

Report to: PLANNING COMMITTEE
Date of Meeting: 15 August 2018
Report from: Assistant Director of Housing and Built Environment

Application Address: 80 Queens Road, Hastings, TN34 1RL

Proposal: Change of use of the property to a Micropub (A4) and stationing of chiller unit on rear flat roof.

Application No: HS/FA/18/00423

Recommendation: Grant Full Planning Permission

Ward: CASTLE 2018
Conservation Area: No
Listed Building: No

Applicant: Mr Brumley per Greenhayes Planning Greenhayes Studio 106 Hastings Road Battle TN330TW

Public Consultation

Site Notice: Yes
Press Advertisement: No
Letters of Objection: 5
Petitions of Objection Received: 0
Letters of Support: 17
Petitions of Support Received: 0
Neutral comments received 0

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

1. Site and Surrounding Area

The site comprises a long-term vacant commercial premise formerly used as a retail shop (A1 use) located on the eastern side of Queens Road in the Hastings Town Centre Shopping Area. The ground floor unit was last used as a shop in 2011 with ancillary storage space at first floor level. The building has a modern shop front with fascia level advertisements and external shutters. The site backs onto Wellington Mews at the rear of the site. The application site is located within a row of commercial properties which are in a variety of uses at ground floor level including retail, take-aways, cafes, restaurants, bars and pubs. The adjoining ground floor commercial unit is also vacant. A majority of the first floor properties are in residential use, including the adjoining property at 79A Queens Road.

Constraints

- Business Improvement District
- Groundwater flooding
- Hastings Town Centre Shopping Area

2. Proposed development

Change of use of the property to a Micropub (class A4 use) and stationing of chiller unit on rear flat roof extension.

The application documents state the maximum number of people using the premises would be 50.

Proposed opening times are midday to 11pm Monday to Sunday, including Bank Holidays.

The application is supported by the following documents:

- Covering letter / policy statement
- Chiller Unit Specification
- Site Waste Management Plan

Relevant Planning History

None relevant

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)

Policy FA2 - Strategy for Central Area

Policy FA3 - Strategy for Hastings Town Centre

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

Policy E3 – Town, District and Local Centres

Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy SA1 - Hastings Town Centre Shopping Area

Policy SA4 - Drinking Establishments and Hot Food Take-Aways

Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013

National Planning Policy Framework (NPPF)

Paragraph 11 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. Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Three dimensions of sustainability given in paragraph 8 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 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 80 of the NPPF states significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 85 of the NPPF states planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should (inter alia) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

Paragraph 92 (Promoting healthy and safe communities) of the NPPF states to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should (inter alia) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

Paragraph 127 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
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

3. Consultations comments

Environmental Health - **No Objections**. Conditions relating to controlling noise breakout to be considered under the licensing process.

Licensing - **No objections**

Policy – **No objections**

Police – **No objections** but raises the following points of concern:

- Amenity of adjacent and neighbouring community
- Obstruction of pavement outside premises
- Increase in the opportunity and fear of crime.

4. Representations

22 representations received, 17 in support (not all local to Hastings) and 5 objections.

Points of support summarised:

- Regeneration of Queens Road
- Micropubs are an asset to their communities
- Independent businesses should be supported
- The micropub model does not attract the usual sort of problems associated with pubs
- No loud music or TV sporting events are shown
- Noise and disruption would not be an issue
- Closed shops are detrimental to the neighbourhood
- A micropub is a better a community hub than a betting shop
- A good Pub is a fantastic place to socialise and will attract more visitors to Hastings
- Any increase in footfall would obviously benefit other traders in the road

Points of objection summarised: _

- Alcohol misuse
- Anti-social behaviour
- Noise
- Over concentration of non-retail premises
- Insufficient space on the pavement outside and overflow of customers onto the pavement
- The premises cannot provide a smoking area
- Already enough pubs in the area

5. Determining Issues

The determining issues are the loss of the retail use, the vitality of the town centre and neighbour amenity.

a) Principle

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

b) Loss of existing use / proposed new use

The site is located within the designated shopping area and therefore policies that seek to retain retail shops and avoid an over concentration of non-A1 uses in retail areas apply. The ground floor commercial units in the immediate and wider streetscape of Hastings Town Centre Shopping Area are in a variety of uses including A1 retail shops, A3, A4 and A5 uses. The site is located outside the core pedestrian retail shopping area of the town centre, therefore, a greater mix of uses is to be expected in this location.

