring residential amenities

Policy DM3 of the Hastings Development Management Plan seeks to achieve a 'good living standard for future users of proposed development and its neighbours' through considering amenity and incorporating appropriate solutions into schemes.

The site's permitted hours are currently: 0930 – 1630 hours, Monday to Saturday, with the exception of related office uses which can take place between 0800 – 1800 hours, Monday to Saturday.

This application would see those hours extend to: 08:00 to 21:00 Monday to Friday and include Sundays from 09:00 to 18:00. There are no changes to the hours on Saturdays, which will remain 08:00-18:00.

The main operation as a community facility is not being considered or disputed as part of this variation. The charity makes a positive contribution to the health and wellbeing of the community. However, the proposal is to extend the hours into evenings until 21:00 Monday to Fridays and extend into Sunday operational hours of 08:00 until 18:00. Vehicle movement into and out of the site will extend into the evenings and weekends needs great consideration in terms of potential harm to neighbouring properties in terms of noise and disturbance of car and people movement.

It is noted that Elphinstone Road football ground is within close proximity, the hours to which football matches are played are generally on a Saturday afternoon. Occasionally, there are evening games on a Wednesday, but only about 4 or 5 times a season, and people go into the ground from Elphinstone Road, and unlikely to disturb local residents in Langham Road.

A noise impact assessment report has been submitted by the applicant. In order to determine noise levels, the assessment was carried out over four days with sound level meters placed within the carpark at the entrance of the property and the rear garden, with the main focus of the assessment addressing the potential for increased noise levels as a result of vehicles. The assessment shows that the change of existing noise levels would have a moderate impact during the evening as a result of vehicle noise and a negligible impact during the proposed Sunday hours. The assessment recommended mitigation measures to control noise arising for vehicles, by way of signage to remind visitors to leave quietly and restrictive use of the outdoor areas. However, it is recognised that this type of noise source, closing car doors and starting car engines and parking of cars would not be out of character for the area.

Whilst the additional 3 hours use between 6 to 9pm and on Sundays, 8am to 6pm, has the potential to give rise to noise and disturbance, a noise report was submitted which shows that the harm arising would not create unacceptable levels of noise. A condition has been added to ensure that the use of any outdoor play area is restricted and will not be used between the hours of 16.30 and 21.00 Monday – Saturday and 16.00-18.00 Sundays and an informative is also added to advise that signage is erected to encourage visitors to the centre to arrive and leave quietly. Therefore, the application is considered acceptable in terms of impact on residential amenity and meets the aims of policy DM3 of the Hastings Development Management Plan (2015).

6. Conclusion

Taking the above in to account, the proposal to vary condition 2 (hours of use) of HS/FA/21/00829 is not considered to result in an unacceptable level of noise pollution adversely affecting neighbouring residential amenity and as such, complies with Policies

DM3 and DM6 of the Hastings Development Management Plan, and relevant policies of the National Planning Policy Framework along with the relevant paragraphs within the Planning Policy Guidance, 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 premises shall not be used except between the following hours:-

Monday to Friday 08:00 - 21:00
Saturday 08:00-18:00
Sunday 09:00 -18:00
3. The outside play areas, as shown in blue on drawing identified as Location Plan with Play Area, shall not be used by staff or clients from 16:30 onwards on a Monday to Saturday and shall not be used from 16:00 onwards on a Sunday.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To safeguard the amenity of adjoining and future residents.
3. To safeguard the amenity of adjoining and future 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 paragraph 38 of the National Planning Policy Framework.

3. The applicant is advised to erect signage informing visitors to arrive and leave the premises quietly, refraining from slamming car doors and the excessive idling of engines.
 4. Adverts or Signage displayed on or about the building may require Advertisement Consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007. For more information on advertisements go to: <https://www.gov.uk/guidance/advertisements>
-

Officer to Contact

Zoe Taylor, Telephone 01424 783255

Background Papers

Application No: HS/FA/23/00585 including all letters and documents