

Report to:	PLANNING COMMITTEE
Date of Meeting:	21 July 2021
Report from:	Assistant Director of Housing and Built Environment
Application address:	Land opposite 101 - 109 Marina, St Leonards-on-sea
Proposal:	Installation of a sculpture comprising galvanised steel with polished stainless steel concave shapes on a 1.5 ton base / foundation-consisting of a sea bed sandstone block and a galvanised steel box structure filled with pebbles (amended description).
Application No:	HS/FA/21/00096
Recommendation:	Grant Full Planning Permission
Ward:	CENTRAL ST LEONARDS 2018
Conservation Area:	Yes - Grosvenor Gardens
Listed Building:	No
Applicant:	Sweet & Dandy per Joule Arts & Events Ltd 63 Elphinstone Road HASTINGS TN34 2EG
Public Consultation	
Site notice:	No
Press advertisement:	Yes - Conservation Area
Neighbour Letters:	Yes
People objecting:	15
Petitions of objection received:	0
People in support:	29
Petitions of support received:	0
Neutral comments received:	1
Application status:	Not delegated - 5 or more letters of objection received

1. Site and surrounding area

The application site is situated on St. Leonards seafront and consists of a parcel of land, comprised of a grass verge with planting beds, land opposite 101 - 109 Marina. The grass verge is sloped with an upper central height of 1m, falling down in height at either side. Planting beds are located within the centre of the grass verge, at its highest point. The parcel of land is immediately abutted by the public highway of Marina to the north, forming part of A259 through Hastings, beyond this are the closest neighbouring properties situated over 15m away. To the south, the site is immediately abutted by the promenade with the public cycle route and foot path with the beach thereafter. This stretch of the seafront is quite open, with the pedestrian promenade being separated from the coast road by areas of lawn punctuated with planted beds. The site falls within the Grosvenor Gardens Conservation Area designation. There is a large group of Grade II listed buildings, just to the north west of the site, on the opposite side of the road, at 111 - 127 Marina. These buildings are in the form of a Georgian terrace of modest sized 3-storey town houses, by James Burton, dating to around 1830.

Constraints

SSSI Impact Risk Zone (not within threshold)
Land owned by Hastings Borough Council (HBC)
Conservation Area - Grosvenor Gardens
Conservation Area Appraisal Consultation Draft
Low Pressure Pipeline Scotia Gas Networks
Groundwater Flooding
Flood Zone 2 and 3a SFRA
Flood Zone 2 and 3 Environment Agency
Climate Change 1000 year and 200 year

2. Proposed development

The application is for the erection of a largely metal sculpture, working title the 'Mussel' which has been designed by Leigh Dyer who is responsible for a number of other art installations around the town including 'The Landing' on the beach opposite The Carlisle pub, and the 'Winkle' sculpture on Winkle Island.

The sculpture consists of a galvanised steel structure, with polished stainless-steel concave shapes. When viewed from the front, standing on the promenade, the sculpture will give upside down reflections of the viewer with the sea in the background. The shapes in the sculpture are based on mussel shells hence the name 'Mussel'. The sculpture will be fixed on a 1.5-ton base, local seabed sandstone block (850kg). Below this a galvanised steel box will be filled with pebbles (700kg). No concrete will be required. The sandstone block measures approx. 0.23m in depth and will cover a footprint of 1.15m by 1.6m (furthest points). The overall size of the sculpture above ground will measure 2.3m in height by 3.2m in width. The sculpture is commissioned and funded by the Foreshore Trust and will incorporate school work done by children and young people across the Borough, welded to the base of the metal sculpture.

The proposed sculpture will be positioned closest to the promenade side, between two existing planting beds.

No other form of development is proposed under this application.

The application is supported by the following documents:

- Specification and design details document.
- Health and safety measures document.
- Heritage statement.
- Site waste management plan.
- Artist impression drawings of sculpture (DR7 and DR8).
- Responses and clarifications re concerns and complaints expressed by members of the public document.

Relevant planning history

The applicant engaged in pre-application advice regarding the sculpture prior to the submission of this application and received positive feedback.

