

**Report to:** PLANNING COMMITTEE

**Date of Meeting:** 12 August 2020

**Report from:** Assistant Director of Housing and Built Environment

**Application address:** 40 Marina, St Leonards-on-sea, TN38 0BU

**Proposal:** Proposed new shop front, rear fenestration changes, minor internal changes and change of use to mixed use A1 and D1

**Application No:** HS/LB/20/00231

**Recommendation:** Grant Listed Building Consent

Ward: CENTRAL ST LEONARDS 2018  
Conservation Area: Yes - Burtons' St. Leonards  
Listed Building: Grade II

Applicant: Mr Ballon per Mr Derhun 1 Crown Studio 1 Crown Lane Hastings TN34 3DJ

**Public Consultation**

Site notice:	Yes
Press advertisement:	Yes - Affects a Listed Building Amended Plans
Neighbour Letters:	Yes
People objecting:	8
Petitions of objection received:	0
People in support:	0
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

40 Marina comprises of a small shop unit with a basement below and flats above totalling 4 storeys. Originally developed as the Eastern colonnade of the Burton St Leonards development, each shop front is fronted by columns of the doric order that support the roof of the covered colonnade. The shop front for No. 40 has been removed and boarded over, though No. 40A which neighbours 40 to the west does possess a shop front of what appears

to be a late 19<sup>th</sup> Century/ early 20<sup>th</sup> Century design with fluted mullions and some curved transoms. Previous uses of the neighbouring No. 40A includes a post office which is evident by steel clad walls in some areas of No. 40. Historically, no. 40 was part of a much larger department store 'Philpots', which spanned nos. 37-40 Marina from the 1930's until its closure in the 1980's. Following the closure of Philpots, Hampdens opened for business and remained there until the 1990's. Since then further subdivision has been undertaken and the implications of this are further discussed under section 5.

Although the Eastern Colonnade was originally a residential development, shops and retail in particular has been established here since the 1920's.

### Constraints

Grade II Listed Building

Burton St Leonards Conservation Area

SSSI Impact Risk Zone

### Listing Details

St Leonards on Sea MARINA Nos 36 to 44 (consec), No 40A (Eastern Colonnade)

(formerly listed under THE MARINA, St Leonards previously listed as Nos 39 to 47 (consec)) 19.1.51.

GV II 1828 by James Burton. One of a pair of terraces with Western Colonnade, on either side of the Royal Victoria Hotel. Much altered. Early C19. Stuccoed. Parapet and cornice.

Four storeys. Ground floor projecting Doric colonnade over pavement, the central two columns having been restored. Cornice over second floor in places mutilated with only two remaining of central six Ionic engaged columns on first and second floors, four pilasters to end house (No. 44). At the other end No. 36 has been cement rendered and lost all its details. Sash windows in moulded architraves, many have been altered, Nos. 37 and 38 have late C19 embellishments with rusticated first floor architraves, pediments and balustered aprons to second floor windows with modillion cornices over. Behind the colonnade are modern shop fronts. Slate roofs, some later attic dormers. Part of James Burton's design for St Leonards.

Nos 36 to 44 (consec) and No 40A (Eastern colonnade), Royal Victoria Hotel, Nos 48 to 53 (consec) (Western Colonnade), No 57 and Nos 60 to 62 (consec) form a group of which Nos. 60, 61 and 62 are of local interest only.

Listing NGR: TQ7997608831

## **2. Proposed development**

The proposal seeks to install a new shopfront to the front elevation, install sound insulation and a new ceiling, create toilet facilities on both floors, install a floating floor in the basement area, repair and or replace windows to the rear, and carry out refurbishment works to a room to the rear basement. Formation of wall between nos. 39 and 40. Removal of concrete block wall as part of an extension to the rear and a 1970's shopfront glazing arrangement without a door to the front.

This application runs concurrently with planning application HS/FA/20/00230 for proposed new shop front, rear fenestration changes, minor internal changes and change of use to mixed use A1 and D1, which is currently under consideration.

