

Report to: PLANNING COMMITTEE

Date of Meeting: 01 June 2022

Report from: Assistant Director of Housing and Built Environment

Application address: Debenhams, (Part of 1st floor) 1-3 Robertson Street, Hastings, TN34 1HN

Proposal: Change of use of designated area from Class E to Sui Generis for amusements, including retro and modern video games, pinball games, virtual reality games, interactive games such as air Hockey and dance games.

Application No: HS/FA/21/01060

Recommendation: Grant Full Planning Permission

Ward: CASTLE 2018

Conservation Area: Yes - Hastings Town Centre

Listed Building: No

Applicant: C&O Entertainment LTD per Haines Phillips Architects Tankerton Works 12 Argyle Walk London WC1H 8HA

Public Consultation

Site notice: Yes

Press advertisement: Yes - Conservation Area Amended Plans

Neighbour Letters: No

People objecting: 15

Petitions of objection received: 1

People in support: 1

Petitions of support received: 0

Neutral comments received: 0

Application status: Not delegated - Petition received

1. Site and surrounding area

The site consists of a portion of the first floor of the former Debenhams department store in Hastings Town Centre.

The Premises is located on Robertson Street with a secondary entrance onto Robertson Terrace. The building is large, comprising 3no. of floors. Part of the building also extends at first floor above HSBC Bank in the centre located at ground floor. At ground floor are the large shop floor display windows with a mix of smaller windows to the upper floors. At the western end of the premises is a large, arch-topped feature window which spans two floors.

This site is within Hastings Town Centre and is surrounded by additional commercial and office uses. The site is also in close proximity to several bars, pubs and restaurants. Above the eastern end of the premises are the residential properties at Queens Apartments and to the rear are those in Albany Court.

The site is well connected by public transport and there are multiple public car parks within easy reach of the site.

Constraints

SSSI Impact Risk Zone

Heritage at Risk Register

Heritage Action Zone

Flood Zone 3 Environment Agency

Flood Zone 2 Environment Agency

Flood Zone 2 SFRA

Flood Zone 3a SFRA

Flooding Ground Water

Business Improvement District

GCN District Licensing Scheme - Green IRZ

Archaeological Notification Area

Climate Change 1000 Year

Climate Change 200 Year

Conservation Area - Town Centre

Saturation Policy Area 1, Hastings Town Centre - Licensing

2. Proposed development

This application seeks permission for the change of use of a portion of the premises from retail (Class E) to an amusement centre, a Sui Generis use. The proposal relates to the northwest corner of the building (the Robertson Street side of the building) at first floor only. The area of the application site is approximately 293 square meters.

The proposed change of use of this area from Class E to Sui Generis would allow for the installation of amusements, including retro and modern video games, pinball games, virtual reality games, interactive games such as air hockey and dance games. These games/amusements are aimed to attract families. There would be no financial transactions at the machines.

The proposed opening hours are

Monday - Friday - 09:00 - 23:00

Saturday - 09:00 - 23:00

Sunday and Bank Holidays - 09:00 - 23:00

The application is supported by the following documents:

- Waste Management Statement
- Sound Insulation Testing and Advice - Acoustic Associates

Relevant planning history

Application No.	HS/FA/80/00007
Description	Erection of covered walk-way on 2nd floor flat roof for use during contractors operations, to be dismantled after six weeks.
Decision	Permission with conditions on 16/01/80

Application No.	HS/FA/96/00177
Description	Erection of rear extension at second floor including roof plant
Decision	Permission with conditions on 10/06/96

Application No.	HS/FA/97/00213
Description	Retention of alterations to Debenhams staff entrance and fire exit
Decision	Permission with conditions on 02/06/97

Application No.	HS/FA/15/00601
Description	Replacement of damaged roller shutter to yard entrance
Decision	Permission with conditions on 21/09/15

Application No.	HS/FA/21/00960
Description	Insertion of new door into existing shop front
Decision	Permission with conditions on 24/02/2022

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 EN1 - Built and Historic Environment (Archaeological Notification Areas)

Policy EN1 - Built and Historic Environment (CA16 TOWN CENTRE)