National and local policies

Hastings Local Plan – Planning Strategy 2014

Policy FA2 - Strategic Policy for Central Area

Policy FA6 - Strategic Policy for The Seafront

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Policy EN1 - Historic built and environment

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy HN1 - Development involving conservation areas and listed buildings

Revised Draft Local Plan

Other policies/guidance

National Design Guide

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

With regards to this application the following consultations were undertaken:

Hastings & St Leonards Foreshore Trust - **No objection**

Only concern would be that are we sure that any reflections from the sculpture are not going to impair not just car driver's vision but also lorry drivers who sit much higher in relation to the road.

Hastings Borough Council Marketing & Major Projects Manager - **Supportive**

Hastings Borough Council Museum and Cultural Development Manager - **Supportive**

Hastings Borough Council Estates - **No comment to make**

Hastings Borough Council Conservation Officer - **No objection**

East Sussex County Council Highways - **No comment received**

The initial consultation letter to ESCC Highways was sent on the 03 March 2021 requesting comments to be submitted within the 21-day period with numerous additional reminder letters

sent on the 26 March 2021 and 20 May 2021 with the most recent reminder letter sent on the 21 June 2021 giving ESCC Highways a deadline to provide any comments by 02 July 2021. Despite numerous letters to ESCC Highways no comment or objection has been received. Despite the proposed material of the sculpture, given the orientation of the sculpture with the bank and vegetation to partly screen, the moderate scale and height of the sculpture and the distance to the road and neighbouring properties with no highway objection received, it is not considered that the presence of the proposed sculpture will dramatically alter the existing situation and will not cause harm to the highway or amenity of the neighbouring properties.

Planning Practice Guidance (2021)

What happens where a statutory consultee considers that it does not have the information it needs to provide a substantive response?

It is important for statutory consultees to inform the local planning authority without delay if they require additional information, and that they have procedures in place to enable this to occur as soon as possible after they receive a consultation. It is not acceptable for a statutory consultee to wait until the 21-day period (or 18-days in the case of an application for public service infrastructure development made on or after 1 August 2021) would otherwise have come to a close to notify the local planning authority that it believes it does not have enough information to provide a substantive response.

Where a statutory consultee requests additional information it will need to set out clearly and precisely what the additional information is and the reasons why it is required.

Paragraph: 012 Reference ID: 15-012-20190722

Revision date: 24 06 2021 See previous version

What happens where a statutory consultee is unable to meet the deadlines for responding?

Local planning authorities are expected to determine applications for planning permission, within a time period of 5, 8, 13 or 16 weeks (depending on the type of development).

Statutory consultees should be aware of the risk that, should they fail to respond within a specified time period, a local planning authority may proceed to decide the application in the absence of their advice.

Paragraph: 016 Reference ID: 15-016-20190722

Revision date: 23 07 2019 See previous version

4. Representations

In respect of this application neighbour letters were issued and an advert placed in the local paper.

15 no letters of objection were received from 15 different properties.

29 no letters of support were received from 28 different properties.

1 no letters of neutral were received.

15 letters of objection have been received raising the following concerns:

- Not best location for sculpture.
- Use of concrete could lead to flooding.
- Use of concrete will be an environmental hindrance to the birds that nest in this area.
- Noise and disturbance will harm the local wildlife.
- Sculpture out of keeping, unattractive and harmful to conservation area.

- Increase traffic noise.
- Sculpture could cause glare/reflection to road users, cyclists, pedestrians and residents causing harm. No assessments on this have been submitted to support the application.
- Could cause traffic jams and endanger pedestrians due to distraction.
- The sea view will be harmfully impacted and blocked by the sculpture.
- The sculpture is not required.
- Sculpture could attract unwarranted attention from vandals and could possibly even be a fire hazard.
- Sculpture has been funded by Council there are better things to fund in Hastings and St Leonards.
- It will overshadow properties, causing loss of light.
- People may climb the sculpture, overlooking properties.
- Not clear on how school children are involved in the sculpture.

