

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

Application Address: Ground Floor Offices, Queens Apartments,
 Robertson Terrace, Hastings, TN34 1JN
Proposal: Change of use from B1 (offices) to D1 (Non-
 residential institutions)
Application No: HS/FA/18/00977

Recommendation: Grant Full Planning Permission

Ward: CASTLE 2018
 Conservation Area: Yes - Hastings Town Centre
 Listed Building: No

Applicant: Mr Mehra per Mr Choudhary The Pearl New Bridge
 Street West NE1 8AQ

Public Consultation

Site Notice: Yes
 Press Advertisement: Yes - Conservation Area
 Letters of Objection: 5
 Petitions of Objection Received: 0
 Letters of Support: 1
 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 application site relates to The Seafront Suite of Queens Apartments, Robertson Terrace which is a five storey building situated on the eastern corner of Robertson Terrace with Harold Place running to the eastern side of the building. This application is only concerned with the ground floor element of this mixed use building, which is currently vacant office space (B1) with residential apartments above. Access to these offices is provided by a ramp and a set of steps to the front of the building. The site falls within the Hastings Town Centre and is within the Town Centre Conservation Area designation, although the building is not listed. The site is located close by to the busy road of Carlisle Parade which forms part of the A259 and is positioned opposite the seafront which makes this building a prominent feature within the streetscene.

There is on street parking available along Robertson Terrace with a number of public car parks nearby including Carlisle Parade car park which is approximately 60m to the west of the site. There are a number of bus stops within walking distance of the site with regular services across Hastings with the main train station also located within walking distance.

The surrounding area is made up of a mixture of uses, including residential, commercial and retail.

Constraints

SSSI Impact Risk Zone

Hastings Town Centre Conservation Area

Business Improvement District

Consultation Draft Hastings Central CAA

Local List Heritage Asset - Recommended to be Nominated

Environment Agency Flood Zone 3

Environment Agency Flood Zone 2

Archaeological Notification Area

2. Proposed development

This application is seeking planning permission for the change of use of the existing vacant office (B1) use on the ground floor within this building to an orthodontist clinic (D1) use. It is anticipated that the proposal will create approximately 10 jobs including ancillary and administration staff. The proposal involves re purposing, renovating and refurbishing the existing ground floor office space, this will include the removal and replacement of internal walls and bathroom facilities to facilitate an orthodontist clinic. The footprint of the unit is to remain the same as existing, utilising the existing access points from Robertson Terrace with no external alterations proposed as part of this application. Any potential external signage will be subject to a separate application at a later date.

The application is supported by the following documents:

- Planning, design and access statement (02)
- Transport report
- Flood risk assessment
- Flood map for planning
- Offices advertisement
- Marketing information

Relevant planning history

HS/FA/11/00028 Proposed Change of Use of dis-used commercial area from A1 to B1 (offices).

Granted 04/03/2011

HS/FA/10/00004 Proposed Change of Use of dis-used Hotel and kitchen areas on ground floor to D1 Use - counselling, information and educational advice for young people.

Granted 08/03/2010

HS/FA/09/00583 Proposed Change of Use of Disused Commercial Areas from A1 to D1

(non residential education, training centre and creche).

Granted 05/02/2010

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 SC7 - Floodrisk

Policy EN1 - Built and Historic Environment

Policy E1 - Existing Employment Land and Premises

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)

Other policies/guidance

Supplementary Planning Document: Employment Land Provision

Supplementary Planning Document: Parking Provision in New Developments

East Sussex County Council Guidance for Parking at Non-Residential Development (2017)

National Planning Practice Guidance

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

Environmental Health - No objection subject to condition

There is insufficient detail within the application to determine the effect of any fixed plant machinery associated with the proposed practises. Therefore Environmental Health would require a detailed noise report, produced by an independent noise consultant, to be submitted and any proposals for mitigation to be implemented prior to commencement of any use permitted (condition 5).

The justification for this condition is to safeguard the amenity of the nearest noise sensitive receptors.

Refuse Team - No Objection

Please can it be noted that the trade waste that is produced at this establishment would need to be collected by a registered and licensed trade waste carrier, and the collections would need to be frequent enough to prevent the waste from becoming a detriment to the surrounding area. The waste collection would involve medical waste and would need the contractor to be licensed and registered to carry such waste also. The bins would need to be locked and kept in good condition and off of the public highway.

