

## PLANNING

1 MAY 2019

Present: Councillors Roberts (Chair), Davies (Vice-Chair), K Beaney (substitute for Councillor Edwards), Beaver, Bishop, O'Callaghan, Cox, Marlow-Eastwood, Scott, Webb

### 119. APOLOGIES FOR ABSENCE

Apologies received from Councillor Edwards (substituted by Councillor K Beaney)

### 120. DECLARATIONS OF INTEREST

<u>Councillor</u>	<u>Minute</u>	<u>Interest</u>
Beaver	5a	Personal – doctor's surgery part of wider site
Beaver	All – relating to highways	Personal - ESCC councillor
Webb	All – relating to highways	Personal - ESCC councillor
Webb	6a	Prejudicial – Agent helping him organise an event
O'Callaghan	6a	Prejudicial – son recently started employment at Hastings Pier
K Beaney	6a	Personal – met the applicant in June last year. Did not discuss the application.
Beaver	6a	Personal – The agent is known to him as a resident. Maintains an open mind.
Scott	All – relating to highways	ESCC councillor
Beaney, Beaver, Marlow-Eastwood	6b	Personal - Conservative party headquarters in the same area.

Councillor Alan Roberts added that due to an ongoing standards complaint against him regarding the Pier application he would not take

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part in the application and would leave the chamber for the discussion and voting of item 6a. Councillor Davies will take over as Chair for that item.

### 121. MINUTES OF PREVIOUS MEETING HELD ON 3 APRIL 2019

**RESOLVED** – that the minutes of the meeting held on 3 April 2019 be approved by the Chair as a true record.

### 122. PLANNING APPLICATIONS ATTRACTING A PETITION

#### 122.1 The Ice House, Rock-a-Nore Road (HS/FA/18/00850)

Proposal	Proposed change of use from existing garage (ground floor of Block D) to Tapas restaurant (A3 use), including external alterations to front elevation.
Application number	HS/FA/18/00850
Conservation area	Yes - Old Town
Listed Building	No
Consultation	Yes - 6 letters of objection and 1 petition of objection received.

Richard Temple, Principal Planning Officer, presented the application for a proposed change of use from existing garage to Tapas restaurant (A3 use). He commented that objections have been received and through consultation with Environmental Health they have advised a condition be imposed to limit noise which is condition 4. The main concerns from the objections are noise and pollution via smells so conditions have been added (condition 3 and 4). He advised that the site is in a Conservation Area however the Conservation Officer does not object but has asked for more information regarding the security shutters.

Councillors were shown plans, photographs and elevations of the application site.

The petitioner, Mr Oliver, was present and spoke against the application. He commented that residents need parking for their vehicles and that the applicant did not inform residents of his plan to change the use of the garage. There would be an increase in noise pollution directly under his property floor and outside his balcony. He commented that he was careful not to purchase a property above a commercial property initially as customers coming and going and smokers outside will cause a disturbance. Most shops in the area are closed by 6pm to limit impact on residents. The report states that the plan shows a lift however the lease agreed by the freeholders includes the lift so there would be no way to access the waste storage area due to commercial use. There will be a removal of security and safety of the entrance for residents.

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Councillors asked Mr Oliver if the conditions had gone any way to addressing the issues he had outlined. Mr Oliver responded that the coming and going of people is the main issue as it is intrusive and intimidating.

The applicant, Mr Murdoch, was present and spoke in support of the application. He commented that when the apartments were purchased there was already planning permission for use as a hotel and restaurant and the owners were aware at this time. The points raised were relevant then but not now and if the owners didn't complain then they shouldn't complain now. The building next door has A3 use; both sides of apartments C and B have A3 use. Next door which is around 11 inches away is licensed until 1am. There are no problems and very little trouble. He commented that he had never offered the garage to residents for use. He also commented that residents have complained about it being a Spanish style restaurant but it will not be a Spanish style restaurant it will be a Tapas restaurant that will purchase fish locally and prepare it off site. It will serve hot and cold tapas on site but it is microwaved so will not generate much smell.

Councillors asked Mr Murdoch if he would be able to manage the smokers outside to help the residents. Mr Murdoch answered that it is a human right and he cannot stop people, there is already a restaurant about 10 inches away so this won't change anything.

The Ward Councillor, Councillor Bacon, was present and spoke against the application. He stated that there is significant objection from residents from the ice house and beyond. The area of Rock-A-Nore contains family attractions and is a Conservation Area. Although permission was already granted for a restaurant do we really need more of these? With addition of a doctor surgery soon in the area there will be much more traffic and the noise will affect the residents. Having smokers outside of their homes is not conducive to a healthy lifestyle; residents want sea air and not cigarette smoke. Police have had reservations about this application as it would attract anti-social behaviour. There has been a lack of consultation with the residents and a lack of knowledge of the area. The state of the bins in the area should raise deep concerns. This application should be rejected.

