

Report to: PLANNING COMMITTEE
Date of Meeting: 23 March 2022
Report from: Assistant Director of Housing and Built Environment

Application address: **Former Public Conveniences, Harold Place,
Hastings, TN34 1JA**

Proposal: **Development of site of former public
convenience to provide a two storey pavilion
for use as cafe bar & restaurant (Class E(b)),
including external landscape works**

Application No: **HS/FA/21/00905**

Recommendation: **Grant Full Planning Permission**

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

Applicant: Hastings Borough Council per Kendall Kingscott
Glentworth Court Lime Kiln Close Stoke Gifford,
Bristol. BS34 8SR

Public Consultation

Site notice: Yes
Press advertisement: Yes - Conservation Area Amended Plans
Neighbour Letters: No
People objecting: 28
Petitions of objection received: 0
People in support: 1
Petitions of support received: 0
Neutral comments received: 0

Application status: Not delegated - 5 or more letters of objection
received
Council application on Council owned land

1. Site and surrounding area

The site was formerly occupied by a toilet block, which received planning permission for demolition in 2017. The toilet block was then lawfully demolished shortly after and the site has since been boarded up. The application site is sited central to a thoroughfare leading from the Town Centre Shopping Area towards the underpass that leads to Hastings Beach.

The site lies just outside the Town Centre Conservation Area which wraps around the site to the north, east and west. Given this close proximity, the building sits within the setting of the Conservation Area and therefore heritage aspects of the scheme should be carefully considered.

There are no listed buildings immediately abutting the site. The nearest listed buildings are at Carlisle Parade Underground Car Park, the Havelock Public House in Havelock Road and York Buildings, although the proposed works are not considered to affect the setting of any of these buildings given the positioning of the site and the distance separating it from the Listed Buildings.

The area surrounding the application site is dominated by light coloured render buildings of between two and six storeys in height. The building facades are generally articulated with architectural features such as cornicing, string moulds, bottle balusters, projecting bays and first floor balconies.

The former Queens Hotel sits directly opposite the development site and this is a key Conservation Area building sitting at the junction of Harold Place with the Seafront. The building is a dominant feature because of its large scale, 6-storey height and ornate façade treatments.

The area is also dominated by the meeting of several roads and pedestrian routes at Harold Place. The development site will face immediately onto this junction of routes.

The development will be highly visible in views south from Hastings Town Centre, where the open sea and beach will form the backdrop to these views. The new building will also be visible from Hastings Seafront in views to the north.

Relevant site constraints

- Area affected by groundwater flooding
- Area affected by surface water flooding
- Archaeological Notification Area
- Buffer zone of a Conservation Area
- Flood zone 2 and 3
- SSSI Impact Risk Zone

2. Proposed development

Planning permission is sought for the redevelopment of the site and the construction of a new two storey café and restaurant building which will extend to 216sqm at ground floor and 172sqm at first floor.

At ground floor level, the development will comprise:

- Trading area
- External terrace to the north
- Main entrance
- Main bar and seating area
- Kitchen, cellar, plant room
- Disabled toilet
- Internal bin store
- Platform lift

At first floor level, the development will comprise:

- Trading area
- Main seating area
- Male and female toilets
- External terraces to the north and south
- Platform lift

Externally, a ramp is to be included to the main entrance both for reasons of flood mitigation, as well as disabled access. Plant equipment to serve the development is to be sited on the roof, enclosed by perforated metal mesh.

The buildings plinth will provide a smooth white finish. The first floor will utilise reflective black ceramic tiles to provide light and shade and create patterns of light.

The scheme also includes wider landscaping to improve the public realm including a hedge on the western boundary and a range of planters to the north, including those which can include street trees.

The application is supported by the following documents:

- Archaeology and Heritage Desk-Based Assessment (Border Archaeology, August 2021)
- Design and Access Statement (Kendall Kingscott, September 2021)
- Flood Risk Assessment Rev 3 (Price & Myers, January 2022)
- Planning Statement (Greenhayes Planning Ltd, September 2021)
- Supplementary information - opening hours (Kendall Kingscott)
- Lift statement and accordance with Building Regulations (Kendall Kingscott, January 2022)
- Southern Water Capacity Check

Relevant planning history

HS/FA/17/00651 Demolish the existing redundant local authority public convenience roof and superstructure complete down to ground floor slab level and finish the resulting flat pedestrian area with pre-cast concrete paving slabs with an appearance complementary to the surrounding pedestrianised town centre surface finishes. The existing basement level service directly void beneath the superstructure is to be retained