Planning Policy - Neither Supporting or Objecting

The Council expects employment land and premises to be actively marketed for at least 12 months before an application for redevelopment or a change to an alternative use can be considered. Marketing information has been submitted by Dyer+Hobbis dated 9 January 2019 for this application as evidence that a marketing strategy has been followed. Dyer+Hobbis are independent Chartered Surveyors familiar with the Hastings local market. The letter states that an active marketing strategy was initiated on 1 December 2017, I have checked and the property is still live on the company's website, which is a period of over 12

months.

Environment Agency - **No Comments**

4. Representations

A site notice was erected outside the premises along Robertson Terrace. Five letters of objection from neighbouring properties have been received, raising the following concerns:

- Opening hours
- Noise
- Odour
- Parking
- Access
- Signage
- Security issues
- Increased foot and vehicle traffic
- Damage to the steps, ramp and floor area
- Waste
- Smoking
- Cyclists/motorbikes

One letter of support from the NHS England has also been received, raising the following points:

- Currently there is no provision in the Rother Local Authority area
- Reduce lost school time for children
- Reduce environmental impact with shorter journeys

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, the impact on the character and appearance of the Conservation Area, the neighbouring residential amenities, flooding and highway parking and safety.

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

Policy E1 of the Hastings Local Plan - Hastings Planning Strategy (2014) states that land and premises currently, or last used for employment purposes (including B1, B2 & B8 or any of a use of a similar character not falling within a specified use class) will be retained in such use unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes or it would cause serious harm to local amenities. Further details are

provided within the Employment Land Retention Supplementary Planning Document (SPD).

The ground floor element of this building is classified as office (B1) use, as such the applicant has provided a marketing report to demonstrate that there is no reasonable prospect of its continued use as office space. The Council expects employment land and premises to be actively marketed for at least 12 months before an application for a change to an alternative use can be considered. Marketing information has been submitted by Dyer+Hobbis dated 9 January 2019 for this application as evidence that a marketing strategy has been followed. Dyer+Hobbis are independent Chartered Surveyors familiar with the Hastings local market. The letter states that an active marketing strategy was initiated on 1 December 2017, in which the premises are still live on the company's website, which is a period of over 12 months. On balance, although the marketing evidence doesn't meet all the criteria within the Employment Land Retention Supplementary Planning Document (SPD), because it is not as comprehensive as we would ideally like nevertheless we are confident that a marketing strategy has taken place, which has been presented, which we consider as acceptable. This demonstrates the premises have been marketed for over 12 months, which meets the SPD and Policy E1.

Throughout the marketing period of the premises, there has been a total of 4 viewings with 2 offers received to rent. Dyer+Hobbis have confirmed that the lack of windows within the premises has been the main reason that deterred potential viewings or proceedings, making the premises less desirable for an office use.

Having looked at the planning history of the site, it is clear that the premises have had a number of uses over the years, which include the use of the premises as D1 use.

As mentioned above, the premises have remained vacant for over 12 months, it would be good to see this empty premise brought back into use which would improve the vitality of the town centre. The orthodontist practice is likely to ensure that the site is used for a minimum 10 years (as agreed by an NHS contract) which would mean the long-term use of this premise. NHS England have provided a letter of support for this change of use to an orthodontist clinic, in which they state there is currently no provision in the Rother Local Authority area and so this particular contract will now have provision not only in Hastings but also in Rye which will reduce the lost school time for children as well as the environmental impact of longer journeys.

Taking into account the above considerations, the proposed change of use to an orthodontist practice will bring a vacant building back into use and will ensure the long term use of the premise which will add to the vitality of the Town Centre. We are confident that a full marketing strategy has been undertaken in which the premises have been marketed for over 12 months. The proposed change of use from B1 to D1 is therefore considered acceptable in this regard.

c) Impact on character and appearance of Conservation Area

Policy EN1 of the Hastings Local Plan - Planning Strategy (2014) creates a presumption in favour of the conservation of heritage assets and their settings and encourages development which sustains and enhances the significance of heritage assets and/or their setting. Policy HN1 of the Hastings Local Plan - Hastings Development Management Plan (2015) also states that applications that have the potential to impact upon the significance of designated heritage assets (including conservation areas) will be determined against their ability to

demonstrate an understanding of the significant of the asset and that the scheme will sustain and enhance its significance. Furthermore, Policy DM1 sets out that development must reach a good standard of design, which protects and enhances local character.