Richard Temple, Principal Planning Officer, spoke on some of the points raised. Regarding the police they initially expressed concerns when it was proposed to be a bar but not now that A3 use has been confirmed. There is a strict condition regarding waste (condition 6) that will not allow the restaurant to open until the Council are happy with the waste disposal scheme. The objections received for the application all appear to be local. The conditions in this application are standard for this type of use and prevent opening or operating until they are met. The Conservation Officer has had no objection to this application.

Councillors discussed the application. Members asked if the Police were now happy with the application as A3 use. The Principal Planning Officer answered that they did not go back to the Police as the A3 use had met their concern already. Councillors asked if the smoking area could be limited to outside the existing restaurant but were told that limitations of the space meant that it would not be possible. Councillors asked if an informative could be added to requiring the applicant to put up signage

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requesting customers to respect the amenity of neighbouring dwellings when exiting the tapas restaurant.

Councillor Davies proposed a motion, seconded by Councillor Beaver, to grant the application as set out in the resolution below including the additional informative 6.

**RESOLVED – (9 for, to 1 against) that Full Planning Permission be granted 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:  
736-01, 736-002C, 736-03A, 736-04A, 736-05A, 736-06A, 736-07A, 736-08A, 736-010, and 736-011.
3. The A3 restaurant hereby approved shall not be open to customers until a scheme of suitable sound insulation has been submitted to and agreed in writing by the Local Planning Authority and the approved details have been carried out to the satisfaction of the Local Planning Authority. The submitted scheme shall ensure that noise and music arising from the premises shall not exceed 45db between the hours of 07:00-22:00 and not exceed 35db after 22:00. In assessing this noise level, noise shall include that arising from all mechanical and electrical equipment used by the premises, as well as noise arising from customers in the premises.
4. Notwithstanding the details submitted, before the restaurant hereby approved is first open to customers a detailed scheme of any external extraction, and duct / ventilation system(s) (for heating plant system, toilet ducts, any proposed kitchen cooking / food preparation extraction system to the outside and ventilation/ extract ventilation to outside for waste storage facility), and maintenance of each, shall be submitted to and approved in writing by the Local Planning Authority. The system(s) as approved must be implemented before the restaurant is first opened to customers.
5. Prior to the restaurant being open to customers full details of the design of the proposed open grille restaurant security shutters and colour shall be submitted to and approved in writing by the Local Planning Authority and thereafter the security shutters as approved shall be installed before the restaurant is opened to customers.
6. Before the restaurant hereby approved is first open to customers a detailed scheme for the storage, management and collection of commercial waste shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed scheme shall be implemented at all times unless otherwise first agreed in writing with the Local Planning Authority.
7. The premises shall not be used except between the following hours:-  
12:00 noon - 22.30 Monday - Sunday inclusive.

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8. Deliveries and private waste collections to and from the premises shall not take place outside the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturday and at no time on Sundays or Public/Bank Holidays.

### **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 control potential noise nuisance in compliance with policy DM6 of Hastings Development Management Plan, and to protect the amenity of neighbouring properties.
4. To protect the amenity of neighbouring residential properties.
5. To protect the character of the conservation area and in accordance with Supplementary Planning Document (SPD) - Shopfronts and Advertisements.
6. To safeguard local amenity and in the interests of Highway Safety.
7. To safeguard the amenity of adjoining residents and as advised by East Sussex Police.
8. To protect residential amenity.

### **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. FOOD SAFETY**

The applicant is strongly advised to contact the Environmental Health Team before services, fixtures and fittings etc. are installed for advice on satisfying the requirements of food safety law. The Food Business Operator will be required to register the 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/](http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers/)

### **HEALTH AND SAFETY**

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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.

4. Signage for the restaurant hereby approved is likely to require an application for advertisement consent. Applications for express advertisement consent may be made on-line using the following link:

[https://www.hastings.gov.uk/planning/advice/planning\\_advertising/](https://www.hastings.gov.uk/planning/advice/planning_advertising/)

5. A3 restaurant use will require a premises licence under the Licensing Act 2003 to authorise the sale by retail of Alcohol for consumption on the premises.

6. The applicant is advised to display internal signage requiring customers to respect the amenity of neighbouring dwellings when exiting the tapas restaurant.

