

Report to: PLANNING COMMITTEE
Date of Meeting: 12 December 2018
Report from: Assistant Director of Housing and Built Environment

Application Address: **Store 1, Bottle Alley, Eversfield Place, Lower Promenade, St Leonards-on-sea TN37 6FD**
Proposal: **Change of use from B8 (Storage) to D1 (Gallery/Studio. And alterations to front elevation (amended description).**
Application No: **HS/FA/18/00535**

Recommendation: **Grant Full Planning Permission**

Ward: CENTRAL ST LEONARDS 2018
Conservation Area: Yes - Warrior Square
Listed Building: No

Applicant: Estates Service Muriel Matters House Breeds Place Hastings TN34 3UY

Public Consultation

Site Notice: Yes
Press Advertisement: Yes - Conservation Area
Letters of Objection: 0
Petitions of Objection Received: 0
Letters of Support: 0
Petitions of Support Received: 0
Neutral comments received 0

Application Status: Not delegated -
Application on Council owned land

1. Background Note

This application was originally considered at Planning Committee on the 12. 09.18 where it was resolved to defer the application to allow for amended plans to be submitted for changes to the front elevation.

2. Site and Surrounding Area

The site comprises Store 1, Bottle Alley, Eversfield Place situated on the Sea-front Lower Promenade, close to Warrior Square. The Lower Promenade provides a covered 'alley' walkway along the top of the shore between Warrior Square and the Pier. There are some historic store-rooms situated under the main promenade that are accessed from the lower promenade. Store 1 (that is the subject of this application) is currently a vacant store unit. The immediate neighbouring store is an electricity plant store. There are some other stores further along the Lower Promenade that appear to be in use for storage, however there is no planning history record found for change of use of stores along the Lower Promenade to non-storage uses.

Store 1 has a small internal floor area of approximately 24sqm. Access is via a single front access door from the Lower promenade 'alley' walkway. The unit has two single shuttered front window openings with sliding aluminium windows fitted. The application store unit is the end unit situated closest to the pedestrian ramp that leads up from the Lower Promenade to Warrior Square street level.

Eversfield Place at street level towards the corner with Warrior Square has restaurants and shops; beyond the shops as far as the Pier is mainly residential. Warrior Square lies close to London Road which is a main retail centre street.

There is no on-street parking available on Eversfield Place. However there is on-street parking around Warrior Square; there is some un-restricted parking available at the turn-off into Warrior Square opposite the store and there are additional 2 hour (no return) parking spaces where St. Margaret's Road cuts through Warrior Square towards London Road.

Eversfield Place is one section of the main Sea-front (A259) road that runs along to Sea-front and is a main bus route. The Upper Promenade is a cycle route.

The application site is on the Seafront subject to policy FA6 of Hastings Planning Strategy and is within the Cultural Quarter subject to policy CQ1 of Hastings Development Management Plan.

The site is within Environment Agency Flood risk zones 2 & 3.

Constraints

Warrior Square Conservation Area

Archaeological Notification Area

Environment Agency flood risk zones 2 & 3

Area susceptible to groundwater flood risk

Distance to Special Areas of Conservation (SACs): Pevensey Levels 10km; Lewes Downs 36km; Ashdown Forest 37.5km.

SSSI Impact Risk Zone N/A

3. Proposed development

Change of use from B8 (Storage) to D1 (Gallery/Studio)

D1 Gallery / Studio use is for the display of fine-art and may be open to the public. The application also includes the insertion of windows in the front elevation. The windows are aluminium frame windows fitted into the voids immediately behind the existing metal window shutters. This element is applied retrospectively for the windows as fitted.

The application is supported by the following documents:

Design & Access Statement

Heritage Statement

Flood Risk Assessment

Site Waste Management Plan

Relevant Planning History

none

National and Local Policies

Hastings Local Plan – Planning Strategy (2014)a

Policy FA2 - Strategic Policy for Central Area

Policy FA4 - Strategy for Central St Leonards

Policy FA6 - Strategic Policy for The Seafront

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

Policy SC7 - Floodrisk

Policy EN1 – Built and Historic Environment

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 DM5 - Ground Conditions

Policy CQ1 - Cultural Quarters

Policy HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)

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.

Section 12 of the NPPF sets out the requirement for good design in development. Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

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

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Paragraph 148: The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Paragraph 155: Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 159: If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.

4. Consultations comments

Conservation Officer – **No Objection**

The Conservation Officer considers the Lower Promenade to be an undesignated local heritage asset. The Lower Promenade is part of the Sea-front historic resort development dating from circa 1930's and is situated within the Warrior Square conservation area.

The Council would wish to retain development control over any proposed external changes / alterations to the building including alterations to the doors, windows and shutters. Any alterations to the door, windows or shutters to provide flood defence should be designed with due consideration for the heritage asset and the character of the conservation area.