GRANTED 21/09/2017

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 SC1 - Overall Strategy for Managing Change in a Sustainable Way
Policy SC2 - Design and Access Statements
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 HN1 - Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)

Policy HN4 - Development affecting Heritage Assets with Archaeological and Historic Interest or Potential Interest

Other policies/guidance

National Design Guide

Air quality and emissions mitigation guidance for Sussex (2021)

National Planning Policy Framework (NPPF)

Paragraph 8 sets out the three overarching objectives of the planning system in order to achieve sustainable development. Those are: 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 (to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;); and environmental (to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy)

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.

Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 12 of the NPPF states that the development plan is the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Paragraph 47 of the NPPF sets out that planning applications be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 120 of the NPPF states, amongst other things, that decisions should promote and support the development of under utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 123 of the NPPF states that Local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

- e) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and
- f) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

Paragraph 124 of the NPPF states that planning decisions should support development that makes efficient use of land.

Paragraph 130 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

in order to create an attractive, welcoming and distinctive places to live, work and visit.

- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 131 of the NPPF states that decisions should ensure new streets are tree lined, that opportunities are taken to incorporate trees elsewhere in developments.

Paragraph 134 of the NPPF states that development that is not well designed should be refused but that significant weight should be given to development that reflects local design policies and government guidance on design and development of outstanding or innovative design which promotes high levels of sustainability and raises the standard of design in the area, provided they fit with the overall form and layout of their surroundings.

Paragraph 135 of the NPPF 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 183 of the NPPF states that decisions should ensure a site is suitable for its proposed use having regard to ground conditions and risks arising from land instability and contamination.

Paragraph 184 of the NPPF sets out that where sites are affected by land stability or contamination, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

3. Consultation comments

Environment Agency - **no objection subject to the imposition of a condition** (Condition 6)
Consider the development to be acceptable subject to the implementation of measures in the submitted Flood Risk Assessment (FRA)

Southern Water - **no objection subject to the imposition of conditions** (Conditions 17-19)
Identify that there is sufficient capacity in the network to accommodate additional water flows

Sussex Police - **no objection subject to the imposition of conditions** (Conditions 4 and 20)
Note some concern regarding anti-social behaviour and crime statistics, although consider that the measures implemented by the applicant, including the closing off of the terrace area at 10pm, alleviate concerns.

East Sussex County Council (Archaeology) - **no objection subject to the imposition of conditions** (Conditions 7 and 8)
Consider proposed development to be acceptable subject to a programme of archaeological works in accordance with a Written Scheme of Investigation, as well as a post investigation site assessment

East Sussex County Council (SUDs) - **no objection subject to the imposition of conditions** (Conditions 6, 17 and 18)
Note that the applicant has demonstrated that surface water flows are limited to acceptable capacity and Southern Water have confirmed capacity.

East Sussex County Council (Highways) - **no objection subject to the imposition of conditions** (Conditions 9 and 13)
Consider the impact on the highway network to be acceptable. Require conditions relating to servicing and cycle storage

Hastings Borough Council (Environmental Health) - **no objection subject to the imposition of conditions** (Conditions 3, 9-12)

Require the imposition of conditions relating to Construction Management Plans, contamination, noise, odour, lighting and hours of buildings works

Hastings Borough Council (Conservation) - **objection**

Acknowledge that the design has significantly improved, but object to the lack of rustication at ground floor level

Hastings Borough Council (Licensing) - **no objection subject to the imposition of an informative** (Informative 5)

Note the hours of opening are marginally in conflict with the Council's current licensing policy, although this is currently under review. Require the operator to submit a full Premises Licence application.

4. Representations

In respect of this application a site notice was displayed at the front of the site in clear public view, and an advert placed in the local paper. This process was repeated following the receipt of amended plans.

A total of 40 letters of representation were received. 39 of these were letters of objection, from 28 different people. 1 letter of support was also received.

