

**Report to:** PLANNING COMMITTEE  
**Date of Meeting:** 06 February 2019  
**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** 2 Breeds Place, Hastings, TN34 3AA

**Proposal:** Change of use from A1(Shop) to A3(Restaurant & cafe) (Retrospective)

**Application No:** HS/FA/18/00960

**Recommendation:** Grant Full Planning Permission

**Ward:** CASTLE 2018

**Conservation Area:** No

**Listed Building:** No

**Applicant:** Mr Rimmer per Asset Construction Consultants 1  
Dittons Mews St Leonards on Sea TN38 9TQ

**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** 0

**Application Status:** Not delegated -  
Application on Council owned land

**1. Site and surrounding area**

The application site relates to 2 Breeds Place. The premises was previously a gift shop (use class A1) and has now recently been converted into a café (use class A3) called Latte Lounge, through the use of permitted development rights for a temporary change of use. The café forms part of a parade of shops along the northern side of Breeds Place, with the Tourist Information Centre positioned towards the west and the six storey offices of Hastings Borough Council situated above.

The premises maintains the same shop frontage as in its previous use, with large shop windows and a single door, and a small area of table and chairs positioned outside the front of the café, abutted by the pavement and then highway thereafter. The site is located on the busy road, Breeds Place which forms part of the A259 opposite the seafront making it a prominent feature in the streetscene.

The site is opposite Pelham Place public car park, and a number of bus stops are located just by the café. The main bus and trains station are also within walking distance. The café is not a listed building or directly within a Conservation Area, although it does fall within the Hastings Town Centre Conservation Area buffer zone. It is not within the designated retail protection area, although falls within the wider town centre boundary.

The immediate area is made up of a mixture of buildings with commercial uses at ground floor level, with residential offices, and other commercial uses.

### Constraints

SSSI Impact Risk Zone

Archaeological Notification Area

Buffer of 20m Around Conservation Areas

Consultation Draft Hastings Central CAA

Business Improvement District

Land Owned, Leased, Licensed or held by Tenancy at will by Hastings Borough Council

## **2. Proposed development**

The proposal is to change of use from A1 (retail) to A3 (restaurant/cafe use). The ground floor element of the building (approximately 86sqm) until recently, was used as a gift shop. The change of use element of the proposal is already in place with the premises operating as Latte Lounge, under an A3 use approved on a temporary basis under permitted development rights. The General Permitted Development Order, Schedule 2, Part 4, Class D) permits a temporary change of use from a use falling within Class A1 (shops) to a flexible use falling within A3 (restaurants and cafes) for a single continuous period of up to two years. This temporary use began on 1 May 2018, and therefore expires in May 2020. The applicant would like this change of use to be permanent so has submitted this planning application.

The application also proposes the re-instatement of the vent to the front elevation of the premises above the door, to serve the associated system inside the premises. The vent has been identified as being similar to that previously fitted in the front elevation when William Hill occupied the premises. No other external alterations are proposed as part of this application.

### **Relevant planning history**

HS/FA/93/00214 Change of use from betting office to class A3 (food and drink) use.

Permission with conditions on 24/06/93

HS/67/00637 Use of new shop as betting office.

Permission with conditions on 25/07/67

- HS/65/00971 Demolition of 1-6 Breeds Place and erection of 7 shops on ground floor and 6 floors of offices over.  
Permission with conditions on 12/10/65
- HS/64/00364 Erection of 7 storey block containing 6 shops on ground floor and 6 storeys each containing 6 flats.  
Permission with conditions on 12/05/64
- HS/64/00134 Erection of seven storey block containing six shops on ground floor and six storeys each containing six flats.  
Permission with conditions on 10/03/64
- HS/OA/63/00508 Erection of 6 storey block of offices.  
Outline Application with Conditions on 30/07/63
- HS/OA/61/00429 Erection of 6-storey block comprising 6 shops on ground floor with 36 flats over.  
Outline Application with Conditions on 13/06/61

### **National and local policies**

#### Hastings Local Plan – Planning Strategy 2014

- Policy FA2 - Strategic Policy for Central Area
- Policy FA3 - Strategy for Hastings Town Centre
- Policy FA6 - Strategic Policy for The Seafront
- 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 DM4 - General Access
- Policy DM6 - Pollution and Hazards
- Policy SA3 - Shops and Services outside the Shopping Areas

#### Other policies/guidance

General Permitted Development (England) Order 2015 (as amended)

#### 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.

### **3. Consultation comments**

#### **Planning Policy - No objection**

The proposal needs to be assessed against Policy SA3 in the Hastings Development Management Plan. The proposed site is adjacent to the Hastings Town Centre Shopping Area and a range of A1 uses located within this area it is considered that there are reasonable alternatives within walking distance and therefore the proposal complies with Policy SA3.

