

**Report to:** PLANNING COMMITTEE  
**Date of Meeting:** 01 May 2019  
**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** Proposed Catering Unit, Upper Promenade,  
Marina, St Leonards-on-sea  
**Proposal:** Variation of condition 2 (location times) & 3  
(removal of catering unit) of Planning  
Permission HS/FA/17/00885 - Change of use of  
land to concession site for stationing of  
catering vehicle (non permanent) - Amendment  
- vehicle to be located on site from Thursday to  
Sunday, with revised trading hours 12 - 9pm  
Thursday to Sunday (including public holidays)  
**Application No:** HS/FA/19/00107

**Recommendation:** Grant Full Planning Permission

**Ward:** CENTRAL ST LEONARDS 2018  
**Conservation Area:** Yes - Burtons' St. Leonards  
**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 -  
Council application on Council owned land

**1. Site and surrounding area**

The site consists of a 30m<sup>2</sup> area of land, located on the promenade on the St Leonards seafront. At this point of the promenade the pavement is approximately 18 metres in width, with a cycle track running parallel to the pavement for pedestrians. To the south is a ramped access to the lower promenade and access to the beach. To the east are the steps to the raised promenade and to the west is the Marina public car park. The site is accessed from the public highway via a barrier on Marina.

The closest residential dwelling, No. 48 Marina, is approximately 30 metres away on the opposite side of the highway. The site is within the Burton's St Leonards Conservation Area and in close proximity to several listed buildings, included Western Colonnade and The Royal Victoria Hotel.

### Constraints

Flooding Groundwater

Flooding Surface Water 1 in 100

Flooding Surface Water 1 in 1000,

Flood Zone 2 Environment Agency

Flood Zone 3 Environment Agency

Land Owned Leased Licensed or Held by Tenancy at Will by HBC

Land Owned by the Foreshore Trust

SSSI Impact Risk Zone

Conservation Area - Burton's St Leonards

## **2. Proposed development**

This application seeks permission to vary condition 2 (location times) and condition 3 (removal of catering unit) of planning permission HS/FA/17/00885. These conditions state the following:

### Condition 2

*The catering unit shall only be located on site during the following times :-*

*09.00 - 20.00 Monday to Friday*

*09.00 - 20.00 Saturdays*

*09:00 - 20:00 Sundays or Public Holidays.*

### Condition 3

*Upon removal of the catering unit each day the site shall be left clear of litter and refuse associated with the use.*

The requested variation would alter the conditions to:

### Condition 2

*The catering unit shall not be open for customers outside the following hours:*

12.00 - 21.00 Thursday to Sunday

12.00 - 21.00 Public Holidays

### Condition 3

*The catering unit is to only be located on site from Thursday to Sunday and on public holidays with site being left clear of litter and refuse associated with the use.*

### **Relevant planning history**

HS/FA/17/00885 Change of use of land to concession site for stationing of catering vehicle  
(non permanent)

Granted 14.12.2017

### **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 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 EN1 - Built and Historic Environment (CA2 BURTONS' ST. LEONARDS)

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 DM5 - Ground Conditions

Policy HN1 - Development affecting the significance and setting of designated heritage assets  
(including conservation areas) (CA2 BURTONS' ST. LEONARDS)

#### 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**

Estates - **No objection**

Foreshore Trust - **No objection received**

Conservation - **No objection, subject to conditions (No. 4 & 5)**

Environmental Health Commercial - **No objection**

Refuse - **No objection received**

Environment Agency - **No objection**

Highways - **No objection**

Marketing & Major Projects Manager - **No objection, subject to the site being cleared when not in use.**

## 4. Representations

In respect of this application a site notice was displayed at the front of the site and an advert placed in the local paper. No responses were received.

## 5. Determining issues

### 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.

The principle of the application is also supported by Policy E4 of the Hastings Planning Strategy which states that new visitor attractions will be encouraged and those that already exist will be protected, unless it can be demonstrated that they are no longer economically viable either in existing or adapted form. The upgrading of provision will be encouraged where it increases the range and/or quality of tourist facilities. Proposals for new visitor attractions will be considered sympathetically anywhere within the Borough subject to other policies. The seafront is seen as the core resort area and particular support will be given to measures and proposals which are well related to the seafront.