In summary, the letters of objection raised the following concerns:

- Excessive massing and scale that will result in an overbearing structure and cause overshadowing
- Poor design that doesn't take into account character of the area
- Inadequate access for the disabled (including parking)
- No provision for generation of low carbon energy
- Exposed to pollution due to location next to a road
- Obstruction of the road network
- Another restaurant is not needed in the Town Centre/do not want a late night bar venue
- Increase in crime
- Functionality of the internal layout

Other comments were made that are not material to the planning application process. These include:

- The legality of Hastings Borough Council submitting a planning application as the applicant and it being determined by Planning Committee
- Lack of community engagement prior to the application being submitted
- Lack of details about the lease
- Increased competition impacting on local businesses
- Should re-use empty properties instead/utilise alternative sites
- Re-instate the former public conveniences
- Compliance with the Building Regulations
- Use of public funds to support project

The letter of support noted that the proposal would impact positively on the Town Centre.

5. Determining issues

This application proposes a new restaurant building on a currently vacant site within Hastings Town Centre and within the buffer zone of the Hastings Town Centre Conservation Area. Therefore, the main issues to be considered relate to the design of the development and its impact on the setting of designated heritage assets, drainage and flood risk issues, and whether the proposed new use is appropriate in this location.

It is also important to note that the application as presented is to be considered on its own merits, taking account of the relevant policy requirements set out in the adopted Local Plan and the National Planning Policy Framework (NPPF).

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 good 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) Impact on character and appearance of area

As stated above, the application site is not located in a conservation area, neither are there any listed buildings immediately abutting the site. However, it does lie within the buffer zone of the Hastings Town Centre Conservation Area and is in a very prominent position within the pedestrianised area of the town centre, as well as being clearly visible from the adjacent road. Therefore, the impact on heritage assets does need to be considered, as well as the wider impact on the character and appearance of the area as a whole.

The proposed building is of 2 storeys in height, with an enclosed plant area on the roof. Surrounded by buildings much more significant in scale and height, it is considered that the development as proposed will not be overbearing within its setting. Whilst the inclusion of plant on the roof is regrettable, it is accepted that this cannot realistically be accommodated inside the building itself without limiting the function of the new development. It should be noted however, that the scheme has been amended to locate this plant towards the north east side of the roof, which now means that the far reaching views towards the sea from Harold Place can be retained, resulting in visual connectivity between the Town Centre and the Seafront. The use of perforated metal screens instead of the previously proposed louvres is also considered to go some way to mitigating against the harm caused by the plants' inclusion.

Detailed design comments from the Council's Conservation Officer have raised concern regarding the lack of rustication at ground floor level - that is, additional detailing that could provide further visual interest to the ground floor level. Whilst this is noted, it is considered that the use of render is prevalent in the surrounding area. Given that a 400mm high plinth has been included to help address this issue, it is considered that on balance, the harm caused to the character and appearance of the area through the lack of rustication is not considered to be so substantial that a refusal of permission could be justified on this point alone. In addition, the materials proposed are of high quality, and the design of the development provides interest and detailing on all elevations, taking account of the permeability of the surrounding pedestrianised area, as well as the road to the west. Soft landscaping is to be provided by way of a replacement hedge and additional planters (including those that can accommodate street trees) around the site, further softening the appearance in the streetscene.

Overall therefore, whilst it is accepted that there are some design concerns raised from both the Council's Conservation Officer and the general public (although raising different concerns), it is considered that the proposed development represents good design and will provide a clear focal building that enhances the character and appearance of the area, whilst still allowing views towards the Seafront. It has shown an appreciation of the surrounding area's historic context, scale and massing, and is therefore in accordance with Policy DM1 of the Development Management Plan 2015.

c) Archaeology

The application is accompanied by an Archaeology and Heritage Desk-Based Assessment (Border Archaeology, August 2021) in recognition of its siting within an Archaeological Notification Area. This assesses that the archaeological potential of the site as being moderate, with particular reference to encountering evidence of buried remains associated with medieval and post-medieval settlement. The potential for prehistoric remains has been assessed as being Low to Moderate, and the likelihood of encountering Romano-British remains is considered to be Low.

Taking the above into account, there is potential for impacts to heritage assets with archaeological interest to arise. Therefore, prior to the commencement of development, the applicant will be required to undertake archaeological investigations in accordance with a programme of archaeological works, to be approved by the Local Planning Authority (Condition 7). This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. Subject to the above, the proposed development will protect the significance and setting of areas with archaeological interest, in accordance with Policy EN1 of the Hastings Planning Strategy 2014.

d) Layout

The proposed new restaurant will occupy both the ground and first floors, with a platform lift sited within. The kitchen and bar will be at ground floor level, together with internal bin stores and an electrical plant room accessed directly from the loading bay. External terraced areas occupy both ground and first floor levels, with the upper terrace being enclosed by a glass balustrade.