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

Policy E1 - Existing Employment Land and Premises

Policy E3 - Town, District and Local Centres

Policy E4 - Tourism and Visitors

Hastings Local Plan – Development Management Plan 2015

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy DM5 - Ground Conditions

Policy HN1 - Development affecting the significance and setting of designated heritage assets (including conservation areas) (CA16 TOWN CENTRE)

Policy HN2 - Changing Doors, Windows and Roofs in Conservation Areas (CA16 TOWN CENTRE)

Policy HN3 - Demolition involving heritage assets (CA16 TOWN CENTRE)

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

or Potential Interest (Archaeological Notification Areas)

Policy SA1 - Hastings Town Centre Shopping Area (Shopping Area Hastings Town Centre)

Revised Draft Local Plan (Regulation 18)

Policy DP1 - Design - Key Principles

Policy SP1 - Directing Growth

Policy SP4 - Business Development - Retail and Leisure Uses

Policy FA1 - Hastings Central

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:

- a) 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
- b) 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 and

- 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 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 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

Planning Policy - **No objection**

Sussex Police - **No objections**

Licensing - **No objections to change of use**

Environmental Health Pollution - **No objection, subject to recommendations in assessment**

4. Representations

In respect of this application, Site Notices were displayed at the front and rear of the site and an advert placed in the local paper. In response to this 1 letter of support and 14 letters of

objection have been received. A petition containing 20 signatures has also been received objecting to the development.

Support:

- good to see re-use of the premises
- new footfall and profile for Town Centre
- asset to town like Source Park
- need to encourage tourism etc.

Objections:

- diminishing retail
- reducing footfall of visitors
- increase of visitors
- not in keeping with the area
- opening hours not suitable
- retail use should be supported
- proposed use more in keeping with other areas of the town
- not an enhancement
- loss of a profitable retail space
- subsequent loss of the whole building to other uses
- bowling alley shown on plan (not included in proposal)
- piecemeal development
- impact on local residents
- increase in traffic
- lack of parking

Petition:

- noise
- disruption from entrances and exits

5. Determining issues

a) Principle

The site is in a sustainable location and the application is therefore in accordance with Policy LP1 of the Hastings Local Plan - Development Management Plan 2015 in this respect and acceptable in principle subject to other Local Plan policies.

b) Impact on character and appearance of the conservation area

Policy DM1 of the Hastings Development Management Plan states that all proposals must reach a good standard of design, which includes efficient use of resources, and shows appreciation of the surrounding neighbourhood's historic context, street patterns, plot layouts and boundaries, block sizes and scale, height, massing and materials as well as good performance against nationally recognised best practice guidance on sustainability, urban design and place-making, architectural quality and distinctiveness.

No external alterations are proposed as part of this development and as such, the proposal meets the aims of Policy DM1 as quoted above.

With regards to the change of use, it is noted that concerns have been raised by local residents in relation to the use not being suitable in this location, being more suited to the Old Town and sea front. While these concerns are acknowledged, the aims of Policy E3 must be taken into account. This Policy seeks to ensure that the vitality and viability of the Town and district centres is maintained and, where appropriate, enhanced. Measures to achieve this include the diversification of uses within the centre and the provision of a wide

range of retail, leisure, social, education, arts, cultural, office, residential and commercial uses along with promoting the reuse of vacant buildings. In this instance, the site has been vacant following the closure of the Debenhams and is large, spread across multiple floors. As a result of the scale of the premises, it may prove difficult to future secure the use as retail only, resulting in the site remaining vacant. This may ultimately result in the subdivision of the premises creating a piecemeal development. It should also be acknowledged that the changes to the Town and Country Planning Use Class Order in 2021 and the subsequent creation of Class E, also allows for the diversification of the site, in some instances without the requirement of planning permission.

The change of use sought by this application relates solely to a portion of the first floor of the premises. The resultant Sui Generis use would allow for the installation of arcade games etc as described above. It is considered that the proposal would generate new and revived interest in the building, drawing visitors to the site and in so doing rejuvenate a vacant building in the heart of the Town. In light of this, it is considered that the proposal meets the aims of Policy E3 of the Hastings Planning Strategy.