29 letters of support have been received raising the following:

- Attractive sculpture and welcomed addition to Hastings.
- Sculpture will enhance the area.
- Helps add culture, value and promotes the town.
- We should support local talent.
- Great to include children's designs, lots of residents have played a part.
- Will raise awareness of the environment and protecting the sea.
- Sculpture is sensitive and has paid careful attention to health and safety.
- Artwork will be available to view by everyone.
- Sculpture in keeping with this seaside location.
- Significant benefit to the town adding interest for visitors and locals who enjoy a walk along the promenade

1 letter of neutral have been received raising the following:

- Support the principle of the sculpture, but not best location for sculpture.
- Could possibly replace existing fountain along Marina with this sculpture. This will improve this area and the view from the neighbouring sites will remain intact.

In light of the above objection comments, the sculpture will not use concrete. The sculpture consists of a galvanised steel structure and stainless steel, with a 1.5 ton base / foundation consisting of a sea bed sandstone block (850kg) and a galvanised steel box structure filled with pebbles (700kg). It is also noted the majority of the grass verge will remain in place, as such water on and around the sculpture will be able to adequately drain. Furthermore the pebble base will be permeable.

In terms of local wildlife, minimal groundwork will be needed. The earth will be carefully excavated by hand using spades. No mechanical digging equipment is therefore required. As such given the proposed nature and scale of the works and the busy location of the sculpture it is not considered that the construction or sculpture will harm local wildlife.

The main road is already an existing busy road and there is no reason to indicate that traffic noise will increase as a result of this sculpture.

The sculpture will be well positioned set on the side closest the promenade with the existing planting beds either side, as such it is not considered the sculpture will cause traffic jams or distract road users.

The right to a view is not a planning consideration, however it is noted the sculpture will not be solid and will have an open appearance allowing views through, and at 2.3m in height above ground level is not considered to cause an unacceptable impact in this respect.

Concerns have been raised to possible vandalism and the sculpture being a fire hazard. The design and build will minimise the opportunity to climb on it, trap fingers etc, or to damage it by vandalism. The overall height will be low to minimise risk of injury if climbed, and making it less desirable to do so. As with the artist's other local sculptures on the seafront in Hastings, it will be designed and built to withstand the elements and the public, and will last for many years to come with minimal or no maintenance. The chosen materials steel, sandstone and pebbles are not flammable.

The sculpture is not funded by the Council, it is commissioned and funded by the Foreshore Trust.

A number of workshops and different schools and colleges across the Borough have already taken place. In these workshops the children and young people discussed environmental issues, particularly plastic waste on the beach in the sea, discussed the idea of the sculpture, looked at other work by the artist, and discussed the limitations and possibilities of the material [steel], and issues like public safety, durability, planning applications, clarity of message, etc. They then designed ideas for the sculpture, drawing out their plans on paper before building maquettes at about 1:12 scale, working with waste plastics and cans, wire, cardboard, wooden sticks, glue, tape, glue-guns, and metallic silver paint to replicate the final metal of the sculpture. As many of these artworks will also be sand cast in steel and then incorporated (welded) into the base of the sculpture.

5. Determining issues

The main issues to consider are the impact on character and appearance of the Conservation Area, neighbouring residential amenities and highway safety and parking.

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) Impact on character and appearance of conservation area

Policy EN1 of the Hastings Planning Strategy (2014) states development which sustains and enhances the significance of heritage assets and/or their setting will be encouraged. Policy DM1 of the Hastings Development Management Plan (2015) establishes all proposals must reach a good standard of design, which includes efficient use of resources, and takes into account: protecting and enhancing local character. Furthermore Policy HN1 of the Hastings Development Management Plan (2015) states 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 (including conservation areas).

The sculpture has been designed to have a contemporary appearance, with the sculpture to relate to the setting and the seaside town of Hastings. The shapes in the sculpture are based on mussel shells hence the name the 'Mussel'. The sculpture will provide an attractive art piece to the residents and visitors of Hastings which will provide a positive contribution to the town and Public Art.