Concern has been raised from objectors that the internal layout does not accord with relevant Environmental Health/Food Safety legislation requirements. The proposed operator is well established within this sector and therefore aware of alternative legislation governing food preparation and health and safety. Environmental Health (Food Safety) have been consulted on this application and do not consider the layout to be inappropriate, noting the provision of a disabled toilet at ground floor level and other toilets upstairs opening into the restaurant area. Should issues arise regarding the internal layout following opening of the restaurant, then this will be dealt with under Food Safety legislation and appropriate action taken.

Taking the above into account, it is considered that the proposed layout is sufficient to provide good operation of the proposed use that takes due consideration of accessibility and servicing requirements, in accordance with Policy DM3 of the Development Management Plan 2015.

Whilst outside the scope of the Local Planning Authority, several concerns have been raised regarding the operational use of the lift, and its conformity with the Building Regulations. The applicant has confirmed by way of a supporting statement that the proposals are designed to

be compliant with the Building Regulations Approved Document Part M: Access to and use of buildings. Building Regulations Approval will be applied for prior to construction, as is the case with most development. To confirm, the technical detail of the lift design and its compliance with the Building Regulations is outside of the planning process and will be dealt with accordingly by Building Control.

e) Loss of existing use

The former public toilet building received planning permission for its demolition in 2017, which was then subsequently carried out. Therefore, the loss of the toilets as identified in several objections, is not considered to be a material consideration here.

f) Proposed commercial use

Restaurants are established Town Centre uses as set out in both National and Local Planning Policy. Policy E3 of the Hastings Planning Strategy 2014 requires development proposals for such uses to be focused within the town and district centres, and that proposals should ensure the vitality and viability of the Town Centre is maintained and where appropriate, enhanced. This includes encouraging a diversity of uses within the Town Centre by providing a wide range of retail, leisure, social, education, arts, cultural, office, residential and commercial uses.

The provision of a restaurant in this Town Centre location is wholly in accordance with Policy E3 of the Hastings Planning Strategy, in that its operation will help maintain and enhance its vitality and viability. It is noted that some concerns were raised at the beginning of the application process by Sussex Police and members of the public regarding the inclusion of a bar area, although it has been demonstrated through supporting statements and an amended description that the principle function of the development is for a food led operation, where alcohol will be served alongside a substantial meal. The bar area is ancillary only to the proposed restaurant, and this will be further secured by the imposition of Condition 21, which clearly restricts the independent use of the bar outside of the restaurant function. Taking this into account, the proposed use wholly falls within Class E(b) of the Town & Country Planning (Use Classes) Order 1987 (as amended). The restaurant will not operate as a public house or drinking establishment, which fall within another Use Class entirely and require a further change of use application should the operators wish to operate a separate bar area that is not ancillary to the principle, authorised use. Following the receipt of additional information, including the provision of Secured by Design methods, both Sussex Police and the Council's Licensing Team raise no objection to the development, subject to a successful Premises Licence application and the imposition of Condition 4 relating to opening hours and crime prevention measures (Condition 20).

Overall therefore, it is considered that the proposed restaurant provides a positive enhancement to the Town Centre, increasing the diversity of uses, in accordance with Policy E3 of the Hastings Planning Strategy 2014.

g) Impact on neighbouring residential amenities

The application site is located within a commercial area, and whilst there are some residential premises nearby, it is not unusual to have a use as proposed in a Town Centre location. That being said, the applicant has agreed to ensure the upper terrace is closed off to the public from 10pm at night until the following day's opening hours to minimise impact on nearby residential premises in terms of noise, secured by the imposition of Condition 4, should planning permission be granted. The scale and form of the development is not considered to give rise to overshadowing or overlooking given the higher scale of

development in the vicinity, and the prevalence of commercial uses already in existence.

It is also noted that the proposed external construction works have the potential to cause disturbance through noise and dust, which can impact on the people who live and work in the area. It is therefore recommended that the application is conditioned to ensure that a plan detailing how the environmental impact of the construction work will be controlled, which will need to be submitted to and approved by the Local Planning Authority in writing prior to the commencement of work (Condition 9).

h) Air quality and emissions

The proposed development does not fall within the screening checklist 1 or 2 of the 'Air Quality and Emission Mitigation Guidance for Sussex' 2020 produced by Sussex Air Quality Partnership. Therefore, no further information is required in respect of air quality. Environmental Health Officers have no objection in this respect.

i) Highway safety/parking

Impact on the highway network

Whilst no specific trip generation information has been submitted with the application, the Highway Authority do not consider that the proposed development of a restaurant is likely to generate a level of additional trips that will have a significant impact on the wider transport network, particularly given its sustainable Town Centre location.

