

Report to: PLANNING COMMITTEE
Date of Meeting: 07 March 2018
Report from: Assistant Director of Housing and Built Environment

Application Address: **Proposed Visitor Centre Hastings Country Park, Lower Coastguard Lane, Fairlight, Hastings, TN35 4AB**
Proposal: **Variation of condition 13 (approved drawings) of planning permission HS/FA/14/01033 - Amendments to roof structure, window openings, ventilation unit and weatherboarding material.**
Application No: **HS/FA/17/01018**

Recommendation: **Grant Full Planning Permission**

Ward: ORE
Conservation Area: No
Listed Building: No

Applicant: Hastings Borough Council per The Cave Co-operative Siddeley House Kingston Upon Thames Surrey KT2 6LX

Public Consultation

Site Notice: Yes
Press Advertisement: Yes - General Interest
Letters of Objection: 12
Petitions of Objection Received: 0
Letters of Support: 1
Petitions of Support Received: 0
Neutral comments received 1

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

1. Site and Surrounding Area

The proposed location for the new visitor centre is on Coastguard Lane, to the south west of the existing visitor facility, and will be set within an existing grass verge/agricultural land. The site lies with the High Weald Area of Outstanding Natural Beauty (AONB) and is a Local Nature Reserve (LNR) and Local Wildlife Site. There are Public Rights Of Way in proximity to the site.

Constraints

AONB

Local Wildlife Site

Local Nature Reserve

PROW

2. Proposal

Variation of condition 13 (approved drawings) of planning permission HS/FA/14/01033 - Amendments to roof structure, window openings, ventilation unit and weatherboarding material.

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant (drawing number) condition that can be varied.

The proposed amendments consist of the following:

Roof: Omit the brown roof, viewing platform and safety railings. Replace with a grey monarplan FM single ply roofing membrane. Replace one of the eleven dome roof lights with a passive ventilation flue. Additional WC extract vent. The omission of the viewing platform would eliminate the need for the external lift.

The roof alterations would result in a reduction in the height of the building by 300mm. The omission of the safety railings would result in a further reduction at roof level of 1.1m.

South and West elevation: Omit the cedar shingle cladding for Douglas Fir cladding; minor alterations to the size / location of the glazed doors and windows; timber doors and windows replaced with powder coated aluminium units; metal rods replace timber posts

North and East elevation: Amendments to the size and location of the fenestration; timber doors and windows replaced with powder coated aluminium units; metal rods replace timber posts

Amended plans

Following discussions between the agent and the planning department the timber sliding shutters have been reinstated as shown on drawing Nos. 240/106/D and 240/107/D.

The plans have also been amended to remove all reference to a cycle storage shed which was shown on the site plan to the north-east of the visitor centre in the car park opposite. No additional consultation was considered necessary due to the nature and scale of the amendments.

Relevant Planning History

HS/NM/18/00059 – Non-material Amendment application to vary the wording of condition 4 of planning permission HS/FA/14/01033 (Erection of a new visitor centre) requiring the SuDS details to be submitted prior to commencement of development above ground level rather than prior to the construction of the development – Approved

HS/CD/17/01101 - Discharge of conditions: 4 (sewerage, surface water & drainage details), 7 (Soft landscaping), 10 (Construction Management Plan), 14 (Archaeology) of Planning Permission HS/FA/14/01033 - Erection of a new visitor centre – Part discharged on 02/02/2018 as set out below:

- **Conditions 4:** A septic tank is proposed to accommodate the sewerage from the proposed building. The Council Environmental Health pollution department and Building Control department raise no objections to the use and type of septic tank proposed. The septic tank would be subterranean and would not have a visual impact on the character of the area. A permit from the Environment Agency may be required for the septic tank. The applicant should contact the Environment Agency for further details on this matter.

Further details relating to the surface water drainage need to be submitted to the Local Planning Authority for determination and this aspect of the condition has not been discharged. **Part Discharge condition 4.**

- **Condition 7:** A grass and wild flower mix is proposed. The mix is designed to provide lower growing grasses which are sufficiently open to allow a canopy of wild flowers to form. The species are designed to support native wildlife and particularly pollinating insects. The seed mix is complementary with the native flora of the coastal grassland designations of the SSSI and SAC. The landscape officer raises no objections to the proposed landscaping. **Discharge condition 7.**
- **Condition 10:** The Construction Management Plan sets out proposed measures to ensure highways and pedestrian safety and minimise disruption during the construction phase. **Discharge condition 10.**
- **Condition 14:** A written scheme of investigation for the Programme of Archaeological Works has been submitted. The programme of work will be undertaken through a range of surveys, starting with a geophysical survey, walkover and metal detecting survey followed by trial trenching and all archaeological features will be recorded according to standard archaeological practices, with further archaeological work required subject to the results of the surveys. An additional archaeological trench will be excavated in the proposed location of the septic. ESCC Archaeology has approved the scheme of investigation and advise that condition 14 can be discharged. **Discharge condition 14.**