The application is supported by the following documents:

Heritage Statement

Waste Management Statement

### Relevant planning history

**Application No.** HS/LB/19/00621  
**Description** Proposed new shop front, rear fenestration changes and minor internal changes  
**Decision** Withdrawn on 10/03/20

**Application No.** HS/LB/04/00531  
**Description** FORMATION OF FIRST FLOOR APARTMENT  
**Decision** Listed Building Refusal on 13/10/04

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**Application No.** HS/LB/05/00631  
**Description** Conversion & internal alterations to form self-contained apartment  
**Decision** Withdrawn on 17/10/05

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**Application No.** HS/LB/06/00192  
**Description** Conversion and internal alterations to form self contained apartment.  
**Decision** Listed Building Consent with Conditions on 24/05/06

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**Application No.** HS/LB/09/00462  
**Description** Reinstatement of original architectural features to front elevation of building and repairs to Grade II Listed Building. Removal of existing shopfronts and replacement with new shopfronts (HS/FA/09/00461 also applies).  
**Decision** Withdrawn on 06/10/09

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**Application No.** HS/LB/09/00645  
**Description** Restoration of external building envelope, including: Re-instatement of original architectural features to front elevation, replacement of 2no. shop fronts, re-modelling of dormers & stair 'tower', removal of roof coverings and replacement with slate and lead, re-instatement of pavement lights, replacement of 'modern' windows with traditional sliding sash windows, rationalisation of satellite dishes & drainage.  
**Decision** Listed Building Consent with Conditions on 11/02/10

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**Application No.** HS/LB/17/00354  
**Description** Proposed sealing up of existing openings between numbers 37 and 38 and numbers 39 and 40.  
**Decision** Listed Building Consent with Conditions on 26/07/17

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### National and local policies

Hastings Local Plan – Planning Strategy 2014

Policy EN1 - Built and Historic Environment

Hastings Local Plan – Development Management Plan 2015

HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets

(including Conservation Areas)

HN2 - Changing Doors, Windows and Roofs in Conservation Areas

HN3 – Demolition involving heritage assets

#### Other policies/guidance

Hastings Borough Council Supplementary Planning Document: Shopfronts

#### National Planning Policy Framework (NPPF)

Paragraph 11 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

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

Paragraph 127 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:
  - \* Layout
  - \* Architecture
  - \* Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
  - \* Building types
  - \* Materials
  - \* Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

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

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

scheme.

Paragraph 193 states: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 states: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 196 states: Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

### **3. Consultation comments**

Conservation Officer – **Not required**

### **4. Representations**

In respect of this application a site notice was displayed outside the property and an advert placed in the local paper.

8 objections were received from 14 different properties citing reasons including:

- The development would cause noise disturbance that would have an adverse effect on neighbouring residential amenity and thus failing to satisfy paragraph 170 (e) of the NPPF.
- Potential for commercial deliveries to be made to the rear door of the building creating disturbance
- The insensitive nature of the proposal with little background historical research
- The building was constructed as a residential dwelling in 1828 and should remain so.

- Introduction of a new shopfront and door where there is no historical precedent.
- Inaccuracies on the application form.
- Concerns regarding work that has already been carried out both in terms of heritage value and structural safety.
- 2 shopfronts will be present within the freehold area of 40 Marina. Namely the proposed and 40A Marina which is considered by objectors as unsympathetic and a irregularity when compared to surrounding shops.
- Lack of specified trading hours

This application refers to matters of heritage only and matters of neighbouring amenity will be considered in the associated planning permission application under reference HS/FA/20/00230.

## **5. Determining issues**

In determining listed building applications consideration needs to be given to matters of heritage. Permission will be given for those schemes that show a full understanding of the significance of the asset and convincingly demonstrate how their chosen design sustains and enhances the significance of any heritage assets affected.

### **a)Heritage**

The proposal includes many aspects that will be considered individually for their merit and impact on the building.

#### Installation of new shopfront

The main bulk of the proposal that affects the character and appearance of the conservation area is the installation of a new shopfront. Although the unit does not currently have a shopfront in place, it has had until recently a glazed elevation wall with no entrance door. The previous installation carried no architectural merit and did not contribute to the heritage values that make up the overall significance of the Grade II Listed Building or the wider conservation area. The absence of a shopfront in this section was due to the unit being part of a larger development 37-40 Marina up until relatively recently. Access was gained previously by way of entering via 38 Marina. The recent subdivision of the larger planning unit by the blocking up of the walls took the layout back to the original shop form within no 40, however in doing so, as the shop front relating to no. 40 had no door, there is now no direct access from Marina into the shop. It is clear that in order to bring this unit back into use, pedestrian access is required within the shopfront. This is considered as a clear and convincing circumstance where a shopfront layout including entrance door is required. The blocking up of the walls at ground floor level between nos. 39 and 40 did not benefit from listed building consent. There is however consent (HS/LB/17/00354) for similar works at basement level. Works carried out without formal consent, such as the subdivision of nos. 39 and 40 at ground level, are now being regularised in this application. Those works are listed

at paragraph 2 and include insertion of walls to separate nos.39 and 40 Marina. It is considered that the formation of a wall between nos. 39 and 40 reverts the shop unit back to a pre-Philpotts state, reflects a previous layout of the building, which in conservation terms is considered acceptable.