Access

The site is located within a pedestrianised area bordered by Harold Place and Pelham Street. Refuse collection and servicing is intended to be from an area in front of the existing parking area, although no specific details have been submitted. Should permission be granted, it is intended to secure a Servicing Management Plan by the imposition of a condition (Condition 13) to ensure that the impact on passing pedestrians is limited. The Servicing Management Plan will ensure that servicing is undertaken outside of peak hours to minimise disruption to the surrounding area.

Car Parking

In accordance with East Sussex County Council's parking guidance, 1 car parking space is required per 5sqm of public area, plus 1 space per 2 full time equivalent staff members. No additional spaces are proposed as part of this development.

Given the former use of the site as a public toilet prior to demolition, there were no dedicated parking spaces to serve that building. However, the site is located adjacent to 5 existing disabled car parking spaces, which are to remain. It is agreed by the Highway Authority that this is likely to be a sufficient amount for the café use as well, taking into account the site's Town Centre location easily accessed from public transport services and nearby car parks.

Overall therefore, the lack of dedicated on site provision is considered acceptable given the nature and location of the site, and the fact that it is easily accessible from sustainable transport modes.

Cycle Parking

In terms of cycle parking provision, four short term spaces would need to be provided for the proposed development. Whilst there is no secure cycle store dedicated for the proposed development, there are existing cycle parking arrangements in the Town Centre which are well overlooked, providing a secure storage arrangement. This has been deemed acceptable by the Highway Authority and as such, no additional provision is required.

j) 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.

k) Drainage and flood risk

Drainage

The proposed development seeks to discharge foul and surface water to the public sewer, and as such, is supported by hydraulic calculations to demonstrate surface water flows for the 100-year plus 40% surface water event demonstrate that flows will be limited to 2.5 l/s, which is acceptable to the Lead Local Flood Authority. Given that the proposal does not increase the impermeable area and is limited in its size, it is concluded that the only viable option is to discharge into the existing network, which will ensure that there will not be an increased risk of flooding elsewhere. Southern Water has also confirmed that there is adequate capacity in the local sewerage network to accommodate both foul and surface water flows, and evidence has been supplied to this effect. Policy SC7 of the Hastings Planning Strategy is therefore complied with in respect of foul and surface water drainage.

Flood risk

The site is located in Flood Zone 3, and therefore due consideration needs to be given to the sites ability to accommodate the use proposed, without increasing flood risk elsewhere, and whether the mitigation measures proposed are sufficient to deal with the potential flood risk impact.

In accordance with national planning policy, a site specific flood risk assessment was submitted with the application. This identifies the proposed use as being in the "less vulnerable" category, which is appropriate in Flood Zone 3, as set out in the National Planning Practice Guidance. Alternative sites have not been considered given that the proposed application site is identified in the emerging Local Plan (Policy TC9) for commercial use, and therefore has already been subject to a Sequential Test. This has been reviewed by the Environment Agency who raise no objection to the development, subject to the implementation of the mitigation measures as set out in the Assessment. This includes the raising of floor levels, which is secured by the imposition of Condition 6.

l) Sustainable construction

Concern has been raised from objectors that the proposed development has not given due consideration to zero carbon development or promoting energy efficiency in accordance with Policies SC1, SC3 and SC4 of the Hastings Planning Strategy 2014.

Policy SC4 requires developers to follow an energy hierarchy in terms of achieving low carbon development, which in the case of Hastings and viability, means assessing what can be achieved through energy efficiency measures first, prior to providing on site renewable energy generation. The submitted Design and Access Statement, together with the Planning Statement, demonstrates that this approach has effectively been followed, and that through

high levels of insulation and the design, the building can achieve a 7.5% improvement over Part L of the Building Regulations, meaning the proposals have sought to maximise the reduction of emissions and adopt a high environmental standard in accordance with adopted policy.

m) Other matters

Pre-application community involvement

The Planning Committee is reminded that there are no provisions in the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended) that require pre-application consultation in respect of a development of this nature.