Subsequent to these comments sliding aluminium windows were fitted into the two window openings. The Conservation Officer was further consulted and it was concluded that while the windows as fitted are not ideal they are acceptable in that;

- they have a vertical emphasis;
- they are quite narrow aluminium frames;
- they are fitted within the existing window openings and retain the existing black metal window shutters.

The only aspect of the fitted windows that is unacceptable to the Conservation Officer is the white colour of the window frames fitted, but it was considered that this could be addressed through planning condition.

The conservation officer has no objection to planning permission being granted on condition that the aluminium frames are painted dark grey or black using Marine Paint to protect against the sea salt elements, and also that the internal reveal and finish is made good.

As such the window units will not harm the significance of Warrior Square Conservation Area or the appearance of the Lower Promenade (an undesignated heritage asset).

Environment Agency - **No comment received**

5. Representations

No representations received

6. Determining Issues

The main planning issues in determining this application are the principle of development; impact on tourism/ cultural quarter; flood risk; impact on heritage assets; designing out crime and opportunity for crime. These matters are addressed as follows.

a) Principle

The council adheres to the presumption in favour of sustainable development in accordance with the National Planning Policy Framework (NPPF) and policy LP1 Hastings Local Plan - Development Management (2015). This proposal is considered acceptable in principle subject to other local plan policies including flood risk as discussed below.

b) Impact on Character and appearance of Conservation Area

Policy EN1 of Hastings Planning Strategy and Policy HN1 of Hastings Development Management Plan set policy protecting the significance and setting of heritage assets including conservation areas and seek development that sustains and enhances the heritage asset. In this case the site is situated within the Warrior Square Conservation Area. The conservation officer has been consulted and comments that the Lower Promenade is an undesignated local heritage asset; the Lower Promenade is part of the Seafront historic resort development dating from circa 1930's.

The officer comments that the Council would wish to retain development control over any proposed external changes / alterations to the building including alterations to the doors, windows and shutters. Any alterations to the door, windows or shutters to provide flood defence should be designed with due consideration for the heritage asset and the character of the conservation area.

Since this application was received sliding aluminium windows have been inserted into the two window openings. Photographs and drawing BF/L1/5/3/6 have been submitted to show the windows as fitted and the application is therefore amended to include changes to the front elevation. The Conservation Team have been consulted on the windows and they raise no objection subject to a planning condition that they be painted dark grey or black to match the shutters, using a suitable Marine Paint to protect against the sea salt elements, and also that the internal reveal and finish is made good. This matter is condition No.3.

An informative note is added to remind the applicants that any further alterations to the external fabric of the building (including door and windows) will require planning permission to ensure protection of the conservation area.

c) Impact on Neighbouring Residential Amenities/ Waste

The storage unit is the end unit along the lower promenade (Warrior Square end). The unit adjacent to it is used as an electric plant store so there will be no impact on neighbouring amenity as regards noise. Policy DM3 of Hastings Development Management Plan deals with general amenity including that proposals should have adequate space for storage of waste and the means of its removal. To date no details of waste storage have been submitted and so condition No.6 is attached regarding the submission of storage and collection details. There is however, considered to be scope for small gallery (non-food) waste to be appropriately stored internally until suitably managed collection.

d) Tourism

Policy FA6 of Hastings Planning Strategy encourages the development of all year round tourist attractions to provide permanent jobs and encourages regeneration of key landmark sites along the seafront, supporting development that builds on the Seafront's distinctive heritage and attractiveness as a destination for leisure and recreational activity. In this case the proposed Gallery use is considered to be in compliance with policy FA6 in that it will add an additional tourist attraction and bring a vacant store unit into recreational use. The proposal will introduce an active use into the Lower Promenade heritage asset that will potentially contribute its up-keep and public attractiveness.

The site is within the White Rock and the America Ground Cultural Quarter subject to policy CQ1 of Hastings Development Management Plan where development is encouraged which will assist the centres role for cultural and related leisure and business activities. The policy also sets a positive approach to assist the occupation of under-used premises as is the case

with this vacant store unit.

The proposal is considered to be of benefit to tourism and leisure.

e) Flood risk

Policy SC7 of Hastings Planning Strategy supports development proposals that avoid areas of flood risk. In this case the site is in a location identified as within Environment Agency flood risk zones 2 & 3 (at high risk of sea flood). The promenade is part of Hastings flood defence and the units along the Lower Promenade are considered to be particularly exposed to possible flood from the sea. However, neither the current storage use nor the proposed D1 Gallery/ studio use are classed as 'vulnerable' uses and while 'Art Gallery' use is not considered to be a water compatible development, it is considered that as the proposed change of use does not include any residential use / sleeping on the premises, then the proposed use is acceptable subject to informatives that flood control door and window shutters are advised to be fitted. The small internal space of the unit (only approximately 24sqm) and the store-unit's end position next to the pedestrian and cycle ramp to the Upper Promenade and street level, makes the flood risk highly unlikely to endanger persons using the proposed gallery space. A planning condition would however need to be attached that the permission is for art gallery use only and not for other uses in order to prevent possible change of use to other uses under permitted development (e.g. registered nursery use).

f) Designing out crime

The Crime & Disorder Act 1998 heightened the importance of taking crime prevention into account when planning decisions are made.

