

Report to: PLANNING COMMITTEE

Date of Meeting: 19 December 2019

Report from: Assistant Director of Housing and Built Environment

Application address: **Shop and Premises LHS, Lacuna Place,
Havelock Road, Hastings, TN34 1BG**

Proposal: **The proposal is for the change of use to the
vacant ground floor unit of Lacuna Place to a
flexible A1, A2, A3, A5, B1, D1, and D2 use.**

Application No: **HS/FA/19/00814**

Recommendation: **Grant Full Planning Permission**

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

Applicant: Hastings Borough Council C/O Agent per SHW 69
Park Lane Croydon CR0 1BY

Public Consultation

Site notice:	Yes
Press advertisement:	Yes - Conservation Area
People objecting:	0
Petitions of objection received:	0
People in 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 comprises a vacant unit on the ground floor of a commercial building - Lacuna Place, located in Hastings Town Centre.

The unit is located on the west side of Havelock Road but is also accessible from Priory Street. Havelock Road as a whole is predominately made up of commercial uses at ground floor level, with ancillary office space, storage or residential above, although the former University of Brighton building (now unoccupied) is sited opposite.

Lacuna Place itself is of a modern design, although the ground floor unit, the subject of this application has never been occupied and is currently covered by hoarding. This has been left to deteriorate and has been subject to graffiti which has a negative impact on the street scene, and the character and appearance of the Conservation Area.

The application site lies within the Academic Cultural Quarter as defined by the Hastings Development Management Plan 2015, as well as the Hastings Town Centre Conservation Area.

Constraints

- Archaeological Notification Area
- Area at risk of surface water flooding
- Area at risk of ground water flooding
- Academic Cultural Quarter
- Hastings Town Centre Conservation Area

2. Proposed development

This application proposes to provide a flexible use for the vacant shop unit, in order to optimise the unit's marketability and secure occupancy for the future. The application seeks authorisation for the following uses, as defined by the Town and Country Planning (Use Classes) (England) Order 1987 (as amended):

- A1 (Shops)
- A2 (Financial and professional services)
- A3 (Restaurants and cafes)
- A5 (Hot food takeaways)
- B1 (Office)
- D1 (Non-residential institutions)
- D2 (Assembly and leisure)

No external alterations are proposed as part of this proposal. A separate application is however, also being considered at Planning Committee to replace the existing hoarding with glazed panelling to front, side and rear elevations, with the creation of a new access door.

The application is supported by the following documents:

- Planning Statement (SHW, October 2019)

Relevant planning history

HS/FA/19/00664 Removal of hoarding to be replaced with full height glazed panelling to front, side and rear elevations with 1 x glazed bi-parting door to front, 1 x glazed bi-parting door to side and creation of new access door to rear elevation
AWAITING DETERMINATION

HS/FA/06/00307 The demolition of 11, 12 and 13-15 Havelock Road and the redevelopment of these and the adjoining vacant sites to provide two buildings: both designated for business use (class B1); with the ground floor to Priory Street designated as retail and or business (class A1/A2/A3 &/or B1) and the ground floor to Havelock Road designated

as retail (class A1/A2 &/or A3); and with basement car parking.
(Revision to scheme approved under reference HS/FA/05/00664)
GRANTED 21 June 2006

HS/FA/05/00664 Redevelopment of 11, 12 and 13-15 Havelock Road and the adjoining vacant sites to provide two buildings; one designated for business use (Class B1); one designated for educational use (Class D1) with retail at ground floor (Class A1/A2 and/or A3); and with basement car parking. (Application HS/CA/05/00663 for the demolition of 11, 12 and 13-15 Havelock Road also applies)
GRANTED 1 February 2006

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 SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy SC7 - Flood Risk
Policy EN1 - Built and Historic Environment
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 SA4 - Drinking Establishments and Hot Food Take-Aways
Policy CQ1 - Cultural Quarters

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

Hastings Borough Council (Licensing) - **no objection**

Will require a separate Licensing Act application, should the implemented use include matters covered by that legislation

Hastings Borough Council (Environmental Health) - **no objection subject to conditions**

Require conditions to protect amenities of neighbouring properties with regard to the proposed D2 and A3 uses (3 and 4)

Hastings Borough Council (Planning Policy) – **no objection**

Considers the proposal to be complementary to the Town Centre shopping area, in line with Policy E3 of the Hastings Planning Strategy.