HS/FA/14/01033 - Erection of a new visitor centre – Granted 6th March 2015 (expires 6th March 2018)

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)

Policy EN3 – Nature Conservation and Improvement of Biodiversity
Policy EN5 - Local Nature Reserves (LNR)
Policy EN6 - Local Wildlife Sites (LWR)
Policy EN7 – Conservation and Enhancement of Landscape
Policy FA5 - Strategic Policy for Eastern Area
Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy T3 – Sustainable Transport

Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy HN8 – Biodiversity and Green Space

Policy HN9 - Areas of Landscape Value

Guidance: Planning Improvement Plan - 2015

The Planning Improvement Plan states in relation to MMA where the dimensions of a building are not changed by more than 10% and the description of the development in the original permission has not changed then we may consider changes as minor material amendments. The PIP clearly states that they are only guidelines and each case will be considered in the context of the original approval.

National Planning Policy Framework (NPPF) / Government Legislation

The NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Para 14 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Three dimensions of sustainability given in paragraph 7 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 10 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

The NPPG states there is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. Pre-application discussions will be useful to judge the appropriateness of this route in advance of an application being submitted.

Paragraph 115 of the NPPF states great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

Section 85 of the Countryside and Rights of Way Act 2000 requires LPAs to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

3. Consultations comments

Hastings Estates: No comments to make

High Weald AONB Unit: Advise it is for HBC to decide whether the proposals constitute minor material amendments. The planning application does not contain a document explaining the proposed changes or their rationale, therefore, it is difficult to assess the impact on the AONB. Request conditions regarding material colour and additional landscaping.

Friends of Hastings County Park: Made comments neither objecting to or supporting the Planning Application. “Our committee discussed this application at a recent meeting and we have serious concerns. The changes of design and materials proposed represent a significant downgrade in terms of quality and aesthetics. Metal shutters will give the building a particularly grim aspect in what is a highly sensitive location. It is in everyone's interest, we believe, that any new visitor centre at the Country Park is built to the specification that the location deserves, and that the process of decision making is transparent. Changes of this magnitude need proper scrutiny from public and planners alike and the rationale behind them should be explained in full.

Fairlight Parish Council: No comments received

Rother Council: No comments received

The application relates to minor material amendments to an approved scheme, therefore, it is not necessary to consult all the bodies / departments that were consulted on the full planning application.

4. Representations

13 representations received; one in support, 9 objecting and 3 general comments. The comments received are summarised below:

- Hastings planners and council should be congratulated on such an innovative and eco-friendly design which will benefit visitors and country park staff.
- Worse design than previously approved.
- Not appropriate for sensitive AONB location.
- Not all consultees for HS/FA/14/1033 have been reconsulted.
- Bike sheds are now proposed which are outside the red line boundary in Rother.
- The changes are significant, not minor.
- Treating the application as a minor amendment is in breach of national guidelines and in breach of the Planning Improvement Plan.
- Unisex lavatories are proposed.
- The amendments would not create a ‘green building’.
- Contrary to policy EN7, DM1, HN9 and the NPPF.
- No assessment of light pollution or noise pollution.
- Question whether a visitor centre is needed.
- Douglas fir is unlikely to weather as well as cedar shingles.
- Omission of many of the decorative and ecologically friendly features that were previously approved
- The proposed changes are not clearly identified.
- Refuse storage is now proposed.
- External intrusive artificial lighting has been proposed
- The proposed amendments are not sympathetic to the area.
- The dog-watering and -washing facilities have been removed.
- ESCC have not been reconsulted regarding surface water drainage
- No provision for disabled parking or staff parking.
- A wood burning stove not appropriate for this building.

5. Determining Issues

This is an application for a minor material amendment to a previously approved scheme. Due to the nature of the proposed changes it is not necessary to reconsider all previous aspects of the approved development.

Key considerations are: whether the proposal constitutes a minor material amendment; visual impact and design; highways safety and the sustainable credentials of the building.

a) Principle

The principle of the new visitor centre has been previously agreed under extant planning permission HS/FA/14/01033. There have been no material changes in policy or changes in the circumstances at the site or surrounding area that would alter the previous decision.

b) Whether the proposals constitutes a minor-material amendment

A number of the local residents have objected to the proposed changes being considered as minor material amendments as they are of the opinion that the changes are not minor and should be considered as a fresh planning application.