No external alterations to the building are proposed as part of this application, therefore the proposed change of use to the ground floor of this building will have no impact on the character and appearance of the building or the surrounding Town Centre Conservation Area, therefore the significance of the building and the Conservation Area will be preserved. This is in line with Policies EN1, HN1 and DM1 of the Hastings Local Plan, the proposal is considered acceptable in this regard.

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 within the Hastings Town Centre and is located close by to the busy road, Carlisle Parade which forms part of the A259. The surrounding area is made up of a mixture of uses, including residential, commercial and retail, with the application only relating to the vacant office space (B1) at ground floor of the building with residential apartments above.

Given that there are residential properties in close proximity to the proposed change of use, the Environmental Health Team have been consulted in which they raise no concerns regarding odour. Although they have no basic objection regarding noise, they state there is insufficient detail within the application to determine the effect of any fixed plant machinery associated with the proposed practises in relation to any potential impact upon neighbouring residential properties. Therefore, in order to safeguard the residential amenity of the apartments against noise intrusion from any fixed plant machinery associated with the proposed change of use, a condition is to be attached to this permission for a detailed noise report to be submitted to the Local Planning Authority prior to commencement of any internal works (Condition 5). A further condition is also to be attached to this permission (Condition 4) which will control the hours to which internal works can be undertaken, these conditions are to ensure that the neighbouring residential amenities are safeguarded in terms of noise disturbance.

In relation to opening hours, the proposed opening hours which have been put forward by the applicant are similar to that of other businesses in the nearby area, some of which have residential use above or nearby. Given the central location of the building, it is not expected that the orthodontist practice will be out of place within this given setting. It is also noted that the site has been issued planning permission and been used as a number of use classes including D1 use in the past. As mentioned above, the Environmental Health Team has been consulted on the proposed change of use in which they have raised no objections to the proposed opening hours. Given the central location and the other nearby establishments, it is not considered there is a need to restrict the opening hours of this practice.

In view of the above, it is considered that the proposed change of use to an orthodontist clinic would be appropriate to this central location and would not harmfully affect the amenities of

neighbouring properties subject to the attached conditions which are in line with Policies DM3 and DM6 of the Hastings Local Plan - 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 applicant has included a dedicated secured area with a door within the clinic to store waste which is shown on the proposed floor plan submitted. The applicant is currently in discussions with local waste companies to undertake the commercial waste collection and a contract will be in place prior to first use of the premises. Any medical waste will be removed by specialist contractors. The proposed location of the refuse storage, will be secure, discreet and easily accessible, avoiding visual clutter within the streetscene which will prevent the character and appearance of the building and the surrounding Conservation Area being harmed as result. This is in agreement with Policies DM3 and DM1 of the Hastings Local Plan - Development Management Plan (2015) and also National Planning Policy Guidance. The Refuse Team have been consulted in which they raise no objections to the proposed refuse storage area, although they have requested that the trade waste that is produced at this establishment would need to be collected by a registered and licensed trade waste carrier. The trade waste would also involve medical waste, so the contractor would need to be licensed and registered to carry such waste also. This has been added as an informative to this permission (Informative number 5).

In view of the above, it is considered the provision for refuse storage and its collection from this site is acceptable and is in accordance with Policies DM1 and DM3 of the Hastings Local Plan - Development Management Plan (2015) and National Planning Policy Guidance.

f) Flooding

Policy SC7 of the Hastings Local Plan - Hastings Planning Strategy (2014) supports development proposals that avoid areas of flood risk. In this case the application site is situated within the Environment Agency flood risk zones 2 and 3 (at high risk of sea flood). As such, the applicant has provided a detailed flood risk assessment for the site, it is acknowledged that the Environmental Agency consider the site to be flood zone 1 with a low probability of flooding. However, the Council's geographical Information Systems identify the site as being affected by flood zones 2 and 3. The reason for the difference between the systems is the Environmental Agency base the result on a single pin point within the site, whereas the Council's Geographical Information Systems capture the whole site. Although there are differences, the applicant has provided a detailed flood risk assessment which covers all types of flood risks and includes a number of mitigation measures. The report states the risk of flooding to the ground floor area of the application site from overland flow, groundwater and reservoir/artificial sources is considered to be low. It is considered that the vulnerability of the development will remain unchanged, the proposed change of use does not include any residential use or persons sleeping on the premises, with the footprint of the premises to remain the same. It is also noted that the site has been issued planning permission and been used as a number of use classes including D1 use in the past. The application is only for a change of use with no external alterations proposed, there will be no changes to the existing runoff or drainage characteristics of the building or the surrounding area, as such it is not considered the change of use will increase flood risk on and off the site.