### 123. OTHER PLANNING APPLICATIONS

#### 123.1 Hastings Pier, White Rock (HS/FA/18/00896)

Councillors Webb and O'Callaghan left the chamber due to their prejudicial interest in item 6a. Councillor Roberts also left the chamber and Councillor Davies as Vice-Chair chaired the meeting during consideration of item 6(a).

Proposal	Change of use from internal visitor centre function room into a family entertainments centre (Sui Generis) to include amusement arcade machines
Application number	HS/FA/18/00896
Conservation area	Yes - Eversfield Place
Listed Building	Yes - Grade II
Consultation	Yes - 34 letters of objection and 2 letters of support received.

Stephanie Wood, Principal Planner, presented the application. She updated that Historic England had confirmed that it is not the intention of the listing to designate the visitor centre, and that post 2016 structures are not considered to contribute to the special architectural or historic interest of the Pier. Three late objections had been received. Mrs Wood commented that the application is for a change of use and not for any external changes as this would require a separate application. Historic England and the Conservation Officer had raised no objection. The application would allow for family orientated amusements and would require additional licensing for any changes. This application is not for adult gambling use, it is not harmful to the listed structure as it is just a change of use. It should increase the footfall on the Pier and help with its viability.

Councillors were shown plans, photographs and elevations of the application site.

Councillors discussed how the machines were confirmed to be family orientated but the number was unknown. The Principal Planner commented that the number of machines is not required information and the building regulations will cover the

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amount that the building can safely house. Councillors discussed the family amusements and if over 18's attractions could be added at a later date. The Principal Planner added that this application is not for over 18's attractions. Councillors discussed some concerns with the application such as noise and signage for the amusements. Also the loss of other forms of income such as the weddings and events held on the pier. The Principal Planner added that any signage would require separate planning permission but the noise is not something that can really be dealt with due to the small nature of the site compared to other arcades like the flamingo arcade.

Councillor Beaver proposed a motion, seconded by Councillor Marlow-Eastwood, to grant the application as set out in the resolution below:

**RESOLVED – (6 for, to 1 against) that Full Planning Permission be granted 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:  
02, 09A, 10A
3. The premises shall not be used except between the following hours:-  
9am - 9pm Monday - Sunday (including Bank Holidays)

**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.

**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 that any external alterations may require full planning and/or listed building consent.

**123.2 22 Theaklen Drive (HS/FA/18/01041)**

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Councillors Webb, Roberts and O’Callaghan returned to the chamber.

Proposal	Change of use for existing first floor from B1/B2 to D2 (gymnasium)
Application number	HS/FA/18/01041
Conservation area	No
Listed Building	No
Consultation	Yes - 5 letters of objection received.

Stephanie Wood, Principal Planner, presented the application for the change of use to a gym. Five letters of objection had been received and the application is on council owned land. The application is only for the first floor. The building has traditionally been for Business / Industrial use, Council policy requires the applicant to submit evidence to show that it is no longer viable. If B1/B2 use isn’t viable then next they look at mixed use. The ground floor is still B1/B2 use and there is parking in the basement beneath. There are other gym competitors nearby but that is not a planning consideration. The occupants of the ground floor have expressed concerns regarding vibrations from above on their work and the effect that may have on their business. Environmental Health have been consulted.

Councillors were shown plans, photographs and elevations of the application site.

Councillors asked questions of the Principal Planner, including how the property was marketed and if there is any other entrance to the floor outside of the stairs shown in the drawing. The Principal Planner answered that it was marketed on the council website and with local agents and there is a lift for access as well as the stairs.

Councillors spoke about the loss of employment space, but mentioned that an employment space for 7 staff is better than a vacant building. They also commented that they were reassured by the consultation with the Environmental Health Team. Parking was also discussed including shared space with ASDA. The Principal Planner commented that the applicants have already discussed with ASDA. Councillors discussed adding a note about parking but were informed by the Principal Planner that on-site parking had already been agreed as acceptable including by ESCC.

Councillor Beaver proposed a motion, seconded by Councillor Davies, to grant the application as set out in the resolution below:

**RESOLVED – (7 for, to 3 against) that Full Planning Permission be granted 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:  
CHE2732-01, CHE2732-02, CHE2732-03, CHE2732-04, CHE2732-05 and CHE2732-06

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3. Prior to the operation of the proposed use a full noise report covering the whole site in accordance to BS 4142: 2014 shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, noise shall include that arising from all mechanical or electrical equipment used in the premises. Any noise mitigation measures recommended in the submitted noise report shall be installed prior to the commencement of the proposed use and shall be retained thereafter.