The application premises have been vacant for seven years which is a significant time for a commercial town centre unit to be vacant. Vacant units have a negative impact on the local economy and the visual and social character of an area. The proposed change of use would

be in accordance with policy E3 of the Development Management plan which encourages diversity of uses in the town centre and supports the reuse of vacant buildings which would enhance the appearance, vitality and viability of the town area.

The planning policy team has confirmed that the change of use to A4 would not result in non-A1 uses exceeding 45% of the total number of ground floor units in the remaining shopping area, as indicated in the Local Plan Policies Map and the proposal would not impact on the Priory Meadow shopping area. These proposals are therefore considered to be in accordance with Policy SA1 in this respect.

The proposed new use would comprise a micropub which is considered to be compatible with this town centre commercial location and given the sustainable location there are not considered to be any unacceptable highways issues. There are few A4 uses in the immediate area therefore the proposed change of use would not, on its own, or cumulatively with other such uses in the area, be likely to result in problems of disturbance or public disorder subject to suitable opening hours conditions. These proposals are therefore considered to be in accordance with Policy SA4 in this respect.

Overall it is considered that the proposed change of use will bring a long-term vacant unit back into a positive use that would enhance the vitality and viability of this part of Queens Road in accordance with policy SA1, SA4 and E3 and the aims and objectives of the NPPF.

c) Impact on Character and appearance of area

No external alterations are proposed to the shopfront and there would be no impact on the character and appearance of the streetscene. Any new shop advertisement would be the subject of a separate application, if advertisement consent is required.

The property backs onto Wellington Mews and the rear of the site is visible from the public highway. The proposed chiller unit would be set back from the edge of the flat roof and would be a small scale, low-level discreet structure and would not have a visually harmful impact on the character of the area. The proposed chiller unit would not appear significantly prominent at the rear and would be in keeping with the existing commercial services and other paraphernalia associated with the commercial frontage properties located in the immediate area. These proposals are therefore considered to comply with Policy DM1 of the Local Plan.

d) Impact upon residential amenities

The adjoining premises include a vacant ground and first floor commercial unit at no.81 and a ground floor café and first floor flat at nos.79 and 79a.

The proposal comprises the change of use of the ground and first floor to a micropub with opening hours from midday to 11pm. The applicant has confirmed that the first floor will not be used for customers initially and would only be used as and when the business expands.

The main amenity consideration relates to the noise and disturbance internally when the building is being used, noise generated from the small rooftop chiller unit and noise generated as customers enter and leave the premises.

There are no objections from the Environmental Health and Licensing department to these proposals in terms of noise and disturbance from the use or the chiller unit. The small scale chiller unit would not have an unacceptable negative impact upon the neighbouring

properties due to the rear location, separation distance from the windows of the adjoining residential units and the small scale and type of the unit proposed. Policies DM3 of the Development Management Plan in respect of neighbouring residential amenities are therefore complied with.

In terms of the noise and disturbance generated by customers entering and leaving the site, Queens Road is a busy main road located on the edge of the town centre with a number of late night commercial uses in the immediate and wider area. The type of use proposed is therefore considered to be compatible with this location and the small number of people attracted to the area would not have any unacceptable noise impact on this edge of centre location.

The adjoining ground floor uses are both commercial (one vacant) so there is not considered to be any unacceptable impact from the proposed change of use in terms of noise and disturbance on the adjoining ground floor use. At first floor level the adjoining property at 79A Queens Road is a residential flat and consideration needs to be given to the impact of the proposed change of use of the first floor to a micropub. In order to safeguard the amenity of the adjoining first floor properties the applicant proposes to install additional sound proofing to the internal party walls comprising of batten with sound boarding and the potential for acoustic infill quit between battens, if required. ESSC Police have raised concerns with the type of sound insulation proposed, however, the Council Environmental Health noise specialists have not raised any objections stating that conditions relating to controlling noise breakout are to be considered under the licensing process. The Licensing department have not objected. The applicant has indicated that the first floor will not likely be used until the new business venture has become established and has agreed to a condition, due to the concerns from the adjoining residential property, that prior to the use of the first floor further sound proofing details will be submitted to the Council, if required by the Environmental Health and Licensing department.

