

**Report to:** PLANNING COMMITTEE

**Date of Meeting:** 10 October 2018

**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** 109 St Helens Park Road, Hastings, TN34 2JW

**Proposal:** Change of use from (D1) Non-residential to C3 (Dwelling house)

**Application No:** HS/FA/18/00597

**Recommendation:** Grant Full Planning Permission

Ward: ST HELENS 2018

Conservation Area: No

Listed Building: No

Applicant: Mr Fink Loreto 81 St Helens Park Road Hastings TN34 2JW

**Public Consultation**

Site Notice: Yes

Press Advertisement: No

Letters of Objection: 0

Petitions of Objection Received: 0

Letters of Support: 0

Petitions of Support Received: 0

Neutral comments received 1

Application Status: Not delegated -  
Councillor Sabetian has an ownership interest.

## 1. Site and Surrounding Area

The application site comprises a large detached property located on the northwest side of St Helen's Park Road. The property is currently vacant and has a lawful use as a language school. The former language school - Hastings English Language Centre Ltd closed in December 2016. The original use would have been a large family dwellinghouse. The trees at the front of the site are protected by a group Tree Preservation Order (TPO). The surrounding area is predominantly residential and is characterised by large detached houses.

### Constraints

- Potentially Within an Area of Groundwater flooding
- Potentially Within an Area of Surface Water Flooding (1 in 1000 yearly chance)
- Tree Preservation Order – Group of trees located at the front of the site.

## **2. Proposed development**

Change of use from (D1) Non-residential language school to C3 (Dwelling house)

No external alterations are proposed.

The application is supported by the following documents:

- Existing and proposed floor plans
- Details relating to the liquidation of the company – Hastings English Language Centre Ltd
- Company accounts three years prior to liquidation
- Property marketing / advertisement details
- Statement of Support from the applicant

### **Relevant Planning History at nearby sites**

110 St Helen's Park Road is a former language school owned by Hastings English Language Centre Ltd that was granted planning permission under application HS/FA/16/00743 to convert back to a dwellinghouse in January 2017. The applicant provided evidence that the school was trading at a loss and needed to down size (reduce the school from two buildings to one) in an attempt to remain sustainable.

### **National and Local Policies**

#### Hastings Local Plan – Planning Strategy (2014)

Policy DS1 - New Housing Development

Policy EN3 – Nature Conservation and Improvement of Biodiversity

Policy FA2 - Strategic Policy for Central Area

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

Policy H2 – Housing Mix

Policy E4 – Tourism and Visitors

#### Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy DS1 - New Housing Development

Policy HN8 - Biodiversity and Green Space

#### Other Policies/Guidance

Sussex Air Quality and Emissions Mitigation Guidance 2013

#### National Planning Policy Framework

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 National Planning Policy Framework 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 118 states (inter alia) that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. Promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 127 of the National Planning Policy Framework 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**

Marketing Team: The language school was one of our better schools, and its closure was a great disappointment. The language school business is booming with the past two years some of the busiest ever. Our understanding is that school closed because it was a small family run school, and the principal and their daughter both had health issues, so they closed the business.

Policy: Evidence such as business accounts and sales marketing need to be submitted to

justify a change of use in accordance with policy E4 to demonstrate that the school is no longer viable.

#### **4. Representations**

One letter of representation has been received which raises matters of appropriate procedure having regard to the fact that the owner is a Councillor.

#### **5. Determining Issues**

Key considerations are the principle of the proposed use / loss of the existing language school use, neighbour amenity, future living conditions and highways / parking impacts.

##### **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**

Policy E4 is relevant and states in relation to Language Schools that in recognition of their importance to the local economy, the Council will also support proposals that improve, protect or make new provision for language schools in suitable locations. Policy E4 states that proposals for changes of use of language schools to other uses will be resisted unless it can be demonstrated that the use is no longer economically viable.

The language school at the application property has closed and the property has remained vacant since December 2016. The applicant has submitted the company accounts for the last three years of operation prior to liquidation which indicates that the business was not making a profit. A copy of the liquidators report has been submitted indicating the business became insolvent in December 2016.

The liquidators report indicates that the business returned a profit during the first decade of trading. The downturn in revenue / students has been attributed to a number of factors including the financial crisis in 2008-9, the downturn of the economies in Spain and Italy which were the schools primary markets, the increase in on-line learning and increased standards in English language teaching in other countries. By 2014 turnover was down 60% on the average turnover for the first decade of trading, and in 2016 turnover was down by nearly 50% from 2015.

Evidence has been submitted in support of the proposed change of use demonstrating that the property has been continuously marketed by Campbell's Estate Agents (also on Rightmove) since March 2017 as a former language school / potential commercial or residential use. The premises have also been advertised in an education / travel magazine (Study Travel Network) in December 2017 and January 2018. The advertised price of the property is considered to be fair and accurate and no offers for the property have been secured.

The applicant has also confirmed that a representative from Buckswood School and College of the Holy Child have visited the premises and other all-year schools in the borough have been contacted, such as Embassy School of English, but none were interested in re-using

the application building as a school / language school.

