

PLANNING

28 SEPTEMBER 2022

Present: Councillors O'Callaghan (Chair), Collins (Vice-Chair), Bacon, Beaney, Beaver, Cannan, Edwards, Roark, Roberts and Williams

Officers: Kirsty Cameron (Principal Solicitor), Eleanor Evans (Planning Services Manager), Emily Meppem (Senior Planning Officer), Paul Howson (Principal Planning Officer)

361. APOLOGIES FOR ABSENCE

None received.

362. DECLARATIONS OF INTEREST

Councillor	Item	Interest
Cllr Beaver	5(a), 6(a),(b)	Personal – East Sussex County Councillor

363. MINUTES OF PREVIOUS MEETING

RESOLVED – that the minutes of the meetings held on 1st June 2022 and 20th July 2022 be approved as a true record

364. NOTIFICATION OF ANY ADDITIONAL URGENT ITEMS

None received

365. PLANNING APPLICATIONS ATTRACTING A PETITION

366. 6 QUEENS ARCADE, QUEENS AVENUE (HS/FA/22/00106)

Proposal	Change of use of Unit 6 from shop (Class E) to hot food takeaway (Sui Generis). Install small kitchen (two woks) on ground floor with ordering counter adjoining. Extraction and fresh air make-up ductwork connected to the top of the canopy and exit the building via the first floor and flat roof.
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	Repainting shop front.
Application No	HS/FA/22/00106
Conservation Area	Yes – Hastings Town Centre
Listed Building	No
Public Consultation	Yes – Petition of objection and 41 objections received 490 in support

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The Principal Planning Officer presented. Since the report was published two additional letters of support have been received. The Officer's presentation showed the site location on a map, entrances to Queens Arcade, the proposed plan and the duct work on the roof of the application site. Pictures were shown from windows of the Hastings Stage Studio into Queens Arcade and across the roof top. A picture of the traditional shop front was shown which will remain unaltered other than new signage and repainting. It was explained that the extracted air will expel towards the cinema wall which is approx. 15m from the second floor opening of the Hasting Stage Studio. The report sets out that there would be minimal visual impact upon neighbouring occupiers and any impact from the odours would be mitigated by a high-end extraction system. Impact on highways would also be minimal.

The petitioner, Mr. John Pohlhammer addressed the committee on behalf of the Hastings Stage School. He explained that they have been in Queens Arcade since 1998. He questioned if there should be a change of use from a shop to a takeaway in a Victorian building. The building has a history of fires and there would be an increased risk of fire with a kitchen in the centre of the Victorian arcade. The fresh air for students and teachers using the Hastings Stage School is very important. The main studio windows open onto the flat roof where the extractor will be which was shown in the slides. This was their only source of fresh air. Expensive costumes are stored in Hastings Stage School and will be ruined by the cooking smells. The previous restaurant outside Priory Meadow had extremely strong smells and could be smelt within the main shopping centre. A further concern is the increased vehicular traffic. There is already a lot of traffic which another food establishment will add to.

Councillors asked the petitioner what hours the studio operates. The petitioner answered that Saturdays start at 08:45 and Sundays at 10:00. Weekdays can start at 14:00 for private lessons.

The applicant, Mr Nathapon Wongtreenatrakoon addressed the committee in support of the application. After the previous Thai takeaway closed during covid he spoke with the head chief regarding started a new business. The applicant explained a lot of money will be invested into a state of the art extractor fan. The air will go through three filters before it is extracted and the sound from the extractor will be minimal. The KFC extractor is closer to the dance school than the proposed extractor will be. Regarding

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the fire risk there is already a kitchen in the arcade in the chocolates shop. There is support from the other shops in the arcade and there has been nearly 500 messages of support for the application.

Councillors asked what time the takeaway will shut. The applicant explained the last order will be 16:30 as the arcade shuts at 17:00.

Councillors asked the Principal Planning Officer regarding the extractor fan from KFC. It was explained there are many extractor fans that back onto York Gardens from establishments with deep fat friers. The application is for a less intense form of cooking kitchen with two woks.

Councillors asked the Principal Planning Officer regarding the traffic impact in the town centre. The officer explained there are no current plans for there to be a delivery service and there are already many places in the town centre who do deliveries. The officer explained there is a condition recommended to control deliveries should a delivery service be required in future.

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Councillors debated.

Councillor Beaver proposed approval of the recommendation, seconded by Councillor Roark.