The nature of the approved Visitor Centre would not change as a result of the current application and the external alterations are considered to be minor in nature which includes a minor reduction in the overall height of the approved building. The proposed amendments would not substantially change the design and appearance of the approved building and are, therefore, considered to constitute minor material amendments and can be assessed under a section 73 application.

The proposals are considered to be in accordance with the guidance in the Planning Improvement Plan as the building dimensions would not be changed by more than 10% and the description of the development in the original permission has not changed.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission will be issued, setting out all of the conditions related to it. To assist with clarity the new decision notice for this section 73 permission will also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As a section 73 application cannot be used to vary the time limit for implementation this condition shall remain unchanged from the original permission.

c) Visual appearance

The overall form of the approved building would not change and it is considered that a reduction in the height by 300mm, along with the removal of the safety railings from the roof, would reduce the scale and the building would be less visually intrusive in this sensitive location as a result of these changes.

The alterations to the roof material would not be significantly visible due to the height above ground level and positioning on top of the flat roof. Whilst the amendments to the roof material would not represent such a high or innovative design as the previously approved roof, as the flat roof would not be readily visible there are not considered to be any reasons that warrant refusal due to the impact on the appearance and character of the nature environment. Indeed, the omission of the safety railings and associated external lift would reduce the visual clutter at roof level and would arguably reduce the visual impact of the building in this sensitive rural environment.

The Douglas fir cladding constitutes a sustainable material with a natural / subtle appearance and is considered to be an acceptable type of cladding for this prominent and sensitive location. The Douglas fir cladding would replace cedar shingles which are not a locally sourced material originating in the UK and are therefore less sustainable.

The alterations to the opening sizes, change from timber fenestration to powder coated aluminium units and replacement of the timber posts with metal rods are considered to be minor amendments and would not substantially change the appearance of the approved building.

The initial MMA scheme proposed to replace the timber sliding shutters for metal roller shutters. Metal external roller shutters would have a harsh appearance and detract from the building and rural character of the area. They are also likely to attract anti-social behaviour such as graffiti. Following negotiations with the applicant the external sliding timber shutters have been reinstated and are considered to raise the standard of the overall design and appearance of the building.

The reduced crossover width would be a visual improvement compared to the approved scheme and would allow for additional landscaping at the front of the building which would soften the visual impact of the development. The increased forecourt would be discreetly located between the building and area of vegetation to the north and would not have a significant visual impact. In addition, the hard surfacing is at ground level and the compact cedec gravel material would have a visually muted appearance appropriate for this sensitive rural setting.

Overall the proposed amendments are considered to be acceptable from a design perspective and in terms of the visual impact on the character of the natural environment, and they are not considered to result in a substantially different design either individually, or cumulatively, from the building approved under the parent permission.

d) Impact on Neighbouring Residential Amenities

The proposed amendments are not considered to have a harmful impact on the residential amenities of the occupants of any neighbouring properties due to the separation distances involved and nature of the proposed changes.

Several objectors have raised concern regarding light pollution from the building. The amendments would reduce the size of the approved elevational openings and reduce the number of roof lights by one which would reduce light pollution emitting from the building's openings. No external lights are proposed as part of this MMA application.

e) Highway Safety/Parking

The width of the vehicle crossover would allow adequate space for vehicles to pass and the forecourt area would ensure vehicles can turn within the site and enter and exit safely in forward gear. The amendments to the forecourt area would improve the access arrangements at the site and are considered to be acceptable from a highways safety perspective. There is sufficient parking in the adjacent car park to accommodate the proposed use which would not change as a result of this MMA application.

f) Trees and ecology

The proposed amendments would not have an impact on trees and ecology within the site compared to the previously approved scheme.

g) Screening of Application under Habitats Regulations 2017 - Impact of Development on Ashdown Forest Special Area Conservation (SAC)

The proposed development is located approximately 40.5 km from the Ashdown Forest Special Area of Conservation (SAC), 41.5 km from the Lewes Downs SAC and 16 km from the Pevensey Levels SAC. The proposal is not directly connected with or necessary to the management of the Ashdown Forest, Pevensey Levels or Lewes Downs SACs and therefore it is necessary to determine if the proposal has a likely significant effect on the conservation objective or special integrity of the SACs.

The Section 73 application would not increase the approved footprint or scale of the approved scheme and, therefore, it is considered that the development will not increase traffic movements. The impact on the Ashdown Forest SAC in respect of nitrogen disposition as a result of this application, in combination with other relevant development, will remain unchanged. As such an Appropriate Assessment to consider whether the development could give rise to nitrogen deposition on the SACs is not considered necessary in this instance.

h) Conditions

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission will be issued, setting out all of the conditions related to it. To assist with clarity the new decision notice for this section 73 permission will also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As a section 73 application cannot be used to vary the time limit for implementation this condition shall remain unchanged from the original permission.