#### **Refuse - No comment received**

#### **Environmental Health - No objection**

Little information provided on the vent system. Recommend a number of conditions to include the submission of details regarding the vent system, to control the potential nuisance caused by noise and odour and protect the neighbouring residential amenity (conditions 5, 6 and 7).

#### **Estates - No objection**

## 4. Representations

A site notice was put up outside the premises allowing members of the public to comment on the proposed change of use. No representations have been received.

## 5. Determining issues

The main issues to be considered as part of the application is the loss of the existing use and the proposed change of use and the impact on the character and appearance of the area and the neighbouring residential amenities.

### a) Principle

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

Schedule 2, Part 4, Class D of the General Permitted Development Order 2015 (as amended) allows for a temporary change of use from a use falling within Class A1 (shops) to a flexible use falling within A3 (restaurants and cafes) for a single continuous period of up to two years without planning permission. This will need to be taken into consideration when assessing this proposal. It is noted that the applicant has already altered the shop into a cafe as of the 01 May 2018 and the temporary use is already operational.

### b) Loss of existing use / proposed new use

Policy E3 of the Hastings Local Plan - The Hastings Planning Strategy (2014) seeks to ensure that the vitality and viability of the town and district centres will be maintained and, where appropriate, enhanced, this policy seeks to retain a healthy proportion of the shops in A1 use, this policy however does not apply to shops that are not within the allocated areas.

This application is concerned with the ground floor element of the building which previously was a gift shop (A1) and has now recently been converted into a café (A3). Whilst the application falls outside of the defined shopping area, it still falls within the wider town centre boundary, and as such, the impact on the retail frontage as a result of the proposed change of use still needs to be considered, particularly in respect of Policy SA3 of the Development Management Plan 2015. Policy SA3 requires change of use or redevelopment proposals, which would result in the loss of a local shop or service outside the defined commercial areas, to only be permitted when there is an alternative within reasonable walking distance, or it is demonstrated that the existing use is no longer viable. Given the site's location adjacent to the Hastings Town Centre Shopping Area and the range of A1 uses located within this area it is considered that there are reasonable alternatives within walking distance and therefore the proposal complies with Policy SA3 of the Hastings Local Plan - Development Management Plan (2015).

Planning permission has also previously been granted for an A3 use at the premises, which was approved under planning permission HS/FA/93/00214 in June 1993.

Taking into account the above considerations, the proposed permanent change of use to a café is considered to be compatible with this location, which will positively contribute to the array of existing mixed uses found along the seafront and ensure its attractiveness to present and future residents and visitors.

### c) Impact on character and appearance of area

Policy DM1 of the Hastings Local Plan - Development Management Plan (2015) requires all proposals to reach a good standard of design, which includes efficient use of resources, and takes into account; protecting and enhancing local character.

In addition to the change of use from shop to café, the application also proposes the re-instatement of the vent to the front elevation of the premises above the door, to support the associated system inside the premises. This vent is to be of small scale and only marginally visible in the top corner of the front elevation, similar to that used by the previous site occupier. Whilst little additional detail on this vent has been submitted for approval as part of this application, this will be secured by condition (condition 5) and will ensure the character and appearance of the area is preserved. It is therefore considered, that the change of use will not have an adverse impact on the character and appearance of the area, and Policy DM1 is complied with.

No other external alterations are proposed as part of this application.

### d) Impact on neighbouring residential amenities

Policy DM3 of the Hastings Local Plan - Development Management Plan (2015) requires new development to avoid any adverse impact on the amenity of neighbouring properties while Policy DM6 of the Hastings Local Plan - Development Management Plan (2015) also ensures that planning permission will only be granted providing that noise and odour that is detrimental to neighbouring and local amenity is kept to a practical minimum.

The application site is located close by to Hastings Town Centre and Hastings Town Centre Shopping Area and is immediately abutted by the pavement and highway (Breeds Place, part of the A259). The site is part of a parade of shops along the northern side of Breeds Place with offices above. This area is made up of a mixture of buildings with commercial buildings at ground floor level and residential and office use above. There are no residential properties in the immediate vicinity.

It is noted there are a number of premises which are located close by to the site with late night opening hours. Given the central location of the café, it is not expected that the café will be out of place within this given setting. As mentioned above, the café is not situated next to residential use, with shops located either side of the site and offices above it is not considered the café will have a negative impact on the amenities of any nearby neighbouring properties in terms of noise and disturbance.

The proposed opening hours which have been put forward by the applicant are similar to that of other businesses in the nearby area, including restaurants and shops, some of which have residential use above or nearby. The Environmental Health Team have been consulted on the proposed change of use in which they have raised no objections to the proposed opening hours. The proposed opening hours have also been discussed with the Licensing Team who do not have any concerns given the central location and the other nearby late night establishments. As such, there is not considered to be a need to restrict the opening hours of the premises.