RESOLVED (Unanimously)

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:

Site Location Plan
TV514-1B - Kitchen Extract Ventilation System
TV514-2 Existing Plans
Proposed Shop Interior Design
Existing/Proposed Shop Front image

Standard Discard Cells - Product Data Sheet
FP Pleated G4 Panel Filter - Product Data Sheet
Reliance P85 Synthetic Bag Filter - Product Data Sheet
Extract Fan - Product specification details (Nicotra Gebhardt)
Fresh Air Fan - Product specification details (Nicotra Gebhardt)
Fan box acoustic lining - Product specification details (Wilhams Insulation Group)
Extract Silencer specification data

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3. The premises shall not be used except between the following hours:-

09:00 to 17:00 Monday to Sunday and Bank Holidays.

Any proposed changes to the above opening times shall be submitted to and approved in writing by the Local Planning Authority.

4. Prior to the first operation of the use hereby permitted, the approved extraction system shall be installed and fully operational. It shall thereafter be operated and retained in accordance with the approved details, and maintained and serviced in accordance with the manufacturers specification.

5. Prior to the commencement of any delivery service from the premises, the operational details and a management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the delivery service shall be operated and managed in accordance with the approved details.

6. Prior to the first operation of the use hereby permitted, a plan outlining the measures to reduce litter generated from the use hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the litter prevention measures shall be implemented at all times in accordance with the approved details.

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. In the interests of the amenity of the neighbouring occupiers.
5. In the interests of the amenity of the neighbouring occupiers.
6. In the interests of the amenity of the neighbouring occupiers.

Notes to the Applicant

1. Failure to comply with any condition imposed on this decision 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.

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3. Prior to occupation, 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 http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers online at
4. 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 Health and Safety Law.
5. Trade waste that is produced at this establishment would need to be collected by a registered and licensed trade waste carrier, and the collections would need to be frequent enough to prevent the waste from becoming a detriment to the surrounding area. The bins would need to be locked and kept in good condition and stored safely at all times.

367. OTHER PLANNING APPLICATIONS

368. MISSION CHURCH (ST ANNES), 11 CHAMBERS ROAD (HS/FA/22/00028)

Proposal	Demolition of redundant church and erection of 5 dwellings with on-site parking.
Application No	HS/FA/22/00028
Conservation Area	No
Listed Building	No
Public Consultation	Yes – 17 objections received, 10 in support

The Senior Planning Officer presented. Four further letters of objection have been received with no new matters raised. There have been comments received from the Conservation Officer that Alternative uses for the building should be sought as a priority rather than the demolition of. The new builds are of insufficient design quality to make a positive contribution to the area. The Conservation Officer has raised an objection and requested a further reason for refusal to be added. This would be a fourth reason. This refusal reason is that the proposed demolition of the church building to facilitate the development would result in the loss of a building of local architectural and communal significance which has been identified as an undesignated heritage asset. The loss of this asset has not been clearly and convincingly justified, and there are opposed replacement buildings are of insufficient

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quality to make a positive contribution. The comments from the Conservation Officer were received late and not in the original report.

The Senior Planning Officer advised that the agent had that the use of the site as a gym is only temporary and they therefore requested that the loss of the Community facility be reconsidered. Paragraph 187 of the NPPF is clear that a place of worship is also considered to be a community facility. Therefore, this reason for refusal is retained.

Slides were shown showing photographs of the proposed site, aerial views and views from Chambers Road. The site makes a positive contribution to the street scene and provides a level of greenery in a highly developed area.

The scheme has a recommendation for refusal. The main concerns are the loss of a non-designated heritage asset, the design of the proposal and the loss of the green bank and break in the street scene. There is also a lack of sufficient collection points for waste and recycling

Councillors asked regarding the church being used as a gym. The Senior Planning Officer explained the church being used as a gym was unlawful as it is not the same Use Class as a place of worship.

Councillors questioned if the church has severe structural problems. The Planning Service Manager informed the committee that no information has been provided regarding the structural stability of the church

Councillors debated.

Councillor Beaver proposed approval, seconded by Councillor Roberts.

RESOLVED (9 Votes for, 1 Against)

Refuse for the following reasons:

1. The proposed development by virtue of its design, bulk, massing, loss of openness and green space represents poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The proposed development is therefore considered to be of a poor design that would harmfully affect the character and appearance of the area and is contrary to Paragraph 130 of the NPPF, Paragraph 20 of the National Design Guide, together with Policy DM1 - Design Principles, of the Development Management Plan 2015 and Policy SC1 of the Hastings Planning Strategy 2014.
2. The proposed development by virtue of the design and layout fails to provide sufficient facilities for the collection of waste and recycling from the site. This has the potential to disrupt access to the public pavement, pathways and

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parking spaces on site. The proposal is therefore considered contrary to Policies DM3 and DM4 of the Hastings Development Management Plan.