Pre-application engagement is encouraged by the Local Planning Authority, although there is no requirement to do so. All statutory consultation measures have been undertaken as part of the application process, and as such, the lack of pre-application consultation cannot be used as a reason for refusal.

Procedural process

Concern has been raised that Planning Committee are not able to determine an application where Hastings Borough Council is the applicant. However, this is not the case, and all relevant protocols are followed in the determination of such applications where Hastings Borough Council is the applicant.

Similarly, the business case for this project has been determined by Hastings Borough Council's Cabinet, and is not a material consideration in the determination of this application as part of the planning process.

6. Conclusion

The provision of a restaurant in this Town Centre location is wholly in accordance with Policy E3 of the Hastings Planning Strategy, which seeks to enhance the vitality and viability of such areas through the development of town centre uses, which include restaurants. Through the imposition of appropriate conditions as detailed above, it is considered that the development will not affect neighbouring residential amenities and is of a sufficiently high standard of design to ensure that the character and appearance of the area is enhanced. Appropriate measures are included to mitigate against flood risk and ensure the risk of flooding is not increased elsewhere. The proposals are therefore considered to 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:

1100 P01, 1150 P01, 1400 P04, 1401 P04, 1402 P03, 1403 P03, 1404 P03, 1405 P03, 1500 P02, 1501 P02, 1502 P02, 1503 P02, 1504 P02, 1505 P02 and 1506 P02

3. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-

8am - 6pm Monday to Friday
8am - 1pm on Saturdays
No working on Sundays or Public Holidays.

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

Sunday to Wednesday - 9am - 11.30pm
Thursday - Saturday - 9am - 12.30am

The first floor terrace is to be closed off to the public at 10pm on weekdays.

5. No development shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority:

- Site Waste Management Plan

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.

6. The development shall be carried out in accordance with the submitted Flood Risk Assessment (Revision 2, Price & Myers, November 2021) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 5.65 metres above Ordnance Datum (AOD) [Concl.6.iii, p16]

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

7. In the event that new foundations or other significant below ground impacts (such as drainage, services trenching etc) be required beyond the footprint of the existing toilet structures, no development shall take place until the applicant has secured the implementation of a Programme of Archaeological Works in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

8. No phase of the development hereby permitted shall be brought into use until the Archaeological Site Investigation and Post - Investigation

Assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and approved in writing by the Local Planning Authority. The Archaeological Site Investigation and Post - Investigation Assessment will be undertaken in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 7.

9. No development shall take place, including any ground works or works of demolition, until a Construction Management Plan to take account of highway and environmental protection issues, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to in full throughout the entire construction period. The Plan shall provide details as appropriate, but not be restricted to, the following matters:

- A programme and phasing of the demolition and construction work, including roads, footpaths, landscaping and open space,
- Location of temporary site buildings, compounds, construction material, and plant storage areas used during demolition and construction;
- The anticipated number, frequency and types of vehicles used during construction,
- The method of access and egress and routeing of vehicles during construction,
- The parking of vehicles by site operatives and visitors,
- The loading and unloading of plant, materials and waste,
- The storage of plant and materials used in construction of the development,
- The erection and maintenance of security hoarding,
- The provision and utilisation of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- Details of public engagement both prior to and during construction works
- Measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s)
- Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination
- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works
- Protection of pedestrian routes during construction;
- Restoration of any damage to the highway [including vehicle crossovers and grass verges as appropriate].

An indicative programme for carrying out the works should be included within the Plan.

10. Prior to installation, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- A report on any lighting scheme, such as flood lighting or security lighting, detailing the provisions for the avoidance of 'spill Light' that is to say light that obtrudes beyond the area it was intended to light and into

surrounding areas or onto surrounding properties

- Details, including acoustic specifications, of all fixed plant machinery and equipment associated with air moving equipment (including fans, ducting and external openings) installed within the site, which has the potential to cause noise disturbance to any noise sensitive receptors

The development must then be implemented in accordance with the approved details and retained thereafter in perpetuity.

11. All development shall be stopped immediately in the event that contamination not previously identified is found to be present on the development site and details of the contamination shall be reported immediately in writing to the Local Planning Authority.

Development shall not re-start on site until the following details have been submitted to, and approved in writing by, the Local Planning Authority: -

- a) a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site.
- b) a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the Local Planning Authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site and (unless otherwise first agreed in writing by the Local Planning Authority)
- c) a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages

Before any part of the development is occupied or used (unless otherwise first agreed in writing by the Local Planning Authority) a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full shall both have been submitted to, and approved in writing by, the Local Planning Authority.