4. Representations

2 site notes were displayed at the site, 1 on each of the Havelock Road and Priory Square frontages. No representations were received.

5. Planning and legislative background

Planning permission was granted in 2006 under reference HS/FA/06/00307 (a variation of HS/FA/05/00664) for the erection of two new buildings for B1 use at upper levels, with flexible commercial uses of A1, A2 or A3 fronting Havelock Road, and A1, A2, A3 or B1 fronting Priory Square. The unit in question as part of this application therefore currently has permission for an A1, A2, A3 or B1 use, although it has remained vacant since construction.

For clarity, these uses are described as follows:

A1 - shops

A2 – financial and professional services

A3 – restaurants and cafes

B1 - office

Schedule 2, Part 3, Class V of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) allows for some changes of use from existing authorised uses, to alternative uses, which would have been specifically authorised when granted. In reality this means that through permitted development rights, the authorised A1, A2, A3 or B1 use of the application site, could legitimately change to any other use if allowed by the GPDO, subject to a number of conditions.

In this case, there are no permitted development rights to change from any of the other uses to A5 (hot food takeaways) or D2 (assembly and leisure) uses, and as such, a further flexible permission is required, should these uses be proposed in the future.

The grant of planning permission for a flexible use will enable any of the proposed uses to be implemented, or changed to, within a 10 year period.

6. Determining issues

The application proposes a variety of uses for the premises, to allow for flexible occupation in the future. The granting of an application for flexible use allows the premises to change from one approved flexible use to another without applying for a future planning application within a 10 year period. It is therefore important that this report assesses the suitability of all uses for the premises, in light of its location, surroundings and impact on amenity. No external alterations are being considered as part of this application and as such, the impact on the character and appearance of the area does not need to be considered.

The premises is not sited within the licensing saturation zone, which restricts the numbers of licensed premises that are operating in a defined area. Therefore, there are no concerns regarding over concentration of licensed premises. However, if uses are pursued that require a license under the Licensing Act 2003, this will be subject to a separate licensing application process.

a) Principle

Policy LP1 of the Hastings Local Plan - Development Management Plan (2015), paragraph 4.3 of the Hastings Local Plan – Planning Strategy (2014) and paragraph 11 of the NPPF set out a presumption in favour of sustainable development. The site is within a sustainable location with excellent access to public transport, shops, services and facilities and as such the development is considered acceptable in principle subject to other local plan policies.

b) Loss of existing use

This application relates to a ground floor commercial unit in an occupied office building. The 2006 consent for the entire building, which included a flexible use of A1, A2, A3 or B1 was never implemented at ground floor level due to lack of interest in the unit. All of these uses are proposed in this new flexible use application, and as such, the commercial ground floor element is being retained. No objection is therefore raised with the loss of the existing flexible use.

c) Proposed new use

As several uses are proposed for this application, the potential impacts of each will be considered in turn below. It is important to note that the application site does not fall within the primary shopping area as defined by the Hastings Local Plan Policies Map, so A1 uses do not need to be the primary focus in this area.

It is also important to recognise that 'main town centre uses' are defined by the National Planning Policy Framework (NPPF) and include the followings:

- Retail development
- Leisure
- Entertainment
- Cinema
- Restaurants
- Bars and pubs
- Nightclubs
- Casinos
- Health and fitness centre
- Bingo halls
- Offices
- Arts culture and tourism development

Every use applied for in this application for flexible use, is shown as an appropriate town centre use, as defined by the NPPF.