Hastings English Language Centre Ltd had previously operated across two properties 109 and 110 St Helen's Park Road. No. 110 was granted planning permission under application HS/FA/16/00743 to convert back to a dwellinghouse in January 2017. In order to satisfy policy E4 the applicant provided evidence that the school was trading at a loss and therefore needed to downside (reduce the school from two buildings to one) in an attempt to remain sustainable which has not been successful as set out in the final three year accounts.

The application property remains vacant and on the market almost two years after the language school closed, therefore, given the above evidence, on balance it is considered that it has been demonstrated that the language school is no longer viable at this property.

It is also noted that the proposal seeks to revert the property back to a single dwellinghouse which would be in accordance with the key aim of the Hastings Planning Strategy which seeks to increase the supply of housing and also the aims and objectives of the National Planning Policy Framework which states that one of the Government's objectives is to significantly boost the supply of homes especially if this would help to meet identified needs for housing where land supply is constrained.

Given that the existing building has been vacant for some time there are not considered to be any objections to the loss of the language school. The proposed change of use would help to contribute to the supply of housing in the borough in compliance with policy DS1 of the Local Planning Strategy and would provide an appropriate housing mix for the location and conversion in line with policy H2 of the Local Planning Strategy.

The property would provide a very large single household and it should be noted that a separate planning permission would be required to convert the building to a House in Multiple Occupation (HMO) or flats. This application makes assessment of the acceptability or otherwise of such development.

c) Impact on Character and appearance of the area

No external alterations are proposed as a result of this application. The continued use of the property would likely ensure the upkeep of the external appearance to a good standard.

d) Future living conditions

The internal floor space measurements meet the minimum requirements set out in the Government guidance 2 "Technical housing standards – nationally described space standard" (March 2015), and the habitable rooms would receive adequate levels of natural light and ventilation. The proposal is, therefore, considered to provide an adequate standard of living accommodation in accordance with Policy DM3 and HC1 of the Development Management Plan 2015.

The proposal includes a substantial private garden in accordance with the requirements of Policy DM3 and HC1 of the Development Management Plan 2015, securing an acceptable living environment for future residents.

Discreet cycle and refuse storage for the residential use could be achieved within this large plot.

e) Impact on Neighbouring Residential Amenities

Due to the separation distances involved and conversion back to the original residential use there are not considered to be any unacceptable amenity impacts in relation to the change of use.

f) Highway Safety/Parking

The existing property benefits from a private drive and sufficient off-street parking and turning areas to accommodate the residential property. In addition, the parking demand and trip generation would decrease compared to the previous use as a language school.

g) 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).

h) 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.

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

The Council undertook an Air Quality Impact Assessment in 2018. The purpose of the assessment was to identify likely significant effects of planned housing and employment growth in Hastings Borough on the conservation objectives of Ashdown Forest Special Area of Conservation (SAC) from 2017 to 2033. The assessment took account of the traffic growth expected on roads within the vicinity of the Ashdown Forest SAC/Special Protection Area (SPA), not just arising from development within Hastings, but also, compliant with the requirement of the Conservation of Habitats and Species Regulations 2017, in combination with the anticipated growth arising from the development plans of other neighbouring authorities. The focus of the Assessment was on Ashdown Forest SAC and SPA.

It was not considered necessary to consider air quality implications of growth in Hastings Borough on the Pevensey Levels SAC and Ramsar site or the Lewes Downs SAC. In respect of Pevensey Levels SAC/Ramsar site the interest feature of this SAC (*Anisus vorticulus* – aka. a snail) is not affected by nitrogen from vehicle emissions. Lewes Downs SAC is too far removed to be affected. Nitrogen deposition from additional traffic beyond that modelled

would have to be four times that currently expected from all traffic to exceed critical load at this location.

The Council has modelled the expected growth in Hastings to 2033 including the Local Plan, existing planning permissions and the emerging Area Action Plan and demonstrated that development will not result in an adverse effect on the integrity of Ashdown Forest either alone or in combination with other plans or projects. As such the proposed development is considered to be within the allowances made within the strategic modelling and is not considered to harm the special conservation objectives of Ashdown Forest, Pevensey Levels or Lewes Downs Special Areas of Conservation.

In addition, the parking demand and trip generation would reduce as a result of the proposed change of use back to a single residential unit.

#### j) Site Constraints

The change of use would not impact the group Tree Preservation Order at the front of the site.

The building footprint would not alter and there would be no additional pressure on existing groundwater and surface water flooding in this area.

## **6. Conclusion**

Company accounts, a liquidators report and marketing evidence have been submitted to demonstrate that the use is no longer viable in accordance policy E4. The property remains vacant and on the market almost two years after the language school closed, therefore, given the evidence submitted, on balance it is considered that it has been demonstrated that the language school is no longer viable at this property.

The principle of additional housing in this location would be in accordance with the National Planning Policy Framework and policy DS1 of the Local Planning Strategy. The proposal would enable the continued use of the existing vacant property thereby protecting and enhancing the character and the viability of the area. The proposal is considered acceptable in terms of the amenities of future and adjoining occupiers.

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:

2000/151/LBP

**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.

**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.

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**Officer to Contact**

Mr A Jolly, Telephone 01424 783250

**Background Papers**

Application No: HS/FA/18/00597 including all letters and documents