It is acknowledged that works to the listed building had commenced without listed building consent being granted. The elements removed were modern interventions in the form of a concrete block wall as part of an extension to the rear and a 1970's shopfront glazing arrangement without a door to the front. However, the applicants were advised to cease works until a full assessment of the demolished areas could be made in this application and the associated listed building consent application. It is considered that the small flat roof extension at the rear basement level and previous glazed shopfront that was in place until July 2019 were of little significance and did not contribute positively to the aesthetic value of the designated heritage asset. It should also be noted that being of relatively recent construction (mid to late 20<sup>th</sup> Century) the areas demolished had no evidential, historical or communal value. These values are the main factors adopted by Historic England when assessing the significance of a heritage asset.

Restoration implies that a building is restored to a previous point in the buildings history. This proposal reverts the building back to a 1920's external state which giving consideration to the economic and residential provision in the immediate vicinity; is fully supportable and is appropriate for our current circumstances.

The proposed design for the shopfront was initially unsuitable but revision in design replicates the design of the neighbouring shopfront of 40A Marina which is traditional in form and proportion. A reclaimed shop door carries the required proportion and suitably reflects an appropriate traditional design. This element of the proposal is to great advantage and shows that the applicant has considered the context of the building and the desire to enhance the character of the conservation area. The need for a shopfront is both clear and convincing, and in the public interest. Therefore it is considered that the proposal satisfies paragraphs 194 and 196 of the NPPF with the harm to the significance of the conservation area being negligible. The proposal also satisfies paragraph 192 of the NPPF by way of showing the positive contribution the shopfront makes to enhancing character and distinctiveness of the conservation area including returning the shop to a viable use that will also enhance the economic vitality of the immediate area.

The shop front at no. 40 is narrower in width than other shops within the marina. This because no. 40 was itself subdivided to create nos. and 40a. Objectors consider the smaller shopfront width as unsympathetic and an irregularity when compared to surrounding shops. In response to it is noted that the shop width was reduced at ground floor level with the introduction of 40A as a separate shop in the 1920's.

It is acknowledged that there is an irregularity with regard to shopfront consistency however it is not possible to amalgamate 40 and 40A back to one single unit. Moreover, the resultant appearance of the shop fronts is not considered to harm the character and appearance of the conservation or the listed building.

Whereas objectors have cited this issue, the same objectors also cite the use of 40 Marina as 2 shops dating back to 1923.

*'1900 Archive records show 40 Marina still listed as a single dwelling house. Around 1910 onwards a watchmaker is listed living & working at the property.  
1923 Archive plans show 40 Marina ceases to be a dwelling house. It was converted into two shops with three residential flats above.*

*From 1923 archive records show a Post Office was based in shop 40A, remaining there until 2007.*

*The resident & watchmaker is listed in the other shop up until the 1930's.'*

Historical images show 'Cave.Austin and Co Ltd' Occupying 41 Marina and the signage of 40 Marina being half of the size. What is now 40A Marina displays the sign 'tobacconist' and the other half is not identifiable but is assumed to be Philpotts as the photo appears to be from the late 1950's or early 1960's. Nevertheless the photo confirms the separation into 2 retail units. A 1973 application for a new shopfront was made by Philpotts department store in which the council officer in charge of the case lamented in the resulting loss of a 'Victorian shop front' and 'loss of the western door' this information is in the planning archive: MA40037V document folder 1. This western door that was lost could have been in the façade of 40 Marina, but it cannot be confirmed as the archived details are incomplete.

With no clear evidence and only some minor indications, the original form of the shopfront cannot be confirmed without doubt. The installation will provide another shopfront but it is considered unreasonable to not allow this, and the previous glazed installation was detrimental to the wider character of the area.

The current proposal therefore is reflective of a plausible and attainable approach to external restoration. The only other alternative is no access to a shop unit which is contrary to public interest as detailed in paragraph 196 of the NPPF.

#### Installation of a new ceiling with sound insulation set between the joists

The proposal has been amended to remove the ceiling on the ground floor to allow the insertion of sound insulation between the joists above. This was considered necessary as a suspended ceiling would interfere with the proposed new shopfront.

An assessment of the significance of the ground floor ceiling concluded that the ceiling was a later addition and was most likely installed during the period where the shop was part of the department store 'Philpotts' or 'Hamptons'. It has some aesthetic qualities but is constructed of modern gyproc plasterboard. As such in the interests of peaceful enjoyment for all concerned and the proportionality of the new shopfront is maintained the removal of this ceiling is allowed.

This is considered as clear and convincing justification under paragraph 194 of the NPPF which mitigates against the less than substantial harm caused.