A1 (shops)

The application site faces out on to both Havelock Road and Priory Square. Havelock Road at ground floor level is well populated with retail units, offices falling within Class A2, and public houses. The site is located in Hastings Town Centre, and as such, an additional A1 use would complement the nearby primary shopping area by improving its vitality and viability, in accordance with Policy E3 of the Hastings Planning Strategy 2014.

In addition, a new retail use will be in accordance with Policy FA2 of the Hastings Planning Strategy (Strategy for Hastings Town Centre), in that it would promote competitiveness in terms of the range and type of shops operating in the area.

A2 (Financial and professional services)

Similar to the assessment for A1 (shops above), the area is characterised by such commercial uses in this part of the town centre. A further A2 use would complement the business aims of Policy FA3 of the Hastings Planning Strategy, in recognition of their contribution to the cultural quarter

A3 (Restaurants and cafes)

An A3 use in this location also formed part of the original consent for the Lacuna Place development, and as such, the principle of this has previously been agreed. An A3 use in the form of a restaurant or café would increase footfall in this part of the town centre, encouraging further use in the evening when the offices and shops have closed for the day. This contributes to the aims of Policy CQ1 of the Development Management Plan which seeks to support development that will assist the further expansion of their role of centres for

leisure and business activities, will contribute to the mix and diversity of uses and the potential to enhance their attraction to visitors, and improve the vitality of the area.

A5 (Hot food takeaways)

A proposed A5 use in this location would not be out of keeping with the surrounding area. Similar to the proposed A3 use, it is likely that a hot food takeaway would increase footfall in this part of the town centre, encouraging further use in the evening when the offices and shops have closed for the day. This contributes to the aims of Policy CQ1 of the Development Management Plan which seeks to support development that will assist the further expansion of their role of centres for leisure and business activities, will contribute to the mix and diversity of uses and the potential to enhance their attraction to visitors, and improve the vitality of the area.

Subject to condition 3 ensuring adequate noise and odour control, the proposal is considered to accord with the requirements of Policy SA4 of the Hastings Development Management Plan, and is suitable in this central and accessible location.

B1 (Business)

A proposed business use would provide a continuation of the use of the remainder of the building, which is not out of keeping with the commercial nature of the area. Whilst it is acknowledged that the application site lies on the boundary of the Priory Quarter site allocation in the Development Management Plan, it is clear that any development should be considered in the context of this wider area, given the new build developments that took place as a collective. Additional employment space in this location would therefore meet the aims of Policy DS2 of the Hastings Planning Strategy in that it would continue development of new office based opportunities at Priory Quarter in Hastings Town Centre. Business use in this location is therefore supported, in recognition of its contribution to employment growth in the town centre.

D1 (Non-residential institutions)

D1 uses were not included at ground floor level in the original consent for the building, and as such, the principle for this has not yet been established.

A D1 use could contain (amongst other uses) any of the following

- Medical or health services
- Day centre, crèche, day nursery
- Arts display
- Museum
- Public library
- Public hall
- Exhibition hall
- Public worship or religious instruction facilities
- Law courts

Given the size of the unit in question, it is unlikely that the premises would be suitable for a crèche or nursery use, a museum, exhibition/public hall or law courts. The most appropriate use is likely to be for arts or cultural development, which strongly ties in with the vision for Cultural Quarters in the town, and provides diversity of uses to encourage vitality and viability. However, all of the D1 uses listed above are considered acceptable, subject to conditions (3, 4 and 5).

D2 (Assembly and leisure)

D2 uses were not included within the original consent for the building at ground floor level, and as such, the principle for this has not yet been established. A D2 use could comprise of a cinema, a concert hall, bingo hall or another area for indoor sport or recreation, not involving motorised vehicles.