The current MMA application contains details of the external materials (including samples) and hard surfacing which are considered acceptable, therefore, it is not necessary to include conditions for further details on these matters. The development would need to be constructed in accordance with the approved drawings and materials.

A surface water drainage condition is proposed for the new permission and ESCC Drainage will be consulted during the determination process for the future discharge condition application. Foul sewerage condition has already been discharged under application HS/CD/17/01101, therefore, it is not necessary to include this condition on the new decision.

Conditions (4, 7, 10 and 14) relating to the parent permission that have been fully discharged will be reworded as such on the new decision notice.

Condition 11 of the parent permission relates to the details of an external lift which is no longer relevant as the rooftop viewing platform has been omitted. This condition will not be attached to the new decision notice.

i) Other matters

A number of objectors have raised concern that a fresh / full application should be submitted to cover the proposed changes as the MMA application process does not involve sufficient consultation.

The matter of whether the proposed changes constitute a minor material amendment has been addressed above.

With regard to the level of consultation required for section 73 applications the NPPG advises that LPAs have discretion in whom they consult and that LPAs should take an appropriate approach.

In this instance the application was advertised in the local paper and a site notice put up. This is the same level of publication that would be undertaken if a full application for the same amendments had been submitted.

In addition, the following internal and external parties were consulted: Hastings Estates; High Weald AONB Unit; Friends of Hastings County Park; Fairlight Parish Council; Rother Council. Seeking their views on the proposed design amendments.

The proposals comprise amendments to the design / materials of the building and a slight alteration to the hard surface area ,therefore, it was not considered necessary to consult all the bodies / departments that were consulted on the initial full planning application as issues relating to archaeology, drainage, flooding, environmental health etc,. are not relevant to the proposed amendments.

Appropriate consultation has, therefore, been undertaken for the current MMA application.

6. Conclusion

The scale and nature of the proposed amendments are not substantially different from the development that has been approved and the proposals are, therefore, considered to constitute minor material amendments.

In the light of the above assessment, it is considered that the development will not have a negative impact upon the character and appearance of the natural environment or cause harm to the residential amenities of the occupants of the adjoining properties and there would be no highway safety or parking provision objections.

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 6 March 2018.

2. 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.

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

9am - 5pm Monday - Sunday

4. The foul sewerage disposal/management shall be carried out in accordance with the details approved under application HS/CD/17/01101 and no use of the building hereby approved shall occur until those works have been completed.

5. i) Prior to the construction of the development above ground level details of the proposed means of surface water disposal/management shall be submitted to and approved in writing by the Local Planning Authority.

ii) Development shall be carried out in accordance with the details approved under (i) and no use of the building hereby approved shall occur until those works have been completed.

iii) The building shall not be used until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.

6. The development shall be carried out in accordance with the soft landscaping details approved under application HS/CD/17/01101.

All planting seeding or turfing comprised in the approved soft landscaping scheme shall be carried out prior to the occupation of any part of the development, or with the written agreement of the Local Planning Authority, in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

7. The development shall be constructed in accordance with the proposed materials schedule on the approved plans.

8. The development shall be carried out in accordance with the Construction Management Plan approved under application HS/CD/17/01101.
9. The proposed amphitheatre is to be used as an outdoor classroom only and for no other use.
10. The development hereby permitted shall be carried out in accordance with the following approved plans:

101C, 108C, 240/204D, 240/205 B, 240/106/D, 240/107/D, 240/219D, 240/214B, 240/223
11. The development shall be carried out in accordance with the programme of archaeological work and Written Scheme of Archaeological Investigation approved under application HS/CD/17/01101.
12. The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition [11] to the satisfaction of the Local Planning Authority, in consultation with the County 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. To safeguard the amenity of adjoining and future residents. (Hastings Local Plan 2004 Policies DG1 and DG3).
3. To safeguard the amenity of adjoining and future residents. (Hastings Local Plan 2004 Policies DG1 and DG3).
4. To ensure that no property is occupied until adequate access and drainage facilities have been provided.
5. To ensure that no property is occupied until adequate access and drainage facilities have been provided.
6. To ensure a satisfactory form of development in the interests of the character and amenity of the area.
7. In the interests of the visual amenity.
8. To safeguard the amenity of nearby residents and user of the Country Park
9. To protect the amenity of neighbouring residents
10. For the avoidance of doubt and in the interests of proper planning.

11. To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.
12. To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.
3. The applicant should contact the Sussex Police Architect Liaison Officer at the Police Station, Bohemia Road, Hastings to discuss the "Secured by Design" principles for new developments.

Officer to Contact

Mr A Jolly, Telephone 01424 783250

Background Papers

Application No: HS/FA/17/01018 including all letters and documents