Policy SC1 of Hastings Planning Strategy seeks managing change in a sustainable way including through reducing opportunities for crime and disorder through innovative design and the clear distinction of public and private space. The lower promenade while busy throughout daylight hours, particularly during the summer months, has little natural surveillance outside daylight hours. For this reason an informative would be attached strongly advising the applicant that appropriate security measures to reduce the units vulnerability to possible crime opportunity and /or anti-social behaviour should be undertaken.

Conversely, it is anticipated that bringing the vacant store unit into active gallery use may add to the Lower Promenade becoming a more 'live' space that in itself may help increase natural surveillance to prevent possible anti-social use or opportunity for crime.

g) Highway Safety/Parking

Policy DM4 of Hastings Development Management Plan requires new development to comply with the parking standards set out in the adopted Parking Provisions SPD. For D1 (art-gallery) use the guidance sets down 1 parking space per 2 full-time staff plus 1 space per 30sqm. The application store unit measures only 24sqm and so is below this floorspace threshold and is not proposing to employ 2 full-time staff so lack of parking space in this case is considered to be acceptable. The unit is in a highly sustainable location, well served by buses along the A259 and close to the shopping area on London Road. The Upper Promenade is a cycle route and given the small size of the unit the proposed change of use is not considered to give rise to lack of parking issues.

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.

No EIA is required for this proposed change of use.

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.

The Local Planning Authority is satisfied that this proposed small scale change of use (24sqm) from Store unit to Gallery/studio use will not have a significant impact on the SAC areas.

7. Conclusion

For the reasons set out above the proposed change of use is considered acceptable. The store is a vacant unit and the proposed Gallery (D1) use would bring it back into use and contribute to the Lower Promenade becoming a more actively used facility without causing harm to the heritage asset. It is considered that waste from this small gallery (non-food) use may be stored within the unit and details of waste management and collection would be a

planning condition (No. 6). While the store unit is at high risk of possible sea flood, the proposed D1 Gallery use is not classed as a 'vulnerable' use in this regard and the floodrisk is not considered to risk endangering the lives of users of the gallery in this particular small site situated close to the access ramp up to upper promenade and street level. An informative is attached to advise the applicant regarding appropriate flood defence and designing out opportunity for crime. Any future alterations to the external appearance of the unit would require further planning permission and this will protect the character of the conservation area. The proposal would comply with Tourism policy objectives for the Seafront and cultural quarter and I recommend this change of use for approval.

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.

8. 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:

BF/L1/5/3/6, BF/L1/5/3/5, BF/L1/5/3/4, BF/L1/5/3/1
3. Prior to use of the Gallery commencing the opening hours shall be submitted to and agreed in writing by the Local Planning Authority.
4. The use hereby approved is for Art Gallery (D1 use) only and there shall be no further change of use to other uses without planning permission first being applied for and approved in writing by the Local Planning Authority.
5. Hours of opening / operation of the gallery must be submitted to and agreed in writing with the Local Planning Authority within 6 weeks of the Gallery use being started.
6. Prior to the gallery use hereby approved being brought into use details of suitable waste storage and collection must be submitted to and agreed in writing with the Local Planning Authority.

7. Before the change of use hereby approved is first brought into use, the white aluminium windows shall be painted either dark grey or black and the windows internal reveal and finish shall be made good to a standard to be agreed with the Conservation Officer.

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. In the interests of proper planning and to protect neighbour amenity.
4. To ensure that any further change of use is appropriate to the level of flood risk.
5. In the interest of local amenity.
6. In the interest of local amenity.
7. In the interest of conserving the significance and character of the heritage asset.

Notes to the Applicant

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.
3. The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. If you are planning to replace windows and doors, appropriate security standards should be adopted. For further information please see www.securedbydesign.com or contact Sussex Police.
4. Any alterations to the door or windows / shutters will require planning permission and you are strongly advised that they be designed for appropriate flood protection to help protect the gallery as this unit is at high risk of sea flood (Environment Agency zones 2 & 3).
5. There shall be no material external alterations made to the store unit hereby granted change of use to (Gallery D1 use) without further planning permission first being applied for and approved in writing by the Local Planning Authority. External alterations include alterations to the window and door openings.

Officer to Contact

Ms N Ranson, Telephone 01424 783253

Background Papers

Application No: HS/FA/18/00535 including all letters and documents