The above site works, details and certification submitted shall be in accordance with the approved scheme and undertaken by a competent person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

12. Prior to the first operation of the premises, a Scheme and Maintenance Schedule for the extraction and treatment of fumes and odours generated from cooking or any other activity undertaken on the premises, shall be submitted to and approved in writing by the Local Planning Authority. The

scheme shall be designed in accordance with EMAQ+ Control of Odour and Noise from Commercial Kitchen Extraction Systems 2018. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall thereafter be operated and retained in compliance with the approved scheme.

13. No part of the development shall be occupied until such time as until a Servicing Management Plan has been submitted and approved in writing by the Local Planning Authority. This shall set out the arrangements for the loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Service Management Plan.
14. No development shall take place above ground until details of the materials and finishes to be used in the construction of the external surfaces of the premises hereby permitted, including the roof plant enclosure, have been submitted to and approved in writing by the Local Planning Authority. Details must include proposed colour swatches/RAL numbers. Development shall be carried out in accordance with the approved details.
15. No development shall commence above ground until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - Proposed windows and doors including 1:10 elevations and full size sections
 - Large scale details of the proposed ramps including balustrades and guardings
 - Large scale details of the proposed dwarf walls and railings

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.

16. Prior to installation, details of external vents, ducts or similar should be submitted to and approved in writing by the Local Planning Authority. Development shall then be carried out in accordance with the approved details.
17. (i) Development shall then be carried out in accordance with the drainage details approved as part of this consent and no occupation of the building hereby approved shall occur until those works have been completed; and
(ii) No occupation of building hereby approved shall occur until the Local Planning Authority has confirmed in writing that it is satisfied, that the necessary drainage infrastructure capacity is now available to adequately service the development.

18. Prior to the occupation of development, evidence (including photographs) should be submitted and approved in writing by the Local Planning Authority, showing that the drainage system has been constructed as per the agreed detailed drainage designs.
19. Prior to the commencement of development, an application for building over/near a public sewer must be submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. Should a diversion of the sewer be required instead, then details of the measures that will be undertaken must be submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
20. Prior to the occupation of the development hereby approved, the crime prevention measures as set out in the submitted "Response to Crime Prevention Officer Letter" (Kendall Kingscott, 8 February 2022) must be implemented and maintained as such throughout the lifetime of the development.
21. The development hereby approved shall be operated in accordance with Use Class E(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended) only, and at no time should operate as a separate drinking establishment. The bar area within the building must remain ancillary to the approved restaurant use at all times, and retained as such for the lifetime of the development.

Reasons:

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the amenity of adjoining and future residents.
4. To safeguard the amenity of adjoining and future residents.
5. To ensure a satisfactory standard of development.
6. To reduce the risk of flooding to the proposed development and future occupants
7. To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.
8. To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.
9. In the interests of highway safety and the amenities of the area and to minimise the amount of construction and demolition waste being disposed of in landfill sites in accordance with the East Sussex County Council Supplementary Planning Document on Construction and Demolition Waste

10. To ensure a satisfactory standard of development and to safeguard the amenities of nearby occupiers.
11. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
12. To safeguard the amenity of nearby occupiers.
13. To safeguard the operation of the public highway
14. To ensure a satisfactory standard of development.
15. To ensure a satisfactory standard of development.
16. To ensure a satisfactory standard of development.
17. In order to secure a well-planned development that functions properly and in order to prevent increased risk of flooding.
18. In order to secure a well-planned development that functions properly and in order to prevent increased risk of flooding.
19. In order to secure a well-planned development that functions properly and in order to prevent increased risk of flooding.
20. To ensure a satisfactory standard of development and protect the amenities of neighbouring occupiers.
21. 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. The applicant 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.
4. The Food Safety Act 1990 will apply. The Food Business Operator will be required to register the food establishment with the Local 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/

5. The future operator is advised that they will be required to submit a full premises licence application, in accordance with the requirements of the Licensing Act 2003.
6. A formal application for connection to the public foul sewerage system is required in order to service this development. Please read the New Connections Services Charging Arrangements documents which are published at <https://beta.southernwater.co.uk/infrastructure-charges>
7. The applicant is advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises.

Officer to Contact

Mrs S Wood, Telephone 01424 783329

Background Papers

Application No: HS/FA/21/00905 including all letters and documents