4. Details, including acoustic specifications of all fixed plant machinery and equipment associated with air moving equipment, including fans, ducting and external openings, installed within the site which has the potential to cause noise disturbance to any noise sensitive receivers, shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

5. No part of the development shall be occupied until the car parking has been constructed and provided in accordance with the approved plans. The areas shall thereafter be retained for that use and shall not be used other than for the parking of motor vehicles.

6. No part of the development shall be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved in writing by the Local Planning Authority. The areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

7. No part of the development shall be occupied until the vehicle turning space has been constructed within the site in accordance with the approved plans. This space shall thereafter be retained at all times for this use.

### **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 prevent potential noise nuisance from the activities that are to take place in the proposed fitness centre.

4. To prevent potential noise nuisance from the activities that are to take place in the proposed fitness centre.

5. To provide car-parking space for the development.

6. To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

7. In the interests of road safety.

### **Notes to the Applicant**

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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 that the access into the basement car park should be widened to avoid conflicting movements that may occur given the current single access width.

### 123.3 Proposed Catering Unit, Upper Promenade, Marina (HS/FA/19/00107)

Proposal	Variation of condition 2 (location times) & 3 (removal of catering unit) of Planning Permission HS/FA/17/00885 - Change of use of land to concession site for stationing of catering vehicle (non-permanent) - Amendment - vehicle to be located on site from Thursday to Sunday, with revised trading hours 12 - 9pm Thursday to Sunday (including public holidays)
Application number	HS/FA/19/00107
Conservation area	Yes - Burtons' St. Leonards
Listed Building	No
Consultation	Yes – None received

Stephanie Wood, Principal Planner, presented the application regarding a change of use of the land. The owners want to vary conditions to keep the van there Thursday to Sunday and increase the opening hours by an hour.

Councillors were shown plans, photographs and elevations of the application site.

Councillors discussed adding wording to condition 3 that the site is left 'clean'.

Councillor Davies proposed a motion, seconded by Councillor Roberts, to grant the application as set out in the resolution below with the addition of the word 'clean' to Condition 3:

#### **RESOLVED – (Unanimously) that Full Planning Permission be granted subject to the following conditions:**

1. Only one catering unit shall be stationed on the site at any one time and any associated vehicles required to move the unit shall only be on the promenade at drop-off and collection times and at no point parked on the promenade.

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2. The catering unit shall not be open for customers outside the following hours:

12.00 - 21.00 Thursday to Sunday

12.00 - 21.00 Public Holidays

3. The catering unit is to only be located on site from Thursday to Sunday and on public holidays with the site being left clean, clear of litter and refuse associated with the associated use, at all times. 4. Details of any proposed external illumination of the catering unit is to be submitted to and approved in writing by the Local Planning Authority prior to installation. These details shall include the siting, size, appearance, materials, colours and finishes of the proposed lighting and only the lighting approved is to be installed on site

5. Prior to any replacement or new catering unit being used or stationed on site, full details of the unit are to be submitted to and approved in writing by the Local Planning Authority prior to first use.

### **Reasons:**

1. To ensure a satisfactory form of development in the interests of the character and amenity of the conservation area and surrounding listed buildings.
2. To ensure a satisfactory form of development in the interests of the character of the conservation area and surrounding listed buildings and the amenities of the local residential properties.
3. To ensure a satisfactory form of development in the interests of the character of the Conservation Area and surrounding Listed Buildings and the amenities of the local residential properties.
4. To ensure a satisfactory form of development in the interests of the character and amenity of the Conservation Area and surrounding Listed Buildings.
5. To ensure a satisfactory form of development in the interests of the character and amenity of the Conservation Area and surrounding Listed Buildings.

### **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. Any proposed catering unit is strongly advised to contact the Environmental Health Division for advice on satisfying the requirements of food safety law.
4. The Food Business Operator will be required to register the food establishment with Hastings Borough Council 28 days prior to opening. The registration form can be

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found online at

[http://www.hastings.gov.uk/environmentalhealth/food\\_safety/businesses/foodpacks/caterers/](http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers/)

5. Any proposed catering unit 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. All trade business must have the correct commercial waste disposal receptacle and contractor in place to fulfil their 'duty of care' (sec 34 EPA 1990).

### **124. PLANNING APPEALS AND DELEGATED DECISIONS**

Mrs Wood the Principal Planner presented that 2 appeals have been dismissed, being 35 Norman Road and Salmon Close. She stated that there are several more appeals processing so there will be more updates at the next Planning Committee.

(The Chair declared the meeting closed at. 7.42 pm)