Although the general principle of the sculpture is considered acceptable, the proposed new sculpture will be located within the Grosvenor Gardens Conservation Area designation, there is also a large group of Grade II listed buildings, just to the north west of the site, on the opposite side of the road, at 111 - 127 Marina. As such, the Local Planning Authority need to ensure that the design and appearance of the sculpture will not negatively harm these heritage assets. As such the Hastings Borough Council Conservation Officer was consulted on the scheme. It is acknowledged that given the location of the sculpture it will be visible from both the coast road and the pedestrian promenade. It is considered the sculpture in this location is appropriate to the character of the seafront. Whilst it will change the existing open views along this part of St. Leonards seafront, it is not considered this will be dominant in these views, given the position and orientation of the sculpture, the available screening and the moderate size. It is also noted the sculpture is not a solid mass, allowing views through it to the landscape/seascape beyond. The proposed sculpture is constructed of durable materials and so should retain a good appearance over time. It is considered on this basis that the proposed sculpture will not harm the significance of the Grosvenor Gardens Conservation Area. As noted above, the sculpture will be sited at some distance from the listed buildings at 111-127 Marina, which are across the other side of the open space and main seafront road. As such, given this distance it is considered the sculpture will be too distant to have any negative impact on the setting of these listed buildings. On the basis that no harm to heritage assets will result from the proposals, the Hastings Borough Council Conservation Officer has concluded they raise no objections to the proposals on conservation grounds. The proposals comply with the requirements of the National Planning Policy Framework and Policies DM1 and HN1 of the Hastings Development Management Plan (2015), and EN1 of the Hastings Planning Strategy in respect of the need to conserve heritage assets.

c) Impact on neighbouring residential amenities

Policy DM3 of the Hastings Local Plan - Development Management Plan (2015), states, in order to achieve a good living standard for future users of proposed development and its neighbours it should be demonstrated that amenity has been considered and appropriate solutions have been incorporated into schemes. Permission will be given for development where: (a) the use of the scale, form, height, mass, and density of any building or buildings, reduces or avoids any adverse impact on the amenity (privacy, over shadowing, loss of daylight) of neighbouring properties.

It is acknowledged that objection letters have been received raising concerns that the proposed sculpture will harmfully impact upon the amenity of neighbouring properties and possible glare/reflections. However, there are no direct neighbours situated next to the proposed sculpture with an area of grass and planting beds either side on the west and east sides and the promenade, cycling and walking footpath and beach on the southern side. The closest residential properties are approx. 20m away on the northern side with the public road and footpath positioned in-between. As such, given the position and orientation and moderate scale and height of the sculpture, the sculpture will be set back from the road and partly screened by the grass verge and planting beds with the sculpture to be largely open allowing

views through. As such, it is not considered the sculpture will cause issues to any of the neighbouring properties in terms of privacy, outlook and daylight levels for the above reasons. Furthermore, in terms of any possible glare/reflections, the 'mirrored' surfaces of the sculpture have been orientated to face the sea, the angles and finishes of the sculpture have been carefully worked out to avoid glare for drivers, pedestrians and residents with the position of the sculpture along with the grass verge and planting further reducing any possible impacts. Additionally, any surfaces which could at all be problematic will be made a matt finish, either with paint or wire brushing. In terms of any concerns with noise and disruption a condition (condition 3) has been attached to control the hours of construction on site. In view of the above, it is not considered that the proposed sculpture will harmfully impact the amenity of any of the neighbouring properties, the proposal is considered acceptable in this regard and complies with Policy DM3 of the Hastings Local Plan - Development Management Plan (2015).

d) Highway safety/parking

The proposed sculpture will be positioned within the existing grass bank which runs between the promenade and the road. The sculpture will be positioned closer to the promenade and will be situated in the middle of two existing planting beds, set approx. 2.4m from these either side. The sculpture will be positioned approx. 9m away from the main road and 1.5m from the cycle and walkway. As such, the sculpture will not obstruct, overhang or cause danger to pedestrian or vehicle users.