#### Creation of toilet facilities on the Ground Floor

The proposal includes the installation of toilet facilities on the ground floor to the north western end of the shop. Evidence at the rear of a cast iron soil pipe and the presence of a small sash window in this area provide some basic evidence of some facility being in the location previously. It is considered reasonable to provide such facilities and the associated cupboard space in an area that is accessible and will not have a particularly detrimental effect on the sense of space and scale.

The toilet proposed will be DDA compliant which also is a consideration that is appropriate mitigation against the less than substantial harm caused.

#### Basement

#### Formation of kitchen area and toilet.



To the southern end of the basement a sandstone vaulted area is located under the public footpath and illuminated by glass pavement lights above. The proposal seeks to install a small partition to create a toilet and a floating floor to equalise the level of the vaulted area to the rest of the basement. The area does have the relevant soil connection and would be largely reversible and is considered as a sensible use of space that gives this area a reasonable function.

#### Replacement of rear window (facing east)

The existing window is an unsympathetic modern window that can be seen from the public realm. The replacement is proposed to be a timber sliding sash window in the Georgian multi-pane style which matches the design of window at the rear for the properties above.

#### Repair of steel window

The northern window requires repair, however this is considered to be only repair on a like for like basis and does not affect the character of the building. Therefore this element is considered as not requiring consent.

#### Refurbishment of rear room

The rear room is formed within a outrigging extension from the main body of the building. It lacks any historic finish and is a bare brick finish with a concrete floor. The proposal is not considered to cause any particular harm or further loss of historic fabric. However the materials detailed on the proposal lack vapour permeability and as such a condition will be placed that insists upon the use of lime based plasters for finishing.

#### Demolition of rear external wall and former glazed frontage.

It is acknowledged that works to the listed building had commenced without listed building consent being granted. The elements removed were modern interventions in the form of a concrete block wall as part of an extension to the rear and a 1970's shopfront glazing arrangement without a door to the front. However, the applicants were advised to cease works until a full assessment of the demolished areas could be made in this application and the associated listed building consent application. It is considered that the small flat roof extension at the rear basement level and previous glazed shopfront that was in place until July 2019 were of little significance and did not contribute positively to the aesthetic value of the designated heritage asset. It should also be noted that being of relatively recent construction (mid to late 20<sup>th</sup> Century) the areas demolished had no evidential, historical or communal value. These values are the main factors adopted by Historic England when assessing the significance of a heritage asset.

It is considered that after reviewing the evidence the structure had no particular significance and was detrimental to the overall character and appearance of the building. It is considered to be advantageous that it has been removed.

The demolition carried out is considered to enhance the character and appearance of the conservation area and Grade II Listed Building and satisfies Policy HN3 of the Hastings Development Management Plan.

With regard to Policy HN1 of the Hastings Development Management Plan the proposal is considered to enhance the heritage asset and the conservation area in terms of appearance, design and demonstrating how the proposed scheme better reveals the significance of the designated heritage asset conservation area.

## 6. Conclusion

The proposals will reinstate a period shopfront and give the shop unit the facilities to enable a potential for ongoing viable use.

This proposal also enhances the appearance of the unit and better reveals the significance of an early part of the Burton St Leonards development.

As such the proposal satisfies Policies DM1, HN1 HN2 and HN3 of the Hastings Development Management Plan.

With regard to the NPPF the proposal by way of its design and potential for realising an optimum viable use is considered in the public interest and satisfies both paragraph 127 and 196. The proposal also provide clear and convincing justification which mitigates against the less than substantial harm caused as per paragraph 194 of the NPPF.

These proposals comply with the Development Plan in accordance with the development plan in accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Human Rights considerations have been taken into account fully in balancing the planning issues.

## 7. Recommendation

## 7. Recommendation

### **Grant Listed Building Consent subject to the following conditions:**

1. The works hereby permitted shall be carried out in accordance with the following approved plans:  
  
SD/725/01a, SD/725/02c, SD/725/03b, SD/725/04d, SD/725/05a and SD/725/06
2. The work to which this consent relates shall be begun before the expiration of three years beginning with the date on which this consent is granted.
3. Prior to plastering works commencing at basement level, details of materials to be used for plastering and refinishing the rear basement room are to be submitted to the local authority for approval

### **Reasons:**

1. For the avoidance of doubt and in the interests of proper planning.
2. This condition is imposed in accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. To ensure the materials used do not harm the designated heritage asset.

#### **Notes to the Applicant**

1. Failure to comply with any condition imposed on this consent 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.

The reason for granting this consent is:

- 1 National Planning Policy Framework Section 16 applies. The works proposed will positively enhance the designated heritage asset.

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#### **Officer to Contact**

Mr Simon Richard, Telephone 01424 783320

#### **Background Papers**

Application No: HS/LB/20/00231 including all letters and documents