3. Insufficient information has been submitted to justify the loss of the community facility and as a result, formal assessment of the proposal has not been possible. The proposal therefore fails to comply with Policies HC3 of the Hastings Planning Strategy, Policy SC1(e) of the Hastings Development Management Plan, along with Paragraphs 20, 84 and 93 of the National Planning Policy Framework.

4. The proposed demolition of the church building to facilitate the development of 5 new houses would result in the total loss of a building of local architectural and communal significance, which has been identified as an undesignated heritage asset. This loss of the heritage asset has not been clearly and convincingly justified and the proposed replacement buildings are of insufficient quality to make a positive contribution to the area. The proposed development would be contrary to the conservation policies of the National Planning Policy Framework and adopted local plan, specifically paragraphs. 189, 195, 197 and 203 of the NPPF and Policies EN1 of the Hastings Planning Strategy and HN3 and HN5 of the Hastings Development Management Plan.

Note to the Applicant

1. 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.

369. CAR PARK, CORNWALLIS STREET (HS/FA/22/00476)

Proposal	Erection of substation to support new hotel building
Application No	HS/FA/22/00476
Conservation Area	No
Listed Building	No
Public Consultation	Yes – 1 objection received Council application on Council owned land

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The Planning Services Manager presented, there is an update with the addition of condition number 8. This states that within 4 weeks of the date of the installation of the sub station an International Commission on Non-ionizing Radiation Protection certificate confirming the substation complies with its guidelines is submitted to and approved by the Local Planning Authority.

Slides showing a location plan, photographs of the site and the proposed floor plan were shown. The site is not in a conservation area. Condition number 6 secures the planting of two trees for the removal of one. A slide was shown showing the elevations. The substation is a single storey structure. The substation will be enclosed within a glass fibre reinforced polyester enclosure. Concern has been raised regarding health implications of the substation in terms of electric and magnetic fields. Government guidance states that there is not a causal link that's been proven between cancer and any other disease.

Councillors debated.

Councillor Roberts proposed approval, seconded by Councillor Edwards.

RESOLVED (9 Votes for, 1 Against)

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:

5112 - BAL ZZ XX DR A 07 5001
5112 - BAL ZZ XX DR A 07 5002
5112 - BAL ZZ XX DR A 07 5003
5112 - BAL ZZ XX DR A 07 5004
3. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

08.00 - 18.00 Monday to Friday
08.00 - 13.00 on Saturdays
No working on Sundays or Public Holidays.
4. The materials to be used must match as closely as possible, in type, colour and texture those listed in the 'Materials' section of the application form.
5. All noise mitigation measures shall be carried out prior to first use of the electrical substation hereby approved in accordance with the details contained

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in the submitted Noise Report prepared by Sharps Redmore and dated 5 May 2022, and submitted as part of this planning application. These noise mitigation measures shall thereafter be maintained as approved.

6. The soft landscaping of the site shall be in accordance with the soft landscaping scheme drawing no. 5112 - BAL ZZ XX DR A 07 5004 received on 26 August 2022 and submitted as part of this planning application. Development shall thereafter be maintained in accordance with the approved scheme.
7. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same
8. The development hereby permitted shall be removed unless:

Within 4 weeks of the date of the completion of the installation of the substation hereby approved, an International Commission on Non-Ionizing Radiation Protection (ICNIRP) certificate confirming that the installed substation complies with the ICNIRP Guidelines, is submitted to and approved in writing by the Local Planning Authority.

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 ensure a satisfactory visual appearance in the interest of the amenities of the area.
5. To safeguard the amenity of adjoining and future residents.
6. To ensure a satisfactory standard of development.
7. To ensure an acceptable form of development.
8. In order to protect the residential amenities of neighbouring properties.

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 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 (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval 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.

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local Planning Authorities have a statutory duty in exercising of all their functions to *'have regard, so far is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*, as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). As a result, GCN and their habitats are a material consideration in the planning process.

370. PLANNING APPEALS AND DELEGATED DECISIONS

The Committee noted the report.

(The Chair declared the meeting closed at. 19:05)