The Environmental Health Team although they raise no objections, they have highlighted that little information has been provided for the vent to the front elevation and associated system. As such, conditions 5 and 6 are recommended to secure the submission of details of the ventilation system, and also to ensure noise and odour is controlled. The times in which deliveries and private waste collections to and from the premises can be carried out will also be controlled by condition (7). It is not considered the café will cause odour and noise nuisance to any nearby neighbouring properties with the use of these conditions.

In view of the above, it is considered that the proposed change of use to a cafe would be appropriate to this central location and would not harmfully affect the amenities of neighbouring properties which is in line with Policies DM3 and DM6 of the Development Management Plan 2015.

#### e) Refuse

Policy DM3 of the Hastings Local Plan - Development Management Plan (2015) requires adequate space for storage of waste and the means of its removal.

The refuse storage and collection is to remain as existing. The commercial bins are currently stored at the rear of the premises at ground floor level, accessed via Castle Street. This is a standard practice for most of the other commercial premises operating within this area. These bins are provided and serviced by Veolia Environmental Services. The applicant has a license to store these waste bins at the rear of the building. The location to which these bins are stored is well screened from the surrounding area by a high wall and vegetation. Therefore, the bins are discreet, can be easily used in a safe manner and are not clearly visible within the streetscene.

Taking the above into account, it is considered that the provision for refuse storage and collection from this site is acceptable and is in accordance with Policies DM1 and DM3 of the Hastings Local Plan - Development Management Plan (2015).

#### f) Highways Safety/Parking

No car parking provision for this proposed change of use has been provided. However it is not considered that this change of use will give rise to a significant increase in demand for car parking from the previous retail use. The premises are adjacent to the Hastings Town Centre Shopping Area which is in a sustainable location with ample choice for public transport to and from the cafe. There is a bus stop outside the café with another one positioned opposite, the main bus and train station is also within walking distance. There is also Pelham Place, a large public car park situated opposite the site, with a number of other public car parks within walking distance.

In view of the above, it is not considered the change of use will result in harm to the existing parking situation and is considered acceptable in this instance which is in agreement with Policy DM4 of the Hastings Local Plan - 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 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.

#### i) Site Constraints

The site constraints which have been identified are not relevant for this type of application. The proposal involves a change of use and the re-instatement of a vent to the front elevation above the door with associated system within the premises. The re-instatement of the vent and associated system is to be controlled by way of condition. The proposed works will not involve any groundworks. Thereby none of the identified site constraints are to be affected.

## **6. Conclusion**

For the reasons set out above the proposed change of use from shop to cafe on a permanent basis is considered to be acceptable. It will not result in any highway safety issues or harm the residential amenities of the nearby properties. The proposed development will result in minimal external alterations which will be controlled by way of condition, to ensure the character and appearance of the area is preserved. The proposed change of use is therefore considered to be acceptable and is in accordance with Policies DM1, DM3, DM4, DM6 and SA3 of the Hastings Local Plan - Development Management

Plan (2015) and the relevant sections of the National Planning Policy Framework. It is therefore recommended that permission is granted.

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:  
  
18- 7041-02A and 18- 7041-03
3. The premises shall not be used except between the following hours:-  
  
09.00 - 23.00 Monday - Sunday  
(Including Bank Holidays)
4. 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.
5. Details of the vent system and fixings which are to be installed to the front of the premises and within the premises, shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of this permission. The approved details, once implemented shall thereafter be retained and maintained.
6. The odour and noise control systems shall be maintained in accordance with the manufacturer's instructions and records of cleaning/replacement of filters/fans etc, shall be kept available for inspection on the premises.

7. Deliveries and private waste collections to and from the premises shall not take place outside the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturday and at no time on Sundays or Public/Bank Holidays.
8. The premises shall not be used for any purpose where the predominant use is for the sale of alcohol. The sale of alcohol is to be subsidiary to the food element and is only to be sold or supplied by waiter or waitress services to persons seated at tables.

**Reasons:**

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the amenity of adjoining and future residents.
4. To safeguard the amenity of adjoining and future residents.
5. To ensure a satisfactory form of development in the interests of the character and amenity of the area and to control the potential nuisance caused by noise and odour.
6. To safeguard the amenity of adjoining and future residents.
7. To safeguard the amenity of adjoining and future residents.
8. To enable the Local Planning Authority to exercise adequate control over the proposed development and in the interests of preventing crime and disorder to safeguard the amenities of the area.

**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**

Mrs L Fletcher, Telephone 01424 783261

**Background Papers**

Application No: HS/FA/18/00960 including all letters and documents