In light of the above, the site is considered suitable, in terms of flood risk, for the change of use proposed subject to a number of informative's being attached which include signing up to

the Environmental Agency's early warning system (informative number 3 and 4).

g) Highway safety/parking

No car parking provision for this proposed change of use has been provided by the applicant. However, the applicant has prepared a detailed transport report which demonstrates that this change of use from B1 to D1 will have a negligible impact on the operation of the surrounding highway network and parking demand. The premises are located within a central and sustainable location within the town centre. The site is readily accessible by public transport, there are bus stops located along Harold Place approximately a 150m walk away and Hastings train station is approximately 550m to the north. As such, the site offers direct connections to a comprehensive network of existing pedestrian and cycle infrastructure providing access to nearby bus stops, Hastings train station and residential areas. In addition, there is on-street parking available along Robertson Terrace with a number of public car parks located nearby including Carlisle Parade car park which is approximately 60m to the west of the site to provide parking for cars, motorbikes and cyclists. It is also noted servicing and delivery arrangements will take place as per existing arrangements and will therefore have no impact on the free-flow of traffic movement on the adjoining highway networks. Paragraph 109 of the National Planning Policy Framework establishes if there is no residual cumulative impacts in terms of highway safety or the operational capacity of the surrounding road network, then planning permission should not be withheld on transport grounds.

In view of the above, it is not considered the change of use will result in harm to the existing highway network and 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) and paragraph 109 of the National Planning Policy Framework.

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.

6. Conclusion

For the reasons set out above the proposed change of use from offices (B1) to an orthodontist practice (D1) is considered to be acceptable. It will bring back into use a vacant property within the town centre, improving the vitality of the town centre. On balance, although the marketing evidence doesn't meet all the criteria within the Employment Land Retention Supplementary Planning Document (SPD). We are confident that a marketing strategy has taken place to which has been presented, which demonstrates the premises have been marketed for over 12 months and largely satisfies the criteria of Policy E1 of the Hastings Local Plan - Planning Strategy (2014) and the Employment Land Retention Supplementary Planning Document. The proposed change of use will not result in any highway safety issues or flooding issues. The proposed change of use will not involve any external alterations therefore the character and appearance of the surrounding Conservation Area will be preserved. A number of conditions have been added to this permission to ensure that neighbouring amenity is safeguarded. The proposed change of use is therefore considered to be acceptable and is in accordance with Policies DM1, DM3, DM4 and HN1 of the Hastings Local Plan - Development Management Plan (2015), Policies EN1, SC7 and E1 of the Hastings Local Plan - Planning Strategy (2014) 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:

ADP-02-00-DR-A-9001 S2 P1, ADP-00-00-DR-A-9002 S2 P 2, ADP-00-00-DR-A-0001 S2 P 4 and ADP-00-00-DR-A-0002 S2 P 4

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

Monday - Friday 07.30 - 19.30
Saturdays 08.30 - 12.30

Not at all on Sundays or Bank Holidays

4. All 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. Prior to commencement of any internal works the applicant is required to submit a detailed noise report to the Local Planning Authority, produced by an independent noise consultant, to the satisfaction and approval of the Local Planning Authority. The approved report, including any mitigation measures shall be implemented in full prior to first use of the ground floor premises as an orthodontist practice.

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 safeguard the amenity of adjoining and future residents.

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 new development should ensure it is registered with the Environment Agency's Flood Warning Service and a flood management/emergency evacuation plan is included in the operational plan of the business.
4. It is also recommended that the ground levels are confirmed, and flood resilience of the building, including sewer connections, be considered and any appropriate measures taken to ensure ground floor area is protected.
5. The trade waste that is produced at this establishment would need to be collected by a registered and licensed trade waste carrier, and the collections would need to be frequent enough to prevent the waste from becoming a detriment to the surrounding area. The waste collection would involve medical waste and would need the contractor to be licensed and registered to carry such waste also. The bins would need to be locked and kept in good condition and off of the public highway.

Officer to Contact

Mrs L Fletcher, Telephone 01424 783261

Background Papers

Application No: HS/FA/18/00977 including all letters and documents