It is acknowledged concerns have been raised by a number of objection letters that the chosen material of the proposed sculpture could possibly cause glare/reflection issues with vehicle users, cyclists and pedestrians nearby. Whilst it is acknowledged that the sculpture is close by to the Marina Road and the promenade, the applicant has taken measures to ensure that it will not be a problematic distraction for passing drivers, cyclists and pedestrians. It is noted the grass verge is approx. 1m high from the road level so the sculpture would sit only around 1.5m or approx. 5 feet above the height of the bank when viewed from the road side, significantly less than the height of an average adult male (5ft 9in). The sculpture will sit between two existing planting beds, the planting provides valuable screening and reduces any possible impact. The 'mirrored' surfaces of the sculpture have been orientated to face towards the sea, the angles and finishes of the sculpture have been carefully worked out by the applicant to avoid any possible glare/reflections being caused. Additionally, any surfaces which could be at all problematic will be made a matt finish, either by painting or wire brushing. It is also important to note that there are other sculptures by the same artist located in the town that also have polished stainless steel surfaces. These are also located on busy roads and junctions and have not presented any problems for drivers, pedestrians, cyclists or residents, including 'The Landing' on the beach opposite The Carlisle pub, and the Winkle sculpture on Winkle Island. Given the location of the sculpture ESCC Highways were consulted, despite numerous reminder letters to ESCC Highways no comment or objection has been received. Despite the proposed material of the sculpture, given the orientation of the sculpture with the bank and vegetation to partly screen, the moderate scale and height of the sculpture and the distance to the road and neighbouring properties with no highway objection received, it is not considered that the presence of the proposed sculpture will dramatically alter the existing situation and will not cause harm to the highway.

e) 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.

f) Site Constraints

The site is within a SSSI IRZ. The scale of development does not fall within the threshold for consultation with Natural England and as such it is not considered that there will be any impact on SSSIs.

The Scotia Gas Networks (SGN) Low Pressure Pipeline runs through the site, as such an appropriately worded information note has been added to this permission to remind the applicant of their responsibilities.

Whilst it is acknowledged that the application site is affected by a number of flooding related constraints, given the nature of the development, an art installation and the chosen materials and moderate scale of the sculpture, is such that it will not exacerbate or be 'at risk' from flooding. The base of the sculpture will measure a moderate 3.2m by 1.15m in the form of a sandstone rock with a steel cage beneath which will be filled with pebbles with the majority of the grass verge to remain in place to allow water to drain. No further action is therefore required in this respect. It is also noted the Environment Agency Flood risk vulnerability classification the proposed development, an art sculpture will not be a vulnerable use.

6. Conclusion

In view of the above, the proposed sculpture will provide another element of artwork to Hastings with the chosen location helping to draw attention to this end of the seafront and helping draw visitors and local residents to this end of the town. The sculpture will provide an attractive piece to the residents and visitors of Hastings which will enhance the local area and will provide a positive contribution to the town and Public Art whilst supporting a local artist and children's artwork. The proposed works are considered acceptable and are in line with the relevant policies of the Hastings Local Plan and the National Planning Policy Framework. The application is therefore recommended for approval subject to conditions.

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:

Site location plan, block plan (V3a), DR1 V3, DR2 V3, DR3 V3, DR4 V3, DR5 V3, DR6 V3, health & safety measures document and specification and design details document.

3. The building works required to carry out the development allowed by this permission must only be carried out within the following times:-
08.00 - 18.00 Monday to Friday
08.00 - 13.00 on Saturdays
No working on Sundays or Public Holidays.
4. If any plants within the planting beds either side of the sculpture die, are removed or become seriously damaged or diseased following completion of the development, these shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. If the sculpture is removed from site at any point, the site shall be returned back to its original state prior to installation of the sculpture with the grass verge made good.
6. If any sign/information boards are proposed around the sculpture then full details shall be submitted to the Local Planning Authority for approval, prior to installation of such signs. These details shall include the siting, size, appearance, materials, finishes, method of fixing and any proposed illumination of the signs.

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 ensure a satisfactory form of development in the interests of the visual amenity.
5. To ensure a satisfactory form of development in the interests of the visual amenity.
6. To ensure a satisfactory form of development in the interests of the visual amenity.

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 development subject to this application falls within a highlighted proximity of a mains gas pipe which is considered a major hazard.
The applicant/ agent/ developer is strongly advised to contact the pipeline operator PRIOR to ANY works being undertaken pursuant to the permission granted/ confirmed by this notice.
Address is:
Southern Gas Networks Plc
SGN Plant Location Team
95 Kilbirnie Street
Glasgow
G5 8JD
Tel: 01414 184093 OR 0845 0703497
Search online at:
www.linetsearchbeforeyoudig.co.uk
SGN personnel will contact you accordingly.

Officer to Contact

Mrs L Fletcher, Telephone 01424 783261

Background Papers

Application No: HS/FA/21/00096 including all letters and documents