Planning permission for the use of the site for the stationing of a catering unit has already been established under permission HS/FA/17/00085. However, at this time, the unit was to be removed at the end of each day. The current proposal seeks permission to retain the unit on site Thursday to Sunday and on public holidays and as such, the impact of the use must be again be considered.

### b) Impact on character and appearance of the Conservation Area

Policy HN1 of the Hastings Development Management Plan states that applications that have the potential to impact upon the significance of designated heritage assets (including conservation areas) will be assessed against the following criteria, to ensure that the proposed development sustains and enhances the significance of the heritage asset.

As stated above, the site is located within the Burton's St Leonards Conservation Area and is in close proximity to several Listed Buildings. The Council's Conservation Officer has reviewed the proposal and has commented that the retention of the catering unit overnight (Thursday - Sunday) would not harm any of the aforementioned heritage assets and as such complies with the National Planning Policy Framework in respect of the need to conserve heritage assets.

The Conservation Officer has also advised that the comments provided are based on the appearance of the existing catering wagon on the site. There are some concerns that should the current unit be replaced with a different vehicle/unit, the character and appearance of the site may be detrimentally altered. As a result of this, it is suggested that a condition be imposed requiring that, should the unit on site change, details of this unit would need to be submitted to and approved in writing by the Local Planning Authority prior to its placement on site.

Taking the above in to account, it is considered that there would not be a detrimental impact to the character of the conservation area and no harm will be caused to the significance of the

setting of the surrounding listed buildings. The proposal is therefore acceptable and complies with the aims of Policy HN1 as quoted above.

### c) Highway Safety/Parking

The site is accessed from the public highway via an existing lift-up, lockable barrier. The junction on to the highway has clear, unrestricted views in both directions and the public pavement in this area is wide, with ample space for cyclists and persons on foot.

The Highways Officer has raised no objection to the proposal and it is considered the use of the existing access is acceptable as there would not be a detrimental impact on highway safety. The proposal therefore complies with Policy DM1(h) of the Hastings Development Management Plan which states that permission will be given if it can be adequately demonstrated that there is no safety risk to the public.

## **6. Conclusion**

It is considered that the proposal complies 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. Only one catering unit shall be stationed on the site at any one time and any associated vehicles required to move the unit shall only be on the promenade at drop-off and collection times and at no point parked on the promenade.
2. The catering unit shall not be open for customers outside the following hours:  
  
12.00 - 21.00 Thursday to Sunday  
12.00 - 21.00 Public Holidays
3. The catering unit is to only be located on site from Thursday to Sunday and on public holidays with the site being left clear of litter and refuse associated with the use, at all times.
4. Details of any proposed external illumination of the catering unit is to be submitted to and approved in writing by the Local Planning Authority prior to installation. These details shall include the siting, size, appearance, materials, colours and finishes of the proposed lighting and only the lighting approved is to be installed on site.

5. Prior to any replacement or new catering unit being used or stationed on site, full details of the unit are to be submitted to and approved in writing by the Local Planning Authority prior to first use.

### **Reasons:**

1. To ensure a satisfactory form of development in the interests of the character and amenity of the conservation area and surrounding listed buildings.
2. To ensure a satisfactory form of development in the interests of the character of the conservation area and surrounding listed buildings and the amenities of the local residential properties.
3. To ensure a satisfactory form of development in the interests of the character of the Conservation Area and surrounding Listed Buildings and the amenities of the local residential properties.
4. To ensure a satisfactory form of development in the interests of the character and amenity of the Conservation Area and surrounding Listed Buildings.
5. To ensure a satisfactory form of development in the interests of the character and amenity of the Conservation Area and surrounding Listed Buildings.

### **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. Any proposed catering unit is strongly advised to contact the Environmental Health Division for advice on satisfying the requirements of food safety law.
4. The Food Business Operator will be required to register the food establishment with Hastings Borough Council 28 days prior to opening. The registration form can be found online at [http://www.hastings.gov.uk/environmentalhealth/food\\_safety/businesses/foodpacks/caterers/](http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers/)
5. Any proposed catering unit is strongly advised to contact the Environmental Health Division before services, fixtures and fittings etc. are installed for advice on satisfying the requirements of Health and Safety Law.
6. All trade business must have the correct commercial waste disposal receptacle and contractor in place To fulfil their 'duty of care' (sec 34 EPA 1990).

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**Officer to Contact**

Mrs E Meppem, Telephone 01424 783288

**Background Papers**

Application No: HS/FA/19/00107 including all letters and documents