In view of the above considerations, it is considered that the proposed change of use to an A4 micropub is appropriate in this location and would not detrimentally affect the amenities of neighbouring residents or harm the character or vitality of the area, subject to conditions.

Condition 3 relates to the use of the first floor and sound insulation.

Condition 4 relates to opening hours.

e) Highway Safety

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

Refuse storage would be discreetly located at the rear of the building and refuse collection would be carried out in a similar manner to other town centre uses and no highways safety concerns are raised as a result.

Objectors and the Police have raised concerns regarding customers congregating on the pavement outside the building and the nearby bus stop that could potentially obstruct the free flow of pedestrian movement along the pavement. The site is located in an established town centre location and the proposal would not increase the footprint of the application building and there would be no encroachment onto the pavement (seating area / smoking area) as a result of this application. There is not considered to be an over concentration of A4 / evening uses in the immediate area and the reuse of a long-term vacant building would not result in any pedestrian safety issues that would warrant refusal of the application.

f) Air Quality and Emissions

Having regard to guidance contained within 'Air Quality and Emission Mitigation' 2013 produced by Sussex Air Quality Partnership, the proposed development will not exceed statutory guidelines for airborne pollutants and Environmental Health Officers have no objection in this respect. No external lighting is proposed and residential amenities are not harmfully affected. The development will not give rise to ground or surface water pollutions. The development is therefore in accordance with Policy DM6 of the Hastings Development Management Plan (2015)

g) Environmental Impact Assessment

The National Planning Practice guidance (Paragraph: 017 Reference ID: 4-017-20170728) states that "Projects which are described in the first column of Schedule 2 but which do not exceed the relevant thresholds, or meet the criteria in the second column of the Schedule, or are not at least partly in a sensitive area, are not Schedule 2 development."

This development is not within a sensitive area as defined by Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and does not exceed the thresholds of schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

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

The proposed development is located approximately 38 km from the Ashdown Forest Special Area of Conservation (SAC), 37 km from the Lewes Downs SAC and 11.5 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 increase in living area that is proposed is not directly related to increasing the size of the household or the number of households and, therefore, it is considered that the development will not increase the traffic movements generated by the household. 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.

i) Site Constraints

Business Improvement District (BID) is a business led and business funded scheme to improve a defined commercial area, such as Hastings Town Centre. Businesses based in Hastings Town Centre voted to establish a BID in November 2016. It was approved by a majority of businesses in the BID area who voted (72% in favour) following a confidential and formal ballot during Oct. / Nov. 2016. The Town Centre BID will have a five-year lifespan, which can be extended by subsequent ballots. The BID empowers local businesses to 'raise funds' to be spent locally on improving their trading environment.

Groundwater Flooding: The proposals do not increase to the footprint of the building and it is therefore considered that drainage conditions within the site would not warrant any further drainage investigations or SUDs.

6. Conclusion

In the light of the above assessment it is considered that the proposed change of use would bring a long-term vacant unit back into a positive use that would enhance the vitality and viability of this part of Queens Road in accordance with policy SA1 and SA4 of the Development Management Plan and policy E3 of the Planning Strategy and the aims and objectives of the NPPF.

The reuse of the building would have a positive visual impact on the appearance and character of the area. No highways safety objections are raised and there would be no detrimental impact on the amenity of the neighbouring properties subject to conditions.

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

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

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

7. Recommendation

Grant Full Planning Permission subject to the following conditions:

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

Unnumbered Site Location Plan, Existing Floor Plan, Proposed Floor Plan and Proposed Roof Plan
3. The first floor shall not be used by any customers until details of the noise insulation to be fitted to the party walls has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the use of the first floor by any customers.

4. The premises shall not be open to customers, or food preparation undertaken, except between the following hours:

Monday to Sunday and on Bank Holidays - 12pm to 11pm.

All clearing, cleaning and any other work associated with the approved use shall not be undertaken outside of the following hours -

8am to 12pm Monday to Sunday and on Bank Holidays

5. No more than 5 customers from the micro pub shall go outside onto the Queens Road pavement at any one time to smoke or vape in accordance with the email from the agent dated 3 August 2018.

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 residents.
4. To safeguard the amenity of adjoining residents.
5. In the interest of protecting neighbouring residential amenity and preventing any obstruction on the pavement.

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.

Officer to Contact

Mr A Jolly, Telephone 01424 783250

Background Papers

Application No: HS/FA/18/00423 including all letters and documents