Heritage

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

As advised above, no alterations are proposed to the exterior of the premises as part of this application. As a result of this, there would not be a detrimental impact on the character or significance of the Town Centre Conservation Area. The proposal therefore complies with Policy HN1 of the Hastings Development Management Plan and Policy EN1 of the Hastings Planning Strategy.

c) Proposed use and loss of existing use

The site is within the Town Centre Shopping area as defined by Policy SA1 of the Hastings Development Management Plan. This policy requires that at ground floor level, proposals for planning use-class A1, A2, A3, A4 and other uses appropriate to the character of the shopping area will be permitted provided that the proposal would not result in non-A1 uses exceeding 5% of the total floorspace of Priory Meadow and not more than 45% of the total number of ground floor units in the remaining shopping area, (as defined on the Policies Map), and the proposal would not result in such a concentration of non Class A1 uses as to lead to a significant interruption in the shopping frontage, thus harming the vitality and viability of the town centre shopping area as a whole. This policy however is not relevant here as it seeks to control ground floor uses and the application site is located at first floor. It is also worth noting that changes to the Town and Country Planning (Use Classes) Order 1987 combined retail uses (such as the application site) with offices and cafes. These types of uses can therefore operate within the retail store without the consent of the Local Planning Authority.

This area of the first floor has been clearly defined by the red line site boundary and as a result, any works and/or alterations to the rest of the building cannot be considered as part of this application. The proposal would allow for the change of use of this section of the first floor from Class E to Sui Generis. This is to allow for the installation of amusements, including video games, pinball games, virtual reality games and dance games. The arcade proposed differs from others in the Town, such as 'Playland' on Pelham Place in that there

would not be a mix of family and adult games in the same location. Those proposed in this instance are purely family orientated with no betting or 18+ games included. The machines are also to be operated by way of a customer card, with no financial transactions at the machines themselves.

As mentioned above, concerns have been raised by local residents in respect of the proposed use and resultant arcade machines not being in-keeping with the Town Centre setting, being more suited to the Old Town and seafront. While these concerns are acknowledged, the morphing and changing of Town Centres to allow for vibrant and viable futures is something that is encouraged not only by local policy but by the National Planning Policy Framework. Paragraph 86(a) of the NPPF states that 'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation'. This paragraph goes on to state that policies should promote town centre long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses.

Due to the nature of the application and the position within the Town, Planning Policy have been consulted on the proposal and no objections have been received.

Taking the above into account, it is considered that the proposed change of use is acceptable and meets the aims of polices within the Hastings Local Plan along with the National Planning Policy Framework.

d) Impact on neighbouring residential amenity

Policy DM3 of the Hastings Development Management Plan states that 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. This includes the use of the scale, form, height, mass, and density of any building or buildings, to reduce or avoid any adverse impact on the amenity (privacy, over shadowing, loss of daylight) of neighbouring properties.

No external alterations are proposed as part of this development and as such, there would not be an impact in terms of loss of light, overshadowing or loss of privacy. As such, the proposal meets the requirements of Policy DM3 in this respect.

Noise

As identified above, multiple concerns have been raised in respect of noise from the site and the potential impact on the neighbouring residents. The concerns include the proposed arcade machines but also refer to noise from the entrance/exit from the building and the bowling alley, amongst others. While the concerns in relation to the entrance and bowling alley are acknowledged they cannot be formally considered as they fall outside of the application site boundary. Moreover, indoor sport, recreation and fitness now fall within Class E and therefore do not require planning permission. Nevertheless, in response to the concerns raised, sound insulation testing has been carried out and a report submitted. This report provides recommendations on how to build walls and floors in terms of sound insulation, with particular attention given to protecting the adjacent residential dwellings. This report has been reviewed by the Environmental Health Team who agree with the findings of the report. No further reports or assessments have been requested by the Environmental Health Team however, a condition (4) is to be imposed to ensure the sound insulation works are carried out in accordance with the recommendations in the report.