As stated above, the floor area will restrict the types of uses that can be accommodated. However, leisure uses such as these are appropriate town centre uses as defined by the NPPF. A D2 use is therefore considered to contribute positively to Policy CQ1 of the Development Management Plan, which seeks to support development that will assist the further expansion of their role of centres for leisure and business activities, will contribute to the mix and diversity of uses and the potential to enhance their attraction to visitors, and improve the vitality of the area.

d) Impact on neighbouring residential amenities

The application premises are at ground floor level in a purpose built building, with offices occupying the floors above. To the north and west of the unit is open space, with commercial uses opposite, and adjacent to the south. Taking this relative isolation from residential properties immediately adjacent or above, it is unlikely that residential amenities would be harmed from the proposed A1, A2, B1 or D1 uses.

Should the A3, A5 or D2 uses be implemented, it will be necessary to fully consider opening hours to ensure that any nearby residents will not be unduly affected by potential noise disturbance. As the future use of the building is not yet known, the applicant will be required to submit opening hours for approval prior to occupation of the premises (condition 5).

Similarly, any external ducting equipment will be conditioned to ensure effective management of noise and smells should extraction be required to facilitate the selected use (condition 3).

e) Highway safety/parking

The wider redevelopment of Lacuna Place provided 33 on site parking spaces at lower ground floor level, based on extensive parking research. This provision was accepted by the Highway Authority at that time, given the sites location directly in the town centre, in extremely close proximity to Hastings Railway Station, Priory Street car park and Station Plaza car park.

As previously stated, the original consent took into consideration the provision of alternative commercial uses at ground floor level, with the exception of A5 (hot food takeaways), D1 (non-residential institutions) and D2 (assembly and leisure) uses. The traffic generated by these uses is not considered to significantly increase, particularly given the restricted size of the unit in terms of its suitability for high intensity uses such as cinemas and concert halls. The availability of off site parking and public transport connections is considered to be acceptable to provide for the proposed flexible use in this instance.

Similarly cycle parking has been included in the original consent, and as such, does not need to be reconsidered here for the same reasons.

f) Waste

Bin storage for the building is provided at lower ground floor level, with details approved under HS/FA/06/00307. As no new floorspace is being created and a commercial use was included within the original consent, it is not considered that further details of waste storage are required in this instance.

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.

7. Conclusion

The proposed flexible use will help ensure the long term vacancy of the building is addressed, and a viable use occupies the building. This will help to regenerate the Priory Square area, making it more attractive to encourage the envisaged Priory Quarter development, contributing to the aims of the Local Plan to encourage vitality and viability of the town centre, and contribute positively to the defined cultural quarter.

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:

Site location plan, 101 & 201
3. The building shall not be occupied or brought into use until details of the sound insulation or odour control system (if required) have been submitted to, and approved in writing by the Local Planning Authority. Development

shall be carried out in accordance with the details approved and no occupation of any building approved shall occur until those works have been completed. Any sound insulation or odour control system must be maintained according to manufacturer's instructions.

Should the use of the premises change from one of the approved flexible uses to another approved flexible use, further details of sound insulation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that use. These approved details shall then be implemented prior to the commencement of the proposed flexible use and thereafter maintained to an acceptable standard.

4. Any noise and music emanating from the premises or vibration transmitted through the structure of the premises, should not give rise to a nuisance at any noise sensitive premises from opening until close. For the avoidance of doubt, noise shall include that arising from all mechanical or electrical equipment used by the premises and noise arising from customers in the premises.
5. Prior to occupation of the first implemented use, opening hours must be submitted to and approved in writing by the Local Planning Authority.

Should the use of the premises change from one of the approved flexible uses to another approved flexible use, further details of proposed opening hours shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of that use. The approved hours shall therefore be implemented and retained thereafter, following occupation.

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 ensure a satisfactory form of development in the interests of the character and amenity of the area.
4. To safeguard the amenity of nearby 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 Health and Safety at Work Etc. Act 1974 will apply.
4. The Food Safety Act 1990 will apply.
5. The applicant is advised that should subsequent use of the premises include matters covered by the Licensing Act 2003 a separate application will need to be made to licensing and advertised publically for 28 days.

Officer to Contact

Mrs S Wood, Telephone 01424 783329

Background Papers

Application No: HS/FA/19/00814 including all letters and documents