In light of the suggested condition requiring the recommendations of the Acoustic report to be met and that Environmental Health raise no objection, it is considered that the proposed

change of use to Sui Generis is acceptable, subject to the imposition of conditions, and would not have a detrimental impact on neighbouring residents in terms of noise. The proposal therefore meets the aims of Policy DM3 of the Hastings Development Management Plan, along with Paragraph 130(f) of the National Planning Policy Framework.

e) Highways

As indicated above, concerns have been raised by local residents in respect of an increase of vehicles and disruption to parking as a result of the proposal. These concerns are acknowledged, however, there are multiple public car parks within a 5 minute walk from the site and the site is within a Town Centre location with good public transport connections. As a result of this, it is considered that the existing infrastructure around the site can accommodate potential extra vehicles used by visitors to the site. It should also be acknowledged that the prior use of the site, as part of a large retail unit, would also have had large amount of visitors. It is not considered that the change of use would be dramatically different in terms of numbers, or result in potential disruption to the existing highway network.

f) Designing out crime

Paragraph 92 (b) of the National Planning Policy Framework states that 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion - for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas'. This is supported by Paragraph 130 (f) which seeks to ensure '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'.

The Sussex Police - Designing out Crime department were consulted on the proposed change of use and have advised that the site is located in the parameters of the late-night economy of Hastings and as such the area experiences large amounts of footfall, noise, litter and acts of anti-social behaviour (ASB) and crime and disorder (C&D). Sussex Police have advised that there is a Hastings Saturation Policy in place, and the proposed premises falls within Saturation Area 1, Town Centre of the night-time economy. The aim of this policy is to achieve a sustainable tourist, entertainment and cultural industry in Hastings, whilst securing the safety and amenity of the residential communities, promoting the licensing objectives set out in the Licensing Act 2003.

Sussex Police have raised concerns in relation to the potential disruption to neighbouring residents from footfall and noise from the venue. Sussex Police have therefore requested that consideration be given to neighbouring amenity from a noise perspective and to ensure that appropriate and adequate sound proofing measures are incorporated where found necessary within the proposal. In response to this, the aforementioned sound insulation testing has been carried out. Further consultations in respect of this document were carried out with Sussex Police whom have advised they are supportive of the measures recommend by the report in order to reduce any impact upon the resident's amenity from a noise perspective.

Sussex Police have also advised that, despite the level of crime and anti-social behaviour in Hastings being above average when compared with the rest of Sussex, there are no major concerns with the proposals, however, additional measures to mitigate against any identified local crime trends and site specific requirements should always be considered. In respect of this, an Informative is to be placed on the decision advising the developer to contact the Designing Out Crime officer for further guidance.

g) 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.

Lighting

No external lighting is proposed as part of this application and residential amenities are not harmfully affected. The development will not give rise to ground or surface water pollutions. The development is therefore in accordance with Policy DM6 of the Hastings Development Management Plan (2015).

6. Conclusion

Taking the above into account, it is considered that the proposed change of use is acceptable in that it aids in bringing a vacant Town Centre premises back into use, while ensuring no detrimental impact on neighbouring residential amenity. The proposal therefore complies with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

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

7. Recommendation

Grant Full Planning Permission subject to the following conditions:

1. 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:

4185-PL 521, 4185-PL 511, 4185-PL 502, 4185-PL 501, Sound Insulation Testing & Advice (J3377).
3. The Amusement area hereby approved is to be contained within the first floor area outlined in red on plan number PL521. Any increase to the size of the Amusement Area will require the submission of a further planning application for change of use.
4. All recommendations within the Sound Insulation Testing Report (J3377) dated 15/03/2022 are to be implemented on site prior to commencement of use. Evidence that the recommendations of the Sound Insulation Test Report have been implemented shall be submitted to and approved in writing by the Local Planning Authority prior to the use, hereby approved, commencing.

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.

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 proposal may be a material change of use to which the Building Regulations 1991 apply and a building regulation submission may be necessary before the change of use takes place.
4. A separate application, to be submitted in accordance with the Advertisement Regulations, will be required for the display of any external advertisements.
5. The developer is advised to contact the Designing Out Crime Officer to discuss any recommendations or additional measures to mitigate against any identified local crime trends and site specific requirements.
Sussex Police Headquarters, Malling House, Malling, Lewes, East Sussex, BN7 2DZ.

Officer to Contact

Mrs E Meppem, Telephone 01424 783288

Background Papers

Application No: HS/FA